

**ORDINANCE #65781**  
**Board Bill No. 67**  
**Floor Substitute**

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND COMPTROLLER OF THE CITY OF ST. LOUIS (THE "CITY") AND THE EXECUTIVE DIRECTOR OF THE PORT AUTHORITY OF THE CITY OF ST. LOUIS (THE "PORT AUTHORITY") TO EXECUTE AND DELIVER ON BEHALF OF THE CITY AND THE PORT AUTHORITY AN EXCHANGE AGREEMENT SUBSTANTIALLY IN THE FORM ATTACHED AS EXHIBIT A AND INCORPORATED HEREIN (THE "EXCHANGE AGREEMENT") WITH RESPECT TO AN EXCHANGE OF PROPERTIES AND REAL ESTATE INTERESTS DESCRIBED IN EXHIBITS C AND D ATTACHED, BY AND BETWEEN THE CITY, THE PORT AUTHORITY, THE LAND REUTILIZATION AUTHORITY OF THE CITY OF ST. LOUIS (THE "LRA") AND TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, A MISSOURI CORPORATION (THE "RAILROAD"); AUTHORIZING AND DIRECTING THE MAYOR AND COMPTROLLER OF THE CITY TO EXECUTE AND DELIVER ON BEHALF OF THE CITY AN OPERATING AGREEMENT SUBSTANTIALLY IN THE FORM ATTACHED AS EXHIBIT B AND INCORPORATED HEREIN (THE "OPERATING AGREEMENT") TO REPLACE ORDINANCE NO. 63855 AND BOARD OF PUBLIC SERVICE PERMITS 8600 AND 8602 UNDER WHICH THE RAILROAD OPERATES THROUGH, OVER, ABOVE AND ACROSS CERTAIN PUBLIC RIGHTS OF WAY, DESCRIBED IN MORE DETAIL IN THE OPERATING AGREEMENT, BY AND BETWEEN THE CITY AND THE RAILROAD; APPROVING THE FORM OF SUCH EXCHANGE AGREEMENT AND OPERATING AGREEMENT; CONSENTING TO THE EXECUTION AND DELIVERY OF THE EXCHANGE AGREEMENT AND/OR THE OPERATING AGREEMENT AND THE EXECUTION, DELIVERY AND RECORDATION OF THE OTHER DOCUMENTS CONTEMPLATED THEREIN; AUTHORIZING SUCH FURTHER ACTIONS AS MAY BE REQUIRED IN CONNECTION WITH THE CONTEMPLATED TRANSACTIONS; AND CONTAINING AN EMERGENCY CLAUSE.

**WHEREAS**, the Railroad and the City, the Port Authority, and the LRA desire to exchange certain properties and railroad trackage located in the City of St. Louis, as generally listed under Exhibit C (List of Properties) and further shown in Exhibit D (Map), the result being that the City, the Port Authority and the LRA will acquire land for development and other public purposes and the Railroad will acquire land, certain easements and railroad trackage for railroad purposes, all as described in further detail in the Exchange Agreement and the Operating Agreement; and

**WHEREAS**, in particular, the City and the Port Authority, together with the LRA, desire to enter in the Exchange Agreement with the Railroad to effectuate the contemplated exchange; and

**WHEREAS**, in particular, the City desires to enter in the Operating Agreement with the Railroad to replace Ordinance 63855 and Board of Public Service Permits 8600 and 8602 and to effectuate the contemplated easements and increases in the annual fee paid by the Railroad to the City, as described in more detail therein; and

**WHEREAS**, the City has determined that the contemplated exchange and easements, together with the annual fee increase, will result in enhanced public safety and increased economic benefits to the citizens of the City resulting in furtherance of the City's and the Port Authority's goals, objectives and policies.

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

**SECTION ONE. Authorization of Documents.** The City and the Port Authority are hereby authorized to enter into an Exchange Agreement (the "**Exchange Agreement**") in substantially the form attached hereto as Exhibit A with respect to the properties described on Exhibits C and D attached hereto, all of which exhibits are incorporated herein by this reference, with such changes in the Exchange Agreement as shall be approved by the Mayor and Comptroller, upon the advice of the City Counselor of the City, and the Executive Director of the Port Authority executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof; and the Exchange Agreement, together with such other documents as may be contemplated thereby or referred to therein, are collectively referred to herein as the "**Exchange Documents.**" The City is hereby authorized to enter into an Operating Agreement (the "**Operating Agreement**") in substantially the form attached hereto as Exhibit B and hereby made a part of this Ordinance, with such changes therein as shall be approved by the Mayor and Comptroller, upon the advice of the City Counselor of the City, executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof; and the Operating Agreement, together with such other documents as may be contemplated thereby or

referred to therein, are collectively referred to herein as the “*Operating Documents.*” The Exchange Documents and the Operating Documents are collectively referred to as the “*Transaction Documents.*”

**SECTION TWO. Further Authority.** The City and the Port Authority shall, and the officers, aldermen, officials, agents and employees of the City and the Port Authority are hereby authorized and directed to take such further action, accept such deeds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the City and the Port Authority with respect to the Transaction Documents. The signatures of the Executive Director of the Port Authority, the Mayor and the Comptroller thereon, and the City Counselor’s approval as to form, being conclusive evidence of such officers’ approval thereof.

**SECTION THREE. No Conflicts.** All provisions of other ordinances of the City which are in conflict with this Ordinance shall be of no force or effect as to the agreements, documents, and instruments approved and/or authorized by this Ordinance.

**SECTION FOUR. Severability.** If any provision of this Ordinance shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because of conflicts with any provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

**SECTION FIVE. Emergency Clause.** Passage of this Ordinance being deemed necessary for the immediate preservation of the health and welfare of the residents of the City of St. Louis, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and shall become effective immediately upon its passage and approval by the Mayor.

## EXHIBIT A

### EXCHANGE AGREEMENT

THIS EXCHANGE AGREEMENT (the “**Agreement**”) is made by and between THE CITY OF ST. LOUIS, MISSOURI (the “**City**”), CITY OF ST. LOUIS PORT AUTHORITY (the “**Port Authority**”), CITY OF ST. LOUIS LAND REUTILIZATION AUTHORITY (the “**LRA**”) (the City of St. Louis, the Port Authority and the LRA are collectively referred to herein as the “**Non-Railroad Parties**”) and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation (the “**Railroad**”), effective as of the date by which all parties have duly executed this Agreement, as set forth below (the “**Effective Date**”).

#### WITNESSETH:

**WHEREAS**, the City is the owner of certain parcels of real estate located in the City of St. Louis and State of Missouri, as generally described on Exhibit A-1 attached hereto and incorporated herein by reference (collectively, the “**Fee Property**”); and

**WHEREAS**, the City is the owner of certain rights of way located in the City of St. Louis and State of Missouri, as generally described on Exhibit A-2 attached hereto and incorporated herein by reference, and which property was conveyed to the City by the Railroad pursuant to Ordinance No. 29617, dated April 17, 1917, of the City of St. Louis, State of Missouri (collectively, the “**Rights of Way**”); and

**WHEREAS**, the Non-Railroad Parties are the owners of certain parcels of real estate located in the City of St. Louis and State of Missouri on which street-level trackage used by the Railroad is located and which are generally described on Exhibit A-3 attached hereto and incorporated herein by reference (collectively, the “**Non-Elevated Easement Property**”), with the respective ownership interests of each party being identified on said exhibit; and

**WHEREAS**, the City and the Port Authority are the owners of certain parcels of real estate located in the City of St. Louis on which elevated trackage used by the Railroad is located and which are generally shown on Exhibit A-4 attached hereto and incorporated herein by reference (collectively, the “**Elevated Easement Property**”; the Non-Elevated Easement Property and the Elevated Easement Property being collectively referred to herein as the “**Easement Property**”), with the respective ownership interests of each party being identified on said exhibit; and

**WHEREAS**, the City is the owner of certain trackage and related appurtenances located on, and/or affixed to, the real estate generally described on Exhibit A-5 attached hereto and incorporated herein by reference and which property was conveyed to the City by the Railroad pursuant to Ordinance No. 29617, dated April 17, 1917, of the City of St. Louis, Missouri (collectively, the “**Trackage**”); and

**WHEREAS**, the Non-Railroad Parties are the owners of the underlying fee title interest in certain streets, public rights of way, easements, roads and alleys, described on Exhibit A-6 attached hereto and incorporated herein by reference (the “**Underlying Fee Interests**”), with the respective ownership interests of each party being identified on said exhibit; and

**WHEREAS**, the Railroad, or an affiliate of the Railroad controlled by the Railroad, is the owner of certain parcels of real estate located in the City of St. Louis and State of Missouri, as more particularly described on Exhibit B-1 and Exhibit B-2 attached hereto and incorporated herein by reference (collectively, the “**Railroad Property**”); and

**WHEREAS**, the Railroad desires to acquire, and the City desires to convey, the Fee Property and the Trackage; and

**WHEREAS**, the Non-Railroad Parties desire to acquire and the Railroad desires to convey to the Non-Railroad Parties the Railroad Property, with that portion of the Railroad Property being described in Exhibit B-2 being subject to the reservation of an elevated easement for railroad purposes; and

**WHEREAS**, the Railroad desires to acquire and the Non-Railroad Parties desire to convey perpetual, exclusive easements in, on, over, under, above and across the Non-Elevated Easement Property for any and all railroad purposes (collectively, the “**Non-Elevated Easement**”), with the City reserving or being granted, as the case may be, the right to use certain roads located thereon and airspace thereover; and

**WHEREAS**, the Railroad desires to acquire and the City and the Port Authority desire to convey perpetual easements in, on, over, under, above and across the Elevated Easement Property for any and all railroad purposes (collectively, the “**Elevated Easement**”), which shall be exclusive as to those areas shown in [enter color] on Exhibit A-4 (the “**Trestle Base Areas**”) and which shall be exclusive as to the airspace of the balance of the Elevated Easement Property shown in [enter color] on Exhibit A-4 (the “**Trestle Elevated Areas**”) commencing at \_\_\_\_\_ feet above mean sea level and non-exclusive as to the balance of the Trestle Elevated Areas below said level; and

**WHEREAS**, as used herein, shall refer to the Non-Elevated Easement and the Elevated Easement; and

**WHEREAS**, the Railroad and the Non-Railroad Parties desire to exchange the Fee Property, Rights of Way, the Underlying Fee Interests, the Easements and the Trackage for the Railroad Property, on the terms and conditions herein set forth (the “**Exchange Transaction**”);

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants of the parties hereinafter expressed, it is hereby agreed as follows:

1. Agreement to Exchange and Convey. In accordance with and subject to the terms and conditions hereof, on the date of Closing (as hereinafter defined), the Non-Railroad Parties agree to convey to the Railroad, and the Railroad agrees to acquire from the Non-Railroad Parties, the Underlying Fee Interests, the Fee Property, Rights of Way, the Easements and the Trackage. In accordance with and subject to the terms and conditions hereof, on the date of Closing, the Railroad agrees to convey to the Non-Railroad Parties, and the Non-Railroad Parties agree to acquire from the Railroad, the Railroad Property.

2. Escrow Agent. The escrow agent handling the Closing shall be Abstar Title Company (the “**Escrow Agent**”).

3. Remedies. If the Exchange Transaction is not closed by the date fixed therefor (or any extension date mutually agreed to by the parties in writing) owing to failure of satisfaction of a condition precedent to the City’s obligations, neither party shall have any further liability hereunder. If the Exchange Transaction is not closed by the date fixed therefor (or any extension date mutually agreed to by the parties in writing) owing to failure of satisfaction of a condition precedent to the Railroad’s obligations, neither party shall have any further liability hereunder. If the Exchange Transaction is not closed by the date fixed therefor (or any such extension date) owing to failure of performance by any of the Non-Railroad Parties, the Railroad shall be entitled to exercise all rights or remedies at law or in equity, including, without limitation, specific performance. If the Exchange Transaction is not closed by the date fixed therefor (or any such extension date) owing to failure of performance by the Railroad, the Non-Railroad

Parties shall be entitled to exercise all rights or remedies at law or in equity, including, without limitation, specific performance.

4. Adjustments. The following items shall be credited, debited and otherwise adjusted, and the resulting calculation shall be reflected on closing statements at Closing between the parties, which closing statements shall show any amounts payable at Closing hereunder (where appropriate, such adjustments shall be made on the basis of an actual year of 365 days): (a) general property taxes (state, county, municipal, school and fire district) for the then current tax fiscal year with respect to the Railroad Property, the Fee Property, Rights of Way and Underlying Fee Interests not being subject to taxation prior to Closing (in addition, if not fully paid prior to Closing, all taxes for years prior to the current tax fiscal year); (b) special taxes or assessments, if any, with respect to the Fee Property, Rights of Way and the Railroad Property assessed or becoming a lien prior to the date of Closing (all of which shall be deemed due and payable in full as of Closing); and (c) fuel, electricity, water, sewer, gas, electric, telephone and other utility charges with respect to the Fee Property, Rights of Way and the Railroad Property. In the event on the date of Closing, the precise figures necessary for any of the foregoing adjustments are not capable of determination, the adjustments shall be made on the basis of good faith estimates of the parties, and such adjustments shall be final and binding on the parties.

5. Incidental Costs and Expenses. The Railroad shall pay all recording fees and costs, all survey costs, all title commitment and title insurance premiums, all mortgage taxes or intangible taxes, and all transfer taxes or revenue stamps incidental to the recordation of the deed, any mortgage, or otherwise, and all escrow fees, if any, charged by the Escrow Agent with respect to the Fee Property, Rights of Way, the Underlying Fee Interests, Easements and Railroad Property. Except as otherwise expressly provided in this Agreement, the Railroad and each of the Non-Railroad Parties shall pay their own respective costs and expenses, including attorneys' fees, incidental to this Agreement and the transactions contemplated hereby.

6. Possession. The Non-Railroad Parties shall transfer possession of the Fee Property, Rights of Way, the Underlying Fee Interests, the Easements and the Trackage to the Railroad, and the Railroad shall transfer possession of the Railroad Property to the City, at 12:01 p.m. on the date of Closing.

7. Closing. The closing (the "**Closing**") of the transactions contemplated hereby shall be on the date which is 60 days after the Effective Date. The Closing shall take place at the offices of the Escrow Agent.

8. Documents at Closing. On the date of Closing, the following parties shall take the following acts and make the following deliveries:

(a) Each Non-Railroad Party, as applicable, shall execute and deliver to the Railroad:

(i) Special Warranty Deeds transferring and conveying to the Railroad (or, in whole or in part, to an affiliate of the Railroad, as designated by the Railroad) fee simple title to the Fee Property, subject only to the applicable Fee Permitted Exceptions (as hereinafter defined), which deeds shall be in the form attached hereto as Exhibit C and incorporated herein by reference (with any such changes as may be necessary to put the same in recordable form); and

(ii) Special Warranty Deeds transferring and conveying to the Railroad all of the City's right, title and interest in the Rights of Way, subject only to the applicable ROW Permitted Exceptions (as hereinafter defined), which deeds shall be in the form attached hereto as Exhibit D and incorporated herein by reference (with any such changes as may be necessary to put the same in recordable form); and

(iii) Quit Claim Deeds transferring and conveying to the Railroad all of the Non-Railroad Parties' right, title and interest to the Underlying Fee Interests, subject only to the applicable UFI Exceptions (as hereinafter defined), which Deeds shall be in the form attached hereto as Exhibit E and incorporated herein by reference (with any such changes as may be necessary to put the same in recordable form); and

(iv) Easements granting to the Railroad the Non-Elevated Easements, subject only to (A) a reservation or grant, as the case may be, in favor of the City and its officials, agents, employees, and contractors for access to certain roads, (B) a reservation or grant, as the case may be, in favor of the City and its officials, agents, employees, and contractors for the use of the airspace over certain areas to accommodate a future bridge over the Mississippi River connecting I-70 and I-64 and (C) the applicable Easement Permitted Exceptions (as hereinafter defined), which easements shall be in form attached hereto as Exhibit F (with any such changes as may be necessary to put the same in recordable form); and

(v) Easements granting to the Railroad the Elevated Easements, subject only to the applicable Easement Permitted Exceptions (as hereinafter defined), which easements shall be in form attached hereto as Exhibit G (with any such changes as may be necessary to put the same in recordable form); and

(vi) Fixture Bill(s) of Sale transferring and conveying to the Railroad title to the Trackage, in the form attached hereto as Exhibit H (with any such changes as may be necessary to put the same in recordable form); and

(vii) Standard-form Seller's Title Affidavit(s), against mechanic's liens and against parties-in-possession, and such other documents from any of the Non-Railroad Parties or third parties as may be reasonably required by the Title Company (as hereinafter defined), on forms customarily used by title insurance companies, in order to issue the policies of title insurance described in Section 12 hereof; and

(viii) Affidavits from each of the Non-Railroad Parties, in form satisfactory to the Railroad and said Non-Railroad Party, affirming that said Non-Railroad Party is not a foreign person under the Foreign Investment in Real Property Tax Act of 1980, as amended, and that no taxes or withholding shall be assessed or applied to the Railroad in connection with the Closing and the transactions contemplated hereby; and

(b) The Railroad shall execute and deliver to the LRA on behalf of the applicable Non-Railroad Parties:

(i) Special Warranty Deeds transferring and conveying to the LRA fee simple title to all the Railroad Property (with the exception of Railroad Property located in City Block 418 which shall be transferred by such Special Warranty Deed directly to the City of St. Louis as directed in this section), subject to the lien of general real estate taxes for the then current tax fiscal year and the other applicable Railroad Permitted Exceptions (as hereinafter defined), which deeds shall be in the form is attached hereto as Exhibit C (with any such changes as may be necessary to put the same in recordable form), except that the portion of the Railroad Property described in Exhibit B-2 shall be subject to an elevated easement for railroad purposes and to that the end the deed(s) conveying the same shall contain the reservation language set forth in Exhibit I attached hereto and incorporated herein by reference; and

(ii) Standard-form Seller's Title Affidavit(s), against mechanic's liens and against parties-in-possession, and such other documents from the Railroad or third parties as may be reasonably required by the Title Company, on forms customarily used by title insurance companies, in order to issue the policies of title insurance described in Section 11 hereof; and

(iii) An affidavit from the Railroad, in form satisfactory to the Non-Railroad Parties and the Railroad, affirming that the Railroad is not a foreign person under the Foreign Investment in Real Property Tax Act of 1980, as amended, and that no taxes or withholding shall be assessed or applied to the Non-Railroad Parties in connection with the Closing and the transactions contemplated hereby; and

(c) The Railroad and each of the Non-Railroad Parties shall execute and deliver to one another counterpart originals of closing statements verifying the adjustments.

9. The Representations and Warranties of the Non-Railroad Parties.

(a) In order to induce the Railroad to acquire the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests and the Trackage and participate in the Exchange Transaction, the City makes the following representations and warranties, each of which representations and warranties is true and correct on the Effective Date and will be true and correct on (and restated as of) the date of Closing, and each of which shall survive the Closing and the sale contemplated hereby:

(i) The City is duly authorized to execute, deliver and perform this Agreement and all documents and instruments and transactions contemplated hereby or incidental hereto.

(ii) There are no tenancies or occupancies affecting the Fee Property and the Rights of Way or persons in possession of any part thereof, except \_\_\_\_\_, a copy of which has been provided to the Railroad.

(iii) There are no service, supply, maintenance, leasing or management agreements affecting the Fee Property, Rights of Way, that portion of the Easement Property owned and/or controlled by the City or the operation of any part thereof, which will not be canceled by the City on or prior to Closing.

(iv) To the best of the actual knowledge of the City, there are no pollutants, contaminants or other substances, hazardous or otherwise, which are or may be on or beneath the Fee Property in violation of any law or regulation of any local, state or federal government or agency thereof.

(v) To the best of the actual knowledge of the City, there are no pollutants, contaminants or other substances, hazardous or otherwise, which are or may be on or beneath that portion of the Easement Property owned and/or controlled by the City in violation of any law or regulation of any local, state or federal government or agency thereof.

(vi) To the best of the actual knowledge of the City, there are no pollutants, contaminants or other substances, hazardous or otherwise, which are or may be on or beneath those parcels of property described on Exhibit A-6 as owned by the City in violation of any law or regulation of any local, state or federal government or agency thereof.

(vi) To the best of the actual knowledge of the City, there are no pollutants, contaminants or other substances, hazardous or otherwise, which are or may be on or beneath the Rights of Way in violation of any law or regulation of any local, state or federal government or agency thereof.

(vii) The Trackage is owned by the City of St. Louis free and clear of all liens, encumbrances and security interests.

(viii) The City has not dealt with any broker, finder or other person in connection with the offering, sale or negotiation of the sale of the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests, and/or the Railroad Property in any manner that might give rise to any claim for commission against the Railroad or any lien against the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests and/or the Railroad Property.

(ix) There are no taxes assessed against or due with respect to the Fee Property, Rights of Way or the Easement Property or the Underlying Fee Interests.

(b) In order to induce the Railroad to acquire the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests and the Trackage and participate in the Exchange Transaction, the Port Authority makes the following representations and warranties, each of which representations and warranties is true and correct on the Effective Date and will be true and correct on (and restated as of) the date of Closing, and each of which shall survive the Closing and the sale contemplated hereby:

(i) The Port Authority is duly authorized to execute, deliver and perform this Agreement and all documents and instruments and transactions contemplated hereby or incidental hereto.

(ii) There are no service, supply, maintenance, leasing or management agreements affecting that portion of the Easement Property owned and/or controlled by the Port Authority or the operation of any part thereof, which will not be canceled by the Port Authority on or prior to Closing.

(iii) To the best of the actual knowledge of the Port Authority, there are no pollutants, contaminants or other substances, hazardous or otherwise, which are or may be on or beneath that portion of the Easement Property owned and/or controlled by the Port Authority in violation of any law or regulation of any local, state or federal government or agency thereof.

(iv) To the best of the actual knowledge of the Port Authority, there are no pollutants, contaminants or other substances, hazardous or otherwise, which are or may be on or beneath those parcels of property described on Exhibit A-6 as owned and/or controlled by the Port Authority in violation of any law or regulation of any local, state or federal government or agency thereof.

(v) The Port Authority has not dealt with any broker, finder or other person in connection with

the offering, sale or negotiation of the sale of the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests, and/or the Railroad Property in any manner that might give rise to any claim for commission against the Railroad or any lien against the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests and/or the Railroad Property.

(vi) There are no taxes assessed against or due with respect to the Easement Property or the Underlying Fee Interests owned and/or controlled by the Port Authority.

(c) In order to induce the Railroad to acquire the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests and the Trackage and participate in the Exchange Transaction, the LRA makes the following representations and warranties, each of which representations and warranties is true and correct on the Effective Date and will be true and correct on (and restated as of) the date of Closing, and each of which shall survive the Closing and the sale contemplated hereby:

(i) The LRA is duly authorized to execute, deliver and perform this Agreement and all documents and instruments and transactions contemplated hereby or incidental hereto.

(ii) There are no service, supply, maintenance, leasing or management agreements affecting that portion of the Easement Property owned by the LRA or the operation of any part thereof, which will not be canceled by the LRA on or prior to Closing.

(iii) To the best of the actual knowledge of the LRA, there are no pollutants, contaminants or other substances, hazardous or otherwise, which are or may be on or beneath that portion of the Easement Property owned by the LRA in violation of any law or regulation of any local, state or federal government or agency thereof.

(iv) To the best of the actual knowledge of the City, there are no pollutants, contaminants or other substances, hazardous or otherwise, which are or may be on or beneath those parcels of the property described on Exhibit A-6 as owned by the LRA in violation of any law or regulation of any local, state or federal government or agency thereof.

(v) The LRA has not dealt with any broker, finder or other person in connection with the offering, sale or negotiation of the sale of the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests, and/or the Railroad Property in any manner that might give rise to any claim for commission against the Railroad or any lien against the Fee Property, Rights of Way, the Easements, the Underlying Fee Interests and/or the Railroad Property.

(vi) There are no taxes assessed against or due with respect to the Fee Property, Rights of Way or the Easement Property or the Underlying Fee Interests owned and/or controlled by the LRA.

10. The Railroad's Representations and Warranties. In order to induce the Non-Railroad Parties to acquire the Railroad Property and participate in the Exchange Transaction, the Railroad makes the following representations and warranties, each of which representations and warranties is true and correct on the Effective Date and will be true and correct on (and restated as of) the date of Closing, and each of which shall survive the Closing and the sale contemplated hereby:

(a) The Railroad is a corporation duly organized, validly existing and in good standing under the laws of Missouri, and is authorized to transact business in the State of Missouri, and the Railroad is duly authorized to execute, deliver and perform this Agreement and all documents and instruments and transactions contemplated hereby or incidental hereto.

(b) There are no tenancies or occupancies affecting the Railroad Property or persons in possession of any part thereof.

(c) There are no service, supply, maintenance, leasing or management agreements affecting the Railroad Property or the operation of any part thereof, which will not be canceled by the Railroad on or prior to Closing.

(d) To the best of the actual knowledge of the Railroad, there are no pollutants, contaminants or other substances, hazardous or otherwise, on or beneath the surface of the Railroad Property, which are or may be on or beneath the Railroad Property in violation of any law or regulation of any local, state or federal government or agency thereof.

(e) The Railroad has not dealt with any broker, finder or other person in connection with the offering, sale or negotiation of the sale of the Fee Property, Rights of Way and/or the Railroad Property in any manner that might give rise to any claim for commission against the Railroad or any lien against the Fee Property and/or the Railroad Property.

11. The City's Conditions. The obligations of the City to consummate the transactions provided for in this Agreement shall be subject to the satisfaction of each of the following conditions (as satisfactory to the City, in its sole and absolute discretion) on or before the date of Closing (or earlier, if so specified), subject to the rights of the City to waive any one or more of such conditions:

(a) The Railroad shall have obtained a commitment in favor of the City for an ALTA Form B Owner's Policy of Title Insurance from Abstar Title Company (the "**Title Company**") with respect to the Railroad Property, with affirmative endorsements in such forms as the City shall require in its reasonable discretion (the "**Railroad Endorsements**"), within 30 days after the Effective Date. The City shall have reviewed and approved (as satisfactory to the City, in its discretion) in writing the terms of the commitment, the Railroad Endorsements, the utility easements of record and, if any, such additional exceptions as may be disclosed thereon. The City agrees to review and approve the commitment, the Railroad Endorsements, the utility easements of record and such additional exceptions (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date (and upon such approval, the exceptions disclosed thereon shall constitute "**Railroad Permitted Exceptions**" hereunder, other than the standard preprinted exceptions and any deeds of trust, mortgages, security agreements or other liens, all of which the Railroad shall cause to be removed and deleted at or prior to Closing).

(b) The City shall have reviewed and approved (as satisfactory to the City, in its discretion) an updated, "as-built" survey of the Railroad Property. The Railroad shall have obtained and provided to City such survey within 30 days after the Effective Date. The City agrees to review and approve the updated "as-built" survey (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date.

(c) The City, at the City's expense, shall have reviewed and approved (as satisfactory to the City, in its discretion) the physical and environmental condition of the Railroad Property. The City agrees to review and approve the above-described items (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date. The City acknowledges receipt of a Phase I Environmental Audit of the Railroad Property from the Railroad.

(d) The City shall have obtained at Closing an Owner's Policy of Title Insurance from the Title Company, insuring the title and interest of the City in and to the Railroad Property and any easements or rights of way appurtenant thereto, on ALTA Form B, with exception only for the lien of general real estate taxes for the current tax fiscal year and the other Railroad Permitted Exceptions and containing the Railroad Endorsements.

(e) The City shall have obtained from the Railroad copies of all agreements and instruments pertaining to the Railroad Property, if any (the Railroad hereby agreeing to provide copies of such agreements and instruments within 10 days after the Effective Date). The City agrees to review and approve such agreements and instruments (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date.

12. The Railroad's Conditions. The obligations of the Railroad to consummate the transactions provided for in this Agreement shall be subject to the satisfaction of each of the following conditions (as satisfactory to the Railroad, in its sole and absolute discretion) on or before the date of Closing (or earlier, if so specified), subject to the rights of the Railroad to waive any one or more of such conditions:

(a) The Railroad shall have obtained a commitment in favor of the Railroad for an ALTA Form B Owner's Policy of Title Insurance from the Title Company with respect to each parcel comprising the Fee Property, with affirmative endorsements in such forms as the Railroad shall require in its reasonable discretion (the "**Fee Endorsements**"). The Railroad shall have reviewed and approved (as satisfactory to the Railroad, in its discretion) in writing the terms of the commitments, the Fee Endorsements, the utility easements of record and, if any, such additional exceptions as may be disclosed thereon. The Railroad agrees to review and approve the commitments, the Fee Endorsements, the utility easements of record and such additional exceptions (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date (and upon such approval, the exceptions disclosed thereon shall constitute "**Fee Permitted Exceptions**" hereunder, other than the standard preprinted exceptions and any deeds of trust, mortgages, security agreements or other liens, all of which the City shall cause to be removed and deleted at or prior to Closing).

(b) The Railroad shall have obtained a commitment in favor of the Railroad for an ALTA Form B Owner's

Policy of Title Insurance from the Title Company with respect to each parcel comprising the Rights of Way, with affirmative endorsements in such forms as the Railroad shall require in its reasonable discretion (the “**ROW Endorsements**”). The Railroad shall have reviewed and approved (as satisfactory to the Railroad, in its discretion) in writing the terms of the commitments, the ROW Endorsements, the utility easements of record and, if any, such additional exceptions as may be disclosed thereon. The Railroad agrees to review and approve the commitments, the ROW Endorsements, the utility easements of record and such additional exceptions (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date (and upon such approval, the exceptions disclosed thereon shall constitute “**ROW Permitted Exceptions**” hereunder, other than the standard preprinted exceptions and any deeds of trust, mortgages, security agreements or other liens, all of which the City shall cause to be removed and deleted at or prior to Closing).

(c) The Railroad shall have obtained a commitment in favor of the Railroad for an ALTA Form B Owner’s Policy of Title Insurance from the Title Company with respect to the Easements, with affirmative endorsements in such forms as the Railroad shall require in its reasonable discretion (the “**Easement Endorsements**”). The Railroad shall have reviewed and approved (as satisfactory to the Railroad, in its discretion) in writing the terms of the commitment, the Easement Endorsements, the utility easements of record and, if any, such additional exceptions as may be disclosed thereon. The Railroad agrees to review and approve the commitment, the Easement Endorsements, the utility easements of record and such additional exceptions (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date (and upon such approval, the exceptions disclosed thereon shall constitute “**Easement Permitted Exceptions**” hereunder, other than the standard preprinted exceptions and any deeds of trust, mortgages, security agreements or other liens, all of which the City shall cause to be removed and deleted at or prior to Closing).

(d) The Railroad shall have obtained a commitment in favor of the Railroad for an ALTA Form B Owner’s Policy of Title Insurance from the Title Company with respect to the Underlying Fee Interests, with affirmative endorsements in such forms as the Railroad shall require in its reasonable discretion (the “**UFI Endorsements**”). The Railroad shall have reviewed and approved (as satisfactory to the Railroad, in its discretion) in writing the terms of the commitment, the UFI Endorsements, the utility easements of record and, if any, such additional exceptions as may be disclosed thereon. The Railroad agrees to review and approve the commitment, the UFI Endorsements, the utility easements of record and such additional exceptions (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date (and upon such approval, the exceptions disclosed thereon shall constitute “**UFI Permitted Exceptions**” hereunder, other than the standard preprinted exceptions and any deeds of trust, mortgages, security agreements or other liens, all of which the City shall cause to be removed and deleted at or prior to Closing).

(e) The Railroad shall have obtained and reviewed and approved (as satisfactory to the Railroad, in its discretion) an updated, “as-built” survey of the Fee Property. The Railroad agrees to review and approve the updated “as-built” survey (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date.

(f) The Railroad shall have obtained and reviewed and approved (as satisfactory to the Railroad, in its discretion) an updated, “as-built” survey of the Rights of Way. The Railroad agrees to review and approve the updated “as-built” survey (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date.

(g) The Railroad may have obtained and reviewed and approved (as satisfactory to the Railroad, in its discretion) an updated, “as-built” survey of the Easements. In the event the Railroad obtains such survey within 30 days after the Effective Date, the Railroad shall review and approve the updated “as-built” survey (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date.

(h) The Railroad, at the Railroad’s expense, shall have reviewed and approved (as satisfactory to the Railroad, in its discretion) the zoning classification of the Fee Property, Rights of Way and the Easements, and the physical and environmental condition of the Fee Property, Rights of Way and the Easements. The Railroad agrees to review and approve the above-described items (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date. The Railroad acknowledges receipt of a Phase I Environmental Audit of the Non-Railroad Parties’ Property conducted at Railroad’s sole cost and expense.

(i) The Railroad shall have obtained at Closing an Owner’s Policy of Title Insurance from the Title Company, insuring the title and interest of the Railroad in and to each parcel comprising the Fee Property, the Rights of Way and the Easements and any easements or rights of way appurtenant thereto, on ALTA Form B, with exception only for the lien of general real estate taxes for the current tax fiscal year and the other Fee Permitted Exceptions, the ROW Permitted Exceptions and the

Easement Permitted Exceptions, as the case may be, and containing the Fee Endorsements, ROW Permitted Endorsements and the Easement Endorsements, as the case may be.

(j) The Railroad shall have obtained at Closing an Owner's Policy of Title Insurance from the Title Company, insuring the title and interest of the Railroad in and to the Underlying Fee Interests on ALTA Form B, with exception only for the lien of general real estate taxes for the current tax fiscal year and the other UFI Permitted Exceptions and containing the UFI Endorsements.

(k) The Railroad shall have obtained from the City copies of all agreements and instruments pertaining to the Fee Property, Rights of Way, the Easement Property, the Underlying Fee Interests and the Trackage, if any (the City hereby agreeing to provide copies of such agreements and instruments within 10 days after the Effective Date). The Railroad agrees to review and approve such agreements and instruments (or disapprove the same and thereby terminate this Agreement) on or before the date 45 days after the Effective Date.

13. Covenants of the Non-Railroad Parties. The Non-Railroad Parties covenant and agree that from and after the Effective Date and until the date of Closing:

(a) The Non-Railroad Parties, as applicable, will, prior to the date of Closing, operate the Fee Property, Rights of Way, the Easement Property and the Trackage subject to the following provisions and limitations:

(1) The Non-Railroad Parties, as applicable, shall continue to operate the Fee Property, Rights of Way and the Easement Property consistent with the present business and operations thereof.

(2) The Non-Railroad Parties, as applicable, shall not: (i) enter into any leases, licenses or agreements affecting all or any portion of the Fee Property, Rights of Way, the Easement Property and the Trackage or otherwise encumber the Fee Property, Rights of Way, the Easement Property and the Trackage in any manner, (ii) enter into any service, supply, maintenance or other contracts (or extension or amendment to any of the same now existing) pertaining to the Fee Property, Rights of Way, the Easement Property and the Trackage or the operation of the Fee Property, Rights of Way, the Easement Property and the Trackage which are not cancelable without penalty at Closing, or (iii) alter or contract for the alteration of any existing improvements or construct or install or contract for the construction or installation of any new improvements; without, in each instance, obtaining the prior written consent of the Railroad.

(b) The Non-Railroad Parties, as applicable, will, prior to the date of Closing, permit the Railroad the following access and provide the Railroad the following information: The Non-Railroad Parties, as applicable, shall allow the Railroad and its agents and consultants, from and after the date of this Agreement, continuing access during business hours to the Fee Property, Rights of Way, the Easement Property and the Trackage for the purpose of conducting pre-audits, audits, or inspections, including, without limitation, soil borings, and/or to verify the compliance of the Non-Railroad Parties with the Agreement. Such access shall be exercised by the Railroad at such times as deemed reasonably necessary to the Railroad, may be exercised by the Railroad or by agents of or consultants to the Railroad on the Railroad's behalf, and shall be at the risk of the Railroad.

(c) The Non-Railroad Parties, as applicable, shall cause the Fee Property, Rights of Way, the Easement Property and the Trackage to be insured against all ordinary and insurable risks in commercially reasonable coverage amounts; the Non-Railroad Parties, as applicable, shall bear the risk of loss to the Fee Property, Rights of Way, the Easement Property and the Trackage to and including the date of Closing; and the Non-Railroad Parties, as applicable, shall maintain and repair the Fee Property, Rights of Way, the Easement Property and the Trackage in a commercially reasonable manner up to the date of closing.

14. Covenants of the Railroad. The Railroad covenants and agrees that from and after the Effective Date and until the date of Closing:

(a) The Railroad will, prior to the date of Closing, operate the Railroad Property subject to the following provisions and limitations:

(1) The Railroad shall continue to operate the Railroad Property consistent with the present business and operations thereof.

(2) The Railroad shall not: (i) enter into any leases affecting all or any portion of the Railroad Property or otherwise encumber the Railroad Property in any manner, (ii) enter into any service, supply, maintenance or other contracts (or

extension or amendment to any of the same now existing) pertaining to the Railroad Property or the operation of the Railroad Property which are not cancelable without penalty at Closing, or (iii) alter or contract for the alteration of any existing improvements or construct or install or contract for the construction or installation of any new improvements; without, in each instance, obtaining the prior written consent of the City.

(b) The Railroad will, prior to the date of Closing, permit the City the following access and provide the City the following information: The Railroad shall allow the City and its agents and consultants, from and after the date of this Agreement, continuing access during business hours to the Railroad Property for the purpose of conducting pre-audits, audits, or inspections, including, without limitation, soil borings, and/or to verify the Railroad’s compliance with the Agreement. Such access shall be exercised by the City at such times as deemed reasonably necessary to the City, may be exercised by the City or by agents of or consultants to the City on the City’s behalf, and shall be at the risk of the City.

(c) The Railroad shall cause the Railroad Property to be insured against all ordinary and insurable risks in commercially reasonable coverage amounts; the Railroad shall bear the risk of loss to the Railroad Property to and including the date of Closing; and the Railroad shall maintain and repair the Railroad Property in a commercially reasonable manner.

15. Casualty. In the event of the damage or destruction of all or any material part of the Fee Property, Rights of Way, the Easement Property and/or the Trackage prior to Closing, the Railroad at its option, exercisable by written notice to the Non-Railroad Parties, may either: (i) terminate this Agreement, whereupon neither party will have any further obligations hereunder; or (ii) continue under this Agreement, whereupon the City will assign to the Railroad all its interest in and to any insurance policies and proceeds thereof payable as a result of such damage or destruction. In the event of the damage or destruction of all or any material part of the Railroad Property prior to Closing, the City at its option, exercisable by written notice to the Railroad, may either: (i) terminate this Agreement, whereupon neither party will have any further obligations hereunder; or (ii) continue under this Agreement, whereupon the Railroad will assign to the City all its interest in and to any insurance policies and proceeds thereof payable as a result of such damage or destruction.

16. Condemnation. In the event of the taking of all or any part of the Fee Property, Rights of Way, the Easement Property and/or the Trackage prior to Closing, by eminent domain or condemnation (by a person, governmental, quasi-governmental or other entity other than the City), then the Railroad at its option, exercisable by written notice to the Non-Railroad Parties, may either: (i) terminate this Agreement, whereupon neither party will have any further obligation hereunder; or (ii) continue under this Agreement, whereupon each of the Non-Railroad Parties will assign to the Railroad all its interest in and to any award and proceeds thereof payable as a result of such taking. In the event of the taking of all or any part of the Railroad Property prior to Closing, by eminent domain or condemnation, then the City at its option, exercisable by written notice to the Railroad, may either: (i) terminate this Agreement, whereupon neither party will have any further obligation hereunder; or (ii) continue under this Agreement, whereupon the Railroad will assign to the City all its interest in and to any award and proceeds thereof payable as a result of such taking.

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

18. Assignment. The Railroad may not assign its rights and interests hereunder. In the event the Non-Railroad Parties are not in default under this Agreement, the Non-Railroad Parties may assign their rights and interests under this Agreement, provided that the Assignee shall expressly assume all obligations of the Non-Railroad Parties hereunder and said assignment, in form and substance, shall provide for the Assignee’s assumption of the Non-Railroad Parties’ obligations hereunder and shall not relieve the City from its obligations hereunder. In addition, the City may direct in writing the Railroad to transfer and convey the Railroad Property to any designee of the City, provided that such written directions shall not release the City from any of its obligations hereunder.

19. Notices. All notices, requests, demands and other communications hereunder shall be deemed to have been duly given if the same shall be in writing and shall be delivered personally or sent by registered or certified mail, postage pre-paid, and addressed as set forth below:

If to the Railroad:

Mr. Gerald T. Gates, President  
Terminal Railroad Association of St. Louis  
700 N. Second Street

If to the City:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

St. Louis, MO 63102

\_\_\_\_\_

With a copy to:

If to the Port Authority:

Mr. Shawn T. Canavan  
Railroad Realty Services  
700 North Second Street, 5th Floor  
St. Louis, Missouri 63102

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to the LRA:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any party may change the address to which notices are to be addressed by giving the other party notice in the manner herein set forth.

20. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Missouri.

21. Time of the Essence. Time is of the essence with respect to each and every provision of this Agreement.

22. Performance on Business Days. If any date for the occurrence of an event or act under this Agreement falls on a Saturday or Sunday or legal holiday in the State of Missouri, then the time for the occurrence of such event or act shall be extended to the next succeeding business day.

23. Entire Agreement. This Agreement, together with all the Exhibits, if any, attached hereto and incorporated by reference herein, constitutes the entire undertaking between the parties hereto, and supersedes any and all prior agreements, arrangements and understandings between the parties.

24. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original.

25. Escrow. For purposes of this Agreement, the escrow shall be deemed opened (the “**Opening of Escrow**”) on the date the Escrow Agent shall have received a photocopy of this Agreement, executed by both the City and the Railroad. Opening of Escrow shall occur not later than seven (7) business days after this Agreement has been executed by the City, the Port Authority, the LRA and the Railroad. The Escrow Agent shall notify the City, the Port Authority, the LRA and the Railroad, in writing, of the date escrow is opened. The City, the Port Authority and LRA and the Railroad agree to execute, deliver and be bound by such supplemental escrow instructions of the Escrow Agent or other instruments as may be reasonably approved by the City, the Port Authority and the LRA and the Railroad and required by the Escrow Agent in order to consummate the transactions contemplated by this Agreement; provided, however, that any such supplemental instructions shall not conflict with, amend or supersede any portion of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control.

26. Further Assurances. The parties hereto agree to execute any and all documents and take any and all actions as may be reasonably necessary to effectuate the terms and conditions hereof. In particular, in the event a legal description of the Easement Property shall not have been prepared, certified and depicted by a duly licensed land surveyor, engaged by the Railroad hereunder, by the date of Closing, the City, the Port Authority, the LRA and the Railroad hereby covenant and agree to promptly re-execute and deliver the easement document with respect to the Easements, executed and delivered at Closing by the parties, attaching thereto, as a corrective matter, such certified legal description and depiction thereof as soon as the same have been prepared. The agreements and covenants set forth in this Section shall survive the Closing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

THE CITY OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

By: \_\_\_\_\_

Name: \_\_\_\_\_

Attest:

Title Mayor

\_\_\_\_\_  
City Register

By: \_\_\_\_\_

Name: \_\_\_\_\_

Approved as to form:

Title Comptroller

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title Assistant City Counselor

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

THE CITY OF ST. LOUIS PORT AUTHORITY

Date of Execution: \_\_\_\_\_ 2002

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

THE CITY OF ST. LOUIS  
LAND REUTILIZATION AUTHORITY

Date of Execution: \_\_\_\_\_ 2002

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS

Date of Execution: \_\_\_\_\_ 2002

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

Acceptance by Escrow Agent:

The undersigned hereby acknowledges that it has received a fully executed counterpart of the foregoing Exchange Agreement and agrees to act as Escrow Agent thereunder and to be bound by and strictly perform the terms thereof as such terms apply to Escrow Agent.

DATED: \_\_\_\_\_

ABSTAR TITLE COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A-1**

[ATTACH DESCRIPTIONS OF PARCELS OWNED BY THE CITY]

Description of Parcels Owned by the City on file in the Register's Office

**EXHIBIT A-2**

[ATTACH DESCRIPTIONS OF RIGHTS OF WAY OWNED BY THE CITY]

Descriptions of Rights of Way Owned by the City on file in the Register’s Office

**EXHIBIT A-3**

[ATTACH DESCRIPTIONS OF THE NON-ELEVATED EASEMENT PROPERTY, WITH THE OWNER OF EACH PARCEL DESIGNATED]

Descriptions of the Non-Elevated Easement Property, with the Owner of Each Parcel Designated on file in the Register’s Office.

**EXHIBIT A-4**

[ATTACH DEPICTIONS OF THE ELEVATED EASEMENT PROPERTY, WITH THE OWNER OF EACH PARCEL DESIGNATED]

Depiction of the Elevated Easement Property, With the Owner of Each Parcel Designated on file in the Register’s Office.

**EXHIBIT A-5**

[ATTACH DEPICTIONS OF ALL PARCELS ON WHICH THE TRACKAGE IS LOCATED]

Depictions of All Parcels on Which the Trackage is Located on file in the Register’s Office

**EXHIBIT A-6**

[ATTACH DEPICTIONS OF ALL THE PORTIONS OF STREETS TO WHICH THE RAILROAD IS RECEIVING THE UNDERLYING FEE INTERESTS OF THE NON-RAILROAD PARTIES, WITH THE OWNER OF EACH UNDERLYING FEE INTEREST DESIGNATED]

Depictions of All the Portions of Streets to Which the Railroad is Receiving the Underlying Fee Interests of the Non-Railroad Parties, With the Owner of Each Underlying Fee Interest Designated on file in the Register’s Office.

**EXHIBIT B-1**

[INSERT LEGAL DESCRIPTION OF THOSE PORTIONS OF THE RAILROAD PROPERTY THAT WILL NOT BE SUBJECT TO AN ELEVATED EASEMENT]

Legal Description of Those Portions of the Railroad Property That Will Not Be Subject To An Elevated Easement on file in the Register’s Office.

**EXHIBIT B-2**

[INSERT LEGAL DESCRIPTION OF THOSE PORTIONS OF THE RAILROAD PROPERTY THAT WILL BE SUBJECT TO AN ELEVATED EASEMENT]

Legal Description of Those Portions of the Railroad Property That Will Be Subject to an Elevated Easement on file in the Register’s Office.

**EXHIBIT C**

**FORM OF SPECIAL WARRANTY DEED**

THIS DEED is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ (“Grantor”), and \_\_\_\_\_, a \_\_\_\_\_ (“Grantee”), with a mailing address of \_\_\_\_\_.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, does by these presents BARGAIN AND SELL, CONVEY AND

CONFIRM unto Grantee, the real estate commonly known as \_\_\_\_\_, situated in the City of St. Louis, and State of Missouri, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference, together with all improvements thereon and appurtenances thereto (collectively, the "Property").

SUBJECT, HOWEVER, to all matters (the "Permitted Exceptions") set forth in Exhibit B, attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the Property belonging, unto Grantee and to its successors and assigns forever, hereby covenanting that Grantor and its successors and assigns shall and will WARRANT AND DEFEND the title to the Property unto Grantee, and to its successors and assigns forever, against the lawful claims of all persons claiming by, through or under Grantor but none other, excepting, however, the Permitted Exceptions.

IN WITNESS WHEREOF, Grantor has executed these presents the day and year first above written.

[GRANTOR]

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

[GRANTEE]

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

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO SPECIAL WARRANTY DEED: Attach Legal Description

EXHIBIT B TO SPECIAL WARRANTY DEED: Insert the applicable Permitted Exceptions (as defined in the Agreement), or absent such Permitted Exceptions, the following: (i) any covenants, conditions, limitations, restrictions, rights-of-way, encumbrances, encroachments, reservations, easements, agreements and other matters of record; (ii) any state of facts or exception which an accurate survey or an inspection of the Property would show; (iii) special assessments now or hereafter becoming a lien; and (iv) general property taxes for the current tax fiscal year and subsequent tax fiscal years.

**EXHIBIT D**

**FORM OF SPECIAL WARRANTY DEED**

THIS DEED is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ ("Grantor"), and \_\_\_\_\_, a \_\_\_\_\_ ("Grantee"), with a mailing address of \_\_\_\_\_.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, does by these presents BARGAIN AND SELL, CONVEY AND CONFIRM unto Grantee, all right, title and interest of Grantor in and to the real estate commonly known as \_\_\_\_\_, situated in the City of St. Louis, and State of Missouri, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference, together with all improvements thereon and appurtenances thereto (collectively, the "Property").

SUBJECT, HOWEVER, to all matters (the "Permitted Exceptions") set forth in Exhibit B, attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the Property belonging, unto Grantee and to its successors and assigns forever, hereby covenanting that Grantor and its successors and assigns shall and will WARRANT AND DEFEND the right, title and interest in the Property as conveyed to Grantor pursuant to Ordinance No. 29617, dated April 17, 1917, of the City of St. Louis, Missouri unto

Grantee, and to its successors and assigns forever, against the lawful claims of all persons claiming by, through or under Grantor but none other, excepting, however, the Permitted Exceptions.

IN WITNESS WHEREOF, Grantor has executed these presents the day and year first above written.

[GRANTOR]

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

[GRANTEE]

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

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO SPECIAL WARRANTY DEED: Attach Legal Description

EXHIBIT B TO SPECIAL WARRANTY DEED: Insert the applicable Permitted Exceptions (as defined in the Agreement), or absent such Permitted Exceptions, the following: (i) any covenants, conditions, limitations, restrictions, rights-of-way, encumbrances, encroachments, reservations, easements, agreements and other matters of record; (ii) any state of facts or exception which an accurate survey or an inspection of the Property would show; (iii) special assessments now or hereafter becoming a lien; and (iv) general property taxes for the current tax fiscal year and subsequent tax fiscal years.

**EXHIBIT E**

**QUIT CLAIM DEED**

**THIS QUIT CLAIM DEED** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ corporation, whose address is \_\_\_\_\_ (herein "Grantor") and the **TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS**, a Missouri corporation, whose address is \_\_\_\_\_ (herein "Grantee").

**WITNESSETH**, that the Grantor, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations paid by the Grantee, the receipt of which is hereby acknowledged, does by these presents **REMISE, RELEASE AND FOREVER QUIT CLAIM** unto the Grantee all right, title and interest of Grantor, whether after acquired or otherwise, in and to any streets, public rights of way, easements, roads and alleys lying on or adjacent to, abutting or between, the **[western, eastern, northern and/or southern]** property line(s) of the parcel(s) of real estate situated in the City of St. Louis, State of Missouri, which is more particularly described on Exhibit A attached hereto and by this reference made a part hereof,

**TO HAVE AND TO HOLD** the same, together with all rights and appurtenances to the same belonging, unto the Grantee, and to the heirs, successors and assigns of the Grantee forever so that neither the Grantor nor the successors, heirs or assigns of the Grantor, nor any other person or persons for Grantor or in Grantor's names or behalf, shall or will hereafter claim or demand any right or title to the aforesaid premises, or any part thereof, but they and every one of them shall, by these presents, be excluded and forever barred.

Grantor, on its own behalf and on behalf of all successors, heirs and assigns in ownership, hereby covenants and agrees to promptly execute and deliver any and all documents (including, without limitation, any petitions), and promptly to take such other reasonable action, as may be requested by Grantee, in Grantee's reasonable discretion, as necessary to effectuate the vacation of any of the aforementioned streets, public rights of way, easements, roads, and alleys.

Grantor, on its own behalf and on behalf of all successors, heirs and assigns in ownership, hereby covenants and agrees

to promptly execute and deliver any and all documents (including, without limitation, any additional deeds), and to promptly take any and all further actions, as may be requested by Grantee, in Grantee’s reasonable discretion, as necessary to effectuate the transfers contemplated and the intentions of the parties expressed herein.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands the day and year first above written.

GRANTOR:

\_\_\_\_\_

[SEAL]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

GRANTEE:

TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS

[SEAL]

By: \_\_\_\_\_

Gerald T. Gates, President

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO QUIT WARRANTY DEED: Attach Legal Description

**EXHIBIT F**

(Form of Non-Elevated Easement)

**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT (“Agreement”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ (“Grantor”), and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation (“Grantee”).

WITNESSETH:

WHEREAS, Grantor possesses certain interests in the real estate situated in the City of St. Louis, State of Missouri, a legally described in Exhibit A attached hereto and incorporated herein by reference and depicted in Exhibit B attached hereto and incorporated herein by reference (hereinafter called the “Property”);

WHEREAS, Grantee operates a railroad in, among other places, the City of St. Louis, State of Missouri;

WHEREAS, Grantee desires an exclusive easement for railroad purposes on, in, over, under and across the Property;

WHEREAS, Grantor desires to grant to Grantee such easement with respect to the Property on the terms and conditions herein below set forth;

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto and in further consideration of the mutual agreements herein set forth, Grantor and Grantee hereby agree as follows:

Grantor hereby grants to Grantee a perpetual, exclusive easement (the “Easement”) in, on, over, under, above and across the Property for any and all railroad purposes (including, without limitation, constructing, maintaining, repairing, operating, replacing

and reconstructing trackage and all related appurtenances, signals, lights and improvements on the Property), subject to the reservations in favor of Grantor set forth below and subject to those utility easements and licenses existing of record as of the date of this instrument; provided, however, that (a) Grantor shall not allow the utility easements to which this Easement is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee's railroad operations and Grantee's Easement and rights granted herein and (b) Grantor agrees to cause any access to the Property by the holders of a utility easements to which the Easement is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging).

Grantor hereby reserves unto itself the non-exclusive, perpetual right for its agents, employees, officials and contractors to use, maintain, repair, replace and reconstruct the paved roads existing as of the date of this instrument and generally depicted on Exhibit C attached hereto; provided, however, such reserved right shall not be exercised in a manner that unreasonably interferes with Grantee's railroad operations and Grantee's Easement and rights granted herein, and provided further that at all times Grantor shall be responsible for performing, at Grantor's sole act and expense, any and all necessary repair, maintenance, replacements and reconstruction of such roads, except that Grantee, at Grantee's sole cost and expense, shall be responsible for the maintenance and repair of any railroad crossing to the extent required by the applicable statutes of the State of Missouri.

Grantor hereby further reserves unto itself the exclusive, perpetual right for its agents, employees, officials and contractors to use and occupy those portions of the airspace above the Property located generally between Mullanphy Street and Tyler Street and at least \_\_\_ feet above mean sea level, for the purpose of constructing, operating, maintaining, repairing, replacing and reconstructing a bridge over the Mississippi River connecting those public interstate highways presently known as I-70 and I-64; provided, however, such reserved right shall not be exercised in a manner that unreasonably interferes with Grantee's railroad operations and Grantee's Easement and rights granted herein, and provided further that at all times Grantor shall be responsible for performing, at Grantor's sole act and expense, any and all necessary repair, maintenance, replacements and reconstruction of such bridge.

Upon Grantee's written request, Grantor hereby covenants and agrees to promptly re-execute and deliver this Agreement, attaching thereto, as a corrective and clarifying matter, legal descriptions and depictions of the Property, certified as accurate by a duly licensed land surveyor, engaged by Grantee.

The Easement granted herein is for the benefit of Grantee and its employees, agents, contractors, invitees, tenants and licensees. Said Easement established herein is perpetual, shall run with the land and shall bind, burden and benefit the parties hereto and their respective successors and assigns so long as Grantee, its successors and assigns shall maintain said Property as hereunder defined.

Grantee shall have the right, at Grantee's sole cost and expense, to fence (with jersey barriers or other fencing materials and/or gates) such portions of the Property as Grantee shall deem necessary or desirable.

Grantee shall maintain the surface of the Property in good order with rock bedding and shall, at reasonable regular intervals, clear weeds and refuse from the surface of the Property.

Grantee shall keep the Property free from any liens arising out of any work performed, material furnished or obligation incurred by or for Grantee or any person or entity claiming through or under Grantee. If any such lien shall at any time be filed against the Property, Grantee shall, within 45 days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise. In the event that Grantee shall not within said 45-day period cause the same to be released of record, Grantor shall have, in addition to all other remedies at law or in equity, the right, but not the obligation, to cause such lien to be released by such means as Grantor deems proper, including, but not limited to, payment of the claim giving rise to such lien and Grantee agrees to reimburse Grantor for its cost and expenses reasonably incurred in connecting therewith promptly upon Grantee's receipt of written demand therefor.

The Easement granted herein shall not terminate except upon Grantee's recording of a termination of easement in the Office of the Recorder of Deeds for the City of St. Louis, Missouri.

If any legal action is brought for enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to

recover reasonable attorney’s fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

The unenforceability of any provision of this Agreement shall not render the remaining provisions hereof unenforceable or void.

This Agreement contains the entire agreement and understanding of the parties hereto relative to the subject matter hereof and supersedes all other agreements and understandings, if any, oral or in writing. This Agreement may not be amended except in writing signed by the parties hereto and duly recorded in the real property records of the City of St. Louis, Missouri.

Grantor, for itself, its successors and assigns, does hereby warrant and covenant unto Grantee (1) that Grantor is the owner of the above described land and has full right and authority validly to grant this Easement, (2) that Grantee may quietly enjoy the Easement for the purposes herein stated, (3) that Grantor will not create or permit any obstruction of any kind or character that will interfere with the exercise and enjoyment of the Easement hereinabove conveyed and (4) Grantee shall not be subject to any real estate or other *ad valorem* tax by the City of St. Louis, Missouri, as a result of, or attributable to the Easement.

Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said entity for which the individual is executing on behalf of, and that this Agreement is binding upon the entity for which said individual is so executing.

WHEREOF, Grantee and Grantor have executed and delivered this Agreement as of the day and year first above written.

IN WITNESS

GRANTOR:

[ \_\_\_\_\_ ]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

GRANTEE:

TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS (a Missouri corporation)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO EASEMENT: Insert Legal Description of the Easement Property.

EXHIBIT B TO EASEMENT: Insert Depiction of the Easement Property.

**EXHIBIT G**

(Form of Elevated Easement)

**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT (“Agreement”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ (“Grantor”), and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation (“Grantee”).

WITNESSETH:

WHEREAS, Grantor possesses certain interests in the real estate situated in the City of St. Louis, State of Missouri, a

legally described in Exhibit A attached hereto and incorporated herein by reference and depicted in Exhibits B and C attached hereto and incorporated herein by reference (hereinafter called the "Property");

WHEREAS, Grantee operates a railroad in, among other places, the City of St. Louis, State of Missouri and currently operates elevated trackage located on a trestle affixed to the Property (the "Trestle");

WHEREAS, Grantee desires to acquire and Grantor desires to convey a perpetual easement in, on, over, under, above and across the Property for any and all railroad purposes, which shall be exclusive as to those areas, more particularly described below, on which the bases to the Trestle presently sit and which shall be exclusive as to the airspace of the balance of the Property, as more particularly described below, commencing at \_\_\_\_\_ feet above mean sea level and non-exclusive as to said areas below said level, on the terms and conditions set forth below; and

WHEREAS, Grantor desires to grant to Grantee such easement with respect to the Property on the terms and conditions hereinbelow set forth;

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto and in further consideration of the mutual agreements herein set forth, Grantor and Grantee hereby agree as follows:

Grantor hereby grants to Grantee a perpetual, exclusive easement in, on, over, under, above and across those portions of the Property depicted on Exhibit B hereto for any and all railroad purposes (including, without limitation, constructing, maintaining, repairing, operating, replacing and reconstructing trackage and all related appurtenances, signals, lights and improvements on the Property), subject to those utility easements and licenses existing of record as of the date of this instrument; provided, however, that (a) Grantor shall not allow the utility easements to which the easement granted in this paragraph is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee's railroad operations and the easement and rights granted in this paragraph to Grantee and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the easement granted in this paragraph is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging). Grantor shall not use or enjoy the areas of the Property affected by the easement conveyed to Grantee in this paragraph.

Grantor hereby grants to Grantee a perpetual, exclusive easement in, on, over, under, above and across the airspace of the Property above those portions of the Property depicted on Exhibit C hereto commencing at \_\_\_\_\_ feet above mean sea level for any and all railroad purposes (including, without limitation, constructing, maintaining, repairing, operating, replacing and reconstructing trackage and all related appurtenances, signals, lights and improvements on the Property), subject to those utility easements and licenses existing of record as of the date of this instrument; provided, however, that (a) Grantor shall not allow the utility easements to which the easement granted in this paragraph is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee's railroad operations and the easement and rights granted in this paragraph to Grantee and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the easement granted in this paragraph is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging). Grantor shall not use or enjoy the areas of the Property affected by the easement conveyed to Grantee in this paragraph.

Grantor hereby grants to Grantee a perpetual, non-exclusive easement in, on, over, under, above and across those portions of the Property depicted on Exhibit C hereto located below \_\_\_\_\_ feet above mean sea level for any and all railroad purposes (including, without limitation, constructing, maintaining, repairing, operating, replacing and reconstructing trackage and all related appurtenances, signals, lights and improvements on the Property), subject to those utility easements and licenses existing of record as of the date of this instrument; provided, however, that (a) Grantor shall not allow the utility easements to which the easement granted in this paragraph is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee's railroad operations and the easement and rights granted in this paragraph to Grantee and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the easement granted in this paragraph is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and

proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging). Grantor hereby agrees that although the easement conveyed to Grantee in this paragraph is non-exclusive, Grantor shall not use the areas affected thereby in a manner that unreasonably interferes with said easement and Grantee’s railroad operations (including, without limitation, Grantee’s repair and maintenance of any trestles or trackage).

All easements and rights conveyed by Grantor to Grantee in this instrument shall be referred to herein collectively as the “Easement”.

Upon Grantee’s written request, Grantor hereby covenants and agrees to promptly re-execute and deliver this Agreement, attaching thereto, as a corrective and clarifying matter, legal descriptions and depictions of the Property, certified as accurate by a duly licensed land surveyor, engaged by Grantee.

The Easement granted herein is for the benefit of Grantee and its employees, agents, contractors, invitees, tenants and licensees. Said Easement established herein is perpetual, shall run with the land and shall bind, burden and benefit the parties hereto and their respective successors and assigns so long as Grantee, its successors and assigns, shall maintain said Property as hereunder defined.

Grantee shall keep the Property free from any liens arising out of any work performed, material furnished or obligation incurred by or for Grantee or any person or entity claiming through or under Grantee. If any such lien shall at any time be filed against the Property, Grantee shall, within 45 days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise. In the event that Grantee shall not within said 45-day period cause the same to be released of record, Grantor shall have, in addition to all other remedies at law or in equity, the right, but not the obligation, to cause such lien to be released by such means as Grantor deems proper, including, but not limited to, payment of the claim giving rise to such lien and Grantee agrees to reimburse Grantor for its cost and expenses reasonably incurred in connecting therewith promptly upon Grantee’s receipt of written demand therefor.

The Easement granted herein shall not terminate except upon Grantee’s recording of a termination of easement in the Office of the Recorder of Deeds for the City of St. Louis, Missouri.

If any legal action is brought for enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorney’s fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

The unenforceability of any provision of this Agreement shall not render the remaining provisions hereof unenforceable or void.

This Agreement contains the entire agreement and understanding of the parties hereto relative to the subject matter hereof and supersedes all other agreements and understandings, if any, oral or in writing. This Agreement may not be amended except in writing signed by the parties hereto and duly recorded in the real property records of the City of St. Louis, Missouri.

Grantor, for itself, its successors and assigns, does hereby warrant and covenant unto Grantee (1) that Grantor is the owner of the above described land and has full right and authority validly to grant this Easement, (2) that Grantee may quietly enjoy the Easement for the purposes herein stated, (3) that Grantor will not create or permit any obstruction of any kind or character that will interfere with the exercise and enjoyment of the Easement hereinabove conveyed and (4) Grantee shall not be subject to any real estate or other *ad valorem* tax by the City of St. Louis, Missouri, as a result of, or attributable to the Easement.

Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said entity for which the individual is executing on behalf of, and that this Agreement is binding upon the entity for which said individual is so executing.

IN WITNESS WHEREOF, Grantee and Grantor have executed and delivered this Agreement as of the day and year first above written.

GRANTOR:  
[ \_\_\_\_\_ ]

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

GRANTEE:

TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS (a Missouri corporation)

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

[INSERT ACKNOWLEDGMENTS]

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO EASEMENT: Insert Legal Description of the Easement Property.

EXHIBIT B TO EASEMENT: Insert Depiction of the Easement Property.

**EXHIBIT H**

**FIXTURE BILL OF SALE**

KNOW ALL MEN BY THESE PRESENTS, that THE CITY OF ST. LOUIS, MISSOURI (the "City"), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does by these presents BARGAIN and SELL, unto TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation, all trackage and related appurtenances located on, and/or affixed to, the real property located at \_\_\_\_\_, in the City of St. Louis, State of Missouri, and more particularly described in Exhibit A, attached hereto and made a part hereof (collectively, the "Trackage").

And the City does hereby warrant that it is the owner thereof, and has full right and title thereto and authority to sell and dispose of the Trackage, and that the herein described Trackage is now free and clear of all liens, security interests, and encumbrances of every kind; and the City does hereby warrant and agree to defend the same against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the undersigned has duly hereunto set its hands and seal as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

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

Attest:

\_\_\_\_\_  
City Register

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

Approved as to form:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant City Counselor

[INSERT ACKNOWLEDGMENT]

EXHIBIT A TO THE BILL OF SALE: INSERT COPY OF RELEVANT PORTION OF EXHIBIT A-6 TO THE AGREEMENT

**EXHIBIT I**

**RESERVATION OF ELEVATED EASEMENT**

AND SUBJECT TO a reservation in favor of Grantor for a perpetual easement WHEREAS, in, on, over, under, above and across the Property (which is legally described in Exhibit A attached hereto and incorporated herein by reference and depicted in Exhibits B and C attached hereto and incorporated herein by reference) for any and all railroad purposes, which shall be exclusive as to those areas, more particularly described below, on which the bases to the trestle affixed to the Property (the "Trestle") presently sit and which shall be exclusive as to the airspace of the balance of the Property, as more particularly described below, commencing at \_\_\_\_\_ feet above mean sea level and non-exclusive as to said areas below said level, as set forth in more detail below and on the following terms and conditions:

1. Grantor hereby reserves unto itself a perpetual, exclusive easement in, on, over, under, above and across those portions of the Property depicted on Exhibit B hereto for any and all railroad purposes (including, without limitation, constructing, maintaining, repairing, operating, replacing and reconstructing trackage and all related appurtenances, signals, lights and improvements on the Property). Grantee shall not use or enjoy the areas of the Property affected by the easement reserved unto Grantor in this paragraph.
2. Grantor hereby reserves unto itself a perpetual, exclusive easement in, on, over, under, above and across the airspace of the Property above those portions of the Property depicted on Exhibit C hereto commencing at \_\_\_\_\_ feet above mean sea level for any and all railroad purposes (including, without limitation, constructing, maintaining, repairing, operating, replacing and reconstructing trackage and all related appurtenances, signals, lights and improvements on the Property). Grantee shall not use or enjoy the areas of the Property affected by the easement reserved unto Grantor in this paragraph.
3. Grantor hereby reserves unto itself a perpetual, non-exclusive easement in, on, over, under, above and across those portions of the Property depicted on Exhibit C hereto located below \_\_\_\_\_ feet above mean sea level for any and all railroad purposes (including, without limitation, constructing, maintaining, repairing, operating, replacing and reconstructing trackage and all related appurtenances, signals, lights and improvements on the Property). Grantee hereby agrees that although the easement reserved unto Grantor in this paragraph is non-exclusive, Grantee shall not use the areas affected thereby in a manner that unreasonably interferes with said easement and Grantor's railroad operations (including, without limitation, Grantor's repair and maintenance of any trestles or trackage).
4. All easements and rights reserved unto Grantor in this instrument shall be referred to herein collectively as the "Easement".
5. Upon Grantor's written request, Grantee hereby covenants and agrees to promptly re-execute and deliver this instrument, attaching thereto, as a corrective and clarifying matter, legal descriptions and depictions of the Property, certified as accurate by a duly licensed land surveyor, engaged by Grantor.
6. The Easement reserved herein is for the benefit of Grantor and its employees, agents, contractors, invitees, tenants and licensees. Said Easement established herein is perpetual, shall run with the land and shall bind, burden and benefit the parties hereto and their respective successors and assigns.
7. Grantor shall keep the Property free from any liens arising out of any work performed, material furnished or obligation incurred by or for Grantor or any person or entity claiming through or under Grantor. If any such lien shall at any time be filed against the Property, Grantor shall, within 45 days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise. In the event that Grantor shall not within said 45-day period cause the same to be released of record, Grantee shall have, in addition to all other remedies at law or in equity, the right, but not the obligation, to cause such lien to be released by such means as Grantee deems proper, including, but not limited to, payment of the claim giving rise to such lien and Grantee agrees to reimburse Grantor for its cost and expenses reasonably incurred in connecting therewith promptly upon Grantee's receipt of written demand therefor.
8. The Easement reserved herein shall not terminate except upon Grantor's recording of a termination of easement in the Office of the Recorder of Deeds for the City of St. Louis, Missouri.
9. If any legal action is brought for enforcement of this instrument, or because of an alleged dispute, breach, default or

- misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.
10. The unenforceability of any provision of this instrument shall not render the remaining provisions hereof unenforceable or void.
  11. This instrument contains the entire agreement and understanding of the parties hereto relative to the subject matter hereof and supersedes all other agreements and understandings, if any, oral or in writing. This instrument may not be amended except in writing signed by the parties hereto and duly recorded in the real property records of the City of St. Louis, Missouri.
  12. Grantee, for itself, its successors and assigns, does hereby warrant and covenant unto Grantor (1) that Grantor may quietly enjoy the Easement for the purposes herein stated, (2) that Grantee will not create or permit any obstruction of any kind or character that will interfere with the exercise and enjoyment of the Easement hereinabove conveyed, and (3) Grantor shall not be subject to any real estate or other ad valorem tax by the City of St. Louis, Missouri, as a result of, or attributable to the Easement.
  13. Each individual executing this instrument represents and warrants that he or she is duly authorized to execute and deliver this instrument on behalf of said entity for which the individual is executing on behalf of, and that this instrument is binding upon the entity for which said individual is so executing.

#### EXHIBIT B

#### OPERATING AGREEMENT

THIS OPERATING AGREEMENT (the "**Agreement**") is made by and between THE CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri (the "**City of St. Louis**"), and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation (the "**Railroad**"), effective as of the date by which both parties have duly executed this Agreement, as set forth below (the "**Effective Date**").

#### WITNESSETH:

WHEREAS, the City is the owner of certain parcels of real estate and certain rights-of-way (including, without limitation, public streets) located in the City of St. Louis and State of Missouri which are not used for vehicular or pedestrian traffic and on which trackage used by the Railroad is located, which parcels are generally described on Exhibit A-1 attached hereto and incorporated herein by reference (collectively, the "**Railroad Roadbed Areas**"); and

WHEREAS, the City is the owner of certain parcels of real estate and certain rights-of-way (including, without limitation, public streets) located in the City of St. Louis and State of Missouri over which trackage used by the Railroad is located, which parcels are generally described on Exhibit A-2 attached hereto and incorporated herein by reference (collectively, the "**Public Grade Crossing Areas**"); and

WHEREAS, the City is the owner of certain parcels of real estate and certain rights-of-way (including, without limitation, public streets) located in the City of St. Louis and State of Missouri, under which trackage used by the Railroad and structures protecting such trackage and the clearance for operating trains are located, which parcels are generally described on Exhibit A-3 attached hereto and incorporated herein by reference (collectively, the "**Underpass Areas**"); and

WHEREAS, the City is the owner of certain parcels of real estate and certain rights-of-way (including, without limitation, public streets) located in the City of St. Louis and State of Missouri, over which trackage used by the Railroad and structures supporting said trackage are located, which parcels are generally described on Exhibit A-4 attached hereto and incorporated herein by reference (collectively, the "**Overpass Areas**"); and

WHEREAS, as used herein, the "**Easement Areas**" shall mean collectively the Railroad Roadbed Areas, Public Grade Crossing Areas, Underpass Areas and Overpass Areas; and

WHEREAS, the Railroad conducts its railroad operations within such Easement Areas pursuant to, among other things, City Ordinance No. 63855 (“**Ordinance 63855**”) and Board of Public Service Permits 8600 and 8602 (the “**Permits**”); and

WHEREAS, the Railroad and the City desire to replace Ordinance 63855 and the Permits with this Agreement, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants of the parties hereinafter expressed, it is hereby agreed as follows:

1. Easements. On the date that is 180 days after the Effective Date (the “**Delivery Date**”), the parties shall execute and deliver to one another, in recordable form, the Easement Agreements attached hereto as Exhibit B-1, Exhibit B-2, Exhibit B-3 and Exhibit B-4 and incorporated herein by reference with respect to the Easement Areas. The Railroad may record all such Easement Agreements in the real property records of the City of St. Louis, Missouri. During said 180-day period, the Railroad, at the Railroad’s sole cost and expense, shall cause to be prepared legal descriptions and small-scale depictions of the Easement Areas for attachment to said Easement Agreements, which descriptions and depictions shall be subject to the approval of the City, not to be unreasonably withheld, conditioned or delayed. Said 180-day period and the Delivery Date may be extended upon the mutual agreement of the parties, acting reasonably, in the event that any delays in the preparation of such legal descriptions occur which are beyond the reasonable control of the parties.

2. Annual Fee. In exchange for the easements granted in said Easement Agreements, the Railroad agrees to pay the City an annual fee of \$50,000. Said annual fee shall be subject to an equitable reduction, as mutually agreed upon by the parties hereto, acting reasonably, at the option of Railroad, if, when and to the extent that either (i) the Railroad abandons (as hereinafter defined) any portion of the Railroad Roadbed Areas, or (ii) the Railroad acquires title (good and marketable, fee simple absolute) to said portion of the Railroad Roadbed Areas. The first such annual fee payment shall be due and payable to the City by the Railroad, without notice or demand, on the first day of the month following the month in which the Delivery Date occurs (the “**Annual Fee Due Date**”). Thereafter, on each anniversary of the Annual Fee Due Date, the Railroad shall pay, without notice or demand, the annual fee hereunder to the City, at the address hereinafter set forth, or at such other address as the City may direct in writing. As used in this Agreement, the “**abandonment**” of a particular portion of the Easement Areas shall be deemed to have occurred upon and after the Railroad voluntarily ceases operations along said particular portion of the Easement Areas for a continuous, uninterrupted period of at least 60 months other than by reason of a force majeure event or other cause beyond the reasonable control of the Railroad, including, but not limited to, work stoppages, boycotts, slowdowns or strikes, shortages of materials, equipment, labor or energy, unusual weather conditions, or acts or omissions of governmental or political bodies.

3. Term and Termination. The term of this Agreement shall be for a period of 30 years, which term shall be automatically renewed without further action on either party’s part (but neither party having the right to prevent such renewals), for an unlimited number of additional 30-year periods. Notwithstanding the foregoing, this Agreement may be terminated by either party upon 180 days’ written notice to the other party only in the event that (i) the Railroad has abandoned, as defined in paragraph 2 hereof, all portions of the Easement Areas, or (ii) the other party shall fail to comply with any of the terms, covenants, agreements and conditions contained herein and such instance of default in the performance of any term, condition, covenant or agreement herein continues for 60 days after its receipt of written notice of said default from the non-defaulting party specifying said default (or, in the case of a default which by its nature cannot be cured within such 60-day period, if the other party shall not have commenced the curing of said default within such 60-day period and thereafter shall not diligently prosecute the curing of the default to completion). Upon termination of this Agreement, (i) the parties agree to promptly execute, deliver and record a termination of the Easement Agreements described in paragraph 1 hereof, in form reasonably acceptable to the Railroad and the City, and (ii) the Railroad agrees to remove its trackage and personal property from the Easement Areas, and to restore any damage caused by such removal, within a reasonable period of time following such termination.

4. Termination of Ordinance 63855 and the Permits. Effective as of the Delivery Date and upon the consummation of the transactions contemplated in paragraph 1 hereof, Ordinance 63855 and the Permits shall be of no further force and effect.

5. Notices. All notices, requests, demands and other communications hereunder shall be deemed to have been duly given if the same shall be in writing and shall be delivered personally or sent by registered or certified mail, postage pre-paid, and addressed as set forth below:

If to the City of St. Louis:

City of St. Louis

Office of Comptroller  
 City Hall, Room 212  
 St. Louis, Missouri 63103  
 Attention: Comptroller

with a copy to:

City of St. Louis  
 Office of City Counselor  
 City Hall, Room 314  
 St. Louis, Missouri 63103  
 Attention: City Counselor

If to the Railroad:

Terminal Railroad Association of St. Louis  
 700 N. Second Street  
 St. Louis, MO 63102  
 Attention: President

with a copy to:

Bryan Cave LLP  
 One Metropolitan Square  
 Suite 3600  
 St. Louis, MO 63102-2750  
 Attn: Daniel C. Nester, Esq. and Victoria I. Goldson, Esq.

Any party may change the address to which notices are to be addressed by giving the other party notice in the manner herein set forth.

6. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Missouri.
7. Time of the Essence. Time is of the essence with respect to each and every provision of this Agreement.
8. Performance on Business Days. If any date for the occurrence of an event or act under this Agreement falls on a Saturday or Sunday or legal holiday in the State of Missouri, then the time for the occurrence of such event or act shall be extended to the next succeeding business day.
9. Entire Agreement; Binding Agreement. This Agreement, together with all the Exhibits, if any, attached hereto and incorporated by reference herein, constitutes the entire undertaking between the parties hereto, and supersedes any and all prior agreements, arrangements and understandings between the parties. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns (it being understood and agreed that the Railroad may assign this Agreement and the Easement Agreements at any time to any of its railroad affiliates, successors by merger or otherwise or current shareholders).
10. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original.
11. Further Assurances. The parties hereto agree to execute any and all documents and take any and all actions as may be reasonably necessary to effectuate the terms and conditions hereof. In particular, in the event a legal description of the Easement Areas, or any portion thereof, shall not have been prepared, certified and depicted by a duly licensed land surveyor, engaged by the Railroad hereunder, by the date hereof, the City and the Railroad hereby covenant and agree to promptly re-execute and deliver the easement documents with respect to such portion of the Easement Areas, attaching thereto, as a corrective matter, such certified legal description and depiction thereof as soon as the same have been prepared.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

THE CITY OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

By: \_\_\_\_\_  
Name: Francis G. Slay

Title: Mayor

Attest:

\_\_\_\_\_  
City Register

By: \_\_\_\_\_  
Name: Darlene Green  
Title: Comptroller

Approved as to form:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant City Counselor

TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

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

**EXHIBIT A-1**

[ATTACH DEPICTIONS OF THE RAILROAD ROADBED AREAS]

Depictions of the Railroad Roadbed Areas on file in the Register's Office.

**EXHIBIT A-2**

[ATTACH DEPICTIONS OF THE PUBLIC GRADE CROSSING AREAS]

Depiction of the Public Grade Crossing Areas on file in the Register's Office.

**EXHIBIT A-3**

[ATTACH DEPICTIONS OF THE UNDERPASS AREAS]

Depictions of the Underpass Areas on file in the Register's Office.

**EXHIBIT A-4**

[ATTACH DEPICTIONS OF THE OVERPASS AREAS]

Depictions of the Overpass Areas on file in the Register's Office.

**EXHIBIT B-1**

(Form of Easement for Railroad Roadbed Areas)

[INSERT 3-INCH MARGIN, BORDERED ON THE BOTTOM BY A LINE, FOR RECORDER'S USE]

**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_,

2002, by and between THE CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri (“Grantor”), and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation (“Grantee”), having a mailing address of 700 N. Second Street, St. Louis, Missouri, 63102.

## WITNESSETH:

WHEREAS, Grantor owns the real estate and/or rights-of-way (including, without limitation, public streets) situated in the City of St. Louis, State of Missouri, which is legally described in Exhibit A attached hereto at pages \_\_\_ to \_\_\_ and incorporated herein by reference and depicted in Exhibit B attached hereto and incorporated herein by reference (hereinafter called the “Property”);

WHEREAS, Grantee operates a railroad in, among other places, the City of St. Louis, State of Missouri;

WHEREAS, Grantee desires an exclusive easement for railroad purposes on, in, over, under and across the Property; and

WHEREAS, Grantor desires to grant to Grantee such easement with respect to the Property on the terms and conditions hereinbelow set forth.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto and in further consideration of the mutual agreements herein set forth, Grantor and Grantee hereby agree as follows:

Grantor hereby grants to Grantee a perpetual, exclusive easement (the “Easement”) in, on, over, under, above and across the Property for any and all railroad purposes (including, without limitation, running trains comprised of locomotives and cars on single or double railroad tracks, and constructing, maintaining, repairing, operating, replacing and reconstructing trackage, railroad tracks, ties, switches, turnouts and all related appurtenances, signals, lights, communication facilities and improvements), subject to (i) those utility easements and licenses existing of record as of the date of this instrument, and (ii) future underground and overhead utility facilities as may be permitted by Grantor; provided, however, that (a) Grantor shall not allow the utility easements to which this Easement is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee’s railroad operations and Grantee’s Easement and rights granted herein and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the Easement is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging).

Upon Grantee’s written request, Grantor hereby covenants and agrees to promptly re-execute and deliver this Agreement, attaching thereto, as a corrective and clarifying matter, legal descriptions and depictions of the Property, certified as accurate by a duly licensed land surveyor, engaged by Grantee.

The Easement granted herein is for the benefit of Grantee and its employees, agents, contractors, invitees, tenants and licensees. Said Easement established herein is perpetual, shall run with the land and shall bind, burden and benefit the parties hereto and their respective successors and assigns.

Grantee shall have the right, at Grantee’s sole cost and expense, to fence (with jersey barriers or other fencing materials and/or gates) such portions of the Property as Grantee shall deem necessary or desirable.

Grantee shall maintain the surface of the Property in good order with rock bedding and shall, at reasonable regular intervals, clear weeds and refuse from the surface of the Property.

Grantee shall keep the Property free from any liens arising out of any work performed, material furnished or obligation incurred by or for Grantee or any person or entity claiming through or under Grantee. If any such lien shall at any time be filed against the Property, Grantee shall, within 45 days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise. In the event that Grantee shall not within said 45-day period cause the same to be released of record, Grantor shall have, in addition to all other remedies at law or in equity, the right, but not the obligation, to cause such lien to be released by such means as Grantor deems proper, including, but not limited to, payment of the claim giving rise to such lien and Grantee agrees to reimburse Grantor for its cost and expenses reasonably incurred in connecting therewith promptly

upon Grantee's receipt of written demand therefor.

In the event Grantor, or any of its agents, employees, contractors, subcontractors, officials, licensees, grantees (under easement documents or the like) other than Grantee, franchisees or tenants damage any of Grantee's property, trackage, improvements or facilities within the Property or necessitate the taking of action by Grantee to protect, re-arrange or restore any of its property, trackage, improvements any time, Grantor shall be responsible to pay to Grantee the reasonable cost of repairing any such damage and taking any such action, promptly upon receipt of a written request therefor, together with documentation reasonably substantiating the amounts set forth therein.

The Easement granted herein shall not terminate except upon Grantee's recording of a termination of easement in the Office of the Recorder of Deeds for the City of St. Louis, Missouri.

If any legal action is brought for enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

The unenforceability of any provision of this Agreement shall not render the remaining provisions hereof unenforceable or void.

This Agreement contains the entire agreement and understanding of the parties hereto relative to the subject matter hereof and supersedes all other agreements and understandings, if any, oral or in writing. This Agreement may not be amended except in writing signed by the parties hereto and duly recorded in the real property records of the City of St. Louis, Missouri.

Grantor, for itself, its successors and assigns, does hereby warrant and covenant unto Grantee (1) that Grantor is the owner of the above described land and has full right and authority validly to grant this Easement, (2) that Grantee may quietly enjoy the Easement for the purposes herein stated, (3) that Grantor will not create or permit any obstruction of any kind or character that will interfere with the exercise and enjoyment of the Easement hereinabove conveyed, and (4) Grantee shall not be subject to any real estate or other ad valorem tax by the City of St. Louis, Missouri, as a result of, or attributable to the Easement.

Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said entity for which the individual is executing on behalf of, and that this Agreement is binding upon the entity for which said individual is so executing.

IN WITNESS WHEREOF, Grantee and Grantor have executed and delivered this Agreement as of the day and year first above written.

GRANTOR:

THE CITY OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Mayor

Attest:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Comptroller

\_\_\_\_\_  
City Register

Approved as to form:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Assistant City Counselor

GRANTEE:

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO EASEMENT: Insert Legal Description of the Property.

EXHIBIT B TO EASEMENT: Insert Depiction of the Property.

EXHIBIT B-2

(Form of Easement for Public Grade Crossing Areas)

[INSERT 3-INCH MARGIN, BORDERED ON THE BOTTOM BY A LINE, FOR RECORDER'S USE]

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2002, by and between THE CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri ("Grantor"), and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation ("Grantee"), having a mailing address of 700 N. Second Street, St. Louis, Missouri, 63102.

WITNESSETH:

WHEREAS, Grantor owns the real estate and/or rights-of-way (including, without limitation, public streets) situated in the City of St. Louis, State of Missouri, which is legally described in Exhibit A attached hereto at pages \_\_\_ to \_\_\_ and incorporated herein by reference and depicted in Exhibit B attached hereto and incorporated herein by reference (hereinafter called the "Property");

WHEREAS, Grantee operates a railroad in, among other places, the City of St. Louis, State of Missouri;

WHEREAS, Grantee desires an exclusive easement for railroad purposes on, in, over, under and across the Property; and

WHEREAS, Grantor desires to grant to Grantee such easement with respect to the Property on the terms and conditions hereinbelow set forth and subject to the reservation set forth herein.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto and in further consideration of the mutual agreements herein set forth, Grantor and Grantee hereby agree as follows:

Grantor hereby grants to Grantee a perpetual, exclusive easement (the "Easement") in, on, over, under, above and across the Property for any and all railroad purposes (including, without limitation, running trains comprised of locomotives and cars on single or double railroad tracks, and constructing, maintaining, repairing, operating, replacing and reconstructing trackage, railroad tracks, ties, switches, turnouts and all related appurtenances, signals, lights, communication facilities and improvements), subject to (i) the reservation in favor of Grantor set forth below, (ii) those utility easements and licenses existing of record as of the date of this instrument, (iii) future underground and overhead utility facilities as may be permitted by Grantor, provided, however, that Grantor shall not allow the same to interfere with Grantee's railroad operations, and (iv) the non-exclusive perpetual right of the public to cross the Property, at grade, by vehicular and pedestrian means; provided, however, that (a) Grantor shall not allow the utility easements to which this Easement is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee's railroad operations and Grantee's Easement and rights granted herein and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the Easement is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee

and any reasonable safety precautions implemented by Grantee (e.g., flagging).

Grantor hereby reserves unto itself the non-exclusive, perpetual right for its agents, employees, officials and contractors to use, maintain, repair, replace and reconstruct the paved roads existing as of the date of this instrument on the Property; provided, however, that (i) Grantor and its employees, officials and contractors shall not interfere with Grantee's railroad operations and Grantee's Easement and rights granted herein, (ii) said parties shall give reasonable prior notice of their intent to access the Property and proposed activities hereunder within the Property to Grantee, (iii) said parties shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging) and (iv) at all times Grantor shall be responsible for performing, at Grantor's sole act and expense, any and all necessary repair, maintenance, replacements and reconstruction of such roads, except that Grantee, at Grantee's sole cost and expense, shall be responsible for the maintenance and repair of any such railroad crossing to the extent required by the applicable statutes of the State of Missouri.

Upon Grantee's written request, Grantor hereby covenants and agrees to promptly re-execute and deliver this Agreement, attaching thereto, as a corrective and clarifying matter, legal descriptions and depictions of the Property, certified as accurate by a duly licensed land surveyor, engaged by Grantee.

The Easement granted herein is for the benefit of Grantee and its employees, agents, contractors, invitees, tenants and licensees. Said Easement established herein is perpetual, shall run with the land and shall bind, burden and benefit the parties hereto and their respective successors and assigns.

Grantee shall maintain the surface of the Property located between its tracks and rails or located within one-foot of such rails, in a condition that will allow vehicular and pedestrian traffic over such tracks and rails, to the reasonable satisfaction of the Director of Streets of the City of St. Louis. In the event any necessary maintenance, repair or replacement of its facilities will interfere with public travel along the public street and related appurtenances (e.g., sidewalks) located on the Property, then Grantee shall cooperate with Grantor, both acting reasonably, in the scheduling and performance of the same so as to eliminate or minimize such interference and Grantee shall restore any areas of Property affected by the same, to the reasonable satisfaction of the Director of Streets of the City of St. Louis. In the event Grantee continues in default in the performance of its obligations under this paragraph for 10 days after its receipt of written notice of said default from Grantor (or, in the case of a default which by its nature cannot be cured within such 30-day period, if Grantee shall not have commenced the curing of the default within such 30-day period and thereafter shall not diligently prosecute the curing of the default to completion), Grantor, in addition to any other rights and remedies at law or in equity, may cure Grantee's default, at Grantee's expense, and Grantee shall reimburse Grantor for the sums reasonably expended by Grantor to effect such cure promptly upon Grantee's receipt of a written demand therefor.

Grantee shall keep the Property free from any liens arising out of any work performed, material furnished or obligation incurred by or for Grantee or any person or entity claiming through or under Grantee. If any such lien shall at any time be filed against the Property, Grantee shall, within 45 days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise. In the event that Grantee shall not within said 45-day period cause the same to be released of record, Grantor shall have, in addition to all other remedies at law or in equity, the right, but not the obligation, to cause such lien to be released by such means as Grantor deems proper, including, but not limited to, payment of the claim giving rise to such lien and Grantee agrees to reimburse Grantor for its cost and expenses reasonably incurred in connection therewith promptly upon Grantee's receipt of written demand therefor.

In the event Grantor, or any of its agents, employees, contractors, subcontractors, officials, licensees, grantees (under easement documents or the like) other than Grantee, franchisees or tenants damage any of Grantee's property, trackage, improvements or facilities within the Property or necessitate the taking of action by Grantee to protect, re-arrange or restore any of its property, trackage, improvements any time, Grantor shall be responsible to pay to Grantee the reasonable cost of repairing any such damage and taking any such action, promptly upon receipt of a written request therefor, together with documentation reasonably substantiating the amounts set forth therein.

The Easement granted herein shall not terminate except upon Grantee's recording of a termination of easement in the Office of the Recorder of Deeds for the City of St. Louis, Missouri.

If any legal action is brought for enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

The unenforceability of any provision of this Agreement shall not render the remaining provisions hereof unenforceable or void.

This Agreement contains the entire agreement and understanding of the parties hereto relative to the subject matter hereof and supersedes all other agreements and understandings, if any, oral or in writing. This Agreement may not be amended except in writing signed by the parties hereto and duly recorded in the real property records of the City of St. Louis, Missouri.

Grantor, for itself, its successors and assigns, does hereby warrant and covenant unto Grantee (1) that Grantor is the owner of the above described land and has full right and authority validly to grant this Easement, (2) that Grantee may quietly enjoy the Easement for the purposes herein stated, (3) that Grantor will not create or permit any obstruction of any kind or character that will interfere with the exercise and enjoyment of the Easement hereinabove conveyed, and (4) Grantee shall not be subject to any real estate or other ad valorem tax by the City of St. Louis, Missouri, as a result of, or attributable to the Easement.

Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said entity for which the individual is executing on behalf of, and that this Agreement is binding upon the entity for which said individual is so executing.

IN WITNESS WHEREOF, Grantee and Grantor have executed and delivered this Agreement as of the day and year first above written.

GRANTOR:

THE CITY OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

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

Attest:

\_\_\_\_\_  
City Register

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

Approved as to form:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant City Counselor

GRANTEE:

TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

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

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO EASEMENT: Insert Legal Description of the Property.

EXHIBIT B TO EASEMENT: Insert Depiction of the Property.

**EXHIBIT B -3**

(Form of Easement for Underpass Areas)

[INSERT 3-INCH MARGIN, BORDERED ON THE BOTTOM BY A LINE, FOR RECORDER'S USE]

**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT (“**Agreement**”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2002, by and between THE CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri (“**Grantor**”), and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation (“**Grantee**”), having a mailing address of 700 N. Second Street, St. Louis, Missouri, 63102.

## WITNESSETH:

WHEREAS, Grantor owns the real estate situated in the City of St. Louis, State of Missouri, which is legally described in Exhibit A attached hereto at pages \_\_\_ to \_\_\_ and incorporated herein by reference and depicted in Exhibit B attached hereto and incorporated herein by reference (hereinafter called the “**Property**”);

WHEREAS, Grantee operates a railroad in, among other places, the City of St. Louis, State of Missouri;

WHEREAS, Grantee desires an exclusive easement for railroad purposes under the Property; and

WHEREAS, Grantor desires to grant to Grantee such easement with respect to the Property on the terms and conditions hereinbelow set forth.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto and in further consideration of the mutual agreements herein set forth, Grantor and Grantee hereby agree as follows:

Grantor hereby grants to Grantee a perpetual, exclusive easement (the “**Easement**”) under and through the Property for any and all railroad purposes (including, without limitation, running trains comprised of locomotives and cars on single or double railroad tracks, and constructing, maintaining, repairing, operating, replacing and reconstructing an underpass structure, trackage, railroad tracks, ties, switches, turnouts and all related appurtenances, signals, lights, communication facilities and improvements), subject to (i) those utility easements and licenses existing of record as of the date of this instrument, and (ii) future underground and overhead utility facilities as may be permitted by Grantor; provided, however, that (a) Grantor shall not allow the utility easements to which this Easement is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee’s railroad operations and Grantee’s Easement and rights granted herein and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the Easement is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging). It is understood and agreed that the Easement is an underground easement only, without any minimum depth.

Upon Grantee’s written request, Grantor hereby covenants and agrees to promptly re-execute and deliver this Agreement, attaching thereto, as a corrective and clarifying matter, legal descriptions and depictions of the Property, certified as accurate by a duly licensed land surveyor, engaged by Grantee.

The Easement granted herein is for the benefit of Grantee and its successors, assigns, employees, agents, contractors, invitees, tenants and licensees. Said Easement established herein is perpetual, shall run with the land and shall bind, burden and benefit the parties hereto and their respective successors and assigns.

Grantee shall maintain any underpass structure in proper and safe condition; provided, however, that any underpass structure need only to be able to support the public streets and related appurtenances as the same exist as of the date of this Agreement. Grantee shall not be required to increase the structural load capacity of, or to make other modifications to, the underpass structure to accommodate changes to the surface improvements after the date of this Agreement, and changes necessitating modifications to the underpass structure shall not be made without the prior written consent of Grantee and without Grantor paying for the cost of any modifications to Grantee’s underpass structure that will be necessitated by the same.

In the event any necessary maintenance, repair or replacement of its facilities (including, without limitation, the underpass structure) will interfere with public travel along the public street and related appurtenances (e.g., sidewalks) located on the Property, then Grantee shall cooperate with Grantor, both acting reasonably, in the scheduling and performance of the same so as to eliminate

or minimize such interference and Grantee shall restore any areas of the surface of Property affected by the same, to the reasonable satisfaction of the Director of Streets of the City of St. Louis. In the event Grantee continues in default in the performance of its obligations under this paragraph for 10 days after its receipt of written notice of said default from Grantor (or, in the case of a default which by its nature cannot be cured within such 30-day period, if Grantee shall not have commenced the curing of the default within such 30-day period and thereafter shall not diligently prosecute the curing of the default to completion), Grantor, in addition to any other rights and remedies at law or in equity, may cure Grantee's default, at Grantee's expense, and Grantee shall reimburse Grantor for the sums reasonably expended by Grantor to effect such cure promptly upon Grantee's receipt of a written demand therefor.

Grantee shall keep the Property free from any liens arising out of any work performed, material furnished or obligation incurred by or for Grantee or any person or entity claiming through or under Grantee. If any such lien shall at any time be filed against the Property, Grantee shall, within 45 days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise. In the event that Grantee shall not within said 45-day period cause the same to be released of record, Grantor shall have, in addition to all other remedies at law or in equity, the right, but not the obligation, to cause such lien to be released by such means as Grantor deems proper, including, but not limited to, payment of the claim giving rise to such lien and Grantee agrees to reimburse Grantor for its cost and expenses reasonably incurred in connection therewith promptly upon Grantee's receipt of written demand therefor.

In the event Grantor, or any of its agents, employees, contractors, subcontractors, officials, licensees, grantees (under easement documents or the like) other than Grantee, franchisees or tenants damage any of Grantee's property, trackage, improvements or facilities within the Property or necessitate the taking of action by Grantee to protect, re-arrange or restore any of its property, trackage, improvements any time, Grantor shall be responsible to pay to Grantee the reasonable cost of repairing any such damage and taking any such action, promptly upon receipt of a written request therefor, together with documentation reasonably substantiating the amounts set forth therein.

The Easement granted herein shall not terminate except upon Grantee's recording of a termination of easement in the Office of the Recorder of Deeds for the City of St. Louis, Missouri.

If any legal action is brought for enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

The unenforceability of any provision of this Agreement shall not render the remaining provisions hereof unenforceable or void.

This Agreement contains the entire agreement and understanding of the parties hereto relative to the subject matter hereof and supersedes all other agreements and understandings, if any, oral or in writing. This Agreement may not be amended except in writing signed by the parties hereto and duly recorded in the real property records of the City of St. Louis, Missouri.

Grantor, for itself, its successors and assigns, does hereby warrant and covenant unto Grantee (1) that Grantor is the owner of the above described land and has full right and authority validly to grant this Easement, (2) that Grantee may quietly enjoy the Easement for the purposes herein stated, (3) that Grantor will not create or permit any obstruction of any kind or character that will interfere with the exercise and enjoyment of the Easement hereinabove conveyed, and (4) Grantee shall not be subject to any real estate or other ad valorem tax by the City of St. Louis, Missouri, as a result of, or attributable to the Easement.

Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said entity for which the individual is executing on behalf of, and that this Agreement is binding upon the entity for which said individual is so executing.

IN WITNESS WHEREOF, Grantee and Grantor have executed and delivered this Agreement as of the day and year first above written.

GRANTOR:

THE CITY OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Register

Approved as to form:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant City Counselor

Name: \_\_\_\_\_  
Title: Mayor

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

GRANTEE:

TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

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

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO EASEMENT: Insert Legal Description of the Property.

EXHIBIT B TO EASEMENT: Insert Depiction of the Property.

**EXHIBIT B-4**

(Form of Easement for Overpass Areas)

[INSERT 3-INCH MARGIN, BORDERED ON THE BOTTOM BY A LINE, FOR RECORDER'S USE]

**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by and between THE CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri ("**Grantor**"), and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation ("**Grantee**"), having a mailing address of 700 N. Second Street, St. Louis, Missouri, 63102.

WITNESSETH:

WHEREAS, Grantor owns the real estate situated in the City of St. Louis, State of Missouri, a legally described in Exhibit A attached hereto at pages \_\_\_ to \_\_\_ and incorporated herein by reference and depicted in Exhibit B and Exhibit C attached hereto and incorporated herein by reference (hereinafter called the "**Property**");

WHEREAS, Grantee operates a railroad in, among other places, the City of St. Louis, State of Missouri and currently operates elevated trackage located on an overpass affixed to the Property (the "**Overpass**");

WHEREAS, Grantee desires to acquire and Grantor desires to convey a perpetual easement in, on, over, under, above and across the Property for any and all railroad purposes, which shall be exclusive as to those areas, more particularly described below, on which the bases to the Overpass presently sit and which shall be exclusive as to the airspace of the balance of the Property, as more particularly described below, commencing at \_\_\_\_\_ feet above mean sea level and non-exclusive as to said areas below said level, on the terms and conditions set forth below; and

WHEREAS, Grantor desires to grant to Grantee such easement with respect to the Property on the terms and conditions hereinbelow set forth.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto and in further consideration of the mutual agreements herein set forth, Grantor and Grantee hereby agree as follows:

Grantor hereby grants to Grantee a perpetual, exclusive easement in, on, over, under, above and across those portions of the Property depicted on Exhibit B hereto for any and all railroad purposes (including, without limitation, running trains comprised of locomotives and cars on single or double railroad tracks, and constructing, maintaining, repairing, operating, replacing and reconstructing an overpass structure, trackage, railroad tracks, ties, switches, turnouts and all related appurtenances, signals, lights, communication facilities and improvements), subject to (i) those utility easements and licenses existing of record as of the date of this instrument, and (ii) future underground and overhead utility facilities as may be permitted by Grantor; provided, however, that (a) Grantor shall not allow the utility easements to which the easement granted in this paragraph is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee's railroad operations and Grantee's easement and rights granted in this paragraph and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the easement granted in this paragraph is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging). Grantor shall not use or enjoy the areas of the Property affected by the easement conveyed to Grantee in this paragraph.

Grantor hereby grants to Grantee a perpetual, exclusive easement in, on, over, under, above and across the airspace of the Property above those portions of the Property depicted on Exhibit C hereto commencing at \_\_\_\_\_ feet above mean sea level for any and all railroad purposes (including, without limitation, running trains comprised of locomotives and cars on single or double railroad tracks and constructing, maintaining, repairing, operating, replacing and reconstructing an overpass structure, trackage, railroad tracks, ties, switches, turnouts and all related appurtenances, signals, lights, communication facilities, and improvements), subject to those utility easements and licenses existing of record as of the date of this instrument; provided, however, that (a) Grantor shall not allow the utility easements to which the easement granted in this paragraph is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee's railroad operations and Grantee's easement and rights granted in this paragraph and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the easement granted in this paragraph is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging). Grantor shall not use or enjoy the areas of the Property affected by the easement conveyed to Grantee in this paragraph.

Grantor hereby grants to Grantee a perpetual, non-exclusive easement in, on, over, under, above and across those portions of the Property depicted on Exhibit C hereto located below \_\_\_\_\_ feet above mean sea level for any and all railroad purposes (including, without limitation, constructing, maintaining, repairing, operating, replacing and reconstructing an overpass structure and all related appurtenances, signals, lights, communication facilities, and improvements), subject to (i) those utility easements and licenses existing of record as of the date of this instrument and (ii) future underground and overhead utility facilities as may be permitted by Grantor; provided, however, that (a) Grantor shall not allow the utility easements to which the easement granted in this paragraph is expressly subject, and the holders thereof, as well as those acting by and through said holders, to interfere with Grantee's railroad operations and Grantee's easement and rights granted in this paragraph and (b) Grantor agrees to cause any access to the Property by the holders of an utility easements to which the easement granted in this paragraph is expressly subject to be conditioned on the following: (i) any such access shall be only as necessary for the purpose only of repairing, maintaining or replacing the facilities of any such holder; (ii) said holder shall give reasonable prior notice of its intent to access the Property and proposed activities within the Property to Grantee; and (iii) said holder shall comply with any reasonable scheduling requirements of Grantee and any reasonable safety precautions implemented by Grantee (e.g., flagging). Grantee shall not unreasonably interfere with vehicular and pedestrian traffic across said portions of the Property. Grantor hereby agrees that although the easement conveyed to Grantee in this paragraph is non-exclusive, Grantor shall not use the areas affected thereby in a manner that unreasonably interferes with said easement and Grantee's railroad operations (including, without limitation, Grantee's repair and maintenance of any trestles, overpasses or trackage).

All easements and rights conveyed by Grantor to Grantee in this instrument shall be referred to herein collectively as the "Easement".

Upon Grantee's written request, Grantor hereby covenants and agrees to promptly re-execute and deliver this Agreement, attaching thereto, as a corrective and clarifying matter, legal descriptions and depictions of the Property, certified as accurate by a duly licensed land surveyor, engaged by Grantee.

The Easement granted herein is for the benefit of Grantee and its employees, agents, contractors, invitees, tenants and licensees. Said Easement established herein is perpetual, shall run with the land and shall bind, burden and benefit the parties hereto and their respective successors and assigns.

In the event any necessary maintenance, repair or replacement of its facilities will interfere with public travel along the public street and related appurtenances (e.g., sidewalks) located on the Property, then Grantee shall cooperate with Grantor, both acting reasonably, in the scheduling and performance of the same so as to eliminate or minimize such interference and Grantee shall restore any areas of Property affected by the same, to the reasonable satisfaction of the Director of Streets of the City of St. Louis. In the event Grantee continues in default in the performance of its obligations under this paragraph for 10 days after its receipt of written notice of said default from Grantor (or, in the case of a default which by its nature cannot be cured within such 30-day period, if Grantee shall not have commenced the curing of the default within such 30-day period and thereafter shall not diligently prosecute the curing of the default to completion), Grantor, in addition to any other rights and remedies at law or in equity, may cure Grantee's default, at Grantee's expense, and Grantee shall reimburse Grantor for the sums reasonably expended by Grantor to effect such cure promptly upon Grantee's receipt of a written demand therefor.

Grantee shall keep the Property free from any liens arising out of any work performed, material furnished or obligation incurred by or for Grantee or any person or entity claiming through or under Grantee. If any such lien shall at any time be filed against the Property, Grantee shall, within 45 days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise. In the event that Grantee shall not within said 45-day period cause the same to be released of record, Grantor shall have, in addition to all other remedies at law or in equity, the right, but not the obligation, to cause such lien to be released by such means as Grantor deems proper, including, but not limited to, payment of the claim giving rise to such lien and Grantee agrees to reimburse Grantor for its cost and expenses reasonably incurred in connection therewith promptly upon Grantee's receipt of written demand therefor.

In the event Grantor, or any of its agents, employees, contractors, subcontractors, officials, licensees, grantees (under easement documents or the like) other than Grantee, franchisees or tenants damage any of Grantee's property, trackage, improvements or facilities within the Property or necessitate the taking of action by Grantee to protect, re-arrange or restore any of its property, trackage, improvements any time, Grantor shall be responsible to pay to Grantee the reasonable cost of repairing any such damage and taking any such action, promptly upon receipt of a written request therefor, together with documentation reasonably substantiating the amounts set forth therein.

The Easement granted herein shall not terminate except upon Grantee's recording of a termination of easement in the Office of the Recorder of Deeds for the City of St. Louis, Missouri.

If any legal action is brought for enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

The unenforceability of any provision of this Agreement shall not render the remaining provisions hereof unenforceable or void.

This Agreement contains the entire agreement and understanding of the parties hereto relative to the subject matter hereof and supersedes all other agreements and understandings, if any, oral or in writing. This Agreement may not be amended except in writing signed by the parties hereto and duly recorded in the real property records of the City of St. Louis, Missouri.

Grantor, for itself, its successors and assigns, does hereby warrant and covenant unto Grantee (1) that Grantor is the owner of the above described land and has full right and authority validly to grant this Easement, (2) that Grantee may quietly enjoy the Easement for the purposes herein stated, (3) that Grantor will not create or permit any obstruction of any kind or character that will interfere with the exercise and enjoyment of the Easement hereinabove conveyed, and (4) Grantee shall not be subject to any real estate or other ad valorem tax by the City of St. Louis, Missouri, as a result of, or attributable to the Easement.

Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver

this Agreement on behalf of said entity for which the individual is executing on behalf of, and that this Agreement is binding upon the entity for which said individual is so executing.

IN WITNESS WHEREOF, Grantee and Grantor have executed and delivered this Agreement as of the day and year first above written.

GRANTOR:

THE CITY OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

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

Attest:

\_\_\_\_\_  
City Register

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

Approved as to form:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant City Counselor

GRANTEE:

TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS

Date of Execution: \_\_\_\_\_, 2002

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

[INSERT ACKNOWLEDGMENTS]

EXHIBIT A TO EASEMENT: Insert Legal Description of the Property.

EXHIBIT B TO EASEMENT: Insert Legal Depiction of Areas in which structural supports of the Overpasses may be located.

EXHIBIT C TO EASEMENT: Insert Legal Depiction of Areas for all areas of the Property other than those depicted in Exhibit B.

**EXHIBIT C**

**LIST OF PROPERTIES**

<b>Tract I.D.</b>	<b>Property Description</b>	<b>Easement Area (Square Feet)</b>	<b>Fee Simple Area (Square Feet)</b>
<b>Terminal Railroad Association of St. Louis Properties Proposed to be Conveyed to LRA</b>			
TRRA-1	CB 18 – Carr Street at L.K. Sullivan Boulevard		3,925
TRRA-2	CB 18 – Carr Street at L.K. Sullivan Boulevard		5,520
TRRA-3	CB 19 – Biddle Street at First Street (East of Tracks)		31,153
TRRA-4	CB 21 – Biddle Street at Second Street		55,970
TRRA-6	CB 2526 – Riverfront at Bremen Avenue		159,429

TRRA-8	CB 664W – Branch Street Site		34,125
	Subtotal Terminal Railroad Association to LRA		<u>290,122</u>

**Terminal Railroad Association of St. Louis Properties Proposed to be Conveyed to the City of St. Louis**

TRRA-8A	CB 418 – 11th/Cerre/Tucker/Poplar Streets		72,680
	Subtotal Terminal Railroad Association to City of St. Louis:		<u>72,680</u>

**Total to Non-Railroad Parties** 362,802

**Terminal Railroad Association of St. Louis Properties Proposed to be Acquired from Non-Railroad Parties**

SLPA-1	CB 14–18 - Public Wharf (Columns)	5,253	
	CB 14–18 - Public Wharf (Surface)	40,384	
SLPA-2	CB 223, 224, 233 – Wharf at Florida	65,150	
SLPA-3	CB 234, 236, 237, 289, 290, 291, 2142	305,435	
SLPA-4	CB 863, 867, 870, 872	265,000	
SLPA-5	CB 238, 292 – First Street QCD		<u>20,321</u>
	Subtotal - St. Louis Port Authority	<u>681,222</u>	<u>20,321</u>

CMPT-1	CB 1 – Plum at First Street		6,642
CMPT-2	CB 419 – Seventh at Gratiot Street		5,542
CMPT-3	CB 233 – Florida Street at Wharf		6,460
CMPT-4	CB 289 – Tyler at First Street		16,202
CMPT-5	CB 2142 – First at Clinton Street QCD		3,012
CMPT-6	CB 2142 – North Market Street at First Street		23,538
CMPT-7	CB 2142 – North Market Street at Wharf	25,486	
CMPT-8	CB 2450 – North of Ferry Street	428,626	
CMPT-9	CB 300 – North Market at Hall Street		33,545
CMPT-10	Ordinance 29617 Trackage		
	Ordinance 29617 Rights of Way		
	Subtotal – St. Louis Comptroller	<u>454,112</u>	<u>94,941</u>

LRA-1	CB 20 – First Street QCD		6,576
LRA-3	CB 2506 – Ferry Street at BNSF	4,896	
LRA-4	CB 3444 – Bulwer Avenue QCD		6,000
LRA-5	CB 3463 – Bulwer Avenue QCD		6,000
LRA-7	CB 18 – Carr Street Trestle Column	501	
	Subtotal – Land Reutilization Authority	<u>5,397</u>	<u>18,576</u>

**Total City of St. Louis to Terminal Railroad:** 1,140,731 133,838

**EXHIBIT D****MAP**

Map on file in the Register's Office.

**Approved: February 10, 2003**