

1 **BOARD BILL #172** **INTRODUCED BY ALDERMAN JACK COATAR**

2 **AND ALDERMAN ANTONIO FRENCH**

3 AN ORDINANCE AFFIRMING ADOPTION OF A DEVELOPMENT PLAN,  
4 DEVELOPMENT AREA, AND DEVELOPMENT PROJECT UNDER THE AUTHORITY OF  
5 THE MISSOURI DOWNTOWN AND RURAL ECONOMIC STIMULUS ACT, SECTIONS  
6 99.915 TO 99.1060 OF THE REVISED STATUTES OF MISSOURI, AS AMENDED (THE  
7 “ACT”); AUTHORIZING AND DIRECTING THE EXECUTION OF A FIRST  
8 AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ST. LOUIS  
9 AND BALLPARK VILLAGE DEVELOPMENT CORPORATION IN ACCORDANCE WITH  
10 THE ACT AND SAID DEVELOPMENT PLAN; PRESCRIBING THE FORM AND DETAILS  
11 OF SAID AGREEMENT; MAKING CERTAIN FINDINGS AS REQUIRED BY THE ACT  
12 WITH RESPECT TO SAID AGREEMENT; DESIGNATING BALLPARK VILLAGE  
13 DEVELOPMENT CORPORATION AS DEVELOPER OF THE DEVELOPMENT AREA IN  
14 ACCORDANCE WITH THE ACT; MAKING CERTAIN FINDINGS WITH RESPECT  
15 THERETO; AUTHORIZING OTHER RELATED ACTIONS BY CITY OFFICIALS IN  
16 CONNECTION WITH THE AGREEMENT AND THE DEVELOPMENT OF CERTAIN  
17 PROPERTY WITHIN THE DEVELOPMENT AREA; AND CONTAINING A  
18 SEVERABILITY CLAUSE.

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

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

4           WHEREAS, the Board of Aldermen of the City created the Downtown Economic  
5 Stimulus Authority of The City of St. Louis (the “Authority”) pursuant to Ordinance No. 67097;  
6 and

7           WHEREAS, pursuant to Ordinance No. 69241 (the “Approving Ordinance”), the Board  
8 of Aldermen, acting upon the recommendation of the Authority, approved that certain plan for  
9 development titled “MODESA Development Plan Ballpark Village” originally dated June 18,  
10 2012, as or as may be subsequently amended (the “Development Plan”), for the Development  
11 Area, as more fully described in the Development Plan;

12           WHEREAS, the Development Plan contemplates the remediation of blighting conditions  
13 within the Development Area through construction of retail, entertainment, commercial and  
14 other development, as well as parking and other infrastructure improvements, as more fully  
15 described therein, in multiple potential phases (collectively, the “Development Project”); and

16           WHEREAS, pursuant to the Approving Ordinance, the Board of Aldermen has  
17 determined that adoption of the Development Plan and completion of the Development Project is  
18 of economic significance to the City, will serve to benefit the general welfare, qualifies for the  
19 use of development financing to alleviate the conditions that qualify it as a “development area”  
20 as provided in the Act, and further, that development of the Development Area in accordance  
21 with the Development Plan is not financially feasible without the adoption of development  
22 financing and would not otherwise be completed; and

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

4           WHEREAS, the Board of Aldermen, by Ordinance No. 69243 (the “Authorizing  
5 Ordinance”) finding that it was necessary and desirable and in the best interest of the City to  
6 enter into a Development Agreement with Ballpark Village Development Corporation (the  
7 “Developer”), in order that Developer might undertake the Development Project; and

8           WHEREAS, pursuant to the Authorizing Ordinance, the City and the Developer entered  
9 into that certain Development Agreement dated as of December 19, 2012, and, pursuant thereto,  
10 the Developer completed the Initial Development Project Phase described therein; and

11           WHEREAS, the City and Developer desire to enter into that certain First Amendment to  
12 Development Agreement, in substantially the form attached hereto as **Exhibit A** (the “First  
13 Amendment”), to enable the Developer to undertake that certain Development Project Phase II  
14 described therein; and

15           WHEREAS, the Board of Aldermen hereby reiterates and incorporates herein by this  
16 reference the findings set forth in the Authorizing Ordinance; and

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

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

2 SECTION ONE. The Board of Aldermen hereby ratifies and confirms its approval of the  
3 Development Plan, Development Area, Development Project and Development Agreement. The  
4 Board of Aldermen further finds and determines that it is necessary and desirable to enter into  
5 the First Amendment with Ballpark Village Development Corporation, as developer of the  
6 Development Area, in order to implement the Development Project and to enable the Developer  
7 to carry out the Development Project.

8 SECTION TWO. The Board of Aldermen finds and determines that the assistance of  
9 development financing is necessary and desirable in order to implement the Development Project  
10 and to enable Ballpark Village Development Corporation, as developer of the Development  
11 Area, to carry out the Development Project.

12 SECTION THREE. The Board of Aldermen hereby approves, and the Mayor and  
13 Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the  
14 First Amendment by and between the City and the Developer in substantially the same form  
15 attached hereto as Exhibit A, with such changes as are authorized pursuant hereto, and the City  
16 Register is hereby authorized and directed to attest to the First Amendment and to affix the seal  
17 of the City thereto. The First Amendment shall be in substantially the form attached, with such  
18 changes therein as shall be approved by said Mayor and Comptroller executing the same and as  
19 may be consistent with the intent of this Ordinance and necessary and appropriate in order to  
20 carry out the matters herein authorized.

21 SECTION FOUR. The Mayor and Comptroller of the City or their designated  
22 representatives are hereby authorized and directed to take any and all actions to execute and

1 deliver for and on behalf of the City any and all additional certificates, documents, agreements or  
2 other instruments as may be necessary and appropriate in order to carry out the matters herein  
3 authorized, with no such further action of the Board of Aldermen necessary to authorize such  
4 action by the Mayor and the Comptroller or their designated representatives.

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

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

**EXHIBIT A**

**FORM OF FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BY AND  
BETWEEN THE CITY OF ST. LOUIS AND THE DEVELOPER**

**(Attached hereto.)**

## FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

**THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT** (this “First Amendment”) is made and entered into effective as of the \_\_\_ day of \_\_\_\_\_, 2016, 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 **BALLPARK VILLAGE DEVELOPMENT CORPORATION**, (the “Developer”), a corporation duly organized and existing under the laws of the State of Delaware.

### RECITALS

A. The City and the Developer are parties to that certain Development Agreement dated as of December 19, 2012 (as amended hereby, the “Agreement”), for the development of the Ballpark Village Development Area, as such term is defined in the Agreement.

B. Developer has completed the Initial Development Project Phase, as such term is defined in the Agreement, in accordance with the terms and conditions of the Agreement, and Developer intends to initiate additional investment in the Ballpark Village Development Area.

C. The parties to the Agreement desire to amend the Agreement as provided herein in connection with Subsequent Development Project Phases, as such term is defined in the Agreement.

NOW, THEREFORE, for and in consideration of the promises, covenants and agreements contained herein, the City and the Developer do hereby agree as follows:

1. Defined Terms. All capitalized but undefined terms contained herein shall have the meanings assigned to them in the Agreement.

2. Amendments. Upon the execution of this First Amendment, the Agreement shall be modified as provided in this Section 2:

(a) Section 1.1 of the Agreement, entitled **Definitions**, is hereby amended by deleting the following defined term: “**Additional Use Incentive**.”

(b) Section 1.1 of the Agreement, entitled **Definitions**, is hereby amended by adding the following defined terms:

“**Affiliate**” means, when used with reference to a specified Person: (i) any Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the specified Person; (ii) any Person that is an officer of, partner in, or trustee of, or serves in a similar capacity with respect to the specified Person or of which the specified Person is an officer, partner, or trustee, or with respect to which the specified Person serves in a similar capacity; or (iii) any Person that, directly or indirectly, is the beneficial owner of, or controls, 10% or more of any class of equity

securities of, or otherwise has a substantial beneficial interest (10% or more) in, the specified Person, or of which the specified Person is directly or indirectly the owner of 10% or more of any class of equity securities, or in which the specified Person has a substantial beneficial interest (10% or more).

“**Development Project Phase II**” shall mean the next Development Project Phase identified pursuant to Section 2.4 hereof after the Initial Development Project Phase, which Development Project Phase II shall constitute a “Subsequent Development Project Phase” for all purposes under this Agreement.

“**TDD Sales Tax**” shall mean a sales tax imposed by the TDD in the amount of one percent (1%), as provided further in Section 2.18(c) hereof.

(c) Section 1.1 of the Agreement, entitled **Definitions**, is hereby amended by deleting the definition of “Infrastructure Element” and replacing it with the following:

“**Infrastructure Element**” means site improvements to be completed as part of a Development Project Phase, including but not limited to utility, street and streetscape improvements, including sidewalks; demolition, excavation, site remediation, clearing, and grading; construction of ramps and curbs; district signage (other than dedicated third party signage); foundations of any buildings that is part of the Development Project Phase; and all other costs necessary to prepare the Development Area for construction of the other Elements in such Development Project Phase.

(d) Section 1.1 of the Agreement, entitled **Definitions**, is hereby amended by modifying the definition of “Contractually Pledged City EATS” by deleting the words “generated by economic activities” and replacing them with “generated by activities that would result in such revenues being classified as Economic Activity Taxes.”

(e) Section 1.1 of the Agreement, entitled **Definitions**, is hereby amended by deleting the definition of “Contractually Pledged City Revenues” and replacing it with the following:

“**Contractually Pledged City Revenues**” means the following revenues of the City generated within each Development Phase Area: (a) during the term of the TDD Garage Ground Sublease, the TDD Garage Payment; (b) during each of the ten (10) years following the termination of the MODESA Financing Term, subject to annual appropriation, fifty percent (50%) of the Contractually Pledged City EATS; (c) during each of the ten (10) years following the termination of the MODESA Financing Term, the Dedicated Contractually Pledged City EATS, subject to the limitation set forth in Section 6.7 hereof; and (d) during the MODESA Financing Term and during each of the ten (10) years following the termination of the MODESA Financing Term, (i) the general municipal sales tax levied pursuant to Ordinance No. 62884, or any successor thereto and (ii) the general municipal sales tax levied pursuant to Ordinance No. 55497, as amended by Ordinance Nos. 57179 and 57979, or any successor thereto, to the extent such

revenues are generated by activities that would not result in such revenues being classified as Economic Activity Taxes (or any being otherwise pledged pursuant to this Agreement).

(f) Section 1.1 of the Agreement, entitled **Definitions**, is hereby amended by adding the following language to the end of the definition of “‘Economic Activity Taxes’ or ‘EATs’”:

“Notwithstanding the foregoing, such definition expressly excludes (a) all sales taxes in effect on the effective date of Ordinance No. 69241 and excluded from tax increment financing under the Missouri Real Property Tax Increment Allocation Redevelopment Act or other applicable statute (b) any City-wide sales tax that is duly enacted by the voters of the City subsequent to the effective date of Ordinance No. 69241 and excluded from tax increment financing under the Missouri Real Property Tax Increment Allocation Redevelopment Act or other applicable statute.

(g) Section 2.5 of the Agreement, entitled **Developer to Construct the Work in Accordance with Schedule for Completion of the Work** is hereby amended by adding the following:

(i) in subpart (y), immediately after the first reference to “Subsequent Development Project Phase,” the words “(other than Development Project Phase II)”; and

(ii) immediately following the third sentence, a new sentence as follows: “Subject to (a) Force Majeure as defined in Section 11.2 of this Agreement, and (b) the City complying with its obligations hereunder, Developer shall file one or more application(s) for the permit(s) necessary to commence construction of Development Project Phase II, which it believes in good faith are complete and contain all information and materials required in connection with such application(s) under the City’s applicable laws and procedures therefor, and has made payment for such permit(s), within eighteen (18) months from execution of the First Amendment to Development Agreement authorized by Ordinance No. [\_\_\_\_\_].”

(h) Section 2.9 of the Agreement, entitled **Local and Minority Participation Goals**, is hereby amended by adding a new paragraph following subpart (f) that reads:

“Notwithstanding any other provision hereof to the contrary, the Developer shall cause any of its Affiliates that performs or contracts for the performance of construction within the Development Area to comply with the provisions of this Section 2.9.”

(i) Section 2.18 of the Agreement, entitled **Springing TDD Sales Tax**, is hereby amended by adding the following subsection 2.18(c) immediately following Subsection 2.18(b):

“(c) Notwithstanding anything herein to the contrary, prior to the issuance of the Bonds with respect to the Development Project Phase II, the Developer shall

cause the TDD to repeal the previously authorized Springing TDD Sales Tax and impose the TDD Sales Tax totaling 1% in lieu thereof. From and after the date such TDD Sales Tax is imposed, all references in this Agreement to the “Springing TDD Sales Tax” shall be deemed to be references to the TDD Sales Tax.”

(j) Section 3.1 of the Agreement, entitled **Agreement to Provide Incentive Amount; Calculation of Incentive Amount**, is hereby amended by making the following modifications to subsection 3.1(c)(ii):

(i) The first paragraph of subsection 3.1(c)(ii) shall be deleted in its entirety and replaced with the following:

“with respect to any Subsequent Development Project Phase, as calculated by the Financing Team based on the approved Preliminary Plans, the sum of: (A) the minimum number of square feet of Leasable Area in the Retail Element of such Development Project Phase, as set forth in the State MODESA Agreement (not to exceed 360,000 square feet of Leasable Area when added to the aggregate number of square feet of Leasable Area in the Retail Element of all previously approved Development Project Phases), multiplied by \$130; plus (B) the minimum number of square feet of Leasable Area in the Office Element of such Subsequent Development Project Phase, as set forth in the State MODESA Agreement (not to exceed 750,000 square feet of Leasable Area when added to the aggregate number of square feet of Leasable Area in the Office Element of all previously approved Development Project Phases), multiplied by \$100; plus (C) if, and only if, the Subsequent Development Project Phase, as described in the State MODESA Agreement, includes a Residential Element with a minimum of at least 100 residential units, an additional amount equal to the sum of: (1) the minimum number of rental residential units multiplied by \$50,000; and (2) the minimum number of for-sale residential units multiplied by \$50,000; provided, however, the Incentive Amount for any Development Project Phase shall not include any amount based on residential units in excess of 250, when added to the aggregate number of residential units in all previously approved Development Project Phases; plus (D) if, and only if, the Subsequent Development Project Phase, as described in the State MODESA Agreement, includes structured parking spaces as part of a Parking Element, an additional amount equal to the number of structured parking spaces multiplied by \$31,000; plus (E) the amount of expenditures for the Infrastructure Element set forth in the approved Project Budget for such Subsequent Development Project Phases (but not to exceed \$8,300,000 when added to the aggregate amount of expenditures for the Infrastructure Element of all previously approved Subsequent Development Project Phases); provided, however, if the Incentive Amount calculated for any Subsequent Development Project Phase in accordance with this Section 3.1(c)(ii) is not adequately supported by the total Available Revenues (excluding Dedicated Municipal Revenues) and Contractually Pledged City Revenues (excluding the Dedicated Contractually Pledged City EATs) projected to be generated within such Subsequent Development Project Phase and all other previously approved

Development Project Phases and available to pay principal and interest on all outstanding Bonds on such Subsequent Development Project Phase and all other previously approved Development Project Phases in the aggregate, the Incentive Amount for such Subsequent Development Project Phase shall be reduced as necessary so that the total Incentive Amount is adequately supported, and any reduction may be, at Developer's election, attributed to any of the Retail Element, the Office Element or the Residential Element."

(ii) The second paragraph of subsection 3.1(c)(ii) shall be deleted in its entirety and replaced with the following:

"Notwithstanding anything to the contrary contained in this Agreement, no Incentive Amount shall be paid to the Developer for any Additional Use; provided, however, that this prohibition shall not modify the Incentive Amount payable pursuant to the first paragraph of this subsection 3.1(c)(ii)."

(k) Section 3.4 of the Agreement, entitled **Cost Savings**, is hereby amended by adding the following sentence to the end of subsection 3.4(c): "Notwithstanding the foregoing, in the event that the Developer achieves Cost Savings with respect to the structured parking garage(s) constructed as part of Development Project Phase II only, then one hundred percent (100%) of any such Cost Savings shall be applied to redeem the Priority Bonds."

(l) Section 4.1 of the Agreement, entitled **Cooperation to Obtain MODESA Financing**, is hereby amended by adding the following sentence to the end of the section: "Notwithstanding anything herein to the contrary, the City shall use good faith efforts to assist the Developer in its efforts to obtain an increase in the assistance to be provided by the State of Missouri for Development Project Phase II."

(m) Section 4.3 of the Agreement, entitled **Terms of Bonds**, is hereby amended as follows:

(i) Subsection 4.3(b) shall be modified by deleting the phrase "1.25 to 1.00 debt service coverage ratio" and replacing it with the phrase "1.20 to 1.00 debt service coverage ratio"; and

(ii) Subsection 4.3(d) shall be deleted in its entirety.

(n) Section 5.3 of the Agreement, entitled **Conditions Precedent to City's Obligation**, is hereby amended by deleting Subsection 5.3(o) (which states "reserved") in its entirety and replacing it with the following:

"(o) with respect to Development Project Phase II only, Developer or one or more Related Entities has agreed to purchase Subordinate Bonds issued with respect to such Development Project Phase in the amount of \$4,000,000;"

(o) Section 6.7 of the Agreement, entitled **Deposit and Pledge of Contractually Pledged City Revenues**, is hereby amended by deleting the second sentence thereof and replacing it with the following:

“The City agrees, to the extent allowable by law, to pledge: (a) during the term of the TDD Garage Ground Sublease, all TDD Garage Payments paid to the City, as described in Exhibit L hereto to the payment of principal and interest on Bonds; and (b) during each of the ten (10) years following the termination of the MODESA Financing Term, fifty percent (50%) of all Contractually Pledged City EATs generated within each Development Phase Area to the payment of principal and interest on Priority Bonds, (c) subject to the limitation set forth in this Section 6.7, during each of the ten (10) years following the termination of the MODESA Financing Term, the Dedicated Contractually Pledged City EATs, which Contractually Pledged City Revenues generated within each Development Phase Area shall be deposited into a separate account (or a sub-account thereof) established pursuant to the applicable Bond Indenture and not located within the Special Allocation Fund (such account being the “Contractually Pledged City Revenues Account”), and (d) during the MODESA Financing Term and during each of the ten (10) years following the termination of the MODESA Financing Term, (i) the general municipal sales tax levied pursuant to Ordinance No. 62884, or any successor thereto and (ii) the general municipal sales tax levied pursuant to Ordinance No. 55497, as amended by Ordinance Nos. 57179 and 57979, or any successor thereto, to the extent such revenues are generated by activities that would not result in such revenues being classified as Economic Activity Taxes (or any being otherwise pledged pursuant to this Agreement), to the payment of principal and interest on Bonds”.

(p) Exhibit E of the Agreement, entitled **List of Tenants in Other Projects**, is hereby deleted and replaced with Exhibit E attached hereto.

3. Miscellaneous.

(a) This First Amendment may be executed in multiple counterparts, each of which shall constitute one and the same instrument. Delivery by telecopier or electronic mail of an executed counterpart of a signature page hereto shall be effective as delivery of an original executed counterpart of this First Amendment.

(b) All questions concerning the construction, validity and interpretation of this First Amendment and the performance of the obligations imposed by this First Amendment shall be governed by the internal law, not the law of conflicts, of the State of Missouri.

(c) Each of the parties to this First Amendment represents and warrants to the other that such party is authorized to enter into this First Amendment and have taken all necessary action to approve the execution of this First Amendment.

(d) The Agreement, as modified herein, is hereby ratified and confirmed, and except for the modifications contained herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

(e) The Parties acknowledge that the Bond Documents to finance eligible Development Project Costs associated with Development Project Phase II will include provisions that restrict the release of a portion of Bond Proceeds until certain project quality and other standards are achieved as detailed therein, subject to the approval of SLDC, such as:

(i) Bond Documents will include provisions which restrict the release of funds for eligible Development Project Costs associated with Development Project Phase II with release terms which are specifically tied to the completion of Development Project Phase II in a manner that is consistent with designated provisions, including lease up of a specified portion of retail space to Acceptable Tenants.

(ii) Bond Documents will include provisions which restrict the release of funds for eligible Development Project Costs associated with the Development Project Phase II with release terms which are specifically tied to the lease up of the Office Element to tenants which generate Net New Jobs.

(iii) Bond Documents will require submittal by Developer to the City for its approval a written report from a third party acceptable to the City, which verifies the projected number of Net New Jobs that will be created in the City by Development Project Phase II.

“Net New Jobs” shall mean (i) the number of FTE workers to be located in the Office Element, decreased by (ii) the Related Facilities Base Employment Amount less the average number of FTE workers at Related Facilities projected to occupy the Related Facilities during the twelve (12) month period following the occupancy of the Office Element by the applicable tenant. “FTE workers” means, collectively, full time equivalent employees, independent contractors or licensees of a tenant or subtenant of the Office Element or a Related Facility, as applicable, who are subject to the Payroll Expense Tax levied pursuant to Ordinance No. 60737 or any successor thereto or the Earnings Tax levied pursuant to Ordinance No. 47063 or any successor thereto, for work done or services performed or rendered at such facility and who perform their occupation primarily at or are home based at such facility, based on a 35 hour work week. The number of FTE workers shall be determined based on a reasonable projection of FTE workers certified by a tenant of the Office Element and based on the square footage to be leased by such tenant in the Office Element. “Related Facilities” means any office or facility located within the City of St. Louis in which an Office Element tenant (or its Affiliate) conducts operations substantially similar to its operations in the Office Element. “Related Facilities Base Employment Amount” means the greater of the number of FTE workers located at all Related Facilities on \_\_\_\_\_, 20\_\_\_\_, or the average number of FTE workers located at all Related Facilities for the twelve (12) month period prior to \_\_\_\_\_,

20\_\_\_\_. Notwithstanding the foregoing, in the event a tenant of the Office Element provides a written statement to the City of St. Louis that the decrease in FTE workers at Related Facilities is due primarily to the movement of FTE workers to the Office Element, and such FTE worker opportunities would have otherwise, but for the Office Element, been permanently lost or relocated from the City of St. Louis (the “Retained Jobs”), then in such event the number of FTE workers to be located in the Office Element shall not be reduced by the number of Retained Jobs.

(g) Developer agrees that at Closing on Development Project Phase II, it shall reimburse the City, SLDC, Issuer and the Authority for any reasonable costs incurred with the preparation, negotiation or approval of this First Amendment or legislation authorizing the same and incurred with respect to the Closing on Development Project Phase II, including any third party studies or reports and any third party or professional services. Notwithstanding the foregoing, Developer agrees that if the Closing for Development Project Phase II has not occurred within one (1) year from the execution of this First Amendment, it shall, within thirty (30) days of receipt of a valid invoice, bill or statement, from the City, SLDC, the Issuer or the Authority, reimburse the City, SLDC, Issuer and the Authority for all such costs incurred to such point in time, provided, however, the aggregate amount of such interim reimbursement shall not exceed \$100,000.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the City and the Developer have caused this First Amendment 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.

“CITY”:

CITY OF ST. LOUIS, MISSOURI

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

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

(SEAL)

Attest:

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

Approved as to Form:

\_\_\_\_\_  
Michael Garvin, City Counselor

“DEVELOPER”:

BALLPARK VILLAGE DEVELOPMENT  
CORPORATION, a Delaware corporation

By: \_\_\_\_\_  
Blake L. Cordish, Authorized Person

STATE OF MISSOURI            )  
  ) SS.  
CITY OF ST. LOUIS            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF MISSOURI            )  
  ) SS.  
CITY OF ST. LOUIS            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF )  
 ) SS.  
OF )

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me appeared Blake L. Cordish, to me personally known, who, being by me duly sworn, did say that he is an Authorized Person of Ballpark Village Development Corporation, a Delaware corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said individual acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the \_\_\_\_\_ and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**Exhibit E**  
**List of Tenants in Other Projects**

<p><b>White Marsh Baltimore, MD</b></p> <ul style="list-style-type: none"> <li>• Carter's Babies &amp; Kids</li> <li>• Chico's</li> <li>• Crazy 8</li> <li>• Famous Footwear</li> <li>• Great Memorabilia</li> <li>• Justice</li> <li>• LOFT</li> <li>• Men's Warehouse</li> <li>• Motherhood</li> <li>• Old Navy</li> <li>• Pier 1 Imports</li> <li>• A.C. Moore</li> <li>• Bath &amp; Body Works</li> <li>• Staples</li> <li>• Ulta</li> <li>• Yankee Candle Company</li> <li>• Barnes &amp; Noble Booksellers &amp; Café</li> <li>• Hallmark Creations</li> <li>• Chili's Bar &amp; Grill</li> <li>• Cold Stone Creamery</li> <li>• Della Rose's Avenue Tavern</li> <li>• Don Pablo's Mexican Kitchen</li> <li>• Kobe Japanese Steak House</li> <li>• Red Brick Station Restaurant &amp; Pub Bar</li> <li>• Slice on the Avenue</li> <li>• Starbucks Coffee Co.</li> <li>• Tilted Kilt</li> <li>• Texas Roadhouse</li> <li>• Bubbles Salon</li> <li>• Spa on The Avenue</li> <li>• VisionWorks</li> <li>• AMC IMAX Theatres</li> <li>• Verizon Wireless</li> <li>• Sprint</li> <li>• iFly</li> </ul>	<p><b>Power Plant Live! Baltimore, MD</b></p> <ul style="list-style-type: none"> <li>• Angels Rock Bar</li> <li>• Howl at the Moon</li> <li>• Joe Squared</li> <li>• Leinenkugel's Beer Garden</li> <li>• Luckie's Liquor</li> <li>• Luckie's Tavern</li> <li>• Mex Tequila Bar</li> <li>• Mosaic</li> <li>• PBR Baltimore</li> <li>• Rams Head Live!</li> <li>• Ruth's Chris Steakhouse</li> <li>• Aggio</li> <li>• Tin Roof</li> <li>• Havana Club</li> </ul> <p><b>Power Plant Baltimore, MD</b></p> <ul style="list-style-type: none"> <li>• Barnes &amp; Noble</li> <li>• Hard Rock Café</li> <li>• Phillips Seafood</li> <li>• Best of Luck</li> </ul> <p><b>Pier IV Baltimore, MD</b></p> <ul style="list-style-type: none"> <li>• Dick's Last Resort</li> <li>• Blu Bambo</li> <li>• Potbelly's</li> <li>• Chipotle</li> </ul>	<p><b>Power and Light District Kansas City, MO</b></p> <ul style="list-style-type: none"> <li>• 801 Chophouse</li> <li>• Bar Louie</li> <li>• Bristol Seafood Grill</li> <li>• Chipotle</li> <li>• Drunken Fish Sushi</li> <li>• Gordon Biersch</li> <li>• Kaldi's Coffee</li> <li>• Leinenkugel's</li> <li>• MeMa's Bakery</li> <li>• No Other pub</li> <li>• Providence New American Kitchen</li> <li>• Whopper Bar</li> <li>• Balsano's Gelato Café</li> <li>• BRGR Kitchen + Bar</li> <li>• The Chesterfield</li> <li>• Cleaver &amp; Cork</li> <li>• The Dubliner</li> <li>• Flying Saucer</li> <li>• Johnny's Tavern</li> <li>• McFadden's Sport Saloon</li> <li>• The Mixx</li> <li>• Pizza Bar</li> <li>• The Drum Room</li> <li>• Yard House</li> <li>• Alamo Drafthouse</li> <li>• Fuego</li> <li>• Howl at the Moon</li> <li>• Mosaic Lounge</li> <li>• Shark Bar</li> <li>• Angels Rock Bar</li> <li>• Indie Bar</li> <li>• KC Beer Garden/Living Room</li> <li>• PBR Big Sky</li> <li>• Bare Med Spa</li> <li>• Garment District Boutique</li> <li>• Jos A Banks</li> <li>• Polished Edge</li> <li>• Posh Blow Dry Bar</li> <li>• T-mobile</li> <li>• Zafar Salon</li> <li>• GNC</li> <li>• Cosentino's Market</li> <li>• Onelife Fitness</li> <li>• Polished Nail Salon</li> <li>• Sprint Studio</li> <li>• The Gallery Event Space</li> <li>• The Midland Theatre</li> </ul>	<p><b>4<sup>th</sup> Street Live! Louisville, KY</b></p> <ul style="list-style-type: none"> <li>• Howl at the Moon</li> <li>• Tengo Sed Cantina</li> <li>• PBR Louisville</li> <li>• Jim Beam Stillhouse</li> <li>• Tavern Hall</li> <li>• Kill Devil Club</li> <li>• Marquee Bar</li> <li>• Biracibo</li> <li>• Bourbon Raw</li> <li>• Brazeiro's Brazilian Steakhouse</li> <li>• Good Island Beer Bridge</li> <li>• Gordon Biersch Brewery Rest.</li> <li>• Guy Fieri's Smokehouse</li> <li>• Hard Rock Café</li> <li>• T.G.I. Friday's</li> <li>• Tavern on the Fourth</li> <li>• The Fudgery</li> <li>• The Sports and Social Club</li> <li>• Foot Locker</li> <li>• T-Mobile</li> <li>• Philly Station</li> <li>• Smoothie King</li> <li>• Subway</li> <li>• Taipei Café</li> </ul> <p><b>Ballpark Village St. Louis, MO</b></p> <ul style="list-style-type: none"> <li>• Budweiser Brew House</li> <li>• Drunken Fish</li> <li>• FOX Sports Midwest Live!</li> <li>• Cardinals Nation</li> <li>• El Birdos Cantina</li> <li>• The Fudgery</li> <li>• Howl at the Moon</li> <li>• PBR St. Louis</li> <li>• Tengo Sed</li> <li>• The Lounge</li> <li>• The Skybox</li> </ul>	<p><b>Bayou Place Houston, TX</b></p> <ul style="list-style-type: none"> <li>• Hard Rock Café</li> <li>• Little Napoli</li> <li>• Sundance Cinemas</li> <li>• The Blue Fish</li> <li>• Revention Music Center</li> </ul> <p><b>Xfinity Live! Philadelphia, PA</b></p> <ul style="list-style-type: none"> <li>• 1100 Social</li> <li>• Broad Street Bullies Pub</li> <li>• Live! VIP Lounge</li> <li>• NBC Sports Arena</li> <li>• PBR Bar &amp; Grill</li> <li>• Victory Beer Hall</li> </ul>	<p><b>Seminole Paradise Hollywood, FL.</b></p> <ul style="list-style-type: none"> <li>• The Beach Club</li> <li>• Ben &amp; Jerry's</li> <li>• B-L Asian</li> <li>• Blue Plate</li> <li>• Bongos</li> <li>• Constant Grind</li> <li>• Council Oak</li> <li>• Food Court</li> <li>• Hard Rock Café</li> <li>• Hooters</li> <li>• Kilwin's</li> <li>• Kuro</li> <li>• Martoranos</li> <li>• Sirocco</li> <li>• Tequila Ranch</li> <li>• Wetzel's Pretzels</li> <li>• Rock Shop</li> <li>• The Seminole Store</li> <li>• Bijoux Terrier</li> <li>• Boss Connection</li> <li>• Brats</li> <li>• Brookstone</li> <li>• Cache</li> <li>• Gellerit</li> <li>• Hollywood East</li> <li>• Lucky Devil Tattoo</li> <li>• Maccimo</li> <li>• Pandora</li> <li>• Paradise Perfume</li> <li>• Perry Ellis</li> <li>• Resort Wear</li> <li>• Shooz</li> <li>• Sergio Kachatti</li> <li>• Sinbad Sports</li> </ul>
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"Acceptable Tenants" shall also include other tenants of substantially similar or better in quality that would complement an urban entertainment center type project, such as the Power Plant in Baltimore, Maryland, Power Plant Live in Baltimore, Maryland, Fourth Street Live in Louisville, Kentucky, Bayou Place in Houston, Texas and Seminole Paradise, in Hollywood, Florida or a "Main Street center, such as Boulevard at the Capital Centre, in Prince George's County, Maryland