

2 **AN ORDINANCE AUTHORIZING THE EXECUTION OF A**
3 **COOPERATION AGREEMENT BETWEEN THE CITY OF ST. LOUIS**
4 **AND THE WELLPOINT COMPANIES, INC.; PRESCRIBING THE**
5 **FORM AND DETAILS OF SAID AGREEMENT; MAKING CERTAIN**
6 **FINDINGS WITH RESPECT THERETO; AUTHORIZING OTHER**
7 **RELATED ACTIONS IN CONNECTION WITH THE**
8 **REDEVELOPMENT PROJECT; AND CONTAINING A SEVERABILITY**
9 **CLAUSE.**

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

13 **WHEREAS**, The WellPoint Companies, Inc. (the “Developer”) proposes to redevelop a
14 commercial building (the “Redevelopment Project”) at 1831 Chestnut in the City of St. Louis,
15 Missouri (the “Project Area”); and

16 **WHEREAS**, the Project Area and the improvements thereon are substandard and
17 obsolete, and if left in their current condition will have an adverse impact on the tax base of the
18 City; and

19 **WHEREAS**, the Developer will expend between approximately two million seven
20 hundred thousand dollars (\$2,700,000) and four million five hundred thousand dollars
21 (\$4,500,000) on improvements to the Project Area and on expenses associated with the relocation
22 of approximately three hundred (300) employees from outside of the City to the Project Area; and

23 **WHEREAS**, the Redevelopment Project would not be undertaken without the assistance
24 provided by a cooperation agreement (the “Cooperation Agreement”) to defray the cost of the

1 Redevelopment Project and of the relocation of approximately three hundred (300) employees;
2 and

3 **WHEREAS**, it is necessary and desirable and in the best interest of the City to enter into
4 the Cooperation Agreement with the Developer, whereby the Developer will complete the
5 Redevelopment Project, thereby providing for the promotion of the general welfare through
6 physical, economic, and social development of the City in numerous ways, including, but not
7 limited to, amelioration of existing underdeveloped and obsolete conditions in the Project Area,
8 improvement of property values in the Project Area and areas surrounding the Project Area,
9 creation of sustainable jobs in a targeted industry, and provision of additional tax revenue to the
10 City; and

11 **WHEREAS**, the Board of Alderman hereby determines that the terms of the Cooperation
12 Agreement attached as **Exhibit A** hereto and incorporated herein by reference are acceptable and
13 the execution, delivery, and performance by the City and the Developer of their respective
14 obligations under the Cooperation Agreement are in the best interests of the City and the health,
15 safety, morals, and welfare of its residents.

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

17 **SECTION ONE.** The Board of Alderman finds and determines that, in order to promote
18 the general welfare, as described above, it is necessary and desirable to enter into the Cooperation
19 Agreement with the Developer, which, subject to annual appropriation, pledges certain tax
20 revenues for the implementation of the Redevelopment Project.

21 **SECTION TWO.** The Board of Alderman hereby approves, and the Mayor and
22 Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the
23 Cooperation Agreement by and between the City and the Developer attached hereto as **Exhibit A**,
24 and the City Register is hereby authorized and directed to attest to the Cooperation Agreement
25 and to affix the seal of the City thereto. The Cooperation Agreement shall be in substantially the

1 form attached, with such changes therein as shall be approved by said Mayor and Comptroller as
2 may be consistent with the intent of this Ordinance and necessary and appropriate in order to
3 carry out the matters herein authorized.

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

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

19 419945

Exhibit A

COOPERATION AGREEMENT

Comment: Cooperation Agt as separate document is 410675

THIS COOPERATION AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 2009, 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 The WellPoint Companies, Inc., an Indiana corporation, whose address is 120 Monument Circle, Indianapolis, Indiana 46204, Attn.: Tax Department (the "Developer").

RECITALS

- A. The Developer proposes to develop a commercial project as described on Exhibit A (the "Development Project") at 1831 Chestnut in the City of St. Louis, Missouri (the "Project Area").
- B. The Project Area and the improvements thereon are substandard and obsolete, and if left in their current condition will have an adverse impact of the tax base of the City.
- C. The Developer will expend between approximately two million seven hundred thousand dollars (\$2,700,000) and four million five hundred thousand dollars (\$4,500,000) on improvements to the Project Area and on expenses associated with the relocation of approximately three hundred (300) employees from outside of the City of St. Louis to the Project Area.
- D. The completion of the Development Project will improve the property values within the Downtown St. Louis area, allow the creation of sustainable jobs in a targeted industry, and provide additional tax revenue to the City of St. Louis.
- E. The Development Project would not be financially feasible without the assistance provided by this Cooperation Agreement to defray the cost of the Development Project and of the relocation of approximately three hundred (300) employees.
- F. On _____, 2009, the City adopted Ordinance No. _____, which authorized the City to enter into this Cooperation Agreement with the Developer. The City is authorized to enter into this Cooperation Agreement pursuant to the provisions of Section 70.210 to 70.320 of the Revised Statutes of Missouri, as amended, and the Charter of the City of St. Louis.
- G. This Cooperation Agreement promotes and protects the health, safety, morals, and welfare of the public by providing the means to ameliorate existing underdeveloped and obsolete conditions, by locating sustainable jobs within the City, and enhancing the Project Area and the tax base of the City.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Definitions. For the purposes of this Cooperation Agreement the following terms shall have the following meanings:

(a) "Base Earnings Tax Revenue" means the Earnings Tax Revenue attributable to employees of the Developer or its affiliates employed in the City and derived from amounts paid to such employees during the period October 1, 2008 through and including September 30, 2009, as reported on the quarterly payroll tax report, Form W-10, filed with the Collector's office.

(b) "Base Payroll Tax Revenue" means the Payroll Tax Revenue in the calendar year 2008 attributable to employees of the Developer or its affiliates employed in the City and derived from amounts paid to such employees during the period October 1, 2008 through and including September 30, 2009 on the quarterly payroll tax report, Form P-10, filed with the Collector's office.

(c) "Earnings Tax Revenue" means the revenue from the tax imposed by the City on salaries, wages, commissions, and other compensation, currently codified in Sections 5.22.010 to 5.22.140, R.C. City of St. Louis, and any similar successor tax or taxes, on the quarterly payroll tax report, Form W-10, filed with the Collector's office.

(d) "Payroll Tax Revenue" means the revenue from the tax imposed by the City on every person who, in connection with his business engages, hires, employs, or contracts with one or more individuals as an employee, to perform work or render services in whole or part within the City, currently codified in Sections 5.23.010 to 5.23.140 R.C. City of St. Louis, and any similar successor tax or taxes, on the quarterly payroll tax report, Form P-10, filed with the Collector's office.

(e) "Incremental Increase" means the combined amount of Earnings Tax Revenue and Payroll Tax Revenue attributable to employees of the Developer or its affiliates employed and physically located in the City, for the applicable calendar year in excess of the combined Base Earnings Tax Revenue and Base Payroll Tax Revenue. For the purpose of computing the Incremental Increase semi-annually, one half of the Base Earnings Tax Revenue and one half of the Base Payroll Tax Revenue shall be allocated to each of the Semi-Annual Calculation Periods, and in the event that the first and/or the last Semi-Annual Calculation Period consists of less than six (6) full calendar months, then the one half of the Base Earnings Tax Revenue and the one half of the Base Payroll Tax Revenue used to compute the Incremental Increase for such Semi-Annual Calculation Period shall be prorated based upon the ratio that the number of calendar days in such Semi-Annual Calculation Period occurring within the Term bears to one hundred eighty (180).

(f) “Project Costs” means the costs and expenses incurred by the Developer in connection with the renovation and rehabilitation of the Project Area and the improvements thereon, including but not limited to the costs of designing, improving, fixturing, equipping and otherwise readying the improvements in the Project Area for use and occupancy by the Developer and its affiliates and their respective employees, and moving and relocation expenses.

(g) “Reimbursement Period Commencement Date” means January 1, 2010.

(h) “Semi-Annual Calculation Period” means each six (6) month period during the Term commencing on January 1 and ending on June 30, and commencing on July 1 and ending on December 31.

(i) “Term” means the period beginning on the date of this Cooperation Agreement and ending on the date that is the earlier of (i) December 31, 2019, and (ii) the date on which Developer has been reimbursed the Project Costs from fifty percent (50%) of the Incremental Increase pursuant to the terms of this Agreement.

2. Certification of Base Earnings Tax Revenue and Base Payroll Tax Revenue. On or before December 31, 2009, the Developer shall deliver to the City written certification stating the respective amounts of the Base Earnings Tax Revenue and the Base Payroll Tax Revenue (with reasonable supporting documentation), in form and content attached as Exhibit B. The parties agree that for purposes of this Agreement, the Base Earnings Tax Revenue shall be deemed to be equal to two (2) times the Base Payroll Tax Revenue.

3. Development. Developer will implement the Development Project substantially in accordance with Exhibit A, and in accordance with applicable provisions of the City’s Code of Ordinances and other applicable laws. Upon completion of the Development Project, the Developer shall deliver to the City a written certification stating the amount of the Project Costs expended or incurred by the Developer, in form and content attached as Exhibit C.

4. Creation of Earnings and Payroll Tax Reimbursement Account. There is hereby established an account of the Developer to be held by the City, designated and named the “Earnings and Payroll Tax Reimbursement Account – 1831 Chestnut Development, St. Louis Missouri” (the “Earnings and Payroll Tax Reimbursement Account”) into which there shall be deposited an amount equal to fifty percent (50%) of the Incremental Increase, as and when received by the City. The Earnings and Payroll Tax Reimbursement Account shall be under the custody and control of the City, subject however, to the provisions of this Cooperation Agreement and the Authorizing Ordinance.

5. Reimbursement to Developer.

(a) The City agrees, subject to annual appropriation, to reimburse the Developer for the Project Costs, up to the sum of fifty percent (50%) of the Incremental Increase generated during the Term, in accordance with the terms and provisions of this Agreement.

(b) Within thirty (30) days after the end of each Semi-Annual Calculation Period during the Term, the Developer shall deliver to the City written certification stating the Earnings Tax Revenue and the Payroll Tax Revenue paid by the Developer and its affiliates during such Semi-Annual Calculation Period attributable to employees of the Developer or its affiliates employed and physically located in the City (with reasonable supporting documentation), and the Incremental Increase with respect to such Semi-Annual Calculation Period, in form and content attached as Exhibit D (each a "Periodic Calculation Certificate"). The parties agree that for purposes of this Agreement, the Earnings Tax Revenue paid by the Developer and its affiliates during each Semi-Annual Calculation Period attributable to employees of the Developer or its affiliates employed and physically located in the City shall be deemed to be equal to two (2) times the Payroll Tax Revenue paid by the Developer and its affiliates during such respective Semi-Annual Calculation Period attributable to employees of the Developer or its affiliates employed and physically located in the City.

(c) Within sixty (60) days after the last day of each Semi-Annual Calculation Period during the Term, the City shall cause the full amount then on deposit in the Earnings and Payroll Tax Reimbursement Account to be disbursed to the Developer until the Developer has been reimbursed in the aggregate an amount equal to the Project Costs. In the event that the amount of any disbursement is less than the amount stated to be due in the Periodic Calculation Certificate for the applicable Semi-Annual Calculation Period, the City shall provide with such disbursement an explanation of the discrepancy.

6. Annual Appropriation.

(a) The City's obligation to appropriate the Incremental Increase for deposit into the Earnings and Payroll Tax Reimbursement Account and to appropriate the funds on deposit from time to time in the Earnings and Payroll Tax Reimbursement Account shall not be construed to be a debt of the City within the meaning of Article VI, Section 26(a) of the Missouri Constitution or any other applicable constitutional or statutory limitations, nor shall anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of the City. With regard to the obligation to pay the Incremental Increase, the parties believe that this is a current expense of the City in each applicable fiscal year.

(b) During the term of this Cooperation Agreement, the City covenants and agrees that with respect to each fiscal year of the City, the Budget Director or other designated representative at any time charged with the responsibility of formulating budget proposals will be directed to include in the budget proposal submitted to the City a request for an appropriation equal to fifty percent (50%) of the Incremental Increase received in such fiscal year for deposit into the Earnings and Payroll Tax Reimbursement Account.

(c) The City is obligated only to make the payments set forth in this Agreement as may lawfully be made from funds budgeted and appropriated or otherwise legally available to make the required payments during each respective fiscal year.

(d) The obligations of the City to make the payments hereunder constitute a current expense of the City, are from year to year and do not constitute a mandatory payment obligation of the City in any fiscal year beyond the then current fiscal year of the City in which such appropriation has been made. The City's obligation hereunder shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the City, nor shall anything contained herein constitute a pledge of the general credit, tax revenues, funds or money of the City.

(e) The City reasonably believes that legally available funds in an amount sufficient to fully repay the obligations undertaken herein can be obtained. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds for any subsequent fiscal year is solely within the discretion of the then current governing body of the City.

7. Non-Appropriation. In the event that the City adopts a budget for a fiscal year, which budget does not include an appropriation equal to fifty percent (50%) of the Incremental Increase to be received in such fiscal year for deposit into the Earning and Payroll Tax Reimbursement Account, the same shall constitute an "Event of Non-appropriation." Should an Event of Non-appropriation occur, the City shall immediately notify in writing the following entities of the Event of Non-appropriation: (i) each nationally recognized municipal securities repository, and (ii) each nationally recognized rating agency which then maintains a rating on any of the City's bonds, notes or other securities. In the event that the City fails to give notice in accordance with the provisions of this section within thirty (30) days following the occurrence of an Event of Non-appropriation, then Developer shall have the right, in addition to all other remedies available at law or in equity, to give such notice on the City's behalf.

8. Notice. Any notice, demand or other communication required by this Agreement to be given to either party hereto to the other shall be in writing and shall be sufficiently given or delivered if sent by United States first class certified mail, return receipt requested, postage prepaid, or via a nationally recognized overnight delivery service that provides a receipt for delivery, addressed as follows:

If to Developer: The WellPoint Companies, Inc.
1831 Chestnut
St. Louis, MO 63103
Attn: Tax Department

with a copy to: WellPoint, Inc.
120 Monument Circle
Indianapolis, IN 46204
Attn.: Tax Department

and with a copy to: Polsinelli Shughart PC
100 South Fourth Street, Suite 1100
St. Louis, MO 63102
Attn.: William J. Kuehling

If to the City: City of St. Louis, Missouri
Office of the Mayor
1200 Market Street
Room 200 City Hall
St. Louis, MO 63103

with a copy to: City of St. Louis
Office of the Comptroller
1200 Market Street
Room 212 City Hall
St. Louis, MO 63103

Either party shall have the right to change its respective address for notices by a written notice to that effect.

9. Choice of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Missouri.

10. Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the parties and there are no other agreements or representations other than those contained in this Agreement. This Agreement may not be amended, modified or waived orally, but only by a writing signed by the party against whom enforcement of such amendment, modification or waiver is sought.

11. Invalid Provisions. If any one or more of the provisions of this Agreement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable by final non-appealable order of a court of competent jurisdiction, such provision shall be judicially modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Agreement and all other applications of any such provision shall not be affected thereby; provided, however, that if, in the Developer's sole judgment, the invalidity or unenforceability of such provision, or the terms of such provision as modified in accordance with this section, materially diminish the likelihood that the Developer will be repaid the Project Costs from fifty percent (50%) of the Incremental Increase, the Developer shall have the right to terminate this Agreement and be relieved of any further obligations hereunder.

12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, and their respective successors and assigns. The Developer shall have the right to assign its rights hereunder, in whole or in part, to a bank or other lender providing financing for all or any portion of the costs of the construction of the Development Project, and the City shall execute and deliver such documents and instruments as are requested by such lender in connection therewith.

13. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers or officials.

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 A. Hageman, City Counselor

THE WELLPOINT COMPANIES, INC.

By: _____

Name: _____

Title: _____

**EXHIBIT A
TO COOPERATION AGREEMENT**

(Description of Work to be Performed on 1831 Chestnut)

The Developer will renovate space it owns at 1831 Chestnut Street to accommodate three hundred (300) new employees. Work will include, but not necessarily be limited to, (1) various physical site improvements; (2) installation of voice/data infrastructure; (3) the purchase of furniture, fixtures and equipment; and (4) other relocation related expenses.

**EXHIBIT B
TO COOPERATION AGREEMENT**

**CERTIFICATION OF BASE EARNINGS TAX REVENUE
AND BASE PAYROLL TAX REVENUE**

TO: City of St. Louis, Missouri
Attention: _____

Re: 1831 Chestnut Project Area

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperation Agreement dated _____, 2009 (the "Contract") between the City and the Developer. In connection with the Contract, the undersigned hereby states and certifies that:

1. The Base Payroll Tax Revenue is _____ Dollars (\$_____).
2. The Base Earnings Tax Revenue is deemed to be _____ Dollars (\$_____).
3. Supporting documentation of the Base Payroll Tax Revenue is attached.

Dated this ____ day of _____, 20____.

THE WELLPOINT COMPANIES, INC.

By: _____

Name: _____

Title: _____

EXHIBIT C
TO COOPERATION AGREEMENT
CERTIFICATION OF PROJECT COSTS

TO: City of St. Louis, Missouri
Attention: _____

Re: 1831 Chestnut Project Area

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperation Agreement dated _____, 2009 (the "Contract") between the City and the Developer. In connection with the Contract, the undersigned hereby states and certifies that:

1. The Developer has substantially completed the Development Project.
2. In connection with the implementation of the Development Project, the Developer incurred Project Costs in the aggregate amount of _____ Dollars (\$_____).
3. These Project Costs have been paid by the Developer and are reimbursable under the Contract.

Dated this ____ day of _____, 20____.

THE WELLPOINT COMPANIES, INC.

By: _____

Name: _____

Title: _____

**EXHIBIT D
TO COOPERATION AGREEMENT**

CERTIFICATION OF INCREMENTAL INCREASE

TO: City of St. Louis, Missouri
Attention: _____

Re: 1831 Chestnut Project Area

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperation Agreement dated _____, 2009 (the "Contract") between the City and the Developer. In connection with the Contract, the undersigned hereby states and certifies that:

1. This Certificate is provided with respect to the Semi-Annual Calculation Period commencing on _____ 1, 20__ and ending on _____, 20__.
2. The Payroll Tax Revenue paid by the Developer and its affiliates during such Semi-Annual Calculation Period attributable to employees of the Developer or its affiliates employed and physically located in the City was _____ Dollars (\$_____).
3. The Earnings Tax Revenue paid by the Developer and its affiliates during such Semi-Annual Calculation Period attributable to employees of the Developer or its affiliates employed and physically located in the City is deemed to be _____ Dollars (\$_____).
4. The Incremental Increase with respect to such Semi-Annual Calculation Period was _____ Dollars (\$_____).
5. Supporting documentation of the Payroll Tax Revenue paid by the Developer and its affiliates during such Semi-Annual Calculation Period attributable to employees of the Developer or its affiliates employed and physically located in the City is attached.

Dated this ____ day of _____, 20__.

THE WELLPOINT COMPANIES, INC.

By: _____

Name: _____

Title: _____