

Summary

Board Bill Number 233

Sponsored by Alderman Dan Guenther

Date: February 21, 2020

This Board Bill repeals Ordinance No. 63107 which authorized a lease agreement with the City of St. Louis and Manufacturers Railway Company, a subsidiary of Anheuser Busch Corporation, for certain lands on the north side of Arsenal Street at Wharf Street in the Unimproved Wharf. A new lease has been written for five (5) years with four (4) five (5) year options. The new lease sets the rent at \$54,563 annually and increases the same by 3% per year thereafter.

BOARD BILL NUMBER 233 INTRODUCED BY ALDERMAN DAN GUENTHER

1 An Ordinance repealing Ordinance No. 63107, which ordinance relates to a lease between The
2 City of St. Louis, Missouri (the “City”) and Manufacturers Railway Company (“Manufacturers”),
3 a subsidiary of Anheuser-Busch Companies, Inc., authorizing the execution of a new Lease
4 Agreement between the same parties under certain terms and conditions, for a period of five (5)
5 years with four (4) five (5) year mutual options; and containing a severability clause.

6 **WHEREAS**, the City, by Ordinance No. 63107, did lease for twenty-five (25) years certain
7 land and improvements to Manufacturers on the north side of Arsenal Street at Wharf Street in the
8 Unimproved Wharf; and

9 **WHEREAS**, said lease has expired and the City and Manufacturers desire to enter into a
10 new Lease Agreement under certain terms and conditions described below for a period of five (5)
11 years with four (4) five (5) years mutual options for the purpose of maintaining and operating a
12 switching railroad yard for general freight purposes.

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

14 **SECTION ONE.** The Board of Aldermen hereby approves, and the Mayor and
15 Comptroller are hereby authorized to execute, on behalf of the City, a new lease with certain terms
16 and conditions with Manufacturers, which shall read in words and figures substantially as attached
17 hereto as **Exhibit A**.

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

1 action of the Board of Aldermen necessary to authorize such action by the Mayor and Comptroller
2 or their designated representatives.

3 **SECTION THREE.** The Mayor and Comptroller or their designated representatives, with
4 the advice and concurrence of the City Counselor and the Port Commission, are hereby further
5 authorized to make any changes to the documents, agreements and instruments approved and
6 authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary
7 and appropriate in order to carry out the matters herein authorized, with no such further action of
8 the Board of Aldermen necessary to authorize such changes.

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

18 **SECTION FIVE.** After adoption of this Ordinance by the Board of Aldermen, this
19 Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over
20 her veto.

EXHIBIT A

LEASE AGREEMENT

Board Bill Number 233

Exhibit A

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into this ____ day of _____, 2020 (“Effective Date”), by and among The City of St. Louis, Missouri, a city and political subdivision duly organized and existing under its charter, the Constitution and laws of the State of Missouri (hereinafter “Lessor”), and Manufacturers Railway Company, a Missouri Corporation (“hereinafter Lessee”).

1. Leasehold. That, for and in consideration of the rents hereinafter reserved to be paid by Lessee to Lessor, and the mutual covenants and agreements herein contained, Lessor hereby leases and lets to Lessee the following described portion of the unimproved public wharf in the City of St. Louis, Missouri (collectively, the “Leased Premises”):

A tract of land lying East of (but not contiguous to) the West line of the Wharf as established by Ordinance 5403 and lying East of (but not contiguous to) Blocks 775 and 776 of the City of St. Louis, Missouri, being more particularly described as follows:

Beginning at an iron pipe in the intersection of the former South line of Dorcas Street, sixty feet wide, vacated by Ordinance 56799 with the West line of said Wharf;

Thence South 40 degrees 16 minutes 42 seconds East a distance of 197.81 feet along the prolongation of the South line of said Dorcas Street to a point one foot (more or less) West of the West face of the floodwall;

Thence North 44 degrees 20 minutes 05 seconds East a distance of 265.98 feet to a point one foot (more or less) West of an angle point in the West fact of the floodwall;

Thence North 40 degrees 59 minutes 54 seconds East a distance of 676.45 feet to a point one foot (more or less) West of the West face of the floodwall;

Thence North 29 degrees 02 minutes 40 seconds East a distance of 400.10 feet to a point one foot (more or less) South of the South edge of the South platform of the Louisa Pump Station Building;

Thence North 60 degrees 57 minutes 20 seconds West a distance of 6.00 feet;

Thence North 29 degrees 02 minutes 40 seconds East a distance of 37.75 feet;

Thence South 60 degrees 57 minutes 20 seconds East a distance of 6.00 feet to a point one foot (more or less) North of the Northwest corner of the Louisa Pump Station Building;

Thence North 29 degrees 02 minutes 40 seconds East a distance of 292.62 feet to a point one foot (more or less) West of an angle point in the West face of the floodwall;

Thence North 29 degrees 59 minutes 28 seconds East a distance 184.98 feet to a point a perpendicular distance of 122.00 feet North of the Eastern prolongation of the former North line of St. George Street (60 feet wide) vacated by Ordinance 51754 and one foot (more or less) West of the West face of the floodwall;

Thence North 55 degrees 17 minutes 19 seconds West a distance of 56.39 feet to a point in the East line of property sold by the City of St. Louis to the Stitch-Tee Company by deed, book ____ page ____ City of St. Louis Records, said point being a perpendicular distance of 122.00 feet North of the Eastern prolongation of said St. George Street and a perpendicular distance of 64.00 feet East of the West line of said Wharf;

Thence along said East line of Stitch-Tec South 34 degrees 39 minutes 27 seconds West a distance of 122.00 feet to an iron pipe in the Eastern prolongation of the former North line of said St. George Street;

Thence continuing along said East line of Stitch-Tec the following courses and distances, South 34 degrees 39 minutes 27 seconds West a distance of 213.86 feet, South 40 degrees 48 minutes 13 seconds West a distance of 1439.46 feet to a point in the Eastern prolongation of the North line of said Dorcas Street;

Thence North 40 degrees 16 minutes 42 seconds West a distance of 10.64 feet along the Eastern prolongation of the centerline of said Dorcas Street to a point in the West line of said Wharf;

Thence South 40 degrees 37 minutes 43 seconds West a distance of 30.38 feet along the West line of said Wharf to the point of beginning and containing 291,000 square feet or 6.68 acres more or less.

Notwithstanding anything contained herein to the contrary, the Leased Premises expressly exclude the flood wall and the twenty-five foot (25') right of way west of and adjacent to the flood wall ("Right of Way"), which is currently maintained by the City's Street Department.

2. Term. The term of this Lease ("Term") shall be for a period of five (5) years, beginning on the Effective Date ("Commencement Date") and terminating on sixty (60) months thereafter, unless sooner terminated or extended as provide herein, except that in the event the Commencement Date is a date other than the first day of a calendar month, then (i) the first month of the Term shall consist of the partial month in which the Commencement Date occurs plus the first full calendar month immediately following such partial month, and (ii) the base rent for such partial month shall be pro-rated based on the number of days in such month. For purposes of this Lease, the first "Lease Year" of the Term shall mean the period beginning on the Commencement Date and ending on the last day of the twelfth (12th) full calendar month following the Commencement Date and, with respect to each Lease Year thereafter, "Lease Year" means each successive 12-month period following the first Lease Year. As used herein, "Lease Term", "Term" and "the term of this Lease" shall have the same meaning and shall include any properly exercised and mutually agreed upon Option Period (as hereinafter defined).

3. Rent. For the rights and privileges herein granted Lessee agrees to pay Lessor the following base rent:

Period	Annual Base Rent	Monthly Base Rent
Lease Year 1	\$54,563	\$4,546.88
Lease Year 2	\$56,199	\$4,683.28
Lease Year 3	\$57,885	\$4,823.78
Lease Year 4	\$59,622	\$4,968.49

Lease Year 5	\$61,411	\$5,117.55
--------------	----------	------------

Annual Base Rent shall be payable in equal monthly installments (“Monthly Base Rent”) on the first day of each and every month during the Term, without demand and without set off or deduction for any reason whatsoever. Annual Base Rent, Monthly Base Rent or any other payments due under this Lease (collectively, “Rent”) shall be made payable to Lessor and mailed or hand delivered to 1520 Market, Street, Suite 2000, St. Louis, Missouri 63103, Attention: Charlie Hahn, Controller, or to such other person or to such other place as directed from time to time by written notice to Lessee from Lessor.

4. Option Periods. Lessee shall have the option to extend the Term of the Lease for four (4) additional five (5) year periods (each an “Option Period”) upon the same terms and conditions of this Lease. Lessee must give written notice to Lessor (“Option Notice”) of its desire to exercise an option to extend the Term for an Option Period at least six (6) months, but no more than nine (9) months, prior to the expiration of the initial Term or any prior Option Period, as the case may be. Lessor shall have sixty (60) days after receipt of Lessee’s Option Notice to notify Lessee in writing if Lessor will terminate the Lease at the expiration of the initial Term or current Option Period, as the case may be, or agree to extend the Term for an additional Option Period in accordance with the terms of this Lease. If Lessor fails to deliver such notice, the Lease will terminate at the expiration of the initial Term or current Option Period, as the case may be. If Lessor agrees to extend the Term for an additional Option Period, the Annual Base Rent and Monthly Base Rent shall be as follows:

Option Period 1	Annual Base Rent	Monthly Base Rent
Lease Year 6	\$63,253	\$5,271.07

Lease Year 7	\$65,150	\$5,429.21
Lease Year 8	\$67,105	\$5,592.08
Lease Year 9	\$69,118	\$5,759.85
Lease Year 10	\$71,192	\$5,932.64

Option Period 2	Annual Base Rent	Monthly Base Rent
Lease Year 11	\$73,327	\$6,110.62
Lease Year 12	\$75,527	\$6,293.94
Lease Year 13	\$77,793	\$6,482.76
Lease Year 14	\$80,127	\$6,677.24
Lease Year 15	\$82,531	\$6,877.56

Option Period 3	Annual Base Rent	Monthly Base Rent
Lease Year 16	\$85,007	\$7,083.88
Lease Year 17	\$87,557	\$7,296.40
Lease Year 18	\$90,183	\$7,515.29
Lease Year 19	\$92,889	\$7,740.75
Lease Year 20	\$95,676	\$7,972.97

Option Period 4	Annual Base Rent	Monthly Base Rent
Lease Year 21	\$98,546	\$8,212.16
Lease Year 22	\$101,502	\$8,458.53
Lease Year 23	\$104,547	\$8,712.28

Lease Year 24	\$107,684	\$8,973.65
Lease Year 25	\$110,914	\$9,242.86

5. Taxes. Lessee agrees to pay ad valorem taxes, if any, on the railroad and on operation of same that may be operated on said Leased Premises or involved in any operations within said Leased Premises, including all other owned property and equipment, and it is agreed that the Lessee will not deny the authority of the proper assessing agency to assess ad valorem taxes on said improvements. Further, Lessee agrees to pay any and all taxes, fees and assessments due on any other aspect of Lessee’s business operations or improvements within the Leased Premises.

6. Maintenance and Repair. Lessee, at its sole cost and expense, throughout the Term, shall take good care of the Leased Premises (including any improvements now or hereafter erected or installed on the Leased Premises), and shall keep the same in good order and condition and shall make and perform all maintenance thereof (including, without limitation, routine and regular maintenance) and all repairs and replacements thereto, interior and exterior, structural and nonstructural, and capital or non-capital in nature, all to the extent necessary to comply with the express provisions of this Lease. All maintenance and repair activities of Lessee under this Lease shall be performed in accordance with all laws, ordinances and regulations. In the event that structures are damaged due to misuse or negligence by Lessee’s agents, licensees and invitees, then Lessee shall promptly repair such damage at Lessee’s sole cost and expense. Any structural repairs shall be completed in accordance with sealed drawings by a licensed engineer and shall restore the structural integrity of the damaged component(s). Any structures or alterations desired by Lessee must be approved by Lessor through the Board of Public Service.

Lessee, at its sole cost and expense, shall take good care of, repair, replace and maintain all driveways, bike paths, pathways, roadways, sidewalks, parking areas, loading areas, storage areas, yard surfaces, landscaped areas, entrances and passageways, bollards, levee/flood wall components on or appurtenant to the Leased Premises in good order and repair, and keep all portions of the Leased Premises, including areas appurtenant thereto, in a clean and orderly condition. Lessee shall not store, or allow the storage of, any garbage or trash on the Leased Premises. Further, Lessee shall ensure that Lessee, Lessee's customers, and employees and/or guests of Lessee do not throw trash or any articles or materials of any sort whatsoever into the river or onto any portion of the Leased Premises. Lessee shall be responsible for enforcing this prohibition. Lessee shall also be responsible for ensuring that the Leased Premises are at all times neat and free of all trash, rubble and debris regardless of whether or not such trash, rubble or debris was deposited by Lessee. Lessee's failure to abide by the provisions of this Section shall be considered a breach of this Lease.

Lessor shall not be required to furnish any services or facilities or to make any repairs, replacements or alterations in, about or to the Leased Premises or any improvements now or hereafter erected thereon. **Except as otherwise expressly provided in this Lease, Lessee accepts the Leased Premises in their "AS IS, WHERE IS" condition, with all faults.**

7. Permitted Use. The Leased Premises shall only be used by Lessee only for the purpose of maintaining and operating a classification and switching railroad yard for general freight purposes. Lessee shall keep, operate and maintain the Leased Premises, including all structures and improvements located thereon, in full compliance with all federal, state and local environmental, health and/or safety laws, ordinances, rules, regulations, codes, orders, directives, guidelines, permits or permit conditions currently existing and as amended, enacted, issued or

adopted in the future which are applicable to the Leased Premises. Lessee shall provide copies of all permits to Lessor.

8. Equal Opportunity and Nondiscrimination Guidelines. Regarding any contract for work in connection with the improvement of any property included in the Leased Premises, the Lessee (which term shall include Lessee, any designees, successors and assigns thereof, any entity formed to implement a project in which the Lessee has a controlling interest), and Lessee's contractors and subcontractors shall include a clause requiring compliance with all federal, state and local laws, ordinances, or regulations governing equal opportunity and nondiscrimination, and with all Executive Orders of the Mayor of the City St. Louis addressing participation by Minority Enterprises ("MBEs") and Women Business Enterprises ("WBEs") in City-assisted work. The Lessee and its contractor(s) shall not contract or subcontract with any party known to have been found in violation of any such laws, ordinances, regulations or Executive Orders.

Further, Lessee agrees, for itself and for its successors and assigns, that Lessee shall not discriminate in any way on the basis of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap in the sale, lease, rental, use or occupancy of the Leased Premises or any improvements erected or to be erected in or on the Leased Premises or any part thereof. Further, Lessee agrees, for itself and for its successors and assigns, to include covenants in each and every contract entered into by Lessee with respect to the improvement or operation of the Leased Premises to ensure such discrimination by any of Lessee's contractors is prohibited. The non-discrimination provisions embodied in this Section shall run with the land and shall be enforceable by the Port Commission, by the City, and by the United States of America, as their interests may appear. Lessee agrees that, if the improvement and use of the Leased Premises creates additional full-time jobs, it shall enter into a First Source Referral Agreement with the Saint

Louis Agency on Training and Employment and the Port Commission for referral of Jobs Training Partnership Act-eligible individuals. Said Referral Agreement shall specify the number and types of jobs to be covered by the Referral Agreement, the target date for referrals to begin, and the procedure for referral.

9. Surrender. Lessee shall repair any and all damage to the Leased Premises resulting from Lessee's equipment and operations. Upon the expiration or earlier termination of this Lease, Lessee shall quit and peacefully surrender the Premises to Lessor, and Lessor, upon or at any time after any such expiration or termination, may without further notice, enter upon and re-enter the Leased Premises and possess and repossess itself thereof, by summary proceedings, ejectment or otherwise, and may dispossess Lessee and remove Lessee and all other persons and property from the Leased Premises and may have, hold and enjoy the Leased Premises and the right to receive all rental income of and from the same. Lessee shall leave and surrender the Leased Premises to the Lessor in the same condition in which the Leased Premises was at the commencement of this Lease, except as repaired, rebuilt, restored, altered, replaced or added to as permitted or required by any provision of this Lease. Upon such surrender, Lessee shall (a) remove from the Leased Premises all property which is owned by Lessee or third parties other than the Lessor, except for the railroad track, ties and ballasts, and (b) repair any damage caused by such removal. Lessee further agrees and warrants that, upon the expiration or earlier termination of this Lease, Lessee shall return the Leased Premises to the Lessor free of any and all hazardous material, infectious waste, solid waste, pollutants, and contaminants which were placed, released, discharged, disposed, and/or spilled on, into, or about the Leased Premises by Lessee, or of any of its agents, contractors, employees, invitees or licensees, sublessees or other occupants, including during the

period of time Lessee previously leased the Leased Premises pursuant to that certain Lease Agreement dated May 2, 1994 by and between Lessor and Lessee.

10. Improvements. Lessee agrees that all permanent capital improvements and facilities installed on the Leased Premises by Lessee shall become the property of Lessor, and become a part of the Leased Premises, excluding any rail track or other improvements concerning railroad operations owned by third-party railroads or railroad operators, unless Lessor requests the removal of same prior to the expiration or earlier termination of this Lease if the improvement has significantly deteriorated or no longer functions safely or as intended. Objects, facilities and equipment that are portable or moveable are not a permanent capital improvement and will remain the property of Lessee and shall be removed upon the expiration or earlier termination of this Lease. Lessee shall not be required to remove railroad track, ties and ballasts.

11. Utilities. Lessee shall pay for all utilities and services used on the Leased Premises during the Term. Additionally, Lessee shall not store anything over the existing sewers of MSD (the "MSD Sewers") that would impair the structural integrity or operation of the MSD Sewers or prevent MSD from accessing the MSD Sewers.

12. No Partnership. Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Lessor and Lessee, or to create any other relationship between the parties hereto other than that of Lessor and Lessee.

13. Insurance, Liability and Indemnity. Lessee, at its sole cost and expense, shall procure and maintain throughout the Term of this Lease the following insurance policies on forms and with good and solvent insurers satisfactory to Lessor:

A. Workers Compensation / Employers Liability – Worker's Compensation limits shall be statutory and coverage shall be in compliance with the laws of the applicable state and

federal laws, with a minimum Employer's Liability policy limit of USD \$2,000,000.00 each person, each occurrence and aggregate.

B. Commercial General Liability - Minimum policy limit of USD \$5,000,000.00 per occurrence and USD \$5,000,000.00 aggregate applicable to liabilities assumed hereunder and the use or occupancy of the Leased Premises by Lessee or any of Lessee's agents, employees, licensees, customer, invitees or contractors.

- (1) Include coverage for explosion, collapse, and underground hazards.
- (2) Include products hazard coverage.
- (3) Include completed operations hazard coverage.
- (4) Include broad form property damage coverage.
- (5) Include Blanket contractual liability coverage applicable to all liability, indemnity and hold harmless provisions assumed under this Agreement.
- (6) Include Sudden and accidental pollution coverage applicable to third party bodily injury or property damage.

C. Automobile Liability - Minimum policy limit of USD \$2,000,000.00 combined single limit per occurrence or accident for bodily injury and property damage. Policy shall be applicable to and cover all owned, non-owned, hired and/or rented autos for bodily injury and/or property damage.

D. Intentionally Deleted.

E. Intentionally Deleted.

F. Where allowable by law, Lessee shall obtain from each of its insurers a waiver of subrogation on all required coverage of the Lessee in favor of Lessor and the Port Authority and, with the exception of Workers' Compensation, name Lessor and the Port Authority as additional

insureds in each insurance policy required of Lessee set forth above. With respect to the property coverage required, Lessor and the Port Authority shall be named as a loss payee as their interest may appear. No "other insurance" provision shall be applicable to Lessor by virtue of having been named an additional insured or loss payee under any policy of insurance and Lessee's insurance shall be primary and non-contributory with respect to Lessor. Lessee shall ensure that any endorsement naming Lessor and the Port Authority as an additional insured shall not exclude from coverage the sole negligence of the additional insureds. Lessee shall be responsible for payment of all deductibles, premiums, and retentions in connection with the insurance required of Lessee hereunder, and for payment for all expenditures incurred under any "sue and labor" provision under any policy. The foregoing insurance policies shall each provide that there shall be no recourse against Lessor for payment of premiums, commissions, club calls, assessments, or advances.

G. All policies referred to above shall: (i) be taken out with insurers licensed to do business in Missouri having an A.M. Best's rating of A-, Class IX, or better, or otherwise approved in advance by Lessor, such approval not to be unreasonably withheld; (ii) be non-contributing with, and shall apply only as primary and not as excess to any other insurance available to Lessor or any mortgagee of Lessor; (iii) [intentionally deleted]; and (iv) provide for thirty (30) days' prior written notice of material changes and ten (10) days' prior written notice shall be provided in the event of cancellation due to the non-payment of premium. Lessee shall provide certificates of insurance and/or copies of all policies and endorsements as reasonably requested by Lessor on or before the Commencement Date and thereafter at times of renewal or changes in coverage or insurer and upon request by Lessor.

Lessee and all those claiming by, through or under Lessee shall store their property in, and shall occupy and use the Leased Premises and any improvements therein and appurtenances thereto, solely at their own risk, and Lessee and all those claiming by, through or under Lessee hereby release Lessor, to the full extent permitted by law, from any and all claims of every kind, including loss of life, personal or bodily injury, damage to merchandise, equipment, fixtures or other property, or damage to business or from business interruption, arising, directly or indirectly, out of, from or on account of such occupancy or use of the Leased Premises, or resulting from any present or future condition or state of repair thereof. Lessee shall defend and indemnify Lessor, and the Port Authority, and their respective governing members, directors, officers, agents, attorneys, employees, independent contractors, and successors and assigns (collectively, "Indemnified Parties") and save Indemnified Parties harmless from and against any and all claims against Indemnified Parties arising from (a) Lessee's or of any of its agents', contractors', employees', invitees' or licensees', sublessees' or other occupants' use of the Leased Premises, the conduct of its business thereon, or from any activity, work or thing done, permitted or suffered by Lessee in or about the Leased Premises, (b) the nonperformance of any covenant or agreement on Lessee's part to be performed pursuant to the terms of this Lease, (c) any act or negligence of Lessee or of any of its agents, contractors, employees, invitees or licensees, sublessees or other occupants, and from and against all costs, fines, judgments, reasonable counsel fees, expenses and liabilities incurred in any such claim or in any action or proceeding brought thereon, (d) Lessee's or of any of its agents', contractors', employees', invitees' or licensees', sublessees' or other occupants failure to comply with any and all governmental laws, ordinances and regulations applicable to the condition or use of the Leased Premises or its occupancy, or (e) any third party claims or suits filed or asserted against Lessee. In case any action or proceeding be brought against

Indemnified Parties by reason of any such claim, Lessee, upon written notice from Indemnified Parties, covenants to resist or defend at Lessee's expense such action or proceeding by counsel reasonably satisfactory to Lessor and be responsible for all reasonable and necessary costs and expenses incurred by any one or more of the Indemnified Parties in connection with any such claim. The provisions of this Section shall survive the termination of this Lease with respect to any claims or liabilities accruing prior to such termination. Notwithstanding the foregoing, Lessee's indemnification obligations set forth above shall not apply to any claims arising from the negligence or intentional misconduct of any of the Indemnified Parties.

Lessee shall require all licensees, sublessees or other occupants of the Leased Premises to provide insurance consistent with the terms and conditions set forth above and furnish to Lessor reasonable satisfactory evidence that such insurance is in effect, except that Foster Townsend Rail Logistics LLC (FTRL) and its successors and assigns shall only be required to provide at a minimum the insurance requirements set forth on **Exhibit A** attached hereto.

14. **Event of Default**. The occurrence of any one or more of the following events shall constitute an "Event of Default" by Lessee:

A. The failure by Lessee to make any payment of Rent or other amounts owed hereunder within ten (10) business days after written notice from Lessor that said payment is due and unpaid.

B. The failure by Lessee to maintain the insurance required under this Lease, where such failure shall continue for a period of ten (10) business days after written notice hereof from Lessor to Lessee, unless Lessee's insurance shall have lapsed in which event no such notice shall be required.

C. The failure by Lessee to observe or perform any of the other covenants, conditions or provisions of this Lease to be observed or performed by Lessee, other than described in Sections (A) and (B) above, where such failure shall continue for a period of thirty (30) days after written notice hereof from Lessor to Lessee.

D. (i) The making by Lessee of any general assignment, or general arrangement for the benefit of creditors; (ii) filing by or against Lessee of a petition to have Lessee adjudicated a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Leased Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within sixty (60) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Leased Premises or of Lessee's interest in this Lease, where such seizure is not discharged within sixty (60) days.

15. Remedies. Upon an Event of Default by Lessee, Lessor shall have the following remedies, which shall not be exclusive but shall be cumulative and shall be in addition to any other remedies now or hereafter allowed by law, with or without further notice or demand:

A. Terminate Lessee's right to possession of the Leased Premises by any lawful means, without terminating this Lease, and Lessee shall immediately surrender possession of the Leased Premises to Lessor. Upon regaining possession of the Leased Premises, Lessor may re-let the same or any part thereof to any person or entity for such rent, for such period (including periods beyond the Term of this Lease), and upon such terms as Lessor, acting in good faith, deems reasonable. In connection with regaining possession of the Leased Premises and re-letting the Leased Premises (if the same are re-let), Lessor shall be entitled to recover from Lessee the

reasonable cost of recovering possession of the Leased Premises, the reasonable expenses of re-letting (including necessary renovation, maintenance, repairs and alteration of the Leased Premises, and lease commissions), reasonable attorneys' fees, and disbursements ("Lessor's Expenses"). All of Lessor's Expenses shall be charged against the rents collected on any re-letting of the Leased Premises, and if the rents collected by Lessor upon any re-letting (after deducting therefrom Lessor's Expenses) are insufficient to pay the full amount of the Rent and other amounts due from Lessee hereunder as the same become due, Lessee shall pay Lessor the amount of the deficiency monthly on demand. If the rents collected by Lessor upon any re-letting (after deducting therefrom Lessor's Expenses) exceed the full amount of the Rent and other amounts due from Lessee hereunder, all such excess shall be retained by Lessor and Lessee shall have no interest therein, provided, however, that such excess, if any, shall be applied against any other liability of Lessee under this Lease.

B. Maintain Lessee's right to possession in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Leased Premises. In such event Lessor shall be entitled to recover Rent and any other amount due from Lessee as it becomes due hereunder.

C. Terminate this Lease, in which event Lessee shall immediately surrender possession of the Leased Premises to Lessor, and Lessor shall have the right to regain possession of the Leased Premises by any lawful means should Lessee fail to surrender the same.

D. Lessor may, but shall not be obligated to, cure the Event of Default by Lessee at Lessee's expense. If Lessor pays any sum or incurs any expense in curing the Event of Default by Lessee, Lessee shall reimburse Lessor upon demand for the amount of such payment or expense with interest at the rate of ten percent (10%) per annum or the maximum lawful rate that Lessor

may charge Lessee under applicable laws, whichever is less, from the date the sum is paid or the expense is incurred until Lessor is reimbursed by Lessee.

E. Pursue any other remedy now or hereafter available to Lessor under the laws or judicial decisions of the State of Missouri.

16. Late Charge. Lessee hereby acknowledges that late payment by Lessee to Lessor of Rent and other sums due hereunder will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Lessor by the terms of any mortgage or trust deed covering the Leased Premises. Accordingly, if any installment of Rent or any other sum due from Lessee shall not be received by Lessor or Lessor's designee within ten (10) business days after notice that such amount is due and has not been paid, Lessee shall pay to Lessor a late charge equal to the lesser of (i) five percent (5%) of such overdue amount, or (ii) One Thousand Dollars (\$1,000.00). The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Lessor from exercising any of the other rights and remedies granted hereunder. In addition, any payment due pursuant to this Lease which is not timely paid shall be delinquent and shall bear interest from the date due at the rate of twelve percent (12%) per annum.

17. No Constructive Waiver. No waiver of any forfeiture, by acceptance of rent or otherwise, shall waive any subsequent cause of forfeiture, or breach of any condition of this Lease; nor shall any consent by Lessor to any assignment or subletting of said Leased Premises, or any part thereof, be held to waive or release any assignee or sub-lessee from any of the foregoing

conditions or covenants as against him or them; but every such assignee and sub-lessee shall be expressly subject thereof.

18. Assignment. Any sublease, transfer, sale or assignment of Lessee's rights or interests under this Lease are not permitted under this Lease without the prior written approval of the Lessor, Board of Public Service of the City of St. Louis, and the Port Commission of the City of St. Louis, such approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary contained in Section 18 above, Lessee shall have the right, without Lessor's consent, but upon ten (10) days prior notice to Lessor, to (a) sublet all or part of the Leased Premises to any related corporation or other entity which controls Lessee, is controlled by Lessee or is under common control with Lessee; and (b) assign all or any part of this Lease to any related corporation or other entity which controls Lessee, is controlled by Lessee, or is under common control with Lessee, or to a successor entity into which or with which Lessee is merged or consolidated or which acquires substantially all of Lessee's assets or property. "Control" shall mean ownership of not less than fifty percent (50%) of all voting stock or legal and equitable interest in such corporation or entity.

All parts of this Lease are binding on any sublessee, assignee, or new or modified corporate entity and Lessee shall not be released therefrom.

19. Successors. Whenever the word "Lessor" is used herein it shall be construed to include the heirs, executors, administrators, successors, assigns or legal representatives of Lessor; and the word "Lessee" shall include the heirs, executors, administrators, successors, assigns or legal representatives of Lessee and the words Lessor and Lessee shall include single and plural, individual or corporation, subject always to the restrictions herein contained, as to subletting or assignment of this Lease.

20. Flood Wall and Flood Gates. Lessee acknowledges that the flood wall is not included in the Leased Premises and that the City's Street Department currently maintains the flood wall and manages the Right of Way. Lessee shall coordinate with the City's Street Department for access to the Right of Way and the maintenance, repair and replacement thereof, and shall comply with all laws, regulations and requirements related to any passage through and storage in this Right of Way. Lessee shall coordinate with the City's Street Department regarding the flood gate closure policy. Lessee agrees that it shall be reasonable for the City to condition any permit on Lessee's maintenance and repair of the Right of Way provided that such Right of Way is used only by the City (but not to the public as a public street), the Lessor and the Lessee. Notwithstanding the foregoing, Lessee shall not be obligated to make any repairs to the Right of Way caused by the negligence or willful misconduct of the City or Port Authority.

The Lessee agrees not to erect any barrier, fence or supporting structures or store any materials on the floodwall itself or within twenty-five (25) feet of either side of the floodwall. Notwithstanding any other provision of this Lease, the Lessor and any lawfully designated agent or representative of the Lessor shall retain the right to enter onto any portion of the Leased Premises and to alter any portion of the Leased Premises as may be reasonably necessary to install, inspect, maintain or repair the floodwall and relief wells whenever the Lessor or its lawfully designated agent or representative deems necessary, in the Lessor's sole discretion. Lessee shall not alter or modify any portion of the Leased Premises that lay within fifty (50) feet of any Floodwall or relief well without the express written consent of the President of the Board of Public Service.

21. Lessor's Access. Lessor has the right, but not the obligation, to inspect the Leased Premises at any time to determine whether the Leased Premises are in the condition required under

this Lease, whether Lessee is complying with its obligations under this Lease, and to evaluate all maintenance and repairs of the entire facility. Lessor and its representatives, contractors, agents and other governmental authorities and entities, may enter upon the Leased Premises at any time for the purpose of exercising any or all of the foregoing rights hereby reserved without being deemed guilty of an eviction or disturbance of Lessee's use or possession and without being liable in any manner to Lessee. Lessor assumes no obligation to enter the Leased Premises or to make any inspections thereof. Notwithstanding the foregoing, except in the case of an emergency, any entry onto the Leased Premises by Lessor shall be conducted during normal business hours after Lessor has given Lessee at least one (1) business days advance notice of such desired entry and shall be conducted in a manner that minimizes interruption to Lessee's business to the extent reasonably practicable.

22. Holdover. If Lessee remains in possession of any part of the Leased Premises after the expiration or sooner termination of the Term, without the express consent of Lessor and if Lessor elects to accept Rent thereafter, Lessee's occupancy shall be deemed a month-to-month tenancy upon the same terms and conditions set forth in this Lease, except that Monthly Base Rent shall increase to one hundred fifty percent (150%) of the Monthly Base Rent in effect just prior to the switch to a month-to-month tenancy. Such month-to-month tenancy may not continue for more than one year. Any such month-to-month tenancy may be terminated by Lessor at any time.

23. Approval of City. This Lease is subject to the approval of the City's Board of Estimate and Apportionment under the Authorizing Ordinance and is not final until it has been approved. Should this Board, in its discretion, not approve this transaction, this Lease shall be null and void.

24. No Personal Liability. No member, official, or employee of the City, Port Authority, or Lessee shall be personally liable to the other party or any successor in interest or assign of the other party, in the event of any default or breach by such party, successor or assign of any of the obligations of this Lease.

25. Notices. All notices, demands, consents, approvals, certificates and other communications required by this Lease to be given by either party hereunder shall be in writing and shall be hand delivered or sent by overnight expedited delivery service (such as UPS or Fed Ex) or sent by United States first class mail, postage prepaid, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, certificates and other communications shall be deemed given when delivered or three days after mailing; provided, however, that if any such notice or other communication shall also be sent electronically, such notice shall be deemed given at the time and on the date of electronic transmittal if the sending party receives a written send verification and forwards a copy thereof with its mailed or courier delivered notice or communication.

Anheuser-Busch Companies, LLC.
125 West 24th Street, 9th Floor
New York, New York 10011
Attention: Director of Real Estate
Email: aaron.jacobs@anheuser-busch.com

With a copy to:

Anheuser-Busch Companies, LLC.
One Busch Place
St. Louis, Missouri 63118
Attention: Legal Department
Email: jerrie.plegge@anheuser-busch.com

In the case of Lessor, to:

The Port Authority Commission of the City of St. Louis
1520 Market, Street, Suite 2000
St. Louis, Missouri 63103
Attention: Otis Williams, Executive Director
Email: Williamso@stlouis-mo.gov

With copies to:

City of St. Louis
City Counselor
City Hall
1200 Market Street, Room 314
St. Louis, Missouri 63102
Attention: City Counselor
Email: bushj@stlouis-mo.gov

and

The Port Authority Commission of the City of St. Louis
1520 Market, Street, Suite 2000
St. Louis, Missouri 63103
Attention: Susan Taylor, Director
Email: taylor@s@stlouis-mo.gov

26. Choice of Laws. This Lease shall be construed and enforced in accordance with the internal laws of the State of Missouri applicable to contracts performed wholly therein without reference to its conflict of laws principles. The parties shall comply with the City Charter and ordinances of the City, including Chapter 21 of the Revised Code of the City, and relevant Mayor's Executive Orders.

27. WAIVER OF JURY TRIAL AND VENUE. THE PARTIES VOLUNTARILY, KNOWINGLY, AND IRREVOCABLE WAIVE ANY CONSTITUTIONAL OR OTHER RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN THE EVENT OF LITIGATION CONCERNING ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS LEASE, THE PARTIES' PERFORMANCE HEREUNDER OR ANY OTHER RELATED INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith; WHETHER NOW EXISTING OR HEREAFTER ARISING,

AT LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. EACH OF LESSOR AND LESSEE HEREBY CONSENTS AND AGREES THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY A TRIAL COURT WITHOUT A JURY, AND THAT EITHER PARTY TO THIS LEASE MAY FILE AN ORIGINAL COUNTERPART OR A COPY HEREOF WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF LESSOR AND LESSEE TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. LESSOR AND LESSEE EACH ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE OTHER ENTERING INTO THIS LEASE. THE PARTIES AGREE THAT ANY ACTION AT LAW OR IN EQUITY RELATING TO THIS LEASE SHALL BE BROUGHT IN THE CIRCUIT COURT FOR THE CITY OF ST. LOUIS, STATE OF MISSOURI OR IN THE UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MISSOURI, AND THAT NO PARTY SHALL OBJECT TO THE FOREGOING VENUES AS AN INCONVENIENT FORUM.

28. Attorney Fees. In any litigation or other proceeding in which a party seeks to enforce its rights under this Lease or seeks a declaration of any rights or obligations under this Lease, the prevailing party in such dispute shall be awarded its reasonably attorney fees, costs and expenses incurred in connection with such litigation or proceeding.

29. Headings. The headings of the Sections of this Lease are inserted for convenience only and shall not affect the meaning or interpretation of this Lease or any provisions hereof.

30. Representations of Lessee. Lessee hereby represents and warrants to Lessor as of the date hereof:

A. Lessee is a corporation duly created and existing under the laws of the State of Missouri and is authorized to do business in the State of Missouri.

B. Lessee has full power and authority to enter into this Lease and to carry out its obligations under this Lease and, by proper actions of its operating agreement, has been duly authorized to execute and deliver this Lease.

C. This Lease is and, when executed and delivered, will be, the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

D. There is no litigation or other proceedings pending or threatened against Lessee affecting the right of Lessee to execute or deliver this Lease or the ability of Lessee to comply with its obligations under this Lease.

E. Additionally, Lessee represents that Lessee has not dealt with any real estate broker, sales person, or finder in connection with this Lease, and no such broker, salesperson or finder initiated or participated in the negotiation of this Lease on behalf of Lessee, or showed the Leased Premises to Lessee, and Lessee hereby agrees to indemnify, protect, defend and hold Lessor harmless from and against any and all liabilities and claims for commissions and fees arising out of a breach of its foregoing representation.

F. Lessee has carefully and fully inspected and performed its due diligence with respect to the Leased Premises, including the physical condition, quality, quantity, state of repair of the Leased Premises and all improvements located thereon in all respects, and has reviewed all applicable laws, ordinances, rules and governmental regulations affecting the development, use,

occupancy or enjoyment of the Leased Premises, and has determined that the same are satisfactory to Lessee for Lessee's use and obligations under this Lease.

31. Severability. Any clause, covenant, paragraph or provision herein if declared fully or partially invalid or unenforceable, the remaining clauses, covenants, paragraphs and provisions shall remain enforceable and valid to the fullest extent allowed by law.

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

33. Entire Agreement. This is the entire agreement and no amendment or modification may be made without the express written consent of the parties hereto.

34. Municipal Purpose. The Lessor reserves the right to modify, amend, or cancel this Lease in the event any portion of the Leased Premises is needed for any municipal purpose, which shall include, but is not limited to, right of way, sewer, Floodwall or Floodwall construction or repair, any other necessary or reasonable municipal purposes or use, and/or economic development in the Port District as defined by the Lessor in Lessor's sole discretion.

In the event that any portion of the Leased Premises shall be needed for any municipal purpose as set forth in this section, the Lessor shall have the right to modify, amend, or cancel this Lease upon one (1) year's written notice thereof to Lessee (or, in the case of an emergency, the existence of which shall be determined in Lessor's reasonable discretion, upon no less than fourteen (14) days' notice) and to eliminate from the Leased Premises such portion of the Leased Premises as shall be needed for such purpose, which portion may include all of such Leased Premises. In such event, it is agreed and understood by Lessee that no claim or action for damages or other compensation shall arise or be allowed by reason of such termination or modification, other than as set forth below.

If this Lease is amended or modified under the provisions of this section, the current Rent shall be adjusted in direct proportion to the change made in the Leased Premises. Lessee shall have the right to terminate this Lease without penalty by written notice within ninety (90) days after Lessor sends the notice to amend provided in this section if Lessee determines, in Lessee's sole discretion, that the portion of the Leased Premises which will remain after the elimination of the portion to be used for municipal purposes is not suitable to the Lessee. Lessee hereby acknowledges and agrees all other provisions of this Lease shall remain in effect for the duration of the Term for that remaining portion of the Leased Premises not used for municipal purposes under this section. Lessee hereby acknowledges and agrees that the Lease shall be deemed terminated with respect to the portion of the Leased Premises eliminated pursuant to the notice referenced in this section on the one-year anniversary of the date of the notice referenced above, provided, however, that in the case of an emergency as described above, the Lease shall be deemed terminated on the date specified in the notice.

In the event this Lease is canceled, modified or amended under the provisions of this section, the Lessor shall cause the Lessee and any railroad or railway operator which has made improvements to be reimbursed, in accordance with the provisions of this section, for the cost of capital improvements the Lessee has made and paid for on the Leased Premises pursuant to the written approval of the Lessor and Board of Public Service including any such approved improvements in place on the commencement date of this Lease and made and paid for by Lessee during any prior lease term, provided, however, that Lessor shall not cause the Lessee to be reimbursed for any capital improvements: (a) the cost of which is or was expressly invoiced to the Lessee's customers via a separate surcharge for such improvements on any such customer's bill; or (b) removable from the Leased Premises and reusable at another location. It is agreed and

understood that the term capital improvements shall not include wharf boats, vessels or other floating improvements. Lessee agrees that the amount of the anticipated profits shall not be a factor in the determination of any reimbursement. Furthermore, Lessee shall not be entitled to any reimbursement for any capital improvements during any period that Lessee remains in possession of the Leased Premises in a month to month tenancy after the expiration of the Term. No funds from the City of St. Louis general revenue shall be used for the purpose of providing any reimbursement required pursuant to this section.

35. No Gaming. During the term of this Lease and any extension thereof, Lessee shall be prohibited from conducting gaming activities on, within or from the Leased Premises, and Lessee shall be prohibited from taking any action (including, without limitation, application for a gaming license, application for appropriate zoning classification, or any other action of any kind or nature) which is in any way related to any possible use of the Leased Premises or other rights granted to Lessee herein for gaming purposes of any kind, without the prior express written consent of the Lessor and Port Commission.

36. Corporate Guaranty. Concurrently with Lessee's execution of this Lease, and as a condition to the effectiveness hereof, Lessee shall cause the Guaranty in the form attached as **Exhibit B** (the "Guaranty") to be executed and delivered to Lessor by Anheuser-Busch Companies, LLC, a Delaware limited liability company (the "Guarantor").

[Signature Page Follows]

IN WITNESS WHEREOF, the said parties aforesaid have duly executed the foregoing instrument or caused the same to be executed the day and year first above written.

LESSEE:

Manufacturers Railway Company

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

LESSOR:

City of St. Louis, Missouri

By: _____

Mayor

By: _____

Comptroller

Approved as to form only:

By: _____

City Counselor

Attest:

By: _____

City Register

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

On this ___ day of _____, 2020, before me personally appeared _____ and _____ to me personally known or satisfactory proven, who, being by me duly sworn did say that they are the Mayor and the Comptroller of the City of St. Louis and that they are authorized to execute this lease agreement on behalf of the City of St. Louis under the authority of Ordinance _____ and acknowledged said instrument to be the free act and deed of the City of St. Louis

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

Notary Public

My Commission Expires:

EXHIBIT A

Licensee Insurance Requirements

Foster Townsend Rail Logistics LLC and its successors and assigns (“Licensee”) shall carry the following insurance pursuant to that certain License Agreement (“License Agreement”) by and between Licensee and Manufacturers Railway Company (“Licensor”). Defined terms shall have the meaning set forth in the License Agreement.

(a) **General Liability.** Licensee will, at its sole expense, obtain and keep in force during the term of the License Agreement general liability insurance with a combined single limit of not less than Five Million Dollars (\$5,000,000) for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against any and all liability of Licensor and its affiliates and Licensee including, without limitation, coverage for contractual liability and broad form property damage with respect to the Licensed Premises or arising out of the maintenance, use, or occupancy of the Licensed Premises. Such insurance will insure the performance by Licensee of the indemnity agreement as to liability for injury to or death of persons and damage to property set forth in paragraph 9 of the License Agreement, subject to standard policy exclusions such as fines, penalties, and pollution, etc. Such insurance will be noncontributing with any insurance which may be carried by Licensor or its affiliates and will contain a provision that Licensor, although named as an insured, will nevertheless be entitled to recover under the policy for any loss, injury, or damage to Licensor, affiliates and their respective employees, directors, agents, and contractors, or the property of such persons. The limits and coverage of all such insurance will be adjusted by agreement of Licensee and Licensor during every second license year during the term of the License Agreement, in conformity with the then prevailing custom of insuring liability in the city of St. Louis.

(b) Worker's Compensation and Employer's Liability. Licensee will, at its sole expense, obtain and keep in force during the term of the License Agreement statutory worker's compensation insurance sufficient to comply with the laws of the state of Missouri and employer's liability insurance with limits of not less than \$1,000,000 each accident, \$1,000,000 per employee per disease and \$1,000,000 policy aggregate.

(c) Automobile liability insurance in accordance with the requirements of Missouri as to the ownership, maintenance and use of all owned, non-owned, leased or hired vehicles. The bodily injury and property damage limits shall not be less than \$1,000,000 combined single limit.

(d) Railroad Protective Liability Insurance with a limit of at least \$5,000,000.

(e) Other Matters. All insurance required in the License Agreement and all renewals of it will be issued by companies authorized to transact business in the State of Missouri and rated at least A+ Class X by Best's Insurance Reports (property liability) or approved by Licensor. All insurance policies will be subject to approval by Licensor as to form and substance; will expressly provide that such policies will not be canceled or altered without thirty (30) days' prior written notice to Licensor, in the case of "all-risk" coverage insurance, and to Licensor, in the case of general liability insurance; and will, to the extent obtainable, provide that no act or omission of Licensee which would otherwise result in forfeiture or reduction of the insurance will affect or limit the obligation of the insurance company to pay the amount of any loss sustained. Upon issuance each insurance policy or a duplicate or certificate of such policy will be delivered to Licensor. Licensee may satisfy its obligation under this paragraph by appropriate endorsements of its blanket insurance policies.

(f) All policies of liability insurance which Licensee is obligated to maintain according to the License Agreement (other than any policy of workmen's compensation insurance) will name

Licensors and such other persons or firms as Licensor specifies from time to time as additional insureds. Original or copies of original policies (together with copies of the endorsements naming Licensor, and any others specified by Licensor, as additional insureds) and evidence of the payment of all premiums of such policies will be delivered to Licensor prior to Licensee's occupancy of the Licensed Premises and from time to time at least thirty (30) days prior to the expiration of the term of each such policy. All public liability and property damage liability policies maintained by Licensee will contain a provision that Licensor and any other additional insured, although named as an insured, will nevertheless be entitled to recover under such policies for any loss sustained by it, its agents, and its employees as a result of the acts or omissions of Licensee. All such policies maintained by Licensee will provide that they may not be terminated or amended except after thirty (30) days' prior written notice to Licensor. All public liability, property damage liability, and casualty policies maintained by Tenant will be written as primary policies, not contributing with and not in excess of coverage that Licensor may carry. No insurance required to be maintained by Licensee by this paragraph will be subject to any deductible in excess of Twenty-Five Thousand Dollars (\$25,000.00) without Licensor's prior written consent.

(g) Licensor and Licensee waive all rights to recover against each other, or against the officers, directors, shareholders, partners, joint ventures, employees, agents, customers, invitees, or business visitors of each of theirs, for any loss or damage arising from any cause covered by any insurance required to be carried by each of them pursuant to the License Agreement or any other insurance actually carried by each of them. Licensor and Licensee will cause their respective insurers to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the Licensed Premises, including with respect to worker's compensation and employer's liability insurance.

EXHIBIT B

UNCONDITIONAL GUARANTY

THIS UNCONDITIONAL GUARANTY (“Guaranty”) is made and entered into as of the _____ day of _____, 2020 (“Effective Date”), by Anheuser-Busch Companies, LLC, a Delaware limited liability company (“Guarantor”).

RECITALS

WHEREAS, The City of St. Louis, Missouri, a city and political subdivision duly organized and existing under its charter, the Constitution and laws of the State of Missouri (hereinafter “Lessor”), has entered into that certain Lease Agreement date as of even date herewith (“Lease”), with Manufacturers Railway Company, a Missouri Corporation (“hereinafter Lessee”), pursuant to which Lessee has leased from Lessor a portion of the unimproved public wharf in the City of St. Louis, Missouri, as more particularly described in the Lease;

WHEREAS, the Lease is incorporated herein by this reference;

WHEREAS, Lessor is willing to enter into the Lease only if it receives a guaranty of certain of Lessee’s obligations under the Lease as set forth in paragraph 1 below from Guarantor upon the terms and conditions set forth below; and

WHEREAS, Guarantor has a monetary interest in Lessee and in the Lease and will benefit from the execution of the Lease, and, in order to induce Lessor to enter into the Lease, Guarantor is willing to enter into this Guaranty;

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows:

1. Guarantor, for itself and its successors and assigns, hereby becomes surety for and unconditionally guarantees that, upon the expiration or earlier termination of this Lease, Lessee shall return the Leased Premises to the Lessor free of any and all hazardous material, infectious waste, solid waste, pollutants, and contaminants which were placed, released, discharged, disposed, and/or spilled on, into, or about the Leased Premises by Lessee, or of any of its agents, contractors, employees, invitees or licensees, sublessees or other occupants, including during the period of time Lessee previously leased the Leased Premises pursuant to that certain Lease Agreement dated May 2, 1994 by and between Lessor and Lessee. Notwithstanding the foregoing, Guarantor's liability under this Guaranty shall not exceed Two Million Dollars (\$2,000,000). No other terms or provisions of the Lease are guaranteed by Guarantor under this Guaranty.

2. As conditions of liability pursuant to this Guaranty, Guarantor hereby unconditionally waives: (a) except as herein provided, any notice of default by Lessee, (b) any requirement that Lessor exercise or exhaust its rights and remedies against Lessee or against any person, firm or corporation prior to enforcing its rights against Guarantor.

3. Lessor may, without notice to Guarantor, and Guarantor hereby consents thereto, (a) modify or otherwise change or alter the terms and conditions of the Lease, and (b) waive any of its rights under the Lease or forbear to take steps to enforce any other term or condition of the Lease against Lessee.

4. Guarantor hereby agrees, upon the request of Lessor, to execute, acknowledge and deliver to Lessor a commercially reasonable statement in writing certifying that this Guaranty of the referenced Lease is unmodified, in full force and effect, and there are no defenses or offsets to such Lease (or if modified, that the Lease is in full force and effect as modified and that this Guaranty extends to and fully covers its obligations as set forth herein).

5. In the event Lessee fails during the term of this Lease to fulfill the obligations which are being guaranteed herein, Guarantor, upon demand of Lessor, shall perform such obligations as if they constituted the direct and primary obligations of Guarantor; and such obligations of Guarantor shall be due without relief from valuation or appraisal laws.

6. The rights and obligations created by this Guaranty shall inure to the benefit of and be binding upon the successors, assigns and legal representatives of Guarantor and Lessor.

7. Anything herein or in the Lease to the contrary notwithstanding, Guarantor hereby acknowledges and agrees that any security deposit or other credit in favor of the Lessee may be applied to cure any Lessee default or offset any damages incurred by Lessor on account of the obligations being guaranteed herein, as Lessor determines in its commercially reasonable discretion, and Lessor shall not be obligated to apply any such deposit or credit to any such default or damages before bringing any action or pursuing any remedy available to Lessor against Guarantor. Guarantor further acknowledges that its liability under this Guaranty shall not be affected in any manner by such deposit or credit, or Lessor's application thereof.

8. Any notice required or permitted to be given under this Guaranty or by law shall be deemed to have been given if it is written and delivered in person or by overnight courier or mailed by certified mail, postage prepaid, to the party who is to receive such notice at the address provided by the parties. If sent by overnight courier, the notice shall be deemed to have been given one (1) business day after sending. If mailed, the notice shall be deemed to have been given on the date that is three (3) business days following mailing. Either party may change its addresses by giving written notice thereof to the other party.

In the case of Guarantor, to:

Anheuser-Busch Companies, LLC
125 West 24th Street, 9th Floor

New York, New York 10011
Attention: Director of Real Estate
Email: aaron.jacobs@anheuser-busch.com

With a copy to:
Anheuser-Busch Companies, LLC
One Busch Place
St. Louis, Missouri 63118
Attention: Legal Department
Email: jerrie.plegge@anheuser-busch.com

In the case of Lessor, to:

The Port Authority Commission of the City of St. Louis
1520 Market, Street, Suite 2000
St. Louis, Missouri 63103
Attention: Otis Williams, Executive Director
Email: williamso@stlouis-mo.gov

With copies to:

City of St. Louis
City Counselor
City Hall
1200 Market Street, Room 314
St. Louis, Missouri 63102
Attention: City Counselor
Email: bushj@stlouis-mo.gov

and

The Port Authority Commission of the City of St. Louis
1520 Market, Street, Suite 2000
St. Louis, Missouri 63103
Attention: Susan Taylor, Director
Email: taylors@stlouis-mo.gov

9. Capitalized terms used but not defined in this Guaranty have the meaning as defined in the Lease. All of the above recitals are incorporated into the substantive provisions of this Guaranty. Electronic signatures sent via e-mail will have the same force and effect as executed originals. This Guaranty is governed by and must be construed in accordance with the law of the State of Missouri.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty effective as of the Effective Date.

GUARANTOR: Anheuser-Busch Companies, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
CITY OF _____)

On this ___ day of _____, 2020 before me, a Notary Public in and for said state, personally appeared _____, being the _____ of Anheuser-Busch Companies, LLC, a Delaware limited liability company, known to be the person who executed the foregoing instrument on behalf of said limited liability company by the authority of its directors, s/he acknowledged to me that s/he executed the same for the purposes therein stated. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Notary Public
My commission expires: _____

STATE OF _____)
) ss.
CITY OF _____)

On this ___ day of _____, 2020 before me, a Notary Public in and for said state, personally appeared _____, being the _____ of Anheuser-Busch Companies, LLC, a Delaware limited liability company, known to be the person who executed the foregoing instrument on behalf of said limited liability company by the authority of its directors, s/he acknowledged to me that s/he executed the same for the purposes therein stated. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Notary Public
My commission expires: _____

St. Louis City Ordinance 63107

FLOOR SUBSTITUTE

BOARD BILL NO. [93] 219

INTRODUCED BY ALDERMAN MARTIE ABOUSSIE

An ordinance authorizing and directing the Mayor and Comptroller to lease 291,000 square feet of the Unimproved Wharf, under certain terms and conditions, for a period of ten (10) years with three (3) five (5) year options to Manufacturers Railway Company, a Missouri Corporation and a wholly owned subsidiary of Anheuser-Busch Companies, Inc., and containing an emergency clause.

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

Section One. The Mayor and the Comptroller are hereby authorized and directed to enter into a lease agreement with Manufacturers Railway Company, 2850 South Broadway, St. Louis, MO 63118-1895, which shall read in words and figures as follows:

LEASE AGREEMENT

This Agreement made and entered into as of the _____ day of _____, 199__, by and between the City of St. Louis, a Municipal Corporation of the State of Missouri, hereinafter called Lessor, through its Mayor and Comptroller and Manufacturers Railway Company, a Missouri Corporation, hereinafter called Lessee.

WITNESSETH:

1. That, for and in consideration of the rents hereinafter reserved to be paid by Lessee to the Lessor, and the mutual covenants and agreements herein contained, the Lessor hereby leases and lets to said Lessee the following described portion of the unimproved public wharf in the City of St. Louis, Missouri, to wit:

A tract of land lying East of (but not contiguous to) the West line of the Wharf as established by Ordinance 5403 and lying East of (but not contiguous to) Blocks 775 and 776 of the City of St. Louis, Missouri, being more particularly described as follows:

Beginning at an iron pipe in the intersection of the former South line of Dorcas Street, sixty feet wide, vacated by Ordinance 56799 with the West line of said Wharf;

Thence South 40 degrees 16 minutes 42 seconds East a distance of 197.81 feet along the prolongation of the South line of said Dorcas Street to a point one foot (more or less) West of the West face of the floodwall;

Thence North 44 degrees 20 minutes 05 seconds East a distance of 265.98 feet to a point one foot (more or less) West of an angle point in the West fact of the floodwall;

Thence North 40 degrees 59 minutes 54 seconds East a distance of 676.45 feet to a point one foot (more or less) West of the West face of the floodwall;

Thence North 29 degrees 02 minutes 40 seconds East a distance of 400.10 feet to a point one foot (more or less) South of the South edge of the South platform of the Louisa Pump Station Building;

Thence North 60 degrees 57 minutes 20 seconds West a distance of 6.00 feet;

Thence North 29 degrees 02 minutes 40 seconds East a distance of 37.75 feet;

Thence South 60 degrees 57 minutes 20 seconds East a distance of 6.00 feet to a point one foot (more or less) North of the Northwest corner of the Louisa Pump Station Building;

Thence North 29 degrees 02 minutes 40 seconds East a distance of 292.62 feet to a point one foot (more or less) West of an angle point in the West face of the floodwall;

Thence North 29 degrees 59 minutes 28 seconds East a distance 184.98 feet to a point a perpendicular distance of 122.00 feet North of the Eastern prolongation of the former North line of St. George Street (60 feet wide) vacated by Ordinance 51754 and one foot (more of less) West of the West face of the floodwall;

Thence North 55 degrees 17 minutes 19 seconds West a distance of 56.39 feet to a point in the East line of property sold by the City of St. Louis to the Stitch-Tec Company by deed, book _____ page _____ City of St. Louis Records, said point being a perpendicular distance of 122.00 feet North of the Eastern prolongation of said St. George Street and a perpendicular distance of 64.00 feet East of the West line of said Wharf;

Thence along said East line of Stitch-Tec South 34 degrees 39 minutes 27 seconds West a distance of 122.00 feet to an iron pipe in the Eastern prolongation of the former North line of said St. George Street;

Thence continuing along said East line of Stitch-Tec the following courses and distances, South 34 degrees 39 minutes 27 seconds West a distance of 213.86 feet, South 40 degrees 48 minutes 13 seconds West a distance of 1439.46 feet to a point in the Eastern prolongation of the North line of said Dorcas Street;

Thence North 40 degrees 16 minutes 42 seconds West a distance of 10.64 feet along the Eastern prolongation of the centerline of said Dorcas Street to a point in the West line of said Wharf;

Thence South 40 degrees 37 minutes 43 seconds West a distance of 30.38 feet along the West line of said Wharf to the point of beginning and containing 291,000 square feet or 6.68 acres more or less.

2. This lease agreement shall be for a period of ten (10) years, beginning the _____ day of _____, 199____, and terminating on the _____ day of _____, 200____, with three (3) five (5) year mutual options. Lessee must give six (6) months written notice to the Executive Director, Port Authority of the City of St. Louis, 330 North 15th Street, St. Louis, Missouri 63103, prior to expiration of this agreement or any extension thereof, if it wished to exercise an option to extend the term for an additional five (5) year period. Such option(s) are subject to the approval of the Board of Public Service and the Port Authority Commission.

3. For the rights and privileges herein granted, the Lessee agrees to pay the Lessor an annual rental of thirty thousand five hundred fifty-five dollars and no cents (\$30,555.00) payable at a rate of two thousand five hundred forty six dollars and twenty five cents (\$2,546.25) monthly in advance.

The rent to be paid to the Lessor for the rights and privileges leased hereunder shall be subject to adjustments as provided by, and under the terms and conditions set forth in "APPENDIX A STANDARD PROVISIONS, LEASES OF WHARF LAND AND MOORING RIGHTS," which is attached hereto and made a part hereof.

4. The above described area shall be used by the Lessee only for the purpose of maintaining and operating a classification and switching railroad yard for general freight purposes.

5. Leases of parts of the unimproved wharf, unless specifically provided otherwise, shall give the use and control of the grounds leased to the lessee, subject to the condition that the lessee shall maintain an open roadway along the floodwall for access and maintenance of the floodwall, sewers and other municipal use.

6. In lieu of providing environmental impairment liability insurance (to the extent such coverage is required by the terms of Section 5 of Appendix A), Lessee may provide Lessor with an irrevocable letter of credit from a mutually acceptable financial institution, in an amount equal to the amount of environmental impairment liability insurance from time-to-time required, but at least \$1,000,000. The letter of credit shall secure Lessee's indemnity obligation under Section 5 of Appendix A and shall be payable upon, and to the extent required to cure, Lessee's default under such indemnity. Lessor shall be entitled to notice of cancellation and renewals of the letter of credit as required for the insurance coverage.

7. All other matters governing this lease as well as rents are set forth in said "Appendix".

LESSEE:

MANUFACTURERS RAILWAY COMPANY

LESSOR:

CITY OF ST. LOUIS, MISSOURI

Mayor

Comptroller

Approved as to form, only:

City Counselor

Attest:

City Register

STATE OF MISSOURI)

) ss. On this _____ day of _____, 19____, before
CITY OF ST. LOUIS) me appeared _____ and

_____ to me personally known, who being by me
duly sworn did say that they are the Mayor and the Comptroller of the City of
St. Louis and that they are authorized to execute this lease agreement on behalf
of the City of St. Louis under the authority of Ordinance No. _____ and
acknowledge said instrument to be the free act and deed of the City of St.
Louis.

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

NOTARY PUBLIC

STATE OF MISSOURI)

) ss. On this _____ day of _____, 19____ before
CITY OF ST. LOUIS) me a Notary Public in and for the City of St. Louis,
appeared _____ who, being by me sworn, did say that he is
_____ of _____ and that the seal

(Title)

affixed to the foregoing instrument is the corporation seal of said corporation,
and that said instrument was signed and sealed in behalf of said corporation by
authority of its Board of Directors and said President acknowledged said
instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal in the City of St. Louis, Missouri, the day and year first above written.

NOTARY PUBLIC

APPENDIX "A"
STANDARD PROVISIONS
LEASES OF WHARF LAND AND MOORING RIGHTS

1. The base rate of \$0.0750 (current adjusted base rate \$0.105) per square foot of land and \$7.50 (current adjusted base rate \$10.50) per linear foot of mooring may be adjusted at five year intervals beginning January 1, 1994 upon recommendation of the Port Commission and approval of the Board of Public Service. No such recommendation may be made by the Port Commission unless within 180 days before January 1, on which the adjusted rates are to become effective, the Port Commission shall conduct a public hearing with due notice to the public and to the users of City owned land and mooring rights. The maximum adjustment which can be recommended and approved shall be 25% of the base rates set out in the first sentence of this section. Each adjustment shall be added to the base rate plus any previous adjustments and the resultant rate shall be called the current adjusted base rate. If the recommended adjustment to the base rate by the Board of Public Service is in excess of 15%, the recommended raise of rate shall be approved by resolution of the Board of Aldermen. If the Board of Aldermen fails to act before the effective date of the rate, the rate then shall be automatically adjusted by 15%.

2. The above mooring area or leased parcel shall be used by Lessee only for purposes consistent with the lawful use of said area. Structures or major alterations shall be made in accordance with plans and specifications approved by Lessor through the Board of Public Service. Upon the expiration, termination, or cancellation of the lease agreement, the Lessee shall remove all and any vessels, boats, watercraft or other practical movable structures from the mooring, without expense to the Lessor, unless authorized by Section Eleven (11). In the event said vessels, boats, watercraft or other practical movable structures are not removed within ninety (90) days after receipt of notice by the Lessee, the Lessor may take possession of said vessels, boats, watercrafts or other practical movable structures or may cause same to be removed at the expense of the Lessee.

Written notice when required shall be deemed to be sufficient and delivered when deposited in the certified U.S. Mail and sent to Lessee's last known address.

3. Definitions. As used in this agreement, the following terms shall have the meaning specified herein:

(1) The term "Discharge" shall have the meaning ascribed to such term by [311\(a\)\(2\)](#) of the Clean Water Act, 33 USC [1321\(a\)\(2\)](#);

(2) The term "Hazardous Substance" shall mean any substance designated or considered as hazardous pursuant to [101\(14\)](#) of the Comprehensive

Environmental Response, Compensation and Liability Act, 42 USC
§9601(14);

(3) The term "Hazardous Waste" shall mean any substance designated or considered to be a hazardous waste pursuant to either §1004(5) of the Resource Conservation and Recovery Act, 42 USC §6903(5) or §260.360(10) R.S.Mo.;

(4) The term "Infectious Waste" shall mean any substance designated or considered to be an infectious waste pursuant to §260.360(13) R.S.Mo.

(5) The term "Oil" shall mean any substance designated or considered to be an oil pursuant to §1001(23) of the Oil Pollution Liability Act of 1990, Pub. Law 101-380;

(6) The term "Port Commission" shall mean the Commission of the Port Authority of the City of St. Louis;

(7) The term Solid Waste shall mean any substance designated or considered as a solid waste pursuant to §260.200(25) R.S.Mo.

4. During the term of this lease or renewal or extension thereof, the Lessee agrees to abide by all City Ordinances, State Laws, Federal Laws, Coast Guard, Corps of Engineers and any other properly applicable governmental regulatory requirements, including, but not limited to, any and all such provisions regulating and/or relating to: (1) transportation, storage, use, manufacture, disposal, discharge, release or spilling of hazardous substances; (2) transportation, storage, use, treatment, disposal, discharge, release or spilling of "hazardous waste"; (3) transportation, storage, use, recovery, disposal, discharge, release or spilling of "oil"; (4) "discharges" of effluents, pollutants and/or toxic pollutants to either publicly owned treatment works or directly to waters of the United States or tributaries thereof; (5) emissions of pollutants and/or other substances into the air; (6) transportation, storage, treatment, disposal, discharge, release or spilling of "infectious waste" ; (7) transportation, storage, treatment, recycling, reclamation, disposal, discharge, release or spilling of "solid waste"; and (8) transportation, storage, or disposal of waste tires, used white goods and other appliances, waste oil, and/or used lead-acid batteries. Violation of any provision of federal or state law or City ordinance by Lessee shall be considered a breach of the lease agreement between Lessee and the City for which the City, at its sole option, may terminate the lease. In addition, Lessee shall call to the attention of the proper enforcement authorities, any violation of any federal or state law or local ordinance occurring on the

leased premises of which Lessee has actual knowledge. Failure to do so on the part of the Lessee shall be considered a breach of this agreement for which the City, at its sole option, may terminate the lease.

Notwithstanding the terms of Section 4 of Appendix A, this lease may not be terminated for a breach arising from the alleged violation of any provision of federal or state law or City ordinance by Lessee unless Lessee has been given notice and a reasonable opportunity to cure the alleged breach.

Should Lessee's operation on the leased premises violate any provision of federal and/or state laws or regulations Lessee shall, immediately upon becoming aware of the existence of such violation, notify the Port Authority and undertake whatever action is necessary to remedy the violation and comply with the applicable provision(s). Should Lessee fail to remedy the violation, the City may notify Lessee of its intent to undertake remedial action. If Lessee fails to then institute reasonable remedial action within 96 hours of receiving said notice, the City may take whatever action is necessary to bring the leased premises into compliance. Lessee shall reimburse the City for all costs incurred by the City in remedying such violation, including, but not limited to, reasonable attorneys fees and expenses, litigation costs, fees for engineering and consulting services, and costs of testing, remediation, removal and disposal.

5. Lessee agrees to hold Lessor harmless for all limits of liability and to defend the Lessor from any and all claims for injuries or damages resulting from or rising out of Lessee's use of the leased premises or mooring area described herein; and that it will at all times during the term of this lease at its own cost, and for the benefit of the City, protect the City with Public Liability and Property Damage Insurance, issued in the name of Lessee and naming the City of St. Louis and Port Authority as named insured, covering each person up to \$500,000 with an overall limit as to all persons for each accident of \$1,000,000 and \$1,000,000 for property damage, approved by the City Counselor as to form and by the Comptroller as to surety and reserving the right of recovery by the City in the event of damage to City owned property, which shall be filed with the Port Authority and the Comptroller's Office before the lease is issued. Said insurance coverage must be maintained during the life of this lease, and any renewal or extension thereof.

Included in the insurance policy shall be coverage requiring immediate removal of the vessel when the vessel is damaged or sunken from any cause whatsoever. This clause shall be expressed as a specific warranty by the insurance company regardless of cause.

Lessee agrees to indemnify and hold harmless the City of St. Louis, the St. Louis Port Authority, and their employees, agents and servants, and to defend them against any lawsuits or claims, for any liability, injuries, damages, penalties or fines arising from or relating to the disposal, discharge, release, or spilling, into or onto the air, water, soil, sewer system or similar media, of any hazardous substance, hazardous waste, pollutant, toxic pollutant, extremely hazardous substance, toxic substance, infectious waste, solid waste, or similar material or substance, which disposal, discharge, release or spill, whether accidental or intentional, occurs on or from the leased premises during the term of this agreement.

Lessee shall be required to purchase and maintain environmental impairment liability insurance, during the term of this lease, in the amount of One Million Dollars (\$1,000,000.00), or such other amount as shall be determined solely by the Port Commission, and naming the City of St. Louis as an additional insured, if:

- (1) at any time more than 500 pounds of a hazardous substance(s), hazardous waste, oil or infectious waste will be stored or otherwise present on the leased premises in any type of container(s) (including, but not limited to, drums, barrels, boxes, bags, tank trucks or trailers, rail cars or storage tanks, whether above or below ground);
- (2) Lessee is required by federal or state law and/or regulation, as a result of or in connection with Lessee's operations on the leased premises, to obtain a permit for (a) discharges of effluents, pollutants, toxic pollutants or other substances into waters of the United States, tributaries thereof, sewer systems and/or publicly owned treatment works; (b) discharges of effluents, pollutants or toxic pollutants to a sewer system and/or publicly owned treatment works subsequent to pretreatment thereof; (c) emission of pollutants or other substances into the air; (d) treatment, storage or disposal of hazardous waste(s); (e) treatment, storage or disposal of infectious waste(s); (f) treatment, storage, processing, management, recycling or disposal of solid waste(s); (g) operation of a waste tire site or waste tire processing facility; or (h) placement of fill or dredged material into the waters of the United States or adjacent property;
- (3) Lessee is required to file a hazardous waste generation registration report pursuant to [§ 260.360\(8\) R.S.Mo.](#) or is otherwise required to obtain a hazardous waste generator identification number from either the federal or a state government;

(4) Lessee engages in the recycling, recovery or reclamation of solid wastes, hazardous wastes and/or hazardous substances on the leased premises;

(5) Lessee engages in the manufacture of hazardous, extremely hazardous, and/or toxic substances on the leased premises.

The environmental impairment liability insurance required pursuant to the terms of the preceding paragraph shall provide coverage for unexpected and unintended liability, damages and injuries arising or resulting from sudden and accidental, continuous or repeated discharges, spills and releases, into or onto the air, water, soil, sewer system or similar media, of any hazardous substance, hazardous waste, pollutant, toxic pollutant, extremely hazardous substance, toxic substance, infectious waste, solid waste, or similar material or substance, which disposal, discharge, release or spill occurs on or from the leased premises. The amount of environmental impairment liability insurance required hereunder may be adjusted at five year intervals beginning March 1, 1997, upon recommendation of the Port Commission and approval of the Board of Public Service. Such recommendation shall be made at least 30, but no more than 60, days prior to expiration of each five year period. The amount of environmental impairment liability insurance required shall not increase more than 25% in any five year period. If no recommendation is made by the Port Commission to adjust the amount of insurance required for a five year period prior to expiration of the previous five year period, or if the Port Commission recommendation is not approved by the Board of Public Service, the amount of insurance required shall automatically increase by 15%.

Any insurance policy which Lessee is required to obtain pursuant to the provisions of this section shall provide that said policy may not be cancelled except upon the giving of thirty days notice of such cancellation to the Office of the Comptroller of the City of St. Louis. In the event that any policy which Lessee is required to obtain pursuant to the provisions hereof is cancelled by the insurer, Lessee shall be required to obtain replacement insurance, and provide proof thereof to the Comptroller's Office, prior to the date that the cancellation becomes effective. Failure to do so shall be considered a breach of this lease. The Lessee shall notify or cause the insurance company to notify the Comptroller's Office of the renewal of all insurance required pursuant to the provisions of this section or of the cancellation of same. Failure to do so shall be considered a breach of this lease.

6. Upon the nonpayment of the rent specified herein at the time when the same becomes due, or upon the nonperformance by the Lessee of any of the substantive covenants hereinbefore or hereinafter mentioned, or those

specifically covered herein, the Lessor, at its election may terminate this lease, provided that the Lessee shall, after notice of nonpayment or default, have thirty (30) days to cure any such nonpayment and ninety (90) days to cure any other default, unless the provisions hereof provide either that a specified breach is grounds for termination of the lease or that failure to cure within a specified time frame of less than ninety (90) days is grounds for termination. The failure and omission of the Lessor to declare this lease forfeited upon the default of said Lessee in the payment of said rents as the same become due, or the nonperformance of any of the substantive covenants to be performed by the Lessee, shall not operate to bar, abridge, or destroy the right of the Lessor to declare this lease null and void upon any subsequent breach, forfeiture or cause therefore by the Lessee.

7. Lessee agrees to pay ad valorem taxes on boats, vessels, aircraft or watercraft and on operation of same that may be moored on said leased area or any operations within said leased area, including all other owned property and equipment, and it is agreed that the Lessee will not deny the authority of the proper assessing agency to assess ad valorem taxes on said improvements. The Lessee reserves the right to question the amount of such assessment in any court of competent jurisdiction or other tribunal established by law to correct the valuation of the property on which the assessment of such tax is based. Failure to do so shall be considered a breach of the terms of this lease. All barges in the transit shall be exempt.

8. If the Lessee remains in possession of the leased premises after the expiration of the terms for which it is leased and the Lessee pays rent and the Lessor accepts said rent, such possession shall be construed as creating a month to month tenancy and not a renewal or extension of this lease but such month to month tenancy shall not continue for more than one (1) year.

9. The Lessor reserves the right to modify, amend, or cancel said lease as set forth in section 10 hereof in the event the premises are needed for right of way, sewer or Floodwall construction purposes or any other necessary or reasonable municipal purposes or uses. Municipal purposes or uses shall include economic development in the Port District.

10. In the event that any portion of the leased parcel or mooring area shall be needed for any municipal purpose, subject to the same exclusion set forth in section 9 above, sewer, right of way, Floodwall or Floodwall construction, as set forth in section 9 hereof, the Lessor shall have the right to modify, amend, or cancel this lease upon one (1) year's written notice thereof to Lessee and eliminate such portion of the leased or mooring area as shall be needed for such

purpose. In such event, it is agreed and understood by Lessee that no claim or action for damages or other compensation shall arise or be allowed by reason of such termination or modification. Written notice when required shall be deemed to be sufficient and delivered when deposited in the Certified U.S. Mail and sent to Lessee's last known address.

11. If this lease is amended or modified under the provisions of Sections Nine (9) or Ten (10), the current rent shall be adjusted in direct proportion to the change made in the leased area. If the remaining area is not suitable to the Lessee, Lessee shall have the right to terminate this lease without penalty by written notice within 90 days after receipt of the notice to amend provided by Section Ten (10).

12. In the event this lease is cancelled, modified or amended under the provisions of Sections Nine (9) or Ten (10), the Lessor shall cause the Lessee to be reimbursed for the undepreciated cost of the capital improvements (not removable) the Lessee has made and paid for and not prorated to the Lessee's customer or paid for by Lessee's customer. Such capital improvement being only those which have been made pursuant to the written approval of the Board of Public Service and those improvements in place on the date hereof whether or not approved by said Board. It is agreed and understood that the term capital improvements shall not include wharf boats, vessels or other floating or transferable stationary improvements. Such reimbursement shall be made by or as a part of the cost of the intended new use. Reimbursement will not be based on anticipated profits, and no funds from general revenue shall be used for this purpose.

In the event that the rate for service to the customer has been increased to cover the cost of the capital improvements, this accumulated increased cost shall be deducted before the undepreciated cost of the capital improvements is determined.

13. The Lessee shall have the right to terminate this lease upon service of one (1) year's written notice and the payment of an additional one (1) year's rental which shall accompany such notice. The payment of the additional year's rental shall not relieve Lessee of the obligation to pay the current year's rental as provided herein.

14. Any sublease or assignment of this lease, change in corporate structure, or any rights thereunder, shall be valid only with the approval of the Board of Public Service of the City of St. Louis and the Port Commission. If approved, all parts of this lease are binding on sublessor or assigns.

15. This lease may be cancelled at the option of the City if, at any time during the term of this lease, the person or persons who on the date of execution of this lease own or owns a majority of the Lessee's voting shares of stock, ceases or cease to own majority of such shares, except as the result of transfer(s) by gift or inheritance, or public work offering pursuant to the Securities and Exchange Act of 1934, as amended, or merger into or consolidation with another corporation.

Sale of a portion or all of the assets of the Lessee, or sale or transfer of the lease by the Lessee, without Board of Public Service and Port Commission approval, which approval shall not be unreasonably withheld, makes this lease subject to cancellation at the option of the City.

If sale, transfer or assignment of Lessee's stock is approved, all parts of this lease are binding on the purchaser, transferee or assignee.

16. The Lessee agrees not to erect any barrier, fence or supporting structures or store any materials on the Floodwall itself or twenty-five (25) feet on either side of the Floodwall.

17. Any delinquent payment shall bear interest from the date due at prime rate plus two (2%) percent. Prime rate shall be that average rate as established by Mercantile Bank of St. Louis N.A. and Boatmen's National Bank of St. Louis.

18. The Lessee shall not store any garbage or trash on the Wharf or mooring area, but must keep the area neat and free of all trash and rubble. Further, the Lessee shall prohibit and enforce the ruling that no trash or articles of any sort shall be thrown overboard or into the river. The Lessee shall enforce this clause on any craft or vehicle servicing, or being serviced by, the Lessee. Failure to do shall be considered a breach of this contract.

The Lessee shall have responsibility for the housekeeping on the Improved Wharf immediately in front of the mooring area. Failure to maintain this area as required by this lease and all other City ordinances when directed by the Board of Public Service with the approval of the Port Commission shall result in the cancellation of this lease.

19. Upon execution of this lease, the Lessee shall, at his own expense, have this lease recorded by the City's Recorder of Deeds and have the Register make a microfilm of the lease.

20. AFFIRMATIVE ACTION PROGRAM TO INSURE NON DISCRIMINATION AND FAIR EMPLOYMENT PRACTICES.

Lessee agrees that in performing under this contract neither Lessee nor anyone under Lessee's control will permit discrimination against any employee, worker, or applicant for employment because of race, creed, color, religion, national origin or ancestry, sex, age, handicap, or veteran's status.

If Lessee is unable to conform to the approved positive employment program submitted to determine eligibility under the fair employment practice provisions of the City code, Lessee will notify the Civil Rights Enforcement Agency, Civil Courts Building, St. Louis, Missouri, to determine steps to be taken by the Lessee to achieve the provisions of the City's program.

21. After expiration of this lease, and if the Lessee operates on a month to month basis, all articles of the lease continue to apply for one year only.

22. Annually, the Lessee must present to the Port Commission a marine survey of the safety of the facilities operated by them.

23. All vessels must be moored in line parallel to the Floodwall and there shall be no mooring in such number as to violate any applicable permits obtained by Lessee from the U.S. Corps of Engineers without approval of the Board of Public Service and the Port Commission.

24. No auxiliary craft shall be moored to any craft covered by this lease except for public safety reasons and maintenance. Maintenance craft may be moored during the period maintenance is taking place.

25. Other than as to installations in existence on the date hereof which shall not be subject to the requirements set forth herein, after notice to the Board of Public Service and the Port Authority, Lessee shall have the right to install, or modify the installation or use of, deadmen and mooring cells on the bank adjacent to Lessee's mooring area in accordance with plans and specifications approved by a licensed marine engineer for such installation, or modification of the installation or use thereof. Lessee must obtain the proper permits from the City, State and Federal regulatory agencies. Lessee shall have the right to ingress and egress to the mooring facilities over the land between the Floodwall and the mooring area leased herein.

26. Lessee accepts the property in "as is" condition, and, except as otherwise expressly stated elsewhere in this agreement, without any express or implied

warranties of suitability, merchantability, fitness for a particular purpose or environmental fitness. The City of St. Louis has made no representations or warranties, express or implied, and explicitly disclaims the same, concerning the absence of any pollution, contamination, hazardous waste, hazardous or toxic material or substance, underground storage tanks or hazardous building materials in, on or around the leasehold or its improvements, except as may be specifically and expressly stated elsewhere in the lease agreement.

27. Lessee shall not remove any underground or aboveground storage tanks located on the leasehold without first obtaining the written consent of the Port Commission, which consent shall not be unreasonably withheld. In no event shall Lessee abandon in place an underground storage tank. Nor shall Lessee install any underground or aboveground storage tanks on the leased premises without first obtaining the permission of the Port Authority. Unless specifically stated elsewhere in this lease agreement, the Port Commission shall have absolute discretion to approve or deny a request by Lessee to install a new underground or aboveground storage tank. Notwithstanding the foregoing provision, where the Lessee proposes to replace an existing underground or aboveground storage tank with a new tank, the Port Commission shall not unreasonably withhold permission therefor.

28. Unless specifically stated elsewhere in this lease agreement, the Lessee must obtain the explicit written permission of the Port Commission prior to applying to an agency or agencies of the state and/or federal governments for a permit or license to:

- (1) treat, store or dispose of hazardous waste(s);
- (2) treat, store or dispose of infectious waste(s);
- (3) treat, store or dispose of waste oil;
- (4) treat, store, process, manage, recycle or dispose of solid waste(s);
- (5) operate a waste tire site or waste tire processing facility; or
- (6) manufacture hazardous or toxic substances; on all or a portion of the leased premises. Nor, unless explicitly stated elsewhere in this lease agreement, shall Lessee engage in any of the operations enumerated above, for which a federal and/or state permit or license is required, without first obtaining explicit written permission therefor from the Port Commission. Lessee shall not apply for a permit or license to allow it to place, nor shall Lessee place, any fill or dredged

material into the waters of the United States or tributaries thereof which are adjacent to or on the leased premises without first obtaining the explicit written approval of the Port Commission therefor.

29. Lessee agrees and warrants that, upon termination of Lessee's tenancy of the leased premises pursuant to the terms of this or a subsequent lease agreement, it shall return the leased premises to the City free of any and all hazardous or toxic substances, hazardous wastes, infectious wastes, solid waste (unless disposal of solid waste on the leasehold was specifically permitted by the terms of this lease or a subsequent written document executed on behalf of, and authorized by, the Port Commission), pollutants, and contaminants which were placed, released, discharged, disposed, and/or spilled on or into the leased premises during Lessee's tenancy. Lessee shall, upon termination of its tenancy, remove all product(s) or waste(s) stored in underground and aboveground storage tanks, located on the leased premises, which were installed or used during the term of the Lease. Upon termination of tenancy, Lessee shall also perform tank tightness testing on all underground and aboveground storage tanks and connecting piping, installed or used during the term of the Lease, and shall either remove or repair any tanks or piping which fail such tests. Lessee shall also either remove or decontaminate any soil contaminated by leaks from storage tanks or connecting piping installed or used during the term of the Lease. In the event that Lessee fails to perform its obligations pursuant to this section of the lease agreement, the City shall give Lessee notice of said failure within 30 days of discovering the Lessee's default of its obligations under this section. If Lessee fails to fully comply with its obligations hereunder within 30 days of such notice, the City may undertake such actions as are necessary to bring the leased premises into compliance with the standards set out herein. In the event that the City is required to undertake actions to bring the leased premises into compliance with said standards, Lessee shall reimburse the City for all costs thereof, including, but not limited to, reasonable attorneys fees and expenses, litigation costs, fees for engineering and consulting services, costs of testing, removal, and/or remediation, and disposal costs.

30. Lessee shall, with respect to its use of the leased premises, periodically furnish the Port Authority with satisfactory proof that it is in full compliance with any and all federal and/or state laws and regulations and City ordinances relating to or concerning air quality, water quality, noise, hazardous or toxic materials, hazardous wastes, infectious wastes, solid wastes, underground storage tanks and hazardous building materials. Further, Lessor shall have the right to inspect any and all portions of the leased premises, including facilities or vehicles located thereon, at any time during normal business hours or at any time if Lessor has reason to believe that a violation of any federal or state law

or City ordinance has occurred or is about to occur. Should Lessee fail to comply with this provision, the City, after reasonable notice, may terminate this agreement.

31. This lease in its entirety covers all the covenants and agreements between the Lessor and Lessee and can only be changed, renewed, or extended in writing signed by the Lessor and Lessee and approved by the Port Commission and Board of Public Service, when authorized by an ordinance enacted for that purpose. The lease of Wharf property may not be extended to cover a period of time exceeding a total of 25 years as provided by Article I, Section 1(16), City Charter.

32. The terms and conditions of this lease shall be binding on Lessee's heirs, successors or assigns.

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
10/29/93	10/29/93	T&C	01/12/94	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
01/28/94	02/04/94		02/04/94	02/11/94
ORDINANCE	VETOED		VETO OVR	
63107				

Untitled Map

Write a description for your map.

Legend

20



Untitled Placemark

2 Arsenal St

± 1800'

± 2019
Google Earth

700 ft

© 2018 Google

BOARD BILL NUMBER 233

FISCAL NOTE

Preparer's Name: Roland Comfort

Contact Information: Roland Comfort: SLDC 657-3744, comfortr@stlouis-mo.gov

Bill Sponsor: Alderman Dan Guenther

Bill Synopsis:	This Board Bill repeals Ordinance No. 63107 which authorized a lease agreement with the City of St. Louis and Manufacturers Railway Company, a subsidiary of Anheuser Busch Corporation, for certain lands on the north side of Arsenal Street at Wharf Street in the Unimproved Wharf. A new lease has been written for five (5) years with four (4) five (5) year options. The new lease sets the rent at \$54,563 annually and increases the same by 3% per year thereafter.
Type of Impact:	None
Agencies Affected:	None

SECTION A

Does this bill authorize:

- An expansion of services which entails additional costs beyond that approved in the current adopted city budget? ___Yes X_No
- An undertaking of a new service for which no funding is provided in the current adopted city budget? ___Yes X_No
- A commitment of city funding in the future under certain specified conditions? ___Yes X_No
- An issuance of bonds, notes and lease-purchase agreements which may require additional funding beyond that approved in the current adopted city budget? ___Yes X_No
- An execution or initiation of an activity as a result of federal or state mandates or requirements? ___Yes X_No

- A capital improvement project that increases operating costs over the current adopted city budget? Yes No
- A capital improvement project that requires funding not approved in the current adopted city budget or that will require funding in future years? Yes No.

If the answer is yes to any of the above questions, then a fiscal note must be attached to the board bill. Complete Section B of the form below.