

**ORDINANCE #67823**  
**Board Bill No. 408**  
**Committee Substitute**

AN ORDINANCE AFFIRMING ADOPTION OF A DEVELOPMENT PLAN, DEVELOPMENT AREA, AND DEVELOPMENT PROJECT, each as amended, UNDER THE AUTHORITY OF THE MISSOURI DOWNTOWN AND RURAL ECONOMIC STIMULUS ACT, SECTIONS 99.915 TO 99.1060 OF THE REVISED STATUTES OF MISSOURI, AS AMENDED (THE "ACT"); AUTHORIZING AND DIRECTING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ST. LOUIS AND CMC REAL ESTATE COMPANY, LLC IN ACCORDANCE WITH THE ACT AND SAID DEVELOPMENT PLAN; PRESCRIBING THE FORM AND DETAILS OF SAID AGREEMENT; authorizing and directing the execution of such amendments to the development agreement previously authorized by ordinance NO. 67409 as are necessary to carry out the intent of the development plan; MAKING CERTAIN FINDINGS AS REQUIRED BY THE ACT WITH RESPECT TO SAID AGREEMENT; DESIGNATING CMC REAL ESTATE COMPANY, LLC AS DEVELOPER OF A PORTION OF THE DEVELOPMENT AREA IN ACCORDANCE WITH THE ACT; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AUTHORIZING OTHER RELATED ACTIONS by city officials IN CONNECTION WITH THE agreement and the DEVELOPMENT OF CERTAIN PROPERTY WITHIN THE DEVELOPMENT AREA; AND CONTAINING A SEVERABILITY CLAUSE.

**WHEREAS**, the City of St. Louis, Missouri (the "City"), is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

**WHEREAS**, the Missouri Downtown and Rural Economic Stimulus Act, Sections 99.915 to 99.1060 of the Revised Statutes of Missouri, as amended (the "Act"), authorizes cities to undertake development projects in development areas, as defined in the Act; and

**WHEREAS**, the Board of Aldermen of the City created the Downtown Economic Stimulus Authority of the City of St. Louis (the "Authority") pursuant to Ordinance No. 67097; and

**WHEREAS**, the Act authorizes the Authority to hold hearings with respect to proposed development areas, plans and projects and to make recommendations thereon to the Board of Aldermen; and

**WHEREAS**, the Authority has reviewed a plan for development titled "MODESA Development Plan for Ballpark Village", dated January 4, 2007, as revised January 11, 2007, as recommended by the Authority January 18, 2007 (the "Original Development Plan"), as amended by that certain "First Amendment to Ballpark Village Development Plan" dated November 9, 2007 (the "Plan Amendment") (the Original Development Plan as amended by the Plan Amendment being the "Development Plan"), for the Development Area, as more fully described in the Development Plan; and

**WHEREAS**, the Development Plan contemplates the remediation of blighting conditions within the Development Area through construction of retail, entertainment, commercial and residential development, as well as site work, landscaping, utility relocation, streetscape, parking and other infrastructure improvements, as more fully described therein (collectively, the "Development Project"); and

**WHEREAS**, the Authority held a public hearing in conformance with the Act on January 18, 2007, and received comments from all interested persons and taxing districts relative to the Original Development Plan, the designation of the Development Area and the adoption and approval of the development project referenced therein, and subsequently held a public hearing in conformance with the Act on November 29, 2007 and received comments from all interested persons relative to the Plan Amendment and the adoption and approval of the Development Project; and

**WHEREAS**, on January 18, 2007, after due deliberation, the Authority adopted a resolution recommending, among other matters, that the Board of Aldermen designate the Development Area as a "development area" pursuant to the Act, adopt the Original Development Plan and the development project described therein, and adopt development financing within the Development Area; and

**WHEREAS**, on November 29, 2007, after due deliberation, the Authority adopted a resolution recommending, among other matters, that the Board of Aldermen adopt the Plan Amendment and the Development Project; and

**WHEREAS**, pursuant to Ordinance No. 67408 [Board Bill No. 407] the Board of Aldermen has determined that adoption of the Original Development Plan and completion of the development project described therein is of economic significance to the City, will serve to benefit the general welfare, qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a “development area” as provided in the Act, and further, that development of the Development Area in accordance with the Original Development Plan is not financially feasible without the adoption of development financing and would not otherwise be completed; and

**WHEREAS**, pursuant to Ordinance No. \_\_\_\_\_ [Board Bill No. \_\_\_\_] the Board of Aldermen has adopted the Plan Amendment; and

**WHEREAS**, the Development Area qualifies for the use of development financing to alleviate the conditions that qualify it as a “blighted area” as provided in the Act and as set forth herein; and

**WHEREAS**, it is necessary and desirable and in the best interest of the City to enter into the Development Agreement with CMC Real Estate Company, LLC (the “Developer”), in order that Developer may complete a portion of the Development Project with respect to a portion of the Development Area; and

**WHEREAS**, pursuant to the provisions of the Act, the City is authorized to enter into a Development agreement with CMC Real Estate Company, LLC, as Developer, setting forth the respective rights and obligations of the City and Developer with regard to the development of a portion of the Development Area (the “Development Agreement”); and

**WHEREAS**, the Board of Aldermen hereby determines that the terms of the Development Agreement attached as **Exhibit A** hereto and incorporated herein by reference are acceptable and that the execution, delivery and performance by the City and the Developer of their respective obligations under the Development Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the Act and the Development Plan; and

**WHEREAS**, the Board of Aldermen hereby determines that the that the execution of such amendments to the development agreement previously authorized by Ordinance 67409 as are necessary to carry out the intent of the Development Plan and the Development Agreement authorized herein is acceptable and that the execution, delivery and performance by the City and the Developer of their respective obligations under such amendments are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the Act and the Development Plan.

**BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

**SECTION ONE.** The Board of Aldermen hereby ratifies and confirms its approval of the Development Plan, Development Area, and Development Project. The Board of Aldermen further finds and determines that it is necessary and desirable to enter into the Development Agreement with CMC Real Estate Company, LLC, as developer of the “Centene Phase” or “Phase 2” (as such terms are defined in the Development Plan) of the Development Project, in order to implement the Development Project and to enable the Developer to carry out its proposal for development of Phase 2 of the Development Project.

**SECTION TWO.** The Board of Aldermen finds and determines that the assistance of development financing is necessary and desirable in order to implement the Development Project and to enable CMC Real Estate Company, LLC, as developer of a portion of the Development Area, to carry out its proposal for development of Phase 2 of the Development Project.

**SECTION THREE.** The Board of Aldermen hereby approves, and the Mayor and Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the Development Agreement by and between the City and the Developer in substantially the same form attached hereto as **Exhibit A**, with such changes as are authorized pursuant to Section Five hereof, and the City Register is hereby authorized and directed to attest to the Development Agreement and to affix the seal of the City thereto. The Development Agreement shall be in substantially the form attached, with such changes therein as shall be approved by said Mayor and Comptroller executing the same and as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized.

**SECTION FOUR.** The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such action by the Mayor and the Comptroller or their designated

representatives.

**SECTION FIVE.** The Mayor and the Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such changes by the Mayor and the Comptroller or their designated representatives.

**SECTION SIX.** The Mayor and Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized to execute any additional agreements, instruments or documents or make such changes to the documents, agreements and instruments approved and authorized by Ordinance No. 67409 as are necessary to effectuate or as are consistent with the Development Plan (as amended by the Plan Amendment), or this Ordinance and the Development Agreement.

**SECTION SEVEN.** It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

**EXHIBIT A**  
**Form of Development Agreement by and between the**  
**City of St. Louis and the Developer**  
**(Attached hereto.)**

**DEVELOPMENT AGREEMENT**  
**Between the**  
**CITY OF ST. LOUIS, MISSOURI**  
**and**  
**CMC REAL ESTATE COMPANY, LLC**  
**Dated as of**

\_\_\_\_\_, 20\_\_

**CENTENE CENTRE DEVELOPMENT PROJECT**

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**DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** (this “Agreement”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), by and between the **CITY OF ST. LOUIS, MISSOURI** (the “City”), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri and **CMC REAL ESTATE COMPANY, LLC** (together with its successors and assigns, the “Developer”), a limited liability company duly

organized and existing under the laws of the State of Missouri.

#### RECITALS

A. Pursuant to Ordinance No. 67097, adopted and approved on May 25, 2006, the Board of Aldermen duly formed the Downtown Economic Stimulus Authority of the City of St. Louis (the "Authority"), in accordance with the Missouri Downtown and Rural Economic Stimulus Act, Sections 99.915 through 99.1060 of the Revised Statutes of Missouri, as amended (the "MODESA Act"), and empowered the Authority to transact business and exercise its powers as authorized by the MODESA Act.

B. On January 18, 2007, following a public hearing in accordance with the MODESA Act, the Authority adopted a resolution approving a development plan titled "MODESA Development Plan: Ballpark Village" dated January 4, 2007, as amended January 11, 2007 and January 18, 2007 (the "Original Development Plan"), the development project described in the Original Development Plan (the "BPV Development Project") and the Ballpark Village Development Area, and recommending that the Board of Aldermen: (1) adopt an ordinance in the form required by the MODESA Act: (a) approving the Original Development Plan, (b) approving and designating the Ballpark Village Development Area as a "Development Area" as provided in the MODESA Act, (c) approving the BPV Development Project, and (d) creating the Ballpark Village Special Allocation Fund; and (2) adopt development financing with respect to the Ballpark Village Development Area by passage of an ordinance complying with the terms of Section 99.957 of the MODESA Act.

C. On February 9, 2007 after due consideration of the Authority's recommendations, the Board of Aldermen adopted Ordinance No. 67408 designating the Ballpark Village Development Area as a "Development Area" as provided in the MODESA Act, approving the Original Development Plan, and approving the BPV Development Project described in the Original Development Plan.

D. On October 29, 2007, Developer submitted to the Authority an Application for Development Financing for the redevelopment of the Centene Centre Development Subarea (as herein defined), which comprises a portion of the Ballpark Village Development Area (the "Proposal").

E. On November 29, 2007, following a public hearing in accordance with the MODESA Act, the Authority adopted a resolution approving an amendment to the Original Development Plan titled "First Amendment to Ballpark Village Development Plan" dated November 9, 2007 (the "Amendment to Original Development Plan;" the Original Development Plan, as amended by the Amendment to Original Development Plan, and as further amended from time to time in accordance with the MODESA Act, is hereinafter referred to as the "Development Plan"), approving the designation of the BPV Development Project as the "BPV Phase" or "Phase 1" of the Development Project (as hereinafter defined) and the development of the Centene Centre Development Subarea as the "Centene Phase" or "Phase 2" of the Development Project, as described in the Development Plan (the BPV Phase and the Centene Phase are collectively referred to herein as the "Development Project"), and recommending that the Board of Aldermen: (1) adopt an ordinance in the form required by the MODESA Act (a) approving the Amendment to Original Development Plan and (b) approving the Development Project described in the Development Plan, including the BPV Phase and the Centene Phase.

F. On \_\_\_\_\_ after due consideration of the Authority's recommendations, the Board of Aldermen adopted Ordinance No. \_\_\_\_ approving the Amendment to Original Development Plan, approving the Development Project described in the Development Plan, including the BPV Phase and the Centene Phase, and adopting development financing for the Centene Phase of the Development Project.

G. On \_\_\_\_\_, the Board of Aldermen adopted Ordinance No. \_\_\_\_\_ designating the Developer as developer of the Centene Centre Development Subarea under the terms and conditions as set forth herein, and authorizing the City to enter into this Agreement with Developer.

H. The Board of Aldermen has heretofore determined that designation of Developer as developer for the Centene Centre Development Subarea and the fulfillment generally of this Agreement are in the best interests of the City, and the health, safety and welfare of its residents, and in accord with the public purposes specified in the Development Plan.

I. To facilitate the financing and construction of the Centene Phase Development Project, Developer has formed Broadway & Walnut Development Group, LLC, a Delaware limited liability company to be owned by affiliates of Developer, U.S. Equities Realty, L.L.C., [BPV Developer] and Clayco, Inc. ("BWDG"), and Developer intends to assign its rights and obligations under this Development Agreement to BWDG in accordance with the terms and conditions set forth herein (whereupon any reference herein to the "Developer" shall mean BWDG, as assignee of the Developer).

J. BWDG may transfer title to the Centene Centre Development Subarea to the Land Clearance for Redevelopment Authority of the City (“LCRA”) pursuant to that certain Redevelopment Agreement between LCRA and Developer dated as of \_\_\_\_\_ (the “LCRA Redevelopment Agreement”), and LCRA may simultaneously lease the Centene Centre Development Subarea back to the Developer in accordance with the terms of a Lease Agreement between LCRA and Developer dated as of the date of the LCRA Redevelopment Agreement (the “LCRA Lease”). Pursuant to the terms of the LCRA Redevelopment Agreement and the LCRA Lease, Developer shall cause the construction of the Centene Phase of the Development Project on behalf of LCRA, and upon completion, LCRA will own the improvements on Centene Centre Development Subarea, subject to the LCRA Lease.

## AGREEMENT

Now, therefore, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I. DEFINITIONS, DEVELOPER DESIGNATION, AND COSTS/FEES

**Section 1.1 Definitions.** As used in this Agreement, the words and terms set forth in this Section 1.1 shall have the meanings set forth below.

“**Acquisition Costs**” means all costs of acquiring a fee simple interest in the Property, including, but not limited to the cost of land and improvements; brokerage commissions; costs of title commitments, reports or policies; surveys; and property-related reports and expenses.

“**Agreement**” means this Development Agreement, as the same may be from time to time modified, amended or supplemented in writing by the parties hereto.

“**Approving Ordinance**” means Ordinance No. \_\_\_\_\_ approving the Amendment to Original Development Plan, and approving the amendment of the Development Project to include Phase 1 and Phase 2.

“**Authority**” means the Downtown Economic Stimulus Authority of the City of St. Louis, Missouri.

“**Available Revenues**” means all monies on deposit from time to time (including investment earnings thereon) in the following accounts established in accordance with Section 4.2 hereof: (a) the Centene PILOTs Sub-Account of the PILOTs Account; (b) subject to annual appropriation, the Centene DMR Sub-Account of the Dedicated Municipal Revenues Account; (c) subject to annual appropriation by the State of Missouri, the Centene NSR Sub-Account of the Dedicated New State Revenues Account; and (d) subject to annual appropriation, the Centene EATS Sub-Account of the EATS Account; excluding from all such revenues: (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

“**Ballpark Village Development Area**” means the property commonly known as “Ballpark Village,” which property is located generally within the boundaries of Walnut Street on the north, Broadway on the east, Clark Avenue on the south, and 8th Street on the west and depicted on Exhibit A attached hereto.

“**Block 600 Property**” means certain real property identified as “Block 600” in the depiction of the Centene Centre Development Subarea attached hereto as Exhibit B.

“**Block 700 Property**” means certain real property identified as “Block 700” in the depiction of the Centene Centre Development Subarea attached hereto as Exhibit B.

“**Board of Aldermen**” means the Board of Aldermen of the City.

“**BPV Developer**” means Ballpark Village Holding Company, LLC, a Delaware limited liability company, or its permitted successors or assigns in interest.

“**BPV Development Project**” has the meaning given to such term in the Recitals to this Agreement.

“**Business Days**” means weekdays Monday through Friday, exclusive of bank holidays in the State of Missouri as established by the Federal Reserve Board.

“**BWDG**” has the meaning given to such term in the Recitals to this Agreement.

“**Centene Centre Development Subarea**” means the property depicted on Exhibit B attached hereto.

“**Centene Office Subcomponent**” means the portion of the Office Component to be occupied by Centene Corporation pursuant to a sublease between the Developer (or its successor or assign), as sublessor, and Centene Corporation, as sublessee.

“**Certificate of Commencement of Construction**” means a document substantially in the form of Exhibit C, attached hereto and incorporated by reference herein, delivered by Developer to the Authority in accordance with this Agreement and evidencing commencement of construction of the Project or the Subsequent Office Component, as applicable.

“**Certificate of Reimbursable Development Project Costs**” means a document substantially in the form of Exhibit D, attached hereto, provided by the Developer in accordance with this Agreement and evidencing Reimbursable Project Costs incurred by the Developer.

“**Certificate of Substantial Completion**” means a document substantially in the form of Exhibit E, attached hereto and incorporated herein by reference, issued by the Developer or the Hotel Developer (as defined in Section 2.6), as applicable, to the City in accordance with Section 2.7 of this Agreement and evidencing substantial completion of a Component, in accordance with the Development Plan and this Agreement.

“**Components**” means collectively, the Parking Component, the Office Component, the Retail Component, the Subsequent Office Component and the Hotel, each a “Component” of Phase 2 of the Development Project.

“**Comptroller**” means the Comptroller of the City.

“**Construction Plans**” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections, submitted by the Developer and approved by the City pursuant to the City standard process for the issuance of building permits and approved by the LCRA pursuant to the LCRA Redevelopment Agreement.

“**Dedicated Municipal Revenues**” means, subject to annual appropriation: (a) 50% of the total Municipal Revenues generated by the Centene Office Subcomponent; (b) 25% of the total Municipal Revenues generated by the portion of the Other Office Subcomponent occupied by businesses relocating from outside the City; (c) 25% of the Parking Gross Receipts Tax, or any successor thereto, generated by the Parking Component; and (d) 50% of the EATS generated by electric utility taxes on the Office Component and the Parking Component, provided that (1) such electrical utilities are provide by one or more metered services for the entire Centene Centre Development Subarea and (2) the total number of metered services for the entire Centene Centre Development Subarea shall be not more than a number reasonably acceptable to the City and AmerenUE.

“**Dedicated Municipal Revenues Account**” means the account by that name to be created in accordance with Section 4.2 of this Agreement into which the Dedicated Municipal Revenues shall be deposited.

“**Dedicated New State Revenues**” means, subject to the approval of such percentages by the State of Missouri and subject to annual appropriation: (a) ninety percent (90%) of the state income tax increment (as such term is defined in the MODESA Act) generated by the Centene Office Subcomponent and available for the remainder of the MODESA Financing Term; (b) seventy-five percent (75%) of the state income tax increment (as such term is defined in the MODESA Act) generated by the Other Office Subcomponent for the remainder of the MODESA Financing Term; and (c) seventy-five percent (75%) of the state income tax increment (as such term is defined in the MODESA Act) and the state sales tax increment (as such term is defined in the MODESA Act) generated by the Hotel for the remainder of the MODESA Financing Term; or such other amounts as may be acceptable to the Developer.

“**Dedicated New State Revenues Account**” means the account by that name to be created in accordance with Section 4.2 of this Agreement into which Dedicated New State Revenues shall be deposited.

“**Developer**” means CMC Real Estate Company, LLC, a limited liability company duly organized and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

“**Development Plan**” has the meaning given to such term in the Recitals to this Agreement.

“**EATs Account**” means the account to be created in accordance with Section 4.2 of this Agreement into which fifty percent (50%) of the Economic Activity Taxes shall be deposited in accordance with Section 99.957.4 of the MODESA Act.

“**Economic Activity Taxes**” or “**EATs**” shall have the meaning ascribed to such term in Section 99.918(12) of the MODESA Act to the extent such taxes are generated within the Property or the Hotel Property, but excluding such economic activity taxes that are not legally permitted to be deposited into the Special Allocation Fund pursuant to Section 99.957 and Section 99.918(12) of the MODESA Act.

“**Effective Date**” means the date upon which this Agreement has been fully executed by the Developer and the City.

“**Force Majeure**” has the meaning given to such term in Section 5.5 hereof.

“**Hotel**” means the approximately 180 room hotel to be constructed, at Developer’s option, in the Ballpark Village Development Area, outside of the Centene Centre Development Subarea in accordance with the LCRA Redevelopment Agreement.

“**Hotel Property**” has the meaning given to such term in the LCRA Redevelopment Agreement.

“**Initial MODESA Approving Ordinance**” means Ordinance No. 67408 [Board Bill No. 407] designating the Ballpark Village Development Area, approving the Original Development Plan, approving the BPV Development Project and adopting development financing.

“**LCRA Lease**” has the meaning given to such term in the Recitals to this Agreement.

“**Local Development Project Costs**” shall mean any reasonable or necessary cost incurred or estimated to be incurred in furtherance of the Development Plan or the Project, or a Component, which costs are to be funded with MODESA Local Revenues.

“**MODESA Act**” means the Missouri Downtown and Rural Economic Stimulus Act, Sections 99.915 through 99.1060 of the Revised Statutes of Missouri (2000), as amended.

“**MODESA Financing Term**” shall mean the twenty-five (25) year period following adoption of the Initial MODESA Approving Ordinance.

“**MODESA Local Revenues**” means: (1) Payments in Lieu of Taxes, as paid to the City Treasurer by the City Collector of Revenue during the term of the Development Plan and the Project, as defined in Section 99.957 RSMo, and (2) subject to annual appropriation by the Board of Aldermen, fifty percent (50%) of the total Economic Activity Taxes.

“**Municipal Revenues**” means the following revenues of the City generated by economic activities within the Centene Centre Development Subarea and the Hotel Property: (a) the general municipal sales tax levied pursuant to Ordinance No. 62884, or any successor thereto, (b) the general municipal sales tax levied pursuant to Ordinance No. 55497, as amended by Ordinance Nos. 57179 and 57979, or any successor thereto, (c) the transportation sales tax levied pursuant to Ordinance No. 56553, or any successor thereto, (d) the capital improvements sales tax levied pursuant to Ordinance No. 62885, or any successor thereto, (e) the Earnings Tax levied pursuant to Ordinance No. 47063, or any successor thereto, (f) the Payroll Expense Tax levied pursuant to Ordinance No. 60737, or any successor thereto, (g) the Parking Gross Receipts Tax, or any successor thereto, (h) the Entertainment License Tax levied pursuant to Ordinance No. 55390, as amended by Ordinances Nos. 55522, 56178, 56912, 62515, and 65669, and (i) the Restaurant Gross Receipts Tax, or any successor thereto, in each case less the costs of collection thereof and excluding (i) any amount paid under protest until such protest is withdrawn or resolved against the taxpayer or (ii) any such amount received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

“**New State Revenues**” means “other net new revenues,” as such term is defined in Section 99.918(19) of the MODESA Act.

**“Office Component”** means the development of an approximately 750,000 rentable square foot office building on the Block 700 Property.

**“Other Office Subcomponent”** means the portion of the Office Component that is not the Centene Office Subcomponent.

**“Parking Component”** means the development of approximately 1,750 structured parking spaces to be located in one or more parking structures to be constructed above and/or below grade on the Block 600 Property and the Block 700 Property in conjunction with the other Components.

**“Payments in Lieu of Taxes”** or **“PILOTS”** shall have the meaning ascribed to such term in Section 99.918(21) of the MODESA Act to the extent such payments are generated within the Property, but excluding such payments in lieu of taxes that are not legally permitted to be deposited into the Special Allocation Fund pursuant to Section 99.957 of the MODESA Act.

**“Person”** means any individual, partnership, corporation, limited liability company, trust or other entity.

**“Phase 2 Project”** or **“Project”** means collectively, the Office Component and the Parking Component.

**“PILOTS Account”** means the account to be created in accordance with Section 4.2 of this Agreement into which Payments in Lieu of Taxes shall be deposited in accordance with Section 99.957.3 of the MODESA Act.

**“Project Account”** means the Centene Centre Project Account to be created in accordance with Section 4.3 of this Agreement.

**“Property”** means all interests in the real property (including without limitation all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) and existing improvements in the Centene Centre Development Subarea as set forth in the Development Plan.

**“Reimbursable Local Development Project Costs”** means those Local Development Project Costs with respect to the Project as described in Exhibit F, attached hereto and incorporated herein by reference, for which the Developer is eligible for reimbursement in accordance with this Agreement and which constitute “development project costs” as such term is defined in Section 99.918(11) of the MODESA Act.

**“Reimbursable Project Costs”** means collectively all Reimbursable Local Development Project Costs and all Reimbursable State Development Project Costs.

**“Reimbursable State Development Project Costs”** means those State Development Project Costs with respect to the Parking Component and other infrastructure, if any, for which the Developer is eligible for reimbursement in accordance with this Agreement and which constitute “development project costs” as such term is defined in Section 99.918(ii) of the MODESA Act.

**“Retail Component”** means the development of approximately 30,000 square feet of retail space at street level in the building to be constructed on the Block 700 Property and approximately 52,000 square feet of retail space on the first and second floors of the building to be constructed on the Block 600 Property, which Retail Component is intended to be sold at cost to BPV Developer to comprise a portion of Phase 1 of the Development Project (as such Phase is defined in the Development Plan).

**“Special Allocation Fund”** means the Centene Centre Special Allocation Fund, created by the Approving Ordinance in accordance with the MODESA Act, and including the accounts for the Project into which MODESA Local Revenues, Dedicated New State Revenues and Dedicated Municipal Revenues are from time to time deposited in accordance with the MODESA Act and this Agreement.

**“State Development Project Costs”** shall include such costs related to the Development Plan, the Project or a Component, as applicable, which are expended on public property, buildings, or rights-of-ways for public purposes to provide infrastructure to support for a development project, but such costs shall only be allowed as an initial expense which is included in the costs of a development plan or development project, except in circumstances of plan amendments approved by the Missouri Development Finance Board and the Department of Economic Development. Such infrastructure costs include, but are not limited to, the following:

- (a) Costs of studies, appraisals, surveys, plans, and specifications;

- (b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;
- (c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;
- (d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public buildings and fixtures;
- (e) Costs of construction of public works or improvements;
- (f) Financing costs, including, but not limited to, all necessary expenses related to the issuance of obligations issued to finance all or any portion of the infrastructure costs of one or more development projects, and which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;
- (g) All or a portion of a taxing district's capital costs resulting from any development project necessarily incurred or to be incurred in furtherance of the objectives of the development plan, to the extent the municipality by written agreement accepts and approves such infrastructure costs;
- (h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a development project;
- (i) State government costs, including, but not limited to, the reasonable costs incurred by the department of economic development, the department of revenue and the office of administration in evaluating an application for and administering state supplemental downtown development financing for a development project; and
- (j) Endowment of positions at an institution of higher education which has a designation as a Carnegie Research I University including any campus of such university system, subject to the provisions of section 99.958.

**“Subsequent Office Component”** means the development of an additional up to 550,000 rentable square feet of office space on the Block 600 Property, to be constructed at Developer's option above the Parking Component and Retail Component in accordance with the LCRA Redevelopment Agreement.

**“Work”** means all work necessary to prepare the Centene Centre Development Subarea and to construct or cause the construction and completion of the Project as specifically described in the Proposal and this Agreement, including, but not limited to: (1) property acquisition; (2) professional services, including, but not limited to, architecture, engineering, surveying, financing, legal and planning and consulting; (3) selective demolition, site preparation and improvements, (4) construction of the buildings that are part of the Project; (5) construction, reconstruction, renovation and/or rehabilitation of related infrastructure and/or improvements, including without limitation surrounding curbs, sidewalks, landscaping, lighting and enhancements; and (6) all other work described in the Proposal and this Agreement, or reasonably necessary to effectuate the intent of this Agreement.

**Section 1.2 Developer Designation.** The City hereby affirms its selection of the Developer to perform or cause the performance of the Work in accordance with the Proposal and this Agreement. To the extent of any inconsistency between the foregoing, the parties agree that this Agreement shall govern.

**Section 1.3 Developer to Advance Costs.** The Developer agrees to advance all Project costs as necessary to acquire the Centene Centre Development Subarea and to complete the Work. Additionally, and not by way of limitation:

- (a) the Developer shall, concurrently with the execution of this Agreement, reimburse the City, the LCRA and the Authority for all of their reasonable outside consultant costs, including reasonable attorneys' fees, incurred in connection with the Proposal, and this Agreement, up to and including the date of execution of this Agreement (to the extent such costs are not reimbursed pursuant to the LCRA Redevelopment Agreement); and
- (b) the Developer shall pay to the City, the LCRA and the Authority such additional amounts as invoiced on a monthly basis by the City to reimburse the City, the LCRA and the Authority for their actual reasonable outside consultant fees, including reasonable attorneys' fees and expenses, in connection with the Proposal and this Agreement (to the extent such costs are not reimbursed pursuant to the LCRA Redevelopment Agreement); and

(c) any amounts paid to the City, the LCRA or the Authority pursuant to this Section 1.3 shall represent Reimbursable Local Development Project Costs to be reimbursed to the Developer exclusively from the disbursement of Available Revenues in the Project Account, if any, as provided in and subject to the provisions of this Agreement.

**ARTICLE II.  
CONSTRUCTION OF DEVELOPMENT PROJECT**

**Section 2.1 Acquisition of Property.** Developer represents to the City that it will use reasonable efforts to acquire by negotiated purchase all of the Property as is necessary for the implementation of the Work. Promptly following acquisition of the Property, the Developer may transfer title to such Property to the LCRA, and the LCRA may simultaneously lease the Property back to the Developer pursuant to the LCRA Lease. With respect to the transfer of title to the Property to the LCRA and the lease of Property back to the Developer, the parties agree that the terms of the LCRA Redevelopment Agreement shall govern.

**Section 2.2 Construction of Project.** The Developer agrees to carry out the Project in accordance with the Approving Ordinance, the LCRA Redevelopment Agreement, the Development Plan and this Agreement, and substantially in accordance with the Proposal and the Construction Plans. The terms and provisions of the Approving Ordinance, the LCRA Redevelopment Agreement, the Redevelopment Plan and the Proposal, all as may be amended from time to time, are incorporated by reference herein. The Developer shall enter into all contracts necessary to construct and equip the Project and shall advance the funds necessary for the acquisition, construction and equipping of the Project. The Developer also agrees that the property comprising each of the Retail Component and the Office Component, and, if such subdivision is desirable to Developer, the Parking Component shall, as soon as possible following completion of each Component, be subdivided so that each shall be a separate tax parcel. The City and the Developer agree that if the Developer fails to submit a Certificate of Substantial Completion for each Component of the Project in accordance with the time frames set forth in Section 2.3 of this Agreement, then the City’s reimbursement to Developer from Available Revenues in accordance with Article III of this Agreement shall cease with respect to Reimbursable Project Costs derived from such Component, and the City shall have no further obligation to reimburse Developer with respect to such costs. The City agrees that, in determining whether the Parking Component or the Hotel has been completed, the size requirement of each such Component shall be satisfied if the Developer has constructed parking spaces (with respect to the Parking Component) or hotel rooms (with respect to the Hotel), within ten percent (10%) of the number of spaces or rooms (as the case may be) specified in the definition of each Component in this Agreement. The City agrees that, in determining whether the Office Component has been completed, the size requirement of such Component shall be satisfied if the Developer has constructed at least 630,000 rentable square feet of office space. Notwithstanding the foregoing, the Board of Estimate and Apportionment of the City, acting on behalf of the City, shall have the right to permit Developer to deviate by more than 10% from the quantifiable elements set forth in the definition of each Component if the Board (in its sole discretion) deems such deviation to be appropriate.

**Section 2.3 Construction Schedule.** Following approval of the Construction Plans by the LCRA prior to commencement of construction of the Project, the Developer shall submit a Certificate of Commencement of Construction to the City, evidencing Developer’s intent to commence construction, provided that Developer agrees to submit such Certificate of Commencement of Construction of the Project no later than [\_\_\_\_\_]. The Developer agrees to complete each respective Component of the Project as called for by this Agreement, as same may be amended from time to time, within the time frames listed in the table provided below after delivery of the Certificate of Commencement of Construction. Such time limits shall be extended in the event of Force Majeure, as defined herein.

Component	Time Frame for Completion Following Certificate of Commencement
Office Component	
Parking Component	
Subsequent Office Component (if Developer elects to construct)	

**Section 2.4 MBE/WBE Participation Goals.**

(a) Developer shall comply with the requirements of the City’s DESA Disadvantaged Business Enterprise Program as set forth in Section 7 of Ordinance No. 67231 of the City of St. Louis with respect to the Work.

(b) In any contract for Work in connection with the Project, Developer shall comply with Executive Order #28 dated July 24, 1997, relating to minority and women-owned business participation in City contracts.

(c) Prior to commencement of construction of the Project, Developer and the City shall cooperate in developing a compliance plan for the Project, including a goal of at least 25% MBE participation and 5% WBE participation in contracts and purchases with respect to the Project (the "Project MBE/WBE Plan"). Developer shall make good faith efforts throughout the term of the Agreement to meet the goals set forth in the Project MBE/WBE Plan.

(d) In order to meet its obligations under this Section 2.4, Developer shall actively seek participation by MBE and WBE firms by, at a minimum, engaging in activities that include but are not limited to the following: (i) advertising in local newspapers that the Project, or portions thereof, is available for bidding and that Developer encourages MBE/WBE participation; (ii) making the Construction Plans available at various agencies to facilitate bidding by MBE and WBE participants; (iii) working with existing program providers, including the City, to maximize mentoring and partnership opportunities with MBE and WBE firms; and (iv) contacting MBE and WBE firms via written correspondence and by telephone regarding the opportunities available to MBE and WBE firms on the Project.

(e) Developer shall cause its general contractor(s) for the Project to make every effort to comply with the MBE/WBE goals for the Project set forth in this Section 2.4.

**Section 2.5 Subsequent Office Component.** Developer may at any time during the term of this Agreement elect to proceed with the construction of the Subsequent Office Component, by providing the City with a Certificate of Commencement of Construction with respect to the Subsequent Office Component. If Developer elects to construct the Subsequent Office Component, all references herein to the "Project" shall be deemed to include the Subsequent Office Component and all terms and conditions of this ARTICLE II shall apply to such construction, provided, however, that the period for construction of the Subsequent Office Component set forth in Section 2.3 shall commence upon delivery of the Certificate of Commencement of Construction for the Subsequent Office Component.

**Section 2.6 Development of the Hotel.** Developer may at any time during the term of this Agreement elect to proceed with the construction of the Hotel by Developer or another developer designated by Developer (the "Hotel Developer") by providing or causing the Hotel Developer to provide written notice of commencement of construction of the Hotel to the City. Developer hereby agrees that prior to the commencement of the construction of the Hotel, the Hotel Developer shall submit to the LCRA, for its approval, the Hotel Plans (as defined in the LCRA Redevelopment Agreement). The Developer agrees to use commercially reasonable efforts to cause the Hotel Developer to construct the Hotel in accordance with the Hotel Plans which have been approved by the LCRA, as modified from time to time in accordance with the LCRA Redevelopment Agreement. Notwithstanding the foregoing, neither Developer nor the Hotel Developer shall be entitled any benefit from PILOTs, EATs or Dedicated New State Revenues derived from the Hotel Property until such time as the Developer has submitted one or more Certificates of Reimbursable Development Project Costs to the City evidencing payment of at least [\$\_\_\_\_\_] in the aggregate Reimbursable Project Costs for the Office Component. The Developer shall cause the Hotel to be constructed in a manner that permits the Hotel to be structured as a tax parcel separate and apart from any other tax parcel in the Development Area, and Developer shall, as soon as permissible in accordance with applicable law, cause the subdivision of the Hotel Property so that it is a tax parcel separate and apart from any other tax parcel in the Development Area

**Section 2.7 Completion of Project.** Upon the substantial completion of each Component, the Developer shall submit or cause the Hotel Developer to submit a Certificate of Substantial Completion for such Component to the City substantially in the form of Exhibit E hereto, certifying that the redevelopment of such Component has been completed in accordance with the Development Plan, as may be amended from time to time, the Construction Plans and the Proposal. Upon receipt of a Certificate of Substantial Completion with respect to any Component, the City shall inspect such Component to determine if it has been completed in accordance with the terms of this Agreement. If the City finds that the development of such Component has been completed in accordance with the terms hereof, the City shall acknowledge its approval of the Certificate of Substantial Completion by signing and delivering such Certificate to the Developer. Said Certificate shall be recorded in the Recorder's Office at the cost of the Developer, who shall furnish the date, book and page number of such recording to the City, in writing.

**Section 2.8 Tax Abatement.** The parties agree that Developer shall be entitled to receive from the LCRA the benefits of abatement of real property taxes and exemption from certain personal property and construction materials sales taxes with respect to certain Components, with the terms and conditions of such abatement or exemption to be governed by the LCRA Redevelopment Agreement.

**ARTICLE III  
REIMBURSEMENT OF DEVELOPER COSTS**

**Section 3.1 City's Obligation to Reimburse Developer.** Subject to the limitations of ARTICLE III of this Agreement, the City agrees to reimburse Developer for the verified Reimbursable Local Development Project Costs in an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_.00) (which amount has an estimated current net present value of approximately \$\_\_\_\_\_ at a rate of \_\_ percent) and verified Reimbursable State Development Project Costs in an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_.00) (which amount has an estimated current net present value of approximately \$\_\_\_\_\_ at a rate of \_\_ percent), provided that the City's obligation to reimburse the Developer shall cease at the termination of the MODESA Financing Term whether or not the Developer has been reimbursed in full for its verified Reimbursable Project Costs.

**Section 3.2 Reimbursements Limited to Reimbursable Project Costs; Developer's Right to Substitute.** Nothing in this Agreement shall obligate the City to reimburse the Developer for any cost that is not incurred pursuant to the MODESA Act or that does not qualify as a "development project cost" under Section 99.918(11) of the MODESA Act. The City shall not be required to reimburse Developer prior to Developer's delivery of a Certificate of Commencement of Construction. The Developer shall provide to the City (a) itemized invoices, receipts or other information evidencing such costs; and (b) a Certificate of Reimbursable Project Costs constituting certification by the Developer that such cost is eligible for reimbursement under the MODESA Act. Within thirty (30) days of the City's receipt from the Developer of a Certificate of Reimbursable Project Costs, the City shall review and act upon such Certificate of Reimbursable Project Costs. The parties agree that each of the categories of costs set forth in Exhibit F, attached hereto and incorporated herein by this reference, shall constitute Reimbursable Local Development Project Costs which are eligible for reimbursement in accordance with the MODESA Act and this Agreement with respect to the Project. If the City determines that any cost identified as a Reimbursable Local Development Project Cost or a Reimbursable State Development Project Cost is not a "development project cost" under Section 99.918(11) of the MODESA Act, the City shall so notify the Developer in writing within the thirty (30) day period referenced in this Section 3.2, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other costs as Reimbursable Local Development Project Costs or Reimbursable State Development Project Costs (as the case may be) with a supplemental application for payment and the thirty (30) day period shall begin anew. If the City fails to approve or disapprove any Certificate of Reimbursable Development Project Costs within thirty (30) days after receipt thereof, the Certificate of Reimbursable Development Project Costs shall be deemed approved.

**Section 3.3 Reimbursement of the Developer on a "Pay-As-You-Go" Basis.** The Developer shall not submit more than one Certificate of Reimbursable Development Project Costs each month. Upon submission to and acceptance by the City of a Certificate of Substantial Completion evidencing the expenditure of Reimbursable Local Redevelopment Project Costs of \$\_\_\_\_\_.00 and Reimbursable State Redevelopment Project Costs of \$\_\_\_\_\_.00 pursuant to Section 3.1 hereof, no further documentation shall be required from the Developer in order to obtain the "pay-as-you-go" Available Revenues hereunder. Subject to there being Available Revenues on deposit in the Project Account established pursuant to Section 4.2 of this Agreement, the Comptroller or other financial officer of the City shall disburse any payment required hereunder within ten (10) days after acceptance of each Certificate of Reimbursable Development Project Costs by the Comptroller. In the event that Available Revenues on deposit in the Project Account are insufficient to reimburse the Developer as provided in this Section, then the unpaid portion shall be carried forward and paid from Available Revenues subsequently transferred to the Project Account. Notwithstanding the foregoing, PILOTs shall be utilized as follows:

(a) Prior to the City's acceptance of a Certificate of Substantial Completion of the Project, any PILOTs on deposit in the Centene PILOTs Sub-Account of the PILOTs Account shall be treated as "surplus" and distributed to the various applicable taxing districts accordingly as provided in the MODESA Act and shall not constitute Available Revenues, such that neither Developer nor Hotel Developer shall be entitled to an economic benefit from such PILOTs;

(b) Following the City's acceptance of a Certificate of Substantial Completion of the Project, any PILOTs attributable to the increase in the value of the Property between the baseline year and the year in which acceptance of such certificate occurs shall be paid to the Developer as Available Revenues; provided, however, that the Developer is hereby obligated to then pay to the various taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a development project (with the amounts of such pro rata allocation to be provided by the City to the Developer), such that neither Developer nor Hotel Developer shall be entitled to an economic benefit from such PILOTs; and

(c) Following the City's acceptance of a Certificate of Substantial Completion of the Project, any PILOTs attributable to the increase in the value of the Property above its value in the year in which acceptance of such certificate occurs, if any such

increase exists, shall be treated as Available Revenues and distributed in the same manner as all other Available Revenues.

**Section 3.4 City's Obligations Limited to Special Allocation Fund.** Notwithstanding any other term or provision of this Agreement to the contrary, any reimbursement by the City pursuant to ARTICLE III of this Agreement is payable only from Available Revenues, if any, and from no other source.

**ARTICLE IV  
SPECIAL ALLOCATION FUND;  
COLLECTION AND USE OF APPLICABLE REVENUES**

**Section 4.1 Cooperation to Obtain State MODESA Financing.** The City hereby agrees that as soon as reasonably practical, it shall promptly submit an application to the Missouri Department of Economic Development and to the Missouri Development Finance Board, as appropriate, for state supplemental financing under the MODESA Act for the Project (the "MODESA Application"). The MODESA Application shall include a request that the Dedicated New State Revenues be deposited into the Special Allocation Fund, to be used to reimburse the Developer for Reimbursable State Development Project Costs in accordance with this ARTICLE IV. Developer shall cooperate with the City in the preparation and submission of the MODESA Application. Upon approval of the MODESA Application, the City shall enter into a written agreement with the State of Missouri or appropriate agency thereof setting forth the terms and conditions of the MODESA Act funding. The City, with the cooperation of the Developer, shall use its best efforts to fulfill any obligation of the City or any agency thereof to the State of Missouri in connection with the MODESA Act financing, and to enforce the obligations of the State of Missouri or agency thereof under any such agreement and the MODESA Act, including but not limited to the commitment to deposit all Dedicated New State Revenues into the Special Allocation Fund.

**Section 4.2 Creation of Special Allocation Fund.** The City agrees to cause its Comptroller or other financial officer to maintain the Special Allocation Fund, including a "PILOTs Account," an "EATs Account," a "Dedicated New State Revenues Account" and a "Dedicated Municipal Revenues Account," and such further funds, accounts or sub-accounts as are required by this Agreement or as the Comptroller of the City may deem appropriate in connection with the administration of the Special Allocation Fund pursuant to this Agreement. Subject to the requirements of the MODESA Act, the City will promptly upon receipt thereof deposit all Available Revenues attributable to Payments in Lieu of Taxes (if any) into the Centene PILOTs Sub-Account of the PILOTs Account, all Available Revenues attributable to Economic Activity Taxes into the Centene EATS Sub-Account of the EATs Account, all Available Revenues attributable to Dedicated New State Revenues into the Centene NSR Sub-Account of the Dedicated New State Revenues Account and all Available Revenues attributable to Dedicated Municipal Revenues into the Centene DMR Sub-Account of the Dedicated Municipal Revenues Account.

**Section 4.3 Creation of Project Account for Reimbursement on a "Pay-As-You-Go" Basis.** The City hereby establishes and creates within the Special Allocation Fund a fund to be known as the "Project Account," which Project Account shall be held in the custody of the Comptroller or other financial officer of the City. On or before the first Business Day of each calendar month, all Available Revenues shall be transferred to the Project Account. The City hereby agrees for the term of this Agreement to apply moneys in the Project Account, while it is in the custody of the Comptroller or other financial officer of the City, to the payment to the Developer or any person, firm, or corporation specified by the Developer pursuant to a Certificate of Reimbursable Development Project Costs submitted and approved by the Comptroller in accordance with Section 3.3 of this Agreement.

**Section 4.4 Covenant to Appropriate Available Revenues.** The City agrees that the officer of the City at any time charged with the responsibility of formulating budget proposals will include in the budget proposal submitted to the Board of Aldermen, for each fiscal year during the term of this Agreement, a request for an appropriation of all Available Revenues to be deposited into the Special Allocation Fund for application to the payment of Reimbursable Project Costs.

**Section 4.5 Certification of Base for PILOTS and EATS.**

(a) Upon the reasonable written request of the City, Developer shall use its best efforts to provide or cause to be provided to the Comptroller or its authorized representative any documents necessary for the City to calculate the base for PILOTs and EATs including, but not limited to: (i) the address and locator number of all parcels of real property located within the Development Area; and (ii) information related to payment of utility, payroll, earnings, parking and State withholding taxes by any businesses, owners or other occupants of the Development Area in the calendar year ending December 31, 2006.

(b) Within ninety (90) days after execution of this Agreement, the City shall provide to the Developer (i) a certificate of the City Assessor's calculation of the total initial equalized assessed valuation of the taxable real property within the Ballpark

Village Development Area and (in order to determine the amount of PILOTs and EATs attributable to the Project and the Hotel) based upon the most recently ascertained equalized assessed valuation of each taxable lot, block, tract, or parcel of real property within the Ballpark Village Development Area; and (ii) a certification of the amount of revenue from taxes, penalties and interest which are imposed by the City and other taxing districts and which are generated by economic activities within the Ballpark Village Development Area (in order to determine the amount of PILOTs and EATs attributable to the Project and the Hotel for the calendar year ending December 31, 20\_\_, but excluding those personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, taxes levied for the purpose of public transportation, or licenses, fees or special assessments identified as excluded in Section 99.957 of the MODESA Act.

**Section 4.6 Cooperation in Determining Available Revenues.** The City and the Developer agree to cooperate and take all reasonable actions necessary to cause the MODESA Local Revenues, Dedicated New State Revenues, and Dedicated Municipal Revenues to be paid into the Special Allocation Fund, including, but not limited to, the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement. The Developer (or its successor(s) in interest as an owner or owner(s) of the affected portion(s) of the Property or a leasehold interest therein) shall use all reasonable efforts to require each "seller" (as that term is defined in Section 144.010(11) of the Missouri Revised Statutes, as amended) located in, or owner, tenant or operator of any portion of, the Property to provide to the Comptroller of the City the following information:

- (a) Each "seller's" federal and state tax identification numbers and sales tax identification numbers.
- (b) Within thirty (30) days of the end of each calendar quarter, copies of a completed Quarterly Information Form, in the form attached hereto as Exhibit G, for each "seller's" business located within the Development Area along with:
  - (i) copies of all sales tax returns filed with the Missouri Department of Revenue (on Form 53-S.F. Missouri Department of Revenue or such successor form) with respect to the sales taxes originating from businesses located within the Centene Centre Development Subarea or Hotel Property for such quarter. In the event that a "seller" has multiple business operations within the State, such "seller" shall file separate sales tax returns for the sales taxes originating from the business located within the Centene Centre Development Subarea or Hotel Property.
  - (ii) copies of all earnings tax returns filed with the City (on Business Return Form 234 or such successor form) with respect to earnings taxes originating from the business located within the Centene Centre Development Subarea or Hotel Property for such quarter. In the event that a business has multiple operations within the City, such business shall file separate earnings tax returns for the earnings taxes originating from the business located within the Centene Centre Development Subarea or Hotel Property.
  - (iii) copies of all City earnings tax and State withholding reports filed with the City and the State (on Form W-10 or such successor form) originating from the business located within the Centene Centre Development Subarea or Hotel Property for such quarter. In the event that a business has multiple operations within the State, such business shall file separate City earnings tax withholding and State withholding reports for the earnings tax and State withholdings originating from the business located within the Centene Centre Development Subarea or Hotel Property.
  - (iv) copies of all parking tax returns and restaurant tax returns filed with the City.

The Developer (or its successor(s) in interest as an owner or owner(s) of any portion(s) of the Property) shall also require any purchaser or transferee of real property and any lessee of real property located within the Centene Centre Development Subarea or Hotel Property to designate sales subject to sales taxes pursuant to Chapter 144 of the Revised Statutes of Missouri, as amended, to be reported as originating from the Centene Centre Development Subarea or Hotel Property to the fullest extent permitted by law (including reasonable efforts to negotiate for the inclusion of a clause so providing in the leases of the Property). The Developer shall satisfy the requirements of this Section 4.6 by including the obligations set forth in this Section within any deed conveying a portion of the Property to or any lease entered into for all or any portion of the Property, or by any other document recorded against the Property.

## ARTICLE V GENERAL PROVISIONS

**Section 5.1 Developer's Right of Termination.** At any time prior to the delivery of a Certificate of Substantial Completion, the Developer may, by giving written notice to the City, abandon the Project and terminate this Agreement and the

Developer's obligations hereunder if the Developer determines, in its sole discretion, that the Project is no longer economically feasible. Upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

**Section 5.2 City's Right of Termination.** The City may terminate this Agreement if the Developer fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with Section 2.7 of this Agreement and the schedule set forth in Section 2.3 of this Agreement. Upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

**Section 5.3 Successors and Assigns.**

(a) This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective heirs, administrators, executors, personal representatives, successors and assigns.

(b) Without limiting the generality of the foregoing, all or any part of the Centene Centre Development Subarea or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after redevelopment of the Centene Centre Development Subarea, whereupon the party disposing of its interest in the Centene Centre Development Subarea or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such Centene Centre Development Subarea disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement), provided that until substantial completion of the Project, the fee title to the Centene Centre Development Subarea may not be sold, transferred or otherwise disposed of and the rights, duties and obligations of the Developer under this Agreement may not be assigned in whole or in part without the prior written approval of the City (acting through the Board of Estimate and Apportionment), which approval shall not be unreasonably withheld or delayed upon a reasonable demonstration by the Developer of the proposed assignee's experience and financial capability to undertake and complete such portions of the Project with respect to the Project to be assigned, all in accordance with this Agreement. Notwithstanding anything herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with, (a) the right of the Developer to encumber or collaterally assign its interest in the Centene Centre Development Subarea or any portion thereof to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Project, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; (b) the right of the Developer to assign the Developer's rights, duties and obligations under this Agreement to any party or entity related to the Developer by one of the relationships described in Section 267(b) of the Internal Revenue Code of 1986, as amended; (c) the right of the Developer to sell, lease or sublease individual portions of the Centene Centre Development Subarea in the ordinary course of the development of the Project; or (d) the right of the Developer to assign the Developer's rights, duties and obligations under this Agreement to BWDG, as contemplated in the Proposal.

**Section 5.4 Remedies.** Except as otherwise provided in this Agreement and subject to the Developer's and the City's respective rights of termination, in the event of any default in or breach of any term or conditions of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of notice, cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional thirty (30) days to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the end of the additional thirty (30) day period, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

**Section 5.5 Force Majeure.** Neither the City nor the Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by Force Majeure, including without limitation damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Developer to proceed with construction of the Work or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other like causes

beyond the parties' reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of the Development Plan, Project or this Agreement; provided that such event of Force Majeure shall not be deemed to exist as to any matter initiated or sustained by the Developer in bad faith.

**Section 5.6 Notices.** All notices, demands, consents, approvals, certificates and other communications required by this Agreement to be given by either party hereunder shall be in writing and shall be hand delivered or sent by United States first class mail, postage prepaid, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, certificates and other communications shall be deemed given when delivered or three days after mailing; provided, however, that if any such notice or other communication shall also be sent by telecopy or fax machine, such notice shall be deemed given at the time and on the date of machine transmittal if the sending party receives a written send verification on its machines and forwards a copy thereof with its mailed or courier delivered notice or communication.

In the case of the Developer, to:

Jim Reh  
Vice President, Facilities Management  
CMC Real Estate Company, LLC  
7711 Carondelet Ave., Suite 800  
Clayton, Missouri 63105

With a copy to:

Armstrong Teasdale LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102  
Attention: James Mello  
Facsimile: 314-621-5065

In the case of the City, to:

City of St. Louis  
Office of the Mayor  
City Hall  
1200 Market Street, Room 200  
St. Louis, Missouri 63103  
Attention: Barbara Geisman, Executive Director for Development  
Facsimile: 314-622-3440

and

City of St. Louis  
Office of the Comptroller  
City Hall  
1200 Market Street, Room 212  
St. Louis, Missouri 63103  
Attention: Ivy Neyland-Pinkston, Deputy Comptroller  
Facsimile: 314-588-0550

With a copy to:

City of St. Louis  
City Counselor  
City Hall  
1200 Market Street, Room 314  
St. Louis, Missouri 63102  
Attention: Patricia Hageman, City Counselor

Facsimile: 314-622-4956

and

Husch & Eppenberger, LLC  
190 Carondelet Plaza, Suite 600  
St. Louis, Missouri 63105  
Attn: David G. Richardson  
Facsimile: (314) 480-1505

**Section 5.7 Conflict of Interest.** No member of the Board of Aldermen, the Authority, or any branch of the City's government who has any power of review or approval of any of the Developer's undertakings, or of the City's contracting for goods or services for the Centene Centre Development Subarea, shall participate in any decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the City the nature of such interest and seek a determination by the City with respect to such interest and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

**Section 5.8 Inspection.** The City may conduct such periodic inspections of the Work as may be generally provided in the building code of the City and the other laws of the City. In addition, the Developer shall allow other authorized representatives of the City reasonable access to the Work site from time to time upon advance notice prior to its acceptance of the Certificate of Substantial Completion for inspection of the Work.

**Section 5.9 Choice of Law.** This Agreement shall be governed by the laws of State of Missouri.

**Section 5.10 Entire Agreement; Amendment.** This Agreement incorporates all prior negotiations and discussions between the parties regarding its subject matter and together represent the entire agreement of the City and Developer for the Project. This Agreement may only be modified by written instrument executed by the City and Developer.

**Section 5.11 Counterparts.** This Agreement may be executed in multiple counterparts, each of which, when taken together, shall constitute one and the same instrument.

**Section 5.12 Severability.** If any term, covenant, condition, or provision of this Agreement, or the application to any person or circumstance shall, at any time or to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall (except to the extent such result is clearly unreasonable) not be affected thereby, and under such circumstances each term, covenant, condition, and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law, insofar as such enforcement is not clearly unreasonable. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 5.13 Representatives Not Personally Liable.** No elected or appointed official, agent, employee or representative of the City, the Authority or the LCRA shall be personally liable to the Developer in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement. No member, partner, agent, employee or representative of the Developer shall be personally liable to the City, the Authority or LCRA in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

**Section 5.14 Actions Contesting the Validity and Enforceability of the Development Plan and Other Documents.** In the event a third party brings an action against the City, the Authority, LCRA or their respective officials, agents, attorneys, employees or representatives contesting the validity or legality of the Ballpark Village Development Area, the Development Plan, the Approving Ordinance or the ordinance approving this Agreement, the parties expressly agree that, so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City, the Authority LCRA and/or the Developer in any such proceeding. The Developer shall be responsible for all reasonable and necessary costs and expenses incurred by the City and by the Developer in connection with the defense of such claim or action, provided that if the City, the Authority or LCRA does not approve a settlement or compromise which the Developer would agree to, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of

such claim or action. All cost of any such defense, whether incurred by the City, the Authority, LCRA or the Developer, shall be deemed to be Reimbursable Project Costs and reimbursable from any amounts in the Special Allocation Fund, subject to ARTICLE III of this Agreement. Notwithstanding anything in this Agreement or in any other document to the contrary, and without limiting the meaning of the foregoing, neither the City nor LCRA shall be liable for any judgment or for any impact of such judgment on Developer that renders this Agreement or any law or ordinance or other document related in any way to this Agreement invalid or unenforceable.

**Section 5.15 Release and Indemnity.** The indemnifications and covenants contained in this Section shall survive termination or expiration of this Agreement.

(a) The City, the Authority and the LCRA and their respective governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable to the Developer for damages or otherwise in the event that all or any part of the MODESA Act, or any ordinance adopted in connection with either the MODESA Act, this Agreement or the Development Plan, is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof.

(b) The Developer releases from and covenants and agrees that the City, the Authority, LCRA and their respective governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold harmless the City, the Authority, LCRA and their respective governing body members, officers, agents, attorneys, employees and independent contractors against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed (excluding consequential and punitive damages), to persons or property to the extent occurring or allegedly occurring as a result of any negligence or willful misconduct of the Developer, its governing body members, officers, agents, attorneys, employees and independent contractors, in connection with its or their activities conducted pursuant to this Agreement.

(c) The City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, employees, independent contractors or any other persons who may be about the Property or the Work except for matters arising out of or relating to the gross negligence or willful misconduct of the City and its governing body members, officers, agents, attorneys, employees and independent contractors.

(d) All covenants, stipulations, promises, agreements and obligations of the City, the Authority and LCRA contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City, the Authority and LCRA and not of any of its governing body members, officers, agents, attorneys, employees or independent contractors in their individual capacities.

(e) No governing body members, officers, agents, attorneys, employees or independent contractors of the City, the Authority or LCRA shall be personally liable to the Developer in the event of a default or breach by any party under this Agreement.

The Developer releases from and covenants and agrees that the City, the Authority and LCRA and their respective governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold the City, the Authority and LCRA and their respective governing body members, officers, agents, attorneys, employees and independent contractors, harmless from and against any and all third party suits, interest, claims and cost of reasonable attorneys fees incurred by any of them, to the extent resulting from, arising out of, or related to (i) the enforcement of this Agreement or the enforcement or validity of any other agreement or obligation made in connection therewith and their approvals (excluding opinions of counsel and of the City's financial advisors whenever such claim is based on such party's own negligence); (ii) the negligence or willful misconduct of the Developer or its officers, agents, employees or independent contractors in connection with the design, management, development, redevelopment and construction of the Work, or (iii) the compliance by the Developer with all applicable state, federal and local environmental laws, regulations and ordinances as applicable to the Property, to the extent such condition existed prior to the acquisition thereof by the Developer. The foregoing release and indemnification shall not apply in the case of such liability resulting from, arising out of or related to the negligence or willful misconduct of the City, the Authority, LCRA or any of their respective governing body members, officers, agents, attorneys, employees and independent contractors or which results from, arises out of or relates to matters undertaken by the City following termination of this Agreement as to the Project or any particular portion thereof.

**Section 5.16 Term.** The term of this Agreement shall commence on the Effective Date and shall terminate at the

end of the MODESA Financing Term, unless earlier terminated in accordance with the terms of this Agreement.

**Section 5.17 Survival.** Notwithstanding the expiration or termination or breach of this Agreement by either party, the agreements contained in Sections \_\_\_ of this Agreement shall, except as otherwise expressly set forth herein, survive such early expiration or early termination of this Agreement by any party.

**Section 5.18 Authority of the Parties.**

(a) The City hereby represents and warrants that it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement. This Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

(b) The Developer hereby represents and warrants it has full power to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing has been duly and validly authorized by all necessary corporate and limited liability company proceedings. This Agreement constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

**Section 5.19 Mutual Assistance.** The parties to this Agreement agree to take such reasonable actions, including the execution and delivery of such documents, instruments, petitions and certifications supplemental hereto, cooperation with respect to zoning and other land use matters, and the obtaining of grants of access to and temporary easements over public property, as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and which do not impair the rights of the signing party as they exist under this Agreement, and to aid and assist each other in carrying out said terms, provisions and intent; provided that nothing herein shall be construed to obligate the City to grant municipal permits or other approvals it would not be obligated to grant, acting as a political subdivision absent this Agreement.

**Section 5.20 Payment or Performance on Non-Business Day.** Whenever the provisions of this Agreement call for any payment or the performance of any act on or by a date that is not a Business Day, including the expiration date of any cure periods provided herein, then such payment or such performance shall be required on or by the immediately succeeding day that is a Business Day.

**Section 5.21 Incorporation into Agreement and Recitals.** The recitals set forth above are true and correct and are incorporated herein by reference and made a part of this Agreement. Unless otherwise provided herein, all exhibits attached hereto are incorporated herein by reference.

**Section 5.22 Conflict of Terms.** It is the intention of the City and Developer that if any provision of this Agreement is capable of two constructions, one of which would render this provision valid and enforceable, then the provision shall have the meaning which renders it valid and enforceable.

**Section 5.23 No Waiver.** No failure on the part of the City or Developer to enforce any covenant or provision contained in this Agreement nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision or affect the right of the other party to enforce the same in the event of any subsequent default.

**Section 5.24 No Tax Representations or Warranties.** The parties hereby agree that none of Developer or the City is making any representations or warranties to the other about the tax treatment, implications or treatment of the transactions contemplated in this Agreement.

[signatures appear on following pages]

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed thereto, and attested as to the date first above written.

CMC REAL ESTATE COMPANY, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY OF ST. LOUIS, MISSOURI

By: \_\_\_\_\_  
Francis G. Slay, Mayor

By: \_\_\_\_\_  
Darlene Green, Comptroller

(SEAL)

Attest:

\_\_\_\_\_  
Parrie May, City Register

Approved as to Form:

\_\_\_\_\_  
Patricia Hageman, City Counselor

**EXHIBIT A  
Depiction of Ballpark Village Development Area**

**EXHIBIT B  
Depiction of Centene Centre Development Subarea**

**EXHIBIT C  
Form of Certificate of Commencement of Construction**

The undersigned, \_\_\_\_\_ (the "Developer"), pursuant to that certain Development Agreement dated as of \_\_\_\_\_, between the City of St. Louis, Missouri (the "City") and Developer, as assignee of CMC Real Estate Company, LLC (the "Agreement") hereby certifies to the City as follows:

1. All property within the Centene Centre Development Subarea necessary for the Project has been acquired by Developer and transferred to the LCRA in accordance with the Agreement.
2. Developer has entered into an agreement with a contractor or contractors to construct the Project.
3. Developer has obtained all necessary financing to complete the Project.
4. Developer has obtained all permits, licenses and other approvals necessary to construct the Project.
5. This Certificate of Commencement of Construction is being issued by Developer to the City in accordance with the Agreement to evidence Developer's satisfaction of all obligations and covenants with respect to commencement of construction of the Project.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT D  
Form of Certificate of  
Reimbursable Development Project Costs**

TO:  
City of St. Louis  
Office of Comptroller  
1200 Market Street, Room 212  
St. Louis, Missouri 63103  
Attention: Ivy Neyland-Pinkston, Deputy Comptroller

City of St. Louis  
Office of the Mayor  
City Hall  
1200 Market Street, Room 200  
St. Louis, Missouri 63103  
Attention: Barbara Geisman, Executive Director for Development

**Re: Centene Centre Development Project**

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement dated as of \_\_\_\_\_, 2007 (the "Agreement") between the City of St. Louis, Missouri (the "City") and [the undersigned as assignee of] CMC Real Estate Company, LLC (the "Developer"). In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on **Schedule 1** hereto is a Reimbursable [Local/State] Development Project Cost and was incurred in connection with the construction of the Project.
2. These Reimbursable [Local/State] Development Project Costs have been have been paid by the Developer and are reimbursable under the Agreement.
3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived from the Special Allocation Fund, and no part thereof has been included in any other certificate previously filed with the City.
4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
5. All necessary permits and approvals required for the portion of the Work for which this certificate relates have been issued and are in full force and effect.
6. All Work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Development Plan and the Agreement.
7. If any cost item to be reimbursed under this Certificate is deemed not to constitute a "development project cost" within the meaning of the MODESA Act and the Agreement, the Developer shall have the right to substitute other eligible Reimbursable [Local/State] Development Project Costs for payment hereunder.
8. The Developer is not in default or breach of any material term or condition of the Agreement beyond the applicable cure period, if any.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved for payment this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT E**  
**Form of Certificate of Substantial Completion**

The undersigned, \_\_\_\_\_ (the "Developer"), pursuant to that certain Development Agreement dated as of \_\_\_\_\_ (the "Agreement"), between the City of St. Louis, Missouri (the "City") and [the undersigned as assignee of] CMC Real Estate Company, LLC (the "Developer"). hereby certifies to the City as follows:

1. That as of \_\_\_\_\_, \_\_\_\_\_, the construction of the [Office Component][Subsequent Office Component][Retail Component][Parking Component][Hotel] (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. That the Work has been substantially completed or funded pursuant to the Agreement.

3. The Work has been performed in a workmanlike manner and substantially in accordance with the Construction Plans (as those terms are defined in the Agreement).

4. This Certificate of Substantial Completion is accompanied by the project architect's or owner representative's certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), signed and sealed by such registered architect, a copy of which is attached hereto as Appendix A and incorporated herein by reference, certifying that the Project has been substantially completed in accordance with the Agreement.

5. Lien waivers for all applicable portions of said Work in excess of Five Thousand Dollars (\$5,000) have been obtained.

6. This Certificate of Substantial Completion is being issued by the Developer to the City in accordance with the Agreement to evidence the Developer's satisfaction of all material construction obligations and covenants with respect to the Project.

7. The acceptance (below) or the failure of the City to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the City (which written objection, if any, must be delivered to the Developer prior to the end of such thirty (30) days) shall evidence the satisfaction of the Developer's agreements and covenants to perform said Work. Upon such acceptance by the City, the Developer may record this Certificate in the office of the City's Recorder of Deeds. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ACCEPTED:  
  
CITY OF ST. LOUIS, MISSOURI

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Insert Notary Form(s) and Legal Description)

(Attach AIA Form G-704 or the substantial equivalent thereof, signed and sealed by the registered Project architect)

**EXHIBIT F  
Reimbursable Local Development Project Costs**

<b>CATEGORY</b>	
(a)	Acquisition Costs
(b)	Demolition Costs (includes, but is not limited to, demolition of existing buildings and structures or parts thereof).
(c)	Site Preparation and Public Improvements Costs (includes, but is not limited to, street and sidewalk improvements, parking facilities, utility work and resetting of curbs and landscaping and lighting in the common right of way areas).
(d)	Rehabilitation, Renovation or Reconstruction of existing structures or construction of new structures or buildings.
(e)	Financing Costs (includes, but is not limited to, loan fees, disbursing fees, lender’s legal fees, loan appraisals, flood certificates, tax credit investor fees and any and all other costs incurred by the Developer in connection with obtaining financing for and tax credit investor(s) in the Project).
(f)	Environmental Testing, Remediation and/or Abatement Costs (includes, but is not limited to, the testing for and removal and disposal of toxic or hazardous substances or materials).
(g)	Professional Service Costs (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, or special services).

**EXHIBIT G  
Form of Quarterly Information Form**

**Approved: December 27, 2007**