

**AMENDED AND RESTATED**  
**DEVELOPMENT AGREEMENT**  
**FOR THE VILLAGE AT GULFSTREAM PARK**

**THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT** (this Amended "**Agreement**") is made and entered this 3<sup>rd</sup> day of March, 2014, by and between **THE VILLAGE AT GULFSTREAM PARK, LLC** whose mailing address is 901 South Federal Highway, Hallandale Beach, Florida 33009, and the **CITY OF HALLANDALE BEACH**, a municipal corporation of the State of Florida, whose mailing address is 400 South Federal Highway, Hallandale Beach, Florida 33009 (the "**City**").

**WITNESSETH**

- A. **WHEREAS**, Gulfstream Park Racing Association, Inc., is (the "**Owner**") of that property located in the City of Hallandale Beach consisting of approximately 60.8 acres, known as The Village at Gulfstream Park more particularly described on Exhibit "A" attached hereto (the "**Property**"); and
- B. **WHEREAS**, the Developer is The Village at Gulfstream Park, LLC. (hereinafter referred to as "**Developer**"); and
- C. **WHEREAS**, the **Developer** desires to continue the development of the Property for construction of a Development of Regional Impact (DRI) and a Planned Local Activity Center ("PLAC"), with the permitted uses identified in paragraph 5 of this Agreement (the "**Proposed Development**"); and
- D. **WHEREAS**, the **Owner** submitted an application to the City for the DRI on May 14, 2004, which was found sufficient for review pursuant to Section 380.06, Florida Statutes, by the South Florida Regional Planning Council on January 18, 2006, and which issued its staff report on June 5, 2006; and
- E. **WHEREAS**, the **City** amended its Comprehensive Plan to create a new land use category, the Local Activity Center (the "LAC"), which land use category was adopted on November 6, 2006; and
- F. **WHEREAS**, the **City** created and adopted a new zoning district, Planned Local Activity Center (the "PLAC"), to implement the LAC land use category for the purpose of allowing mixed use development in an urban setting that is focused on transit corridors and the **City** Commission approved the PLAC zoning district on November 6, 2006; and
- G. **WHEREAS**, the **Owner** applied to the **City** for the rezoning of the Property to the PLAC zoning designation, and the City Commission approved the rezoning of the Property on November 6, 2006;

- H. **WHEREAS**, the development of property under the PLAC zone requires, at Section 32-179(n), that the development be governed by a Development Agreement; and
- I. **WHEREAS**, the Developer entered into a Development Agreement for The Village at Gulfstream Park on February 7, 2007, (the Original Agreement) for approval of Application# 07-06-DB and future development of the Property; and
- J. **WHEREAS**, the **City**, and the **Developer** desire to enter into this Amended Agreement to provide for the terms and conditions upon which the Property can be developed in accordance with the PLAC rezoning; and
- K. **WHEREAS**, The Village at Gulfstream Park Development of Regional Impact is located wholly within the City of Hallandale Beach, Broward County, Florida; and
- L. **WHEREAS**, the City adopted the development order approving the proposed The Village at Gulfstream Park Development of Regional Impact on November 6, 2006; and
- M. **WHEREAS**, the Developer desires to entered into this Amended Agreement amending and restating the Original Agreement to provide for the terms and conditions upon which the Property can be developed in accordance with the Conceptual Plan, as may be amended from time to time; and
- N. **WHEREAS**, the Developer has previously complied with certain requirements and conditions of the Original Agreement for the approval of Applications # 07-06-DB for Phase I and # 93-08-DB for Phase II.

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. **Recitations.** The recitations set forth above are true and correct are incorporated herein by this reference.

2. **Definitions.** For the purpose of this agreement, unless the context otherwise requires.

A. "Owner" shall mean Gulfstream Park Racing Association, Inc.

B. "Developer" shall mean The Village at Gulfstream Park, LLC.

C. "Project" or "Proposed Project" shall mean the development as shown on the Conceptual Plan approved by the City Commission on November 6, 2006, as may be amended from time to time.

D. "Property" shall mean The Village at Gulfstream Park parcel consisting of 60.8 acres more particularly described on Exhibit "A".

**3. Specific Restrictions on Development of Real Property.** The Project shall be undertaken and carried out in accordance with all applicable City Codes and Ordinances in effect on the effective date of this Amended Development Agreement. The City and the Developer agree that the Project shall be governed in conformance with the agreements, as may be amended, limitations, modifications, exceptions and variations, as applicable.

**4. Permitted Uses and Development.** The Property may be developed with those uses permitted in the Planned Local Activity Center (PLAC) zoning district subject to the limitations of the development order and the development program stated below.

<u>Residential:</u>	1,500 multifamily dwelling units
<u>Hotel:</u>	500 keys
<u>Retail:</u>	750,000 square feet GLA
<u>Office:</u>	140,000 square feet GFA
<u>Movie Theater:</u>	2,500 seats
<u>Commercial Recreation:</u>	580 maximum number of p.m. peak hr. trips through trade-offs with other uses

The City acknowledges that the Developer will be initiating an amendment to the PLAC regulations to permit pari-mutuel wagering as an accessory use within the Project upon the approval of this Amended Development Agreement.

**5. Parking Dimensional and Landscape, Requirements.** The development of the Property with the permitted uses shall be in accordance with the parking requirements, setbacks, heights, landscaping and other site development standards set forth in the Village at Gulfstream Park Conceptual Plan and the Village at Gulfstream Park Design Guidelines (hereby incorporated herein by reference a copy of which is maintained by the City Clerk's Office) and the City Code of Ordinances.

6. **Special Conditions.** The Developer, its successors and assigns, shall comply with the conditions set forth in the Amended Agreement and including Exhibit C attached hereto.. It is further understood and agreed that failure to fulfill any provision of this Amended Agreement, or the conditions of zoning approval, may result in non-issuance of other regulatory approvals with respect to the Proposed Development, until such time as all conditions of this Amended Agreement are complied with, and that the City shall not be liable for any direct, indirect and/or consequential damages claimed for such non-issuance.

7. **Controlling Documents.** The Village at Gulfstream Park Conceptual Site Plan and Design Guidelines and Development of Regional Impact (DRI) Development Order, as may be amended, (hereby incorporate herein by reference a copy of which is maintained by the City Clerk's Office). The Amended Agreement, the Conceptual Site Plan, the Design Guidelines, and the DRI Development Order, as may be from time to time amended, shall be the Controlling Documents. There shall be strict adherence to this Amended Agreement, subject to minor modification by the City Manager in accordance with the procedures set forth in the City's Zoning and Land Development Code or to provide relief from the literal terms of this Agreement in order to achieve the goals contemplated under this Agreement. In the event that the Conceptual Site Plan and Design Guidelines or any portion thereof is found to be in conflict with this Agreement, this Agreement shall control. In no event shall this Amended Development Agreement supersede the requirements of the DRI Development Order. Developer recognizes that failure to develop the Property in accordance with the Controlling Documents, as they may be amended from time to time with the approval of the City, shall divest the Developer of the right to proceed under the PLAC zoning or DRI Development Order.

8. **Contributions to Affordable Housing.** Developer, shall construct, cause the construction of or provide funding for "affordable housing" and/or "workforce housing" as specified in the Amended Development Order for the Project.

9. **Building Permits and Certificates of Occupancy.** The City agrees to issue to the Developer, upon approval of the Major Development Plan application, all required building permits, approvals or other required permits and Certificates of Occupancy for the construction, use and occupancy of the Proposed Development, subject to Developer's compliance with all applicable codes, ordinances, regulations, the Major Development Plan, this Amended Agreement., and any other binding agreements applicable to the Project.

10. **Fees.** Approvals are based upon payment of the City's usual and customary fees and charges for applications, permits or services still in effect at the time of issuance of the permit or approval, and any financial contribution identified as part of this Amended Agreement including, but not limited to the following:

- A. Payment of water connection fees pursuant to City Code. The fee is not creditable towards other water/sewer impact fees.
- B. Payment of City's water/sewer impact fees in accordance with City Code.
- C. The Developer and City have agreed to hold in abatement the payment of any Traffic Capacity Cost Fees, pending the implementation of Exhibit C, Paragraph 6, attached hereto, or, until a final determination of the obligation to pay has been fully resolved. Nothing herein shall preclude Developer's right to obtain building permits or certificates of occupancy during the abatement period. In the event that Exhibit C, Paragraph 6 is not implemented, and the City prevails in a final determination that Developer is obligated to pay Traffic Capacity Cost Fees, the Developer shall remit, within ninety (90) days of any such final determination, the appropriate payment for any incremental development that received a Certificate of Occupancy during the abatement period.

**11. Enhancement of Local Employment.** The Developer has been requested by the City to participate in the Community Benefit Plan initiative in order to further enhance the overall economic welfare of the City and to enhance the potential for job opportunities which may be created by new construction and through new businesses established within the Project, as follows:

- a) Developer shall partner with the City to provide additional workforce opportunities for City of Hallandale Beach residents, through the NEED program or other workforce program providers. Developer shall commit to a goal of 10% of all new jobs generated by major development within the Project being filled by City of Hallandale Beach residents;
- b) Developer shall provide the City NEED Coordinator with a list of the types of jobs anticipated and the necessary qualifications for upcoming major developments concurrently with the submission of any Major Development Application to the City so that the Coordinator can identify residents who meet the qualifications or have the desire to be trained for said employment opportunity;
- c) Recognizing that the Hallandale Beach Area Chamber of Commerce ("Chamber") is instrumental in promoting and offering outreach for residents and businesses in the City in order to stimulate the local economy, the Developer commits to continue

its active involvement with the Chamber and to work with the Chamber in its efforts to provide local employment outreach;

- d) Developer agrees to continue to use its best efforts to contract with companies which are owned or controlled by City residents or companies which are located within the City, for goods and services, when such companies are otherwise qualified and competitive, in order to promote job growth in the City.
- e) Developer shall provide, with the biennial report required pursuant to Section 8 of the Development Order, a written report to the City concerning the goals identified in this paragraph in a format utilized and provided by the City.

**12. Amendments.** Any amendment to this Amended Agreement shall not be approved unless all parties subject to this Amended Agreement agree to the amendment and such amendment is incorporated into the Agreement. All amendments not requiring City Commission approval shall be subject to the final approval by the City Manager on behalf of the City.

**13. Developer's Representations and Warranties.** Developer makes the following representations and warranties to the City, each of which shall survive the execution and delivery of this Amended Agreement:

A. Developer is a limited liability company duly organized and validly existing under the laws of the State of Florida, and has full power and capacity to carry on its business as presently conducted by the Developer, and to enter into the transactions contemplated by this Amended Agreement.

B. Developer's execution, deliver and performance of this Amended Agreement have been duly authorized by all necessary individual, partnership, corporate and legal actions and do not and shall not conflict with or constitute a default under any indenture, agreement or instrument to which Developer or Developer's property may be bound or affected.

C. Except as otherwise previously or concurrently disclosed to the City in writing, there are no actions, suits or proceedings now pending or (to the best of Developer's knowledge) threatened against, or affecting Developer or its property before any court of law or equity or any administrative board or tribunal or before or by any governmental authority which would prohibit, restrict or otherwise interfere with Developer's ability to enter this Amended Agreement or carry out the provisions of this Agreement.

D. This Amended Agreement constitutes the valid and binding obligation of Developer, enforceable against Developer, and its successors and assigns, in accordance with their respective terms, subject to bankruptcy, insolvency and other similar laws affecting the rights of creditors generally.

**14. City's Representations and Warranties.** The City makes the following representations and warranties to Developer, each of which shall survive the execution and delivery of this Amended Agreement:

A. The City is a municipal corporation duly organized and validly existing under the laws of the State of Florida; and has full power and capacity to own its properties, to carry on its business as presently conducted by the City, and to enter into the transactions contemplated by this Amended Agreement.

B. The City's execution, delivery and performance of this Amended Agreement have been duly authorized by all necessary legal actions, and do not and shall not conflict with or constitute a default under any indenture, agreement or instrument to which the City is a party or by which the City or the City's property may be bound or affected.

C. This Amended Agreement constitutes the valid and binding obligation of the City, enforceable against the City, and its successors and assigns, in accordance with their respective terms, subject to bankruptcy, insolvency and other similar laws affecting the rights of creditors generally.

**15 Binding Effect.** This Amended Agreement shall be recorded in the Public Records of Broward County, Florida, and the provisions of this Amended Agreement shall be binding upon the parties hereto and their respective successors and assigns as a covenant running with and binding upon the Property

**16. Developer's Breach of Agreement and Remedies.**

The occurrence of any one or more of the following events shall be deemed a "Developer Event of Default" under this Amended Agreement:

A. The failure to fulfill any covenants and obligations under this Amended Agreement and such failure shall continue for a period of thirty (30) days following written notice from City; however, in the event that such failure cannot be reasonably cured within such thirty (30) day period, so long as the City determines that such failure was beyond the reasonable control of Developer or did not result from a lack of good faith and Developer has promptly commenced the action(s) necessary to cure the failure and

diligently and continuously prosecutes such action, the thirty (30) day cure period shall be extended, by the City Manager without City Commission approval, for such period as may reasonably be necessary to cure such failure; or

B. A voluntary petition is filed by Developer for relief under Title 11 of the United States Code, as amended or any other present or future federal or state insolvency, bankruptcy or similar law at any time subsequent to the date of this Amended Agreement; or an involuntary petition for relief is filed, at any time subsequent to the date of this Agreement, against Developer under any such laws and such petition is not dismissed within ninety (90) days.

Upon a Developer Event of Default, in addition to all remedies available at law and/or equity, the City shall have the right to terminate this Amended Agreement by providing written notice to Developer, in which event the parties shall be released from all further obligations under this Amended Agreement, and the City shall be relieved from any and all obligations to reimburse the Developer for any amounts whatsoever.

17. **Hold Harmless.** Developer agrees to and shall hold the City, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury including death and claims for property damage which may arise from the direct or indirect from the actions of the Developer, its contractors, subcontractor, agent, employee, or other person acting on his behalf which relate to the construction and completion of the Project. Developer agrees to and shall defend the City and its officers, agents, employees, and representatives from claims caused or alleged to have been caused by reason of Developer's actions or failure to act in connection with the construction and completion of the Project.

18. **Monitoring Official.** The City of Hallandale Beach City Manager or her designee is appointed as the City's monitoring official of this Amended Agreement. The City's representatives shall monitor the activities specified in such a manner to ensure that all requirements of this Amended Agreement are met.

19. **Surety.** Bonding shall be provided as required by the Code and applicable ordinances and regulations. This Amended Agreement shall not affect such requirements except to provide for joint and severable liability and to make clear that all requirements shall be binding on any mortgagees, successors or assigns. Irrevocable letters of credit in such form and issued by such institutions as may be acceptable by the City shall serve as appropriate surety against failure



With copy to: City of Hallandale Beach  
Attn: Development Services Director  
400 South Federal Highway  
Hallandale Beach, FL 33009  
(954) 457-1375 – phone  
(954) 457-1488 – fax

Developer: The Village at Gulfstream Park, LLC.  
901 South Federal Highway  
Hallandale Beach, Florida 33009  
(954) 455-6603-phone  
(954) 457-6903-fax  
Attn: Tim Ritvo

With copy to: FC Gulfstream Park, Inc.  
Attn: Tim Ritvo, President  
901 South Federal Highway  
Hallandale Beach, Florida 33009  
(954)454-7000-phone  
(954) 457-6903-fax

With copy to: Attn: Edwin J. Stacker, Esq.  
Mastriana & Christiansen, PA  
1500 North Federal Highway, Suite 200  
Fort Lauderdale Florida 33301  
(954) 556-1234- phone  
(954) 566-1592fax

**23. Severability.** Invalidation of any provision of this Amended Agreement shall not affect any other provision of this Amended Agreement, which shall remain in full force and effect.

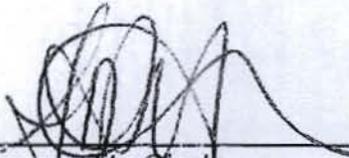
**24. Regulatory Powers.** City cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations, which are not inconsistent with the rights granted to the Developer in the DRI and/or Development Order. In addition, nothing herein shall be considered zoning by contract.

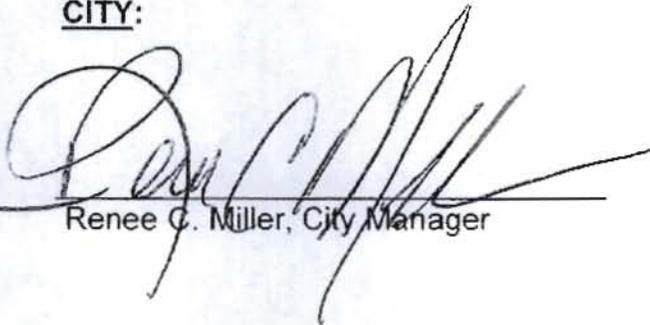
25. **Assignment.** The Developer may not assign this Amended Agreement to any other entity without the written consent of the City, which shall not be unreasonably withheld.

26. **Effective Date.** This Amended Agreement shall become effective simultaneously with the Amended Development Order, upon execution by all parties. IN WITNESS WHEREOF, the parties hereto have caused this Amended Agreement to be signed by the proper officers the day and year above written.

CITY:

ATTEST:

  
Sheena James, City Clerk

  
Renee C. Miller, City Manager

ENDORSED AS TO FORM AND  
LEGALITY FOR THE USE AND  
RELIANCE OF THE CITY OF  
HALLANDALE BEACH ONLY

  
V. Lynn Whitfield, Esq., City Attorney

**DEVELOPER:**

**The Village at Gulfstream Park, LLC., by its  
Managing Member FC Gulfstream Park Inc.,**

Witness: Michael W. Fuchs By: [Signature]  
 Print Name: Michael W. Fuchs Print Name: Timothy S. Ritvo

Witness: [Signature] Title: COO of Village  
 Print Name: AGGIE COLEMAN Address: 901 S. P.O. Highway  
Hallandale, FL 33009

Witness: \_\_\_\_\_ By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_  
 Witness: \_\_\_\_\_ Title: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ Address: \_\_\_\_\_

State of FLORIDA  
 PROVINCE OF \_\_\_\_\_ )  
 County of Broward )

SS:

The foregoing Amended Agreement, was acknowledged before me this  
3rd day of March, by Tim Ritvo, as  
COO of Forest City Gulfstream Park, Inc., on behalf of the  
 corporation. He is personally known to me or produced  
 \_\_\_\_\_ as identification, and [did] [did not] take an oath.

[NOTARIAL SEAL]

Notary: Melissa Williams  
 Print Name: Melissa Williamson  
 Notary Public, State of Florida  
 My commission expires: 9/8/17



## EXHIBIT "A"

### Property Legal Description

The Village of Gulfstream Park Plat as recorded at Plat Book 177, Page 46, Broward County, Florida Records.

## EXHIBIT C

### **THE VILLAGE AT GULFSTREAM PARK CONDITIONS OF APPROVAL**

- 1) The Developer shall assure that future development will continue to provide for recreational and open space requirements in accordance with the PLAC design guidelines, and the City agrees that the foregoing shall be deemed to satisfy the City's park, recreational and open space requirements.
- 2) The Developer shall design, construct and place all onsite utilities underground in accordance with the City Code of Ordinance.
- 3) The Developer shall ensure the stormwater runoff is retained within the Project site in accordance with applicable regulations of the South Florida Water Management District, Broward County and the City of Hallandale Beach. Design, construct and maintain the stormwater management system for the Project and any additions, expansions, or replacements to the stormwater management system to meet the following standards:
  - 3a) Comply with the regulations and requirements of the South Florida Water Management District (SFWMD), Broward County Environmental Protection (EPD), and applicable local government comprehensive plan drainage level of service requirements for surface water management in effect at that time.
  - 3b) Install pollutant retardant structures to treat all stormwater runoff at each of the new Project outfall structures in accordance with the stormwater management system drainage permits and master drainage plan, and periodically remove accumulation as required by the stormwater permitting agencies.
  - 3c) Use silt screens and aprons during any phase of Project construction that may increase turbidity in adjacent surface waters.
  - 3d) Mulch, spray, or grass exposed areas to prevent soil erosion, minimize air pollution and stormwater runoff.
- 4) The Developer shall cause to be constructed all on-site water system improvements necessary for the Project.
- 5) Within twelve (12) months of the final inspection of the Pegasus statue by the City, the Developer will submit a traffic analysis that evaluates the need for providing a non-restricted vehicular connection between SE 2<sup>nd</sup> Street and

Gulfstream Way. For this evaluation, the Developer will measure northbound right turn vehicle queuing conditions at the intersections of SE 3<sup>rd</sup> Street & Federal Highway and SE 5<sup>th</sup> Street & Federal Highway during a typical Saturday and Sunday raceday in March prior to construction of the statue. These conditions will be compared to conditions during a typical Saturday and Sunday raceday in March following construction of the statue to evaluate whether or not conditions warrant the provision of non-restricted vehicular connection between SE 2<sup>nd</sup> Street and Gulfstream Way to accommodate statue-related traffic. Should the analysis indicate that the connection is warranted, Developer shall submit construction plans for this connection or for an alternate mitigation plan within six (6) months of receipt of confirmation from the City that connection is warranted. This monitoring evaluation will be performed on an annual basis for three (3) years following issuance of final inspection for the Pegasus statue. Nothing herein shall preclude the City from requesting the Developer to perform further analysis in the event the Developer submits future applications for Project development that results in an increase of ten (10%) percent of the existing approved p.m. peak hour trips.

6) The Developer and City acknowledge the mutual objective of establishing a designated passenger rail station to be located generally west of Peter Bluesten Park. In the event that these efforts result in the designation of a station as contemplated Developer agrees to provide or facilitate the payment of an amount not to exceed One Million (\$1,000,000) dollars for the capital cost of station construction, which payment shall be made to the appropriate governmental entity in accordance with an agreed-upon construction draw schedule. In consideration of the Developer's contribution, the City agrees to assist in efforts to assure that the Developer be granted "exclusive private sector naming rights" and "exclusive private sector signage rights". Any such payment to the appropriate governmental entity, shall be deemed, by the City, to be in lieu of any Traffic Capacity Cost Fee pursuant to Ordinance 2009-10, as may be from time to time amended, or any other exaction related to transportation impacts from the Project or impacts from future development plans which may be submitted for review, approval, permitting and construction on any other parcel owned by Gulfstream Park Racing Association, Inc. within the jurisdiction and control of the City.

7) The Developer shall pay to the City an amount not to exceed Five Hundred Thousand (\$500,000) dollars, to be utilized by the City for payment for the design and construction documents for the City's proposed development of Peter Bluesten Park, which payment shall be made in accordance with an agreed-upon draw schedule which shall not require any payment until such time as the City has funding in place to develop the Park and has committed to initiate the process to award a construction contract and commence construction. The design and construction documents shall include a pedestrian crosswalk amenity across U.S. 1, as a gateway to Developer's Project, and shall accommodate the

incorporation of multi-modal pathways between the proposed passenger station referenced in Paragraph 6, above, and Developer's property.

8) In the event that a passenger station is designated, as contemplated, Developer commits to expend a maximum amount of Three Hundred Thousand (\$300,000) dollars in capital costs for tram(s), trolley(s) or other mode of service, determined to be acceptable by the City. The operations and operational costs for any such service shall be funded by the Developer, in order to facilitate the movement of rail passengers to-and-from Peter Bluesten Park, the Governmental Center and the Project. This expenditure and operation shall coincide with the commencement of passenger rail service at the station based upon warranted demand, and shall not preclude the Developer and the City from coordinating mutually-beneficial connections/transportation routes.