

**ORDINANCE #68902
Board Bill No. 72**

An Ordinance recommended and approved by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City the Lambert–St. Louis International Airport® Airline Service Building Lease Agreement AL-462 with a term ending June 30, 2016 (the "Lease Agreement"), between the City and Delta Airlines, Inc. (the "Lessee"), a State of Delaware corporation, granting to the Lessee, subject to and in accordance with the terms, covenants, and conditions of the Lease Agreement, certain rights and privileges in connection with the occupancy and use of the Premises, which is defined and more fully described in Section 201 of the Lease Agreement that was approved by the Airport Commission and is attached hereto as **ATTACHMENT "1"** and made a part hereof; containing a severability clause; and containing an emergency clause.

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

SECTION ONE. The Director of Airports and the Comptroller for the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City the Lambert–St. Louis International Airport® Airline Service Building Lease Agreement AL-462 with a term ending June 30, 2016 (the "Lease Agreement"), between the City and Delta Airlines, Inc. (the "Lessee"), a State of Delaware corporation, granting to the Lessee, subject to and in accordance with the terms, covenants, and conditions of the Lease Agreement, certain rights and privileges in connection with the occupancy and use of the Premises, which is defined and more fully described in Section 201 of the Lease Agreement that was approved by the Airport Commission and is to read in words and figures substantially as set out in **ATTACHMENT "1"**, which is attached hereto and made a part hereof.

SECTION TWO. The sections, conditions, or provisions of this Ordinance or portions thereof shall be severable. If any section, condition, or provision of this Ordinance or portion thereof is held invalid by a court of competent jurisdiction, such holding shall not invalidate the remaining sections, conditions, or provisions of this Ordinance.

SECTION THREE. This being an ordinance for the preservation of public peace, health, or safety, it is hereby declared an emergency measure as defined in Article IV, Section 20, of the City’s Charter and shall become effective immediately upon its approval by the Mayor of the City.

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®



LAMBERT - ST. LOUIS
INTERNATIONAL AIRPORT®

DELTA AIRLINES, INC.

AIRLINE SERVICE BUILDING LEASE AGREEMENT

NO. AL-462

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AIRPORT NUMBER AL-462

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
 AIRLINE SERVICE LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into as of the ____ day of _____, 2011, by and between the City of St. Louis, a municipal corporation of the State of Missouri, as Lessor, and Delta Airlines, Inc., a corporation organized and existing under the laws of the State of Delaware.

RECITALS

The City owns and operates the Lambert-St. Louis International Airport®, located in the County of St. Louis, State of Missouri.

Lessee desires to lease space within the Airline Service Building.

The City is willing to lease space within such buildings to Lessee.

The parties, therefore, agree as follows:

ARTICLE I
 MEANINGS AND CONSTRUCTION

Section 101. Meanings and Construction. Except as otherwise clearly indicated by the context, the words and phrases defined in this Section shall have the following meanings when used elsewhere in this Agreement.

“**Agreement**” means this Lease Agreement.

“**Air Transportation Business**” means the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail by aircraft in commerce, as defined in the Federal Aviation Act of 1958, as amended.

“**Aircraft Operations Area**” or “**AOA**” means those areas of the Airport used for the landing, taking-off, movement, and parking of aircraft, as the same now exist or as the same hereafter may be added to, modified, changed, or developed.

“**Airport**” means the Lambert-St. Louis International Airport®, together with any additions, improvements, or enlargements made from time to time.

“**Airport Director**” means the Airport Director of the City or the person performing the functions of that office, as authorized by

the City's Mayor, or that person authorized by the Airport Director to act for or on behalf of the Airport Director with respect to any particular matter under this Agreement.

"Airline Service Building" means that certain building at the Airport described in Section 201 herein.

"City" or **"Lessor"** means The City of St. Louis, Missouri.

"Environmental Laws" means all applicable federal, state, and local statutes, ordinances, regulations, rules, laws, permits, permit conditions, and orders relating to the generation, emission, discharge, release, use, storage, transportation, or disposal of pollutants, contaminants, Hazardous Materials, wastes, hazardous substances, or chemicals or the preservation or regulation of the environment or natural resources including, without limitation, the Clean Air Act, 42 U.S.C. §7401 et seq.; the Clean Water Act, 33 U.S.C. §1251 et seq., and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 et seq.; the Noise Control Act, 42 U.S.C. §4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. §651 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., as amended by the Hazardous and Solid Waste, Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §5101 et seq.; the Endangered Species Act, 16 U.S.C. §1531 et seq.; the National Environmental Policy Act, 42 U.S.C. §4321 et seq.; the Toxic Substance Control Act, 15 U.S.C. §2601 et seq.; the Atomic Energy Act, 42 U.S.C. §2011 et seq.; and the Nuclear Waste Policy Act of 1982, U.S.C. §10101 et seq., as such statutes and laws may be amended from time to time, all regulations, rules, executive orders, policies and instructions pertaining to and lawfully promulgated pursuant to such statute or law as they now exist or may be amended from time to time.

"Environmental Permits" means any and all permits, licenses, approvals, authorizations, consents, or registrations required by applicable Environmental Laws, whether federal, state or local, and any duly filed environmental covenant or land use restrictions applicable to the Airport or the Leased Premises.

"Event of Default" means an Event of Default as defined in Section 901.

"Federal Aviation Administration" or **"FAA"** means the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any successor agency thereto.

"Hazardous Materials" means friable asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), petroleum, or crude oil or any fraction thereof, natural gas, source material, special nuclear material, and byproduct materials regulated under Environmental Laws, pesticides regulated under Environmental Laws, and any hazardous waste, toxic, or dangerous substance or related material, including any material defined or treated as a hazardous substance, hazardous waste, toxic substance, or contaminant (or comparable term) under any of the Environmental Laws.

"Lessee" means Delta Airlines, Inc.

"Notice" means a communication between the parties to this Agreement performed in accordance with the requirements of Subsection 1113(B).

"Premises" means the area or areas described in Section 201, and shown on Exhibit "A," that has or have been designated by the City for the exclusive occupancy and use by Lessee for the uses herein specifically provided.

"Remediation Costs" means any reasonable losses, expenses, or costs incurred by the City in connection with environmental remediation: (i) required by the appropriate governmental agency responsible for enforcing Environmental Laws or Environmental Permits, and/or (ii) attributable to Hazardous Materials left on City property in excess of applicable remediation standards derived by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Missouri Department of Natural Resources or other governmental health agency as appropriate for commercial property, safe for occupational exposure or Airport use or which are in violation of Environmental Laws or Environmental Permits, and caused by, or arising out of, Lessee's operations at the Airport or the Lessee's use or lease of the City's property. Remediation Costs include investigation and evaluation costs, costs to implement institutional controls or restrictive covenants, sampling and analysis costs, reporting costs, planning and design costs, consultant and contractor costs, labor costs, equipment costs, construction costs, access costs, disposal costs, transportation costs, reasonable administrative costs, reasonable attorneys' fees and other legal fees and litigation expenses, permit fees and costs, monitoring costs, oversight and inspection costs, claims, demands, causes of action, suits, judgments, damages, compensation, debts, costs, expenses, losses, penalties, fines, stipulated penalties, punitive damages, and other similar liabilities caused by and/or arising out of or incidental to the Lessee's handling, use, storage, release, disposal, generation, emission, or

discharge of Hazardous Materials at the Airport including the Premises.

“Rents” means for any Fiscal Year, the rents payable by Lessee pursuant to Article V.

“Rules and Regulations” means those lawful, reasonable, and not unjustly discriminatory rules and regulations, including ordinances and operating directives, promulgated by the Airport Director, the Airport Commission, or the City from time to time for the orderly operation of the Airport.

“Transportation Security Administration” or **“TSA”** means the Transportation Security Administration created under the Aviation and Transportation Security Act of 2001, as amended, or any successor agency thereto.

Section 102. Interpretation. References in the text of this Agreement to articles, sections, paragraphs, or exhibits pertain to articles, sections, paragraphs, or exhibits of this Agreement, unless otherwise specified.

The terms “hereby,” “herein,” “hereof,” “hereto,” “hereunder,” and any similar terms used in this Agreement refer to this Agreement.

Words importing persons shall include firms, associations, partnerships, trusts, corporations, and other legal entities, including public bodies, as well as natural persons.

Any headings preceding the text of the articles and sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

Words importing the singular shall include the plural and vice versa. Words of any gender shall be deemed to include correlative words of the other gender.

The term “including” shall be construed to mean “including without limitation,” unless otherwise expressly indicated.

All references to number of days shall mean calendar days.

Words used in the present tense include the future.

ARTICLE II PREMISES

Section 201. Premises. The City hereby leases Lessee, and Lessee takes from the City, a portion of the Premises located at the Airline Services Building, 92 Sub Station Road, St. Louis, MO, 63145 consisting of 3,501 square feet as shown on Exhibit “A”, attached hereto and made a part hereof.

The Premises are leased to Lessee subject to the reservations set forth in Section 202 hereof.

Lessee accepts and receives the Premises **“AS IS”**, with no warranties or representations of any kind, expressed or implied, either oral or written, made by the City or any of its agents or representatives with respect to the physical, environmental or structural conditions of the Premises or any portion thereof or otherwise including but not limited to, soil conditions of the land and structural conditions of the buildings or facilities or the presence or absence of any Hazardous Materials, or of any underground or above ground storage tanks or repositories and related equipment, water, sewage or utilities serving the Premises or any other matter or thing affecting or relating to the Premises, except as expressly set forth in this Agreement. The City without limitation expressly disclaims any expressed or implied warranty with respect to the condition of the Premises, its compliance with any zoning or other laws, statutes, rules, ordinances or regulations applicable to the Premises including but not limited to the Americans with Disabilities Act, the uses permitted on the Premises, or any other matter or thing relating to the Premises or any portion thereof.

Section 202. Reservations. The grant of lease hereunder is subject to the following reservations and conditions:

- A. The City reserves the right (but shall not be obligated pursuant to this Agreement) to develop, maintain, and keep in repair the Airport, including the Aircraft Operating Area and all publicly-owned facilities.
- B. Lessee shall not exercise the rights granted by this Agreement to Lessee in such a way as to interfere with or adversely affect the use, operation, maintenance, expansion or development of the Airport, or with the operations of other tenants or users of the Airport.

- C. The City reserves the right to, from time to time, temporarily or permanently close or restrict specific roadways, taxiways, taxi lanes, runways, apron areas, doorways, and any other area at the Airport. The City also reserves the right at any time or times to relocate, reconstruct, change, alter, or modify any such means of access provided for pursuant to this Agreement or otherwise, either temporarily or permanently; provided that a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. The City shall reasonably notify Lessee of any such action affecting Lessee.
- D. The City reserves for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause or allow in said airspace such noise, vibration, fumes, dust, fuel particles, illuminations, interference with television, radio or any other type of transmission and other effects as may be caused in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.
- E. The City reserves the right to grant utility and maintenance rights-of-way to itself and others over, under, through, across or on the Premises provided that such use will not substantially or materially interfere with Lessee's use of the Premises, and provided further that such reservation or grant of rights shall not directly result in additional cost or expense to Lessee.

Section 203. Access. Subject to all of the terms, covenants, warranties and conditions of this Agreement, Lessee has the right of free access, ingress to and egress from the Premises, for Lessee's employees, contractors, subcontractors, agents, and invitees.

Lessee shall be granted the use, for its employees, contractors, subcontractors, agents, and invitees, a share of the adjoining parking area. Lessee will be allotted a share of parking spaces equivalent to Lessee's share of total leased space in the Airline Service Building.

Section 204. Security. Lessee hereby acknowledges that Transportation Security Administration regulations require the City to adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to the Aircraft Operating Area. Lessee understands that the City has met said requirements by developing an Airport Security Program ("ASP") for the Airport, and Lessee warrants, covenants and agrees to be fully bound by, and immediately responsive to, the requirements of the ASP, as it may be amended from time to time. Lessee further warrants, covenants and agrees, throughout the term of this Agreement, at its own cost, to prepare facilities and procedures, satisfactory to the City, designed to prevent and deter persons and vehicles from unauthorized access to the AOA from and through any Premises controlled or used by Lessee in accordance with the provisions of the applicable Transportation Security Administration regulations and the ASP.

Lessee's security procedures and facilities on the Premises shall meet the requirements of the applicable Transportation Security Administration regulations and the ASP, including the following, where applicable:

- A. fencing and locked gates, taking whatever action necessary to avoid obstruction of outside access to unoccupied space;
- B. Airport-approved badging, badge display, escort and challenge procedures applicable to persons authorized to enter the AOA;
- C. an electronic entry control system or a manned guard system where gates or doorways cannot reasonably be controlled by locks; and
- D. other facilities and procedures as may be required to establish positive control for preventing the entrance of unauthorized persons and vehicles onto the AOA.

Section 205. Premises Adjustments. If Premises are increased, reduced or changed by mutual written consent of the City and Lessee, revised exhibits may be substituted for those herein without the necessity to amend this Agreement, which substitution may be made by Notice to Lessee from the City.

ARTICLE III AGREEMENT TERM

Section 301. Term. The term of this Agreement shall commence on July 1, 2011 and shall end on June 30, 2016, unless sooner terminated in accordance with other provisions of this Agreement.

Section 302. Holding Over. If Lessee holds over after the expiration or early termination of this Agreement, the resulting tenancy shall be for an indefinite period of time on a month-to-month basis, during which tenancy the parties to this Agreement shall continue

to adhere to all covenants, conditions and provisions of this Agreement. Notwithstanding the foregoing, Lessee shall pay the prevailing Rent then in effect during any holdover period. Acceptance by the City of payment of Rents or other fees or charges after expiration or early termination of this Agreement shall be deemed to be payment on account, and shall not operate to waive or modify any provision of this Section.

ARTICLE IV USE OF PREMISES

Section 401. Use. The City hereby grants to Lessee, subject to all the terms, covenants, warranties and conditions of this Agreement, the exclusive use of the Premises for ground service equipment maintenance and repair and for no other purpose, unless expressly authorized by the City. If maintenance involves the release of Hazardous Materials, such Hazardous Materials shall be disposed of in accordance with the Environmental Laws and any required Environmental Permits. Lessee will install whatever modifications required in order to comply with the aforementioned laws and permits, and/or establish procedures to comply with the aforementioned laws and permits, which will further be subject to the City's approval.

Section 402. Repairs and Maintenance.

- A. The City shall maintain and keep in good repair the structure associated with the Airline Service Building, as well as all associated common areas, including building roof and exterior structure, obstruction lights, roadways, sidewalks, automobile parking areas, tug drives, and common utility lines and systems. The City shall clean and provide for snow and ice removal from the common roadways.
- B. Lessee shall, throughout the term of this Agreement, at its own cost and without any expense to the City, maintain and keep in good repair, excepting only acts of God, fire, and other casualties, and reasonable wear and tear (taking into account repair and maintenance required to be done by Lessee), the interior and exterior, non-structural portions of the Premises, including all tenant improvements, HVAC systems, utility systems including, without limitation fire suppression lines or systems (up to the common distribution points for each utility system), painting, doors and windows, and any other structures erected within the Premises. Lessee shall, at its sole cost and expense, take such measures as may be necessary to keep the Premises secure; the City shall have no obligation or responsibility to keep the Premises secure.
- C. Lessee warrants, covenants and agrees, without cost or expense to the City during the term hereof, to perform the following:
 1. Housekeeping of Premises. Remove from the Premises all trash and refuse, and dispose of it in a manner approved by the City.
 2. Maintenance Standards. Maintenance and repairs shall be in quality and class equal to or better than the original work to preserve the Premises in good order and condition, based on a standard of care reflecting prudent property management. Lessee shall repair all damage to the Premises caused by Lessee or its employees, contractors, subcontractors, agents, and invitees; this requirement includes immediate replacement of broken windows, doors and locks with like materials.
 3. Drainage Facilities. Comply with the Airport's Storm water Detention Design Criteria and Guidelines dated December 1986, as revised from time to time, as well as any and all applicable federal, state, and municipal regulations. Lessee shall establish a system of periodic inspection, cleaning and maintenance to keep watercourses, catch basins and other drainage structures on the Premises functioning at full design capacity. Inspection, cleaning and maintenance intervals shall be established by the Airport Director with reports to be submitted within 30 days of completion of each inspection, cleaning and maintenance. Lessee shall pile removed snow in locations that will permit the water generated by the melting of such snow piles to flow into the drainage system of the Airline Service Buildings.

Section 403. Utilities. Lessee shall provide for and pay for all utilities used on the Premises.

Section 404. Interference to Air Navigation. Lessee warrants, represents and agrees that no obstruction to air navigation, as such are defined from time to time by application of the criteria of FAR Part 77 or subsequent and additional regulations of the Federal Aviation Administration ("FAA"), will be constructed or permitted to remain on the Premises. Lessee warrants, represents and agrees that, upon notification by the City, it will immediately remove any obstructions at its expense. Lessee warrants, represents and agrees not to increase the height of any structure or objects or permit the growth of plantings of any kind or nature whatsoever that may interfere with the line of sight of the control tower and its operations. Lessee further warrants, represents and agrees not to install any structures, objects, machinery or equipment that would interfere with the operation of navigation aides or that would interfere with

the safe and efficient operations of the Airport.

Section 405. Observance and Compliance with Laws.

- A. Lessee, its officers, directors, employees, agents, and its contractors and suppliers, while such contractors and suppliers are providing services to Lessee, shall comply with:
1. all applicable federal, state and local laws and ordinances, including directives of the FAA applicable to the Lessee's operation at the Airport;
 2. the Rules and Regulations governing the Airport; and
 3. the provisions of the Airport certification manual, as it may be amended from time to time.
- Lessee shall make reasonable efforts to cause its guests and invitees to comply as well.
- B. Upon Lessee's request, the City shall promptly provide a copy of the Rules and Regulations and the Airport certification manual. The City shall also provide copies of amendments or additions to the Rules and Regulations to Lessee's station manager or his designee in the regular course of business. The City acknowledges that compliance with such amendments or additions will not be expected until Lessee is notified of such amendments or additions as provided in this Subsection.
- C. Notwithstanding anything to the contrary, references herein to a statute or law shall be deemed to be a reference to (i) such statute or law as it may be amended from time to time, (ii) all ordinances, regulations, rules, executive orders, policies and instructions pertaining and lawfully promulgated pursuant to such statute or law as they now exist or may be amended from time to time.

Section 406. Compliance with Environmental Laws. Lessee warrants and covenants that in conducting any activities or business at the Airport, including any activities directly related or incidental to its use and occupancy of the Premises, Lessee shall comply with any and all applicable Environmental Laws including any plans, monitoring, recordkeeping or programs prepared in conformance with Environmental Laws. Lessee further covenants and warrants as follows:

- A. Environmental Permits.
1. Lessee shall obtain and maintain any and all Environmental Permits required by applicable Environmental Laws to conduct the activities in which Lessee engages on the Premises.
 2. Lessee shall comply with any requirement imposed by an Environmental Permit obtained by the City that is or are applicable to Lessee or Lessee's activities on the Premises, including any plans, monitoring, recordkeeping or programs prepared in conformance with such Environmental Permits or Environmental Laws; provided, however that the City shall adequately notify Lessee of such Environmental Permit and Environmental Laws and any associated requirements, including all applicable deadlines for compliance.
 3. The City and Lessee shall cooperate to ensure compliance with the terms and conditions of any Environmental Permit, Environmental Law, and any associated requirements to insure safety and to minimize cost of compliance.
- B. Duty to Notify City. In the event of any release or threatened release of Hazardous Materials caused by Lessee, its employees, agents, contractors, suppliers, guests, or invitees, and which is required by applicable Environmental Laws or Environmental Permits, Rules and Regulations, or any plans or program prepared in response to Environmental Laws or Environmental Permits to be reported by Lessee, whether as a result of negligent conduct or otherwise, on, or under the Premises, or in the event any written claim, demand, complaint or action is made or taken against Lessee that pertains to Lessee's failure or alleged failure to comply with any Environmental Laws or Environmental Permits on or under the Premises or which pertains to the release of Hazardous Materials by Lessee at the Airport, Lessee shall notify the City as soon as reasonably practical of all known facts pertinent to such release, threatened release, claim, demand, complaint, action, or notice, and shall provide the City with copies of any and all such claims, demands, complaints, notices, or actions so made. If Lessee is required, by any Environmental Laws, Environmental Permits, or governmental agency, to file any written notice or report of a release or threatened release of Hazardous Materials on or under the Premises, Lessee shall simultaneously provide a copy of such notice or report to the City.

- C. Environmental Remediation. Lessee shall promptly and with all due diligence undertake all necessary steps to remedy and remove at its costs any Hazardous Material, or environmental condition or damage to the extent caused by, or resulting from, the activities, conduct or presence of Lessee or its agents, employees, contractors, independent contractors, invitees, licensees, lessees, or suppliers on or under the Premises, whether resulting from negligent conduct or otherwise (“**Remediation Work**”). Such Remediation Work shall be consistent with remediation standards established by or derived from the appropriate government agency responsible for enforcing Environmental Laws or Environmental Permits. Except in the event of an emergency, such Remediation Work shall be performed after Lessee submits to the City a written plan for completing such Remediation Work and receives the prior approval of the City through Notice; provided, however, that the City’s approval shall not be unreasonably withheld or delayed. The City expressly reserves the right to review and approve any proposed: remedial investigations, remedial work plans, interim and final remedies, institutional controls or other associated documents prior to submittal to the relevant governmental agencies responsible for enforcing Environmental Laws or Environmental Permits. Specific cleanup levels for any Remediation Work by Lessee shall be designed to meet and satisfy the requirements of all applicable Environmental Laws and Environmental Permits, as determined by the governmental agency responsible for enforcing Environmental Laws or Environmental Permits. Neither an ongoing remediation, including any testing or monitoring, nor the use of institutional controls, shall either unreasonably or materially impair or interfere with the City’s use and enjoyment of the Premises or its property, or that of current and future tenants or users. The City shall have the right to conduct a reasonable review and inspect all such Remediation Work at any time using consultants and representatives of its choice.
- D. Access for Environmental Inspection. Upon reasonable notification to Lessee, the City shall have reasonable access to the Premises to inspect the same in order to confirm that Lessee is using the Premises in accordance with all applicable Environmental Laws and Environmental Permits and the requirements of this Section 406. Lessee shall cooperate fully with any such inspections provided that such inspections shall not unreasonably interfere with Lessee’s operations. If the City’s inspection results in any type of written report, the City shall provide Lessee a reasonable opportunity to timely review and comment on a draft of the report. Lessee shall provide to City for its review and comment copies of: any and all notices of alleged non-compliance issued by governmental agencies responsible for enforcing Environmental Laws or Environmental Permits; non-privileged draft official submittals (proposed final drafts) prepared by, or on behalf of, Lessee responding to such alleged non-compliance; and any and all consent orders or administrative determinations, whether preliminary or final, issued by such governmental agencies. The City agrees to maintain the confidentiality of the documents produced in accordance with this Subsection to the extent consistent with the City’s legal obligations.
- E. Corrective Action by City. If Lessee fails to comply with any applicable Environmental Laws or Environmental Permits governing its activities on the Premises, or if Lessee fails to conduct necessary Remediation Work in a timely manner as required under this Agreement, the City, as required by applicable Environmental Laws and Environmental Permits, in addition to the rights and remedies described elsewhere herein and any other rights and remedies otherwise available to the City, may enter the Premises and take all reasonable and necessary actions to conduct Remediation Work to remove Hazardous Materials or other contaminants and insure such compliance with such Environmental Laws and Environmental Permits. All Remediation Costs incurred by the City shall be paid or reimbursed by Lessee. Remediation Work, if necessary, shall be performed in accordance with the provisions of Subsection 406(C), but only after first having provided Notice to Lessee of such failure to comply, and 30 days within which Lessee may demonstrate why no such alleged failure is present, or to timely remedy such alleged failure that may be present. If Lessee’s compliance reasonably requires more than 30 days to complete, the City may enter the Premises and take such reasonable and necessary measures to achieve compliance only upon Lessee’s failing to timely begin curing such noncompliance within such 30 day period and to continue diligently working to achieve compliance thereafter.
- F. Review of Environmental Documents. At the reasonable request of the City, Lessee shall make available for inspection and copying, at reasonable times, any and all non-privileged documents and materials Lessee has prepared pursuant to any applicable Environmental Laws or Environmental Permits, or submitted to any governmental agency, which documents and materials relate to environmental issues, Environmental Laws or Environmental Permits and which pertain to the Premises, and which would be discoverable in litigation.
- G. Cumulative Remedies. All remedies of the City as provided herein with regard to environmental pollution, contamination, damage, or any actual or threatened violations of any Environmental Laws or Environmental Permits are deemed to be cumulative in nature. The City’s right to indemnification as provided under this Agreement shall survive the expiration or early termination of this Agreement.
- H. Pollution Control. In addition to all other requirements of this Agreement, Lessee, at its cost, shall manage all its operations at the Airport in compliance with all applicable Environmental Laws, Environmental Permits, and with the best management practices outlined and delineated in the Airport’s Storm Water Pollution Prevention Plan and Storm Water

Management Plan, which shall be provided to Lessee at Lessee's request.

- I. Environmental Covenants. Lessee will not object to and, if requested by the City, will subordinate any rights it has under this Agreement to an environmental covenant or environmental land use restriction which (i) restricts the use of groundwater underlying the Premises or the Airport; (ii) limits the use of the Premises to nonresidential uses; and/or (iii) reasonably restricts access to soil underlying the Premises or the Airport.

Section 407. Individuals with Disabilities. Lessee shall be responsible for compliance with the Federal Americans with Disabilities Act, plus any other federal, state or local laws or regulations and City Ordinances pertaining to the disabled individual having access to the Premises or Lessee's services.

Section 408. Nondiscrimination.

- A. Lessee for itself, its personal representatives, successors in interest, and assigns, agrees that no person on the grounds of race, creed, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in (i) the use of the Premises; or (ii) the construction of any improvements on, over, or under the Premises, and the furnishing of services thereon.
- B. Lessee shall comply with all applicable nondiscriminatory requirements that may be imposed pursuant to the Federal Aviation Act of 1958, as amended; the Civil Rights Act of 1964, as amended; 49 C.F.R. Parts 21, 23, and 26, as said regulations may be amended; and state and local laws.

Section 409. Prevailing Wage. Lessee shall include in all service contracts pertaining to the Premises language specifying the minimum prevailing wages to be paid and fringe benefits to be provided by the service contractor to employees of said service contractor in accordance with the provisions of the Revised Code of The City of St. Louis, Chapter 6.20.

Section 410. City Right to Enter, Inspect, and Require Corrective Action.

- A. The City shall have the right at reasonable times to enter upon Premises for any of the purposes listed below:
1. to inspect the Premises for any purpose necessary for or incidental to or connected with the City's obligations hereunder, or in the exercise of the City's capacity as Airport owner;
 2. to identify those actions required of the Lessee or the City, pursuant to this Agreement;
 3. for fire protection, safety, or security purposes;
 4. to make structural additions and alterations to the Airport;
 5. as provided in Section 411;
 6. upon the expiration or early termination of this Agreement;
 7. to make emergency repairs; and
 8. upon the expiration or early termination of this Agreement.
- B. The City shall provide reasonable notification and such right of entry shall not unreasonably interfere with Lessee's use or occupancy of its Premises, except if an emergency and/or the situation endangers the health or safety of persons or the safety of operations on the Premises. The right of inspection reserved to the City shall impose no obligation on the City to make inspections to ascertain the condition of the Premises and shall impart no liability upon the City for failure to make such inspections. The failure of the City to inspect or monitor or notify Lessee of a default or of a hazardous or unsafe condition with respect to Lessee operations hereunder shall not release Lessee from its liability to perform its obligations hereunder or impose any liability on the City, and in any other event where the City determines that it is necessary or desirable to do so to preserve the Airport or the City's property or any portion thereof or to correct any conditions likely to cause injury or damage to persons or property.
- C. Unless otherwise provided herein, Lessee shall perform all corrective work required of it that is identified in such inspection(s) within 30 days of receipt of a notification from the City. If correction cannot reasonably be completed within

such 30 day period, this period may be extended at the sole discretion of the City. Matters affecting public health, safety, and welfare, including trash and debris problems, shall be corrected promptly after the City notifies the Lessee's manager or the manager's designee either orally or in writing via hand-delivery. All emergency repair costs incurred by the City for which the Lessee is responsible for under the terms of this Agreement shall be paid or reimbursed by Lessee within thirty (30) calendar days of the City's written request.

Section 411. Failure to Maintain by Lessee. If City determines that Lessee has failed to properly clean, remove trash and refuse, maintain, or repair the Premises as required in Section 402, the City shall provide to Lessee a list of deficiencies, reflecting the amount of time to be reasonably allowed for Lessee to correct same. If Lessee fails to correct such deficiencies within the time allowed and has not timely registered a reasonable objection as to its obligation to do so, the City, following 5 days further notification by the City to Lessee, may enter upon the Premises and correct the listed deficiencies. The City shall add the cost of such work, plus actual administrative costs, to the Rents due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the Rents. Subsequent to receipt of the further notification of intent to perform repairs, maintenance, or cleaning from the City, Lessee shall not undertake performance of such repairs, maintenance, or cleaning without specific prior authorization from the City.

Section 412. City Obligations. Except as specifically provided for herein, the City shall not be under any duty or obligation to Lessee to repair, maintain, or clean the Premises or any portion thereof, or any facilities or equipment constructed thereon. The City shall not be responsible or liable to Lessee for any claims for compensation for any losses, damages, or injury, including lost profits, sustained by Lessee resulting from failure of the Airport structures or utility systems, or caused by the natural physical conditions on the Airport, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, act of God, state of war, terrorism, civilian commotion or riot, or any other cause or peril beyond the control of the City, except to the extent covered by the City's insurance or as may be caused by the City's negligence, willful misconduct, or bad faith.

Section 413. Third-Party Supplier or Operator Obligations. The City reserves the right to require third-party suppliers or operators providing any commercial goods or services on behalf of another Tenant, to secure a permit from the City, to comply with all applicable Rules and Regulations, and to pay any applicable fees to the City to conduct such activity at the Airport.

ARTICLE V RENT AND FEES

Section 501. General. Lessee, for and in consideration of the rights and privileges granted herein, agrees to promptly and timely pay the Rents set forth in this Agreement, without demand during the term of this Agreement.

Section 502. Rent Payment. Lessee shall pay in advance to City the following monthly rental rates:

Airline Service Building Premises consisting of 3,501 sq. ft. x \$9.45 per sq. ft. = \$33,084.45 annual ÷ 12 = \$2,757.04/month.

During the term of this Agreement, the Airline Service Building may be professionally appraised. If so, the appraised rental rate value of the Airline Service Building shall be adjusted accordingly. The City will notify Lessee in writing of the new rental rate.

Section 503. Interest Charges and Late Charges on Overdue Payment. If Lessee fails to make payment of any sums due hereunder by the due dates set forth herein, Lessee shall pay to the City, in addition to all other remedies available to the City and all other payments to be made by Lessee to the City, an interest charge equal to 1.5% for each month of the overdue amount, and costs and attorney's fees reasonably incurred by the City in attempting to obtain payment, if any. Payments received later than 30 days from their respective due date shall be assessed an additional one-time late charge of 5% of the amount due, in addition to applicable interest charges.

Section 504. Form of Payment. Lessee shall pay all sums due hereunder in lawful money of the United States of America, without notice or demand, without deduction or setoff, by wire transfer or check made payable to the "Treasurer, City of St. Louis," which check shall be delivered postage or other charges prepaid to:

By U.S. Mail: Airport Assistant Director of Finance
Lambert-St. Louis International Airport
P.O. Box 10036, Lambert Station
St. Louis, Missouri 63145

By Express Mail: Airport Assistant Director of Finance

Lambert-St. Louis International Airport
10701 Lambert International Boulevard
St. Louis, Missouri 63145

By Wire Transfer: Routing Number: 081000210-1001018702
Bank Name: USBank (Checking)
Account Name: Airport Revenue Fund
(include a description of the transfer (e.g. "Delta Airlines Airline Service Lease Agreement No. AL-452"))

or as hereafter the City may designate by Notice to Lessee.

Section 505. Security Deposit.

- A. Amount and Form of Security Deposit. Upon execution of this Agreement, Lessee shall provide the City with an irrevocable letter of credit, or other security or instrument acceptable to the City ("Security Deposit") in an amount equal to 3 (three) months of estimated Rents. The Security Deposit shall guarantee the faithful performance by Lessee of all of its obligations hereunder and the payment of all Rents due to the City. The Security Deposit shall be in such form and with such company licensed to do business in the State of Missouri as shall be acceptable to the City, within its reasonable discretion. The Security Deposit is not the sole or exclusive remedy of the City and shall not be construed, in and of itself, as adequate assurance of Lessee's future performance.
- B. Term of Security Deposit. Lessee shall maintain the Security Deposit until the termination of this Agreement. Such Security Deposit shall remain in full force and effect throughout the term of this Agreement and shall extend at least ninety (90) days following the expiration or early termination of this Agreement. Lessee shall provide at least 60 days prior Notice of the date on which any Security Deposit expires or is subject to cancellation.
- C. City's Right to Use Security Deposit; Replenishment. If Lessee commits or is under an Event of Default pursuant to Section 901, the City shall have the right to use the amounts of such Security Deposit to pay Lessee's Rents or any other amounts owed to the City by Lessee then due and payable, or to apply the proceeds to any cost or expense or material damages incurred by the City as a result of Lessee's default, or Event of Default under Section 901. If any such Security Deposit, or portion thereof, is used as stated in this Subsection, Lessee shall replenish or provide a renewal or replacement Security Deposit up to the full amount set forth in Subsection 505(A) within 10 days of being notified to do so by the City. The City's rights under this Section shall be in addition to all other rights and remedies provided to the City hereunder.
- D. Waiver of Security Deposit Requirement. Notwithstanding the provisions of Subsections 505(A)-(C), the City will waive the Security Deposit obligation if it determines that Lessee qualifies for relief from such obligation. To qualify for such relief, Lessee must:
- 1) not be under an Event of Default pursuant to, and not have received Notice in accordance with, Section 901;
 - 2) have made timely payments of all applicable Rents during the previous 12 month period under this Agreement or, if applicable, the prior Airline Service Building Lease Agreement with the City.

If, after having waived the Security Deposit obligation in accordance with this Subsection, the City determines that Lessee has not continued to satisfy the requirements for relief, or if Lessee commits or is under an Event of Default pursuant to Section 901, Lessee shall immediately provide a Security Deposit in accordance with the provisions of Subsection 505(A).

ARTICLE VI
TENANT IMPROVEMENTS

Section 601. Alterations and Improvements by Lessee. Lessee may construct and install, at Lessee's sole expense, such improvements in its Premises as Lessee deems to be necessary for its operations. The plans and specifications, location, and construction schedule for such improvements, including any substantial alteration or addition thereto, along with a signed Tenant Construction or Alteration Application ("TCA"), must be submitted to and approved by the City prior to the commencement of any and all such construction, alteration, refurbishment, demolition, excavation, renovation, reconstruction, or installation. Lessee shall comply with the requirements of all applicable laws, Environmental Permits, Environmental Laws, and building codes and the City's Rules and Regulations governing tenant construction, alterations, and improvements. No reduction or abatement of Rents or other fees or charges shall be allowed for any interference with Lessee's operations by such construction. All such alterations and improvements

by Lessee shall be subject to the following:

- A. No excavation or demolition at, construction, alteration, or modifications of, or refurbishments to, the Premises shall commence until after Lessee has received the City's written approval of its TCA including detailed project plans, specifications, drawings, and schedules. Notwithstanding the prior sentence, and without limiting any other requirement imposed by this Agreement, in case of an emergency affecting the health or safety of the public, Lessee may take immediate and reasonable action to protect the public without first submitting a TCA; provided, however, that: (i) promptly following such emergency, Lessee shall notify the City of the circumstances surrounding the emergency and the actions taken by Lessee; and (ii) as immediately thereafter as reasonably possible Lessee shall submit a TCA detailing the actions taken and yet to be taken by Lessee related to such emergency. Lessee also understands and agrees that certain work elements described in its TCA may require separate or additional approval from the City before proceeding with the specific work element. As such, Lessee understands and agrees that ongoing coordination with the City at all times is crucial. Lessee shall provide the City with at least ten (10) working days written notice prior to commencement of any work at the Premises involving the excavation of soils or demolition so that the City may have a representative present at the work site during such demolition or excavation.
- B. The City shall have the right to refuse approval of such plans and specifications if the external appearance of such alteration or improvement of facilities in publicly-viewed areas does not meet the City's requirements for substantial uniformity of appearance of facilities on the Airport, or, if the type or time of construction of such alteration or improvement, or the location thereof does not meet the City's requirements for safe use of the Airport and appurtenances by other authorized persons. The City may, at its own cost, inspect any such alterations or improvements.
- C. All improvements made to the Premises and permanent additions or alterations thereto made by Lessee, except those financed by the City, shall be and remain the property of Lessee until expiration or the early termination of the term of this Agreement. Upon expiration or early termination of this Agreement, said additions and alterations shall become the property of the City; provided, however, that any trade fixtures, signs, equipment, and other movable personal property of Lessee shall remain the property of Lessee, subject to the terms of Article X.
- D. Lessee shall promptly pay all lawful claims made against the City and discharge all liens filed or which exist against the Premises, or Lessee's trade fixtures or trade equipment arising out of or in connection with the failure to make payment for work done or materials provided by Lessee, its contractors, subcontractors, or materialmen. Lessee shall have the right to contest the amount or validity of any such claim or lien without being in default hereunder; provided, however, that while contesting the amount and validity of any such claims or liens Lessee shall provide the City, at the City's request, with a performance bond in an amount equal to the amount of the claim or lien. Lessee shall give timely Notice to the City of all such claims and liens.
- E. Lessee shall use, and shall cause each of its officers, directors, employees, agents, contractors, and suppliers to use, the highest degree of care when entering upon any property owned by the City in connection with the work. Lessee shall comply, and shall cause each of its officers, directors, employees, agents, contractors, and suppliers to comply, with any and all instructions and requirements for the use of City-owned property.
- F. In any contract relating to the construction or installation of improvements in the Premises, Lessee shall require each of its contractors and suppliers to:
 1. carry policies of Builders Risk Insurance in accordance with Section 701(B)(5); and
 2. furnish performance and payment bonds in the full amount of any contract in a form acceptable to the City. Payment bonds shall comply with the coverage requirements and conditions of Section 107.170 of the Missouri Revised Statutes, as amended. Copies of the bonds shall be given to the City for approval before work begins. Any sum or sums derived from said performance and payment bonds shall be used for the completion of said construction and the payment of laborers and material suppliers, as the case may be.
- G. Lessee shall use only City-approved contractors or subcontractors for improvements affecting control and/or programming of Airport systems including, but not limited to, security access control, fire alarm and detection, HVAC control, closed circuit televisions (CTVs), elevators.
- H. Upon the completion of the improvements hereunder, Lessee shall submit to the City a copy of its acceptance letter certifying completion, a certified copy of any certificate or permit which may be required by any federal, state or local government or agency in connection with the completion or occupancy thereof by Lessee, and a certified set of "as built"

drawings in CADD format.

Section 602. Nondisturbance of Airport Tenants and Operations. Any work by Lessee and its contractors shall be conducted in an orderly and proper manner, and shall not otherwise disturb, create a hazard, or interfere with other projects on, or the operations of, the Airport. Lessee shall promptly comply, and shall cause its contractors to comply, with any reasonable request from the City to correct its conduct or that of its contractors. If Lessee or its contractors fails to comply with the provisions of this Section, the City shall have the right to stop any or all work being performed, until such compliance is achieved, without terminating this Agreement.

ARTICLE VII
INSURANCE, DAMAGE, AND INDEMNIFICATION

Section 701. Insurance.

- A. General. Lessee at all times during the term hereof, shall cause St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their officers, agents and employees and Lessee to be insured on an occurrence basis against the risk of all claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of the activities or omissions of Lessee, its officers, agents, and employees pursuant to this Agreement both on the Premises and the Airport.
- B. Risks and Minimum Limits of Coverage. Lessee shall procure and maintain the following policies of insurance:
1. Commercial General Liability Insurance in an amount not less than \$3 million. Such coverage shall be single limit liability with no annual aggregate.
 2. Automobile Liability Insurance in an amount not less than \$10 million primary (no excess), combined single limit per occurrence (for automobiles used by Lessee in the course of its performance hereunder, including Lessee's non-owned and hired autos).
 3. Workers' Compensation and Employer's Liability Insurance in accordance with Missouri laws and regulations. With respect to Workers' Compensation Insurance, if Lessee elects to be self-insured, Lessee shall comply with the applicable requirements of law. Lessee shall require that all its subcontractors or licensees similarly provide such coverage (or qualify as a self-insured) for their respective employees. City, its officers, employees, or agents shall not be liable or responsible for any claims or actions occasioned by Lessee's failure to comply with the provisions of this Subparagraph and the indemnification provisions hereof shall apply to this Section. It is expressly agreed that the employees of Lessee are not employees of the City for any purpose, and that employees of the City are not employees of Lessee.
 4. Contents Insurance. Lessee shall be solely responsible for obtaining insurance policies that provide coverage for losses of Lessee owned property. The City shall not be required to provide such insurance coverage or be responsible for payment of Lessee's cost for such insurance.
 5. Builders Risk Insurance. During any period of construction, alteration, refurbishment, demolition, excavation, installation, renovation, or reconstruction for which Lessee contracts, Lessee shall carry, or shall require its contractor or contractors to carry, a policy of Builders Risk Insurance in an amount sufficient to insure the value of the work. The City shall be named Loss Payee on Builders Risk coverage to the extent of the City's interest therein (except to the extent coverage relates to Lessee's equipment and personal property). Lessee may elect to self-insure for individual projects with a total cost of \$50,000 or less. In addition, Lessee or its contractor(s) shall carry not less than \$3 million of commercial general liability (single limit liability with no annual aggregate) and not less than \$3 million of automobile liability insurance coverage (including owned, non-owned and hired vehicles) during the period of construction, alteration, refurbishment, demolition, excavation, installation, renovation, or reconstruction. The policy limits set forth in this subsection shall be per occurrence/aggregate.
 6. Other Property Coverage. Lessee shall provide an "All Risk" insurance policy providing protection from direct loss arising out of any fortuitous cause other than those perils or causes specifically excluded by norm and which covers Lessee's improvements to the Premises, windows and doors, trade fixtures, and equipment. The City shall be named Loss Payee on such coverage to the extent of the City's interest therein (except to the extent coverage relates to Lessee's equipment and personal property).
- C. Issuers of Policies. The issuer of each policy required herein shall be a financially sound insurance company authorized

to do business in the State of Missouri. Acceptable insurers include insurance companies with an "A.M. Best Company" rating of at least an "A," or other insurers or insurance syndicates of similar recognized responsibility.

1. Form of Policies. The insurance may be in one or more policies of insurance.
 2. Non-waiver. Nothing the City does or fails to do shall relieve Lessee from its duties to provide the required coverage hereunder, and the City's actions or inactions shall not be construed as waiving the City's rights hereunder.
 3. Insured Parties. Each policy by endorsement, except those for Workers' Compensation, Employer's Liability, shall name the City, its officers, agents, and employees as "additional insured" on the certificate of insurance, including all renewal certificates, to the extent of Lessee's indemnification obligations hereunder. Upon City's request, Lessee shall provide City with an endorsement consistent with the requirements of this Subsection. Inclusion as an "additional insured" is not intended to, and shall not, make the City a partner or joint venturer with Lessee in its operations.
 4. Deductibles. Lessee shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against the City, its officers, agents, or employees; provided, however, that nothing herein stated shall diminish Lessee's rights or increase Lessee's obligations in respect to its undertakings or hold harmless defense and indemnification set forth in Section 704 hereof.
 5. Cancellation. Each policy shall expressly state that it may not be cancelled, materially modified unless 30 days advance Notice is given in writing to the City by the insurance company, or authorized representative of Lessee.
 6. Subrogation. Each policy shall contain an endorsement by which the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents, or employees.
 7. Certification of Primary Insurance. Each policy hereunder except Workers' Compensation shall be primary insurance to any other insurance available to the Additional Insured and Loss Payee with respect to claims arising hereunder.
 8. Liability for Premium. Lessee shall be solely responsible for payment of all insurance premiums required pursuant to this Agreement, and the City shall not be obligated to pay any premiums; provided, however, that if Lessee fails to obtain the insurance as required herein or make premium payments, the City may, without further notification, effect such insurance or make such payments on Lessee's behalf and, after Notice to Lessee, the City may recover the cost of those payments with the installment of Rents next due, plus 15% administrative charge, from Lessee.
 9. Proof of Insurance. Within 30 days of the effective date of this Agreement and at any time during the term hereof, Lessee shall furnish the City with certificates of insurance. Lessee shall use its best efforts to submit to the City a certificate showing that such insurance coverage has been renewed at least 5 days prior to the expiration of any such policy. If such coverage is canceled or materially modified, Lessee shall, within 15 days after the date of such notice from the insurer of such cancellation or material modification, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon reasonable notification by the City to Lessee, the City shall have the right to examine Lessee's insurance policies at the Lessee's offices at the Airport.
- D. Maintenance of Coverage. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Lessee, continuously and without interruption, maintain in force the required insurance coverages set forth above.
- E. City Right to Review and Adjust Coverage Limits. The City reserves the right at reasonable intervals during the term of this Agreement to cause the insurance requirements of this Article to be reviewed, at its sole cost, by an independent insurance consultant experienced in insurance for public airports, taking into consideration changes in statutory law, court decisions, or the claims history of the airline industry as well as that of Lessee, and, based on the written recommendations of such consultant, after providing adequate notice to and in consultation with Lessee, to reasonably adjust the insurance coverages and limits required herein but not more often than every 24 months.

Section 702. Lessee Actions Affecting Insurance. Lessee shall not knowingly do or permit to be done anything, either by act or failure

to act, that may cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that may cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If such Lessee's act, or failure to act, causes cancellation of any policy, then Lessee shall immediately, upon notification by the City, do whatever is necessary to cause reinstatement of said insurance. Furthermore, if Lessee does or permits to be done any act or fails to do any act which causes an increase in the City's insurance premiums, Lessee shall immediately remedy such actions and/or pay the increase in premiums, upon Notice from the City to do so; but in any event, Lessee will hold the City harmless for any expenses and/or damage resulting from any such action.

Section 703. Damage to Premises.

- A. Minor Damage. If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is partially damaged by fire or other casualty, but said circumstances do not render the Premises untenable as determined by the City, the same shall be repaired to usable condition with due diligence by the City as provided in this Section.
- B. Substantial Damage. If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is so extensively damaged by fire, or other casualty, as to render any portion of said Premises untenable but capable of being repaired, as determined by the City, the same shall be repaired to usable condition with due diligence by the City as provided in this Section. In such case, the rents payable hereunder with respect to affected Premises shall be paid up to the time of such damage and shall thereafter be abated ratably in the proportion that the untenable area bears to the total Premises of the same category or type of space. Such abatement in rent will continue until the affected Premises are restored adequately for Lessee's use. The City shall use its best efforts to provide alternate facilities to continue Lessee's operation while repair, reconstruction, or replacement is being completed, at a rental rate not to exceed that provided herein for comparable space, provided that Lessee's rental costs shall not increase as a result of any such alternate facilities unless Lessee requests additional space and/or space replacement of a classification at higher rental rates concurrent with such reassignment to alternate facilities.
- C. Total Damage.
1. If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is damaged by fire or other casualty, and is so extensively damaged as to render any portion of said Premises incapable of being repaired, as determined by the City, the City shall notify Lessee as soon as practicable under the circumstances after the date of such damage of its decision whether to reconstruct or replace said space. However, the City shall be under no obligation to replace or reconstruct such premises. The Rents payable hereunder with respect to affected Premises shall be paid up to the time of such damage and thereafter shall cease until such time as replacement or reconstructed space shall be available for use by Lessee.
 2. If the City elects to reconstruct or replace affected Premises, the City shall use its best efforts to provide alternate facilities to continue Lessee's operation while repair, reconstruction, or replacement is being completed, at a rental rate not to exceed that provided herein for comparable space. However, if such damaged space shall not have been replaced or reconstructed, or the City is not diligently pursuing such replacement or reconstruction, within 6 months after the date of such damage or destruction, Lessee shall have the right, upon giving the City 30 days advance Notice, to delete the affected Premises from this Agreement, but this Agreement shall remain in effect with respect to the remainder of said Premises, unless such damaged or destroyed premises prevent Lessee from operating in its Premises under this Agreement.
 3. If the City elects not to reconstruct or replace affected Premises, the City shall meet and consult with Lessee on ways to permanently provide Lessee with adequate replacement space for affected Premises. Lessee shall have the right, upon giving the City 30 days advance Notice, to delete the affected Premises from this Agreement, but this Agreement shall remain in full force and effect with respect to the remainder of said Premises, unless the loss of such premises prevents Lessee from using its Premises under this Agreement.
- D. Scope of Restoration of Premises.
1. The City's obligations to repair, reconstruct, or replace affected Premises under the provisions of this Section shall in any event be limited to using due diligence and best efforts to restore affected Premises to substantially the same condition that existed prior to any such damage and shall further be limited by the provisions of Subsections 703(A)-(C). If the City elects to repair, reconstruct, or replace affected premises as provided in this Section, then Lessee shall proceed with due diligence and at its sole cost and expense to repair, reconstruct, or replace its signs, fixtures, furnishings, equipment, and other items provided or installed by Lessee in or about

the Premises in a manner and in a condition at least equal to that which existed prior to said damage or destruction.

2. In lieu of the City's repair, reconstruction, or replacement of the affected premises, as provided in this Section, if Lessee requests to perform said function with respect to damage under Subsections 703(A) and (B), the City may, in its sole discretion, allow Lessee to do so. Any such work by Lessee must be done in accordance with the requirements of Section 601. The City shall reimburse Lessee for the cost of such work performed by Lessee as agreed to in writing by Lessee and the City. Lessee shall be considered to be doing such work on its own behalf and not as an agent or contractor of the City.

- E. Damage From Lessee Negligence. Notwithstanding the provisions of this Section, if damage to or destruction of the Premises is due to the negligent or willful acts of Lessee, its agents, servants, or employees, or those under its control, there shall be no abatement of rent during the restoration or replacement of said Premises. In addition, Lessee shall have no option to delete the affected Premises from this Agreement. To the extent that the costs of repairs pursuant to this Section shall exceed the amount of any insurance proceeds payable to the City by reason of such damage or destruction, Lessee shall pay the amount of such additional costs to the City.

Section 704. Indemnification.

- A. Lessee shall defend, indemnify, and hold harmless St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their respective officers, agents and employees (the "Indemnified Parties") from and against any and all loss, liability, penalties, damages of whatever nature, causes of action, suits, claims, demands, judgments, injunctive relief, awards, settlements, costs, and expenses, including payments of claims of liability resulting from any injury or death of any person or damage to or destruction of any property including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs and expert fees) of any nature, arising out of and in connection with this Agreement, or Lessee's use of its Premises or other areas or facilities at the Airport by Lessee, its agents, employees, contractors, or subcontractors, including, but not limited to:
1. the acts or omissions of Lessee, its agents, employees, contractors, or suppliers;
 2. Lessee's use or occupancy of the Airport and the Premises; and
 3. any violation by Lessee in the conduct of Lessee's Premises or other areas or facilities at the Airport of any provision, warranty, covenant, or condition of this Agreement.

Lessee shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

- B. Lessee shall defend, indemnify, pay, and hold harmless the Indemnified Parties from and against all applicable taxes and assessments for which the City may become liable and which by law may be levied or assessed on the Premises, or which arise out of the operations of Lessee or by reason of Lessee's occupancy of its Premises except for any taxes or assessments based on the gross or net income or gross or net receipts of the City that are not allocable to Lessee-related receipts. However, Lessee may, at its own risk, cost, and expense, and at no cost to the City, contest, by appropriate judicial or administrative proceedings, the applicability or the legal or constitutional validity of any such tax or assessment, and the City will, to the extent permitted by law, execute such documents as are necessary to permit Lessee to contest or appeal the same. Lessee shall be responsible for obtaining bills for all of said taxes and assessments directly from the taxing authority and shall promptly deliver to the City, upon request by the City, copies of receipts of payment. If the City receives any tax billings falling within the scope of this paragraph, it will forward said billings to Lessee. Lessee shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.
- C. Lessee shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature associated therewith in any way arising from or based in whole or substantial part upon claim or allegation of a violation of any federal, state, or local laws, statutes, resolutions, regulations, ordinance, or court order affecting the Airport, by Lessee, its agents, employees, contractors, or suppliers, in conjunction with Lessee's use and/or occupancy of the Premises or its operations at the Airport. Lessee will, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not. Lessee shall include the substance of this Subsection (C) in every sublease, contract or other agreement which Lessee may enter into related to its activities on the Premises, and any such sublease, contract or other agreement shall specifically provide that the City is a third-party beneficiary of this and related provisions. This provision does not constitute a waiver of any other condition of this Agreement prohibiting or limiting assignments, subletting or subcontracting.

- D. Lessee shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature arising from or based in whole or part upon the presence in, or the release into, the environment, including the Premises or the Airport of any Hazardous Materials to the extent caused by, or resulting from, the acts or omissions of Lessee or its agents, employees, contractors, invitees, licensees, or suppliers at the Airport whether resulting from negligent conduct or otherwise.
- E. If a prohibited incursion into the air operations area occurs, or if the Aircraft Operations Area or sterile area security is breached, by or due to the negligence or willful act or omission of any of Lessee's employees, agents, contractors, or suppliers, and such incursion or breach results in a civil penalty action against the City, Lessee shall assume the defense of any such action and be responsible for any civil penalty or settlement amount required to be paid by the City as a result of such incursion or breach. The City shall notify Lessee of any allegation, investigation, or proposed or actual civil penalty sought for such incursion or breach. Civil penalties and settlement and associated expenses reimbursable under this paragraph include but are not limited to those paid or incurred as a result of violation of FAA or TSA regulations or security directives.
- F. Lessee's obligation to defend and indemnify past officers, employees, and agents of the City shall apply to such persons only for claims, suits, demands, actions, liability, loss, damages, judgments, or fines arising from events, occurrences, and circumstances during which said officers, employees, and agents held their office or position with the City.
- G. The City shall promptly notify Lessee of each claim, action, proceeding, or suit in respect of which indemnity may be sought by the City against Lessee hereunder, setting forth the particulars of such claim, action, proceeding or suit; shall furnish Lessee with a copy of all judicial filings and legal process and any correspondence received by the City related thereto; and shall tender the defense of same to Lessee.
- H. The duty to defend, indemnify, hold harmless, and reimburse shall apply to any claim, demands, or suits made against the City for which Lessee is responsible pursuant to this Section. Provided, however, that upon the filing by anyone of a claim with the City for damages arising out of incidents for which Lessee herein agrees to indemnify and hold the City harmless, the City shall promptly notify Lessee of such claim and, if Lessee does not settle or compromise such claim, then Lessee shall undertake the legal defense of such claim both on behalf of Lessee and on behalf of the City, at Lessee's expense; provided, however, that Lessee shall immediately notify City if a conflict between the interests of Lessee and City arises during the course of such representation. Lessee shall use counsel reasonably acceptable to the City Counselor of the City or his or her designee, after consultation with the Airport Director, in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this Agreement. It is specifically agreed, however, that the City, at its option and at its own expense, may participate in the legal defense of any claim defended by Lessee in accordance with this Section. Any final judgment rendered against the City for any cause for which Lessee is liable hereunder shall be conclusive against Lessee as to amount upon the expiration of the time for appeal therefrom. Nothing in this Article shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim of legal liability against the City. This Section shall not be construed as a waiver of the City's sovereign or other immunity.
- I. The City, at its own expense except as otherwise provided herein, shall be invited to attend and participate in all meetings (including those related to settlement) and to appear and participate in all judicial proceedings and to the extent of its interests, approve, in writing, the terms of any settlement related to any claim, action, proceeding or suit set forth in this Section.
- J. Notwithstanding the provisions of this Section, Lessee shall have no obligation to defend, indemnify, or hold harmless the City for any consequential damages or for any amounts to be paid in connection with losses, liabilities, penalties, damages of whatever nature, causes of action, suits, claims, demands, injunctive relief, judgments, awards and settlements because, and to the extent, of the negligence or willful misconduct of the City, but only if the City is conclusively determined to be more than 10% liable due to contributory negligence.
- K. This Section shall survive the expiration or early termination of this Agreement. Lessee understands and agrees that any insurance protection furnished by Lessee pursuant to Section 701 shall in no way limit Lessee's responsibility to indemnify and hold harmless the City under the provisions of this Agreement.

Section 705. City Not Liable. Unless otherwise expressly provided for in this Agreement, the City shall not in any event be liable to Lessee for:

- A. any acts or omissions of Lessee, its officers, directors, employees, agents, contractors, or suppliers, or for any conditions

- resulting from the operations or activities of Lessee's directors, officers, employees, agents, contractors, or suppliers;
- B. Lessee's failure to perform any of the obligations hereunder or for any delay in the performance thereof;
- C. any environmental condition in existence at the Airport, or any part thereof, which condition may interfere with Lessee's business or other operations or activities, or which might otherwise cause damages to Lessee through loss of business, destruction of property, or injury to Lessee, its officers, directors, employees, agents, contractors, suppliers, invitees, customers, or licensees except to the extent such conditions are caused by the City, its employees or agents; or
- D. bodily injury or any loss or damage to real or personal property or business income occasioned by flood, fire, smoke, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, vandalism, malicious mischief, or acts of war or terrorism, or for any injury, loss or damage not caused by the negligence, willful misconduct, or bad faith of the City.

ARTICLE VIII
MERGERS, ASSIGNMENT, AND SUBLETTING

Section 801. Mergers and Consolidations. If Lessee consolidates with or merges into another company or permits one or more other companies to consolidate with or merge into it, or transfers or conveys all or substantially all of its property, assets and licenses to another company, the business entity resulting from or surviving such merger (if other than Lessee) or consolidation or the company to which such transfer or conveyance is made shall (i) expressly assume in writing and agree to perform all of Lessee's obligations hereunder, (ii) be qualified to do business in the State of Missouri, and (iii) if such business entity is not organized and existing under the laws of the United States of America or any state or territory thereof or the District of Columbia, furnish to the City an irrevocable consent to service of process in, and to the jurisdiction of, the courts of the State of Missouri with respect to any action or suit, in law or at equity, brought by the City to enforce this Agreement. If Lessee is the surviving business entity in such a merger, the express assumption referred to in this Section shall not be required.

Section 802. Lessee Assignments. Lessee shall not assign, transfer, convey, sell, mortgage, pledge, or encumber (hereinafter collectively referred to as "Assignment") this Agreement other than in connection with a transaction referenced in Section 801 or sublet its Premises without the advance approval of the City, which is to be given by Notice to Lessee. No Assignment of this Agreement or sublet of the Premises shall be effective without advance approval of the City. If Lessee fails to obtain advance approval from the City of any such Assignment or sublet, the City, in addition to the rights and remedies set forth in Article XIII and by law, shall have the right, in its sole discretion, to hold Lessee responsible for continued performance of its obligations throughout the Term, or to immediately terminate this Agreement, and the assignee or sublessee shall acquire no interest herein or any rights to use the Premises.

Section 803. City Approval of Assignments. No Assignment of this Agreement other than in connection with a transaction referenced in Section 801 shall be effective without advance approval of the City, which may approve, condition or deny such Assignment in its sole discretion pursuant to Ordinance 63687.

Section 804. City Approval of Subleases. No sublease of Lessee's Premises shall be effective without approval by the City, which approval is to be given to Lessee by Notice, and shall take into consideration the best interest of the traveling public and the operations of the Airport. All subleases shall be subordinate to this Agreement. Without in any manner limiting the City's general right to approve, disapprove, or condition subleases, it shall not be unreasonable for the City to disapprove or condition a sublease of Lessee's Premises on any or all of the following circumstances, among others:

- A. The proposed sublease imposes excessive or otherwise unfair terms and conditions on the sublessee.
- B. A lessee which is not leasing space directly from the City, proposes to sublease, in whole or in part, the Premises, and the City determines that there is space in the Airline Service Building available for lease directly from the City by the proposed sublessee.
- C. The proposed sublease does not contain a provision which permits it to be terminated upon Notice from the City to the parties thereto of the availability of City-controlled space.
- D. The proposed sublease does not recognize explicitly that it is subordinate to this Agreement.

Section 805. Method of Obtaining Approval of Subleases. When requesting approval of a sublease under Sections 802 and 804, Lessee shall include with its request a copy of the proposed agreement, if prepared, or a detailed summary of the material terms and

conditions to be contained in such agreement. Any proposed agreement or detailed summary thereof shall provide information required by the City, including the following:

- A. the Premises to be sublet;
- B. the terms;
- C. if a sublease, the rents and fees to be charged; and
- D. any other material term and condition of the sublease.

If approved, Lessee shall submit a fully executed copy of such agreement to the City within 30 days after the commencement of the sublease.

Section 806. Charges to Sublessees. The City shall not approve any sublease that includes charges other than the following:

- A. a reasonable charge for any services, equipment, and property provided by Lessee;
- B. actual costs other than rental costs incurred by Lessee; and
- C. reasonable rents not to exceed 115% of Lessee's Rents and fees allocable to the subleased portion of the Premises.

Section 807. Airline to Remain Liable. Lessee shall remain fully and primarily liable throughout the Term for the payment of all of the Rents and fees due and payable to the City for the Premises that are subject to a sublease, and shall remain fully responsible for the performance of all the other obligations hereunder, unless otherwise agreed to by the City.

ARTICLE IX DEFAULT AND TERMINATION

Section 901. Events of Default. Each of the following constitutes an "Event of Default" under this Agreement:

- A. Lessee fails to punctually pay when due any Rents or any other sum required to be paid hereunder, and such failure continues for a period of 15 days after Notice of non-payment has been given to Lessee by the City.
- B. Lessee fails to keep, perform and observe any promise, covenant or other provision of this Agreement for a period of 30 days after Notice specifying such failure by the City; provided, however, that any such failure which can be cured, but which cannot with due diligence be cured within such 30 day period, shall not give rise to the City's right to terminate this Agreement if corrective action is instituted by Lessee within such 30 day period and diligently pursued until the failure is corrected.
- C. Any representation or warranty of a material fact made by Lessee herein or in any certificate or statement furnished to the City pursuant to or in connection herewith proves untrue in any material respect as of the date of issuance or making thereof, and such materiality is then continuing.
- D. Lessee discontinues its conduct of business at the Premises for a period of 30 consecutive days or, after exhausting or abandoning any further appeals, Lessee is prevented for a period of 30 consecutive days by action of any governmental agency other than the City from conducting its business at the Premises.
- E. Lessee fails to meet and maintain any of the Security Deposit requirements in accordance with Section 505.
- F. Lessee fails to maintain the minimum required insurance coverage as required by Section 701 for a period of 30 days after Notice specifying such failure by the City, provided that the City shall have the right to immediately suspend Lessee's right to operate at the Airport until Lessee has obtained the minimum required insurance coverage.
- G. Lessee fails to maintain true and accurate books, records, and accounts resulting in an underpayment of Rents to the City, and such underpayment continues for a period of six months.
- H. Lessee becomes insolvent (as such term is defined under Section 101 of the Federal Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), or any successor statute thereto); or fails to pay its debts generally as they mature; or takes

the benefit of any present or future federal or state insolvency statute; or makes a general assignment for the benefit of creditors.

- I. Lessee files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its indebtedness under the Bankruptcy Code or under any other law or statute of the United States or of any state thereof, or under any law or statute of another country; or consents to the appointment of a receiver, trustee, custodian, liquidator, or other similar official, of all or substantially all of its property; or an order for relief is entered by or against Lessee under any chapter of the Bankruptcy Code.
- J. Lessee is adjudged a debtor or bankrupt and/or an order is made approving a petition filed by any of Lessee's creditors or stockholders seeking Lessee's liquidation or reorganization under the Bankruptcy Code or under any other law or statute of the United States or any state thereof, and such order or decree is not stayed or vacated within 60 days of its issuance.
- K. A petition under any chapter of the Bankruptcy Code or an action under any federal or state insolvency law or statute, or an action under any insolvency law or statute of another country is filed against Lessee and is not dismissed or stayed within 60 days after the filing thereof.
- L. By or pursuant to, or under authority of any legislative act, resolution, or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, custodian, liquidator, or other similar official takes possession or control of all or substantially all of the property of Lessee and such possession or control continues in effect for a period of 60 days.
- M. Lessee becomes a business entity in dissolution.
- N. The letting, license, or other interest of or rights of Lessee hereunder is transferred to, passed to, or devolved upon, by operation of law or otherwise, any other person, firm, corporation, or other entity, by, in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation, or other proceedings or occurrence described in subparagraphs (H) through (M) of this Section.
- O. Lessee enters into an Assignment or sublease which is not approved by the City in accordance with the provisions of Article VIII, and, if a sublease, it is not terminated within 10 days after Notice from the City.

Section 902. Termination by the City.

- A. Whenever an Event of Default has occurred, the City may at its option, immediately and without further notification of such Event of Default:
 - 1. Terminate this Agreement and/or Lessee's rights granted hereby, but without discharging any of Lessee's obligations hereunder and, at the City's further option, exclude Lessee from its Premises. If Lessee uses, occupies, or fails to surrender or remove its property from its Premises, or any portion thereof, without the consent of the City after this Agreement has been terminated or expires, Lessee may be deemed a tenant at sufferance during the period of such use or failure and, in such event, Lessee shall pay Rents established by the City during such period. In such event, the City shall have, in addition to whatever other rights are available to the City, the right to all remedies provided under applicable laws, and reasonable costs, disbursements, and attorney fees including consequential damages incurred as a result of the holdover.
 - 2. Without terminating this Agreement, exclude Lessee from its Premises and use its best efforts to lease such Premises to a replacement lessee. Lessee shall remain liable for all Rents and other payments due hereunder for the remainder of the term of this Agreement; provided, however, that any rents received from a replacement Lessee shall be credited against the amounts owed by Lessee.
- B. In the event of an Event of Default, the City may exercise any and all of the rights provided to it in this Section irrespective of any subsequent cure by Lessee, unless otherwise mutually agreed by Lessee and the City.
- C. In accordance with the provisions of 14 C.F.R. Part 158, App. A(B)(7), as it may be amended from time to time, if Lessee is an air carrier or foreign air carrier as defined by Federal law, and if any of Lessee's Premises is financed in whole or in part with PFC revenue, and if Lessee has an exclusive lease or use agreement for facilities at the Airport ("Exclusive Facilities"), and if any portion of such Exclusive Facilities is not fully utilized and is not made available for use by potentially competing companies, this Agreement may be terminated by the City.

- D. The remedies set forth in this Article shall be in addition to all other remedies which are or may be available to the City at law or in equity to enforce the performance and observance of any obligation, agreement or covenant of Lessee hereunder, including collection of amounts due.
- E. All rights and remedies given to the City herein and all rights and remedies granted to the City by law shall be cumulative and concurrent. No termination of this Agreement or the taking or recovering of the Premises shall deprive the City of any of the City's remedies or actions against Lessee for Rents or for damages or for the breach of any covenant herein contained, nor shall the bringing of any action for Rents or breach of covenant, the resort to any other remedy herein provided for the recovery of Rents or any delay in exercising such rights, be construed as a waiver of the right to obtain possession of the Premises.
- F. In no event shall this Agreement or any rights or privileges hereunder be an asset of Lessee under any bankruptcy, insolvency, or reorganization proceedings.

Section 903. Change of Term.

Notwithstanding the provisions of Section 301, automatically and immediately upon the occurrence of an Event of Default described in Subsections 901 (F) - (K), the term of this Agreement shall convert to month-to-month; provided, however, that the conversion of the term of this Agreement pursuant to this Section shall not discharge any of Lessee's obligations hereunder nor affect any of the City's remedies set forth herein.

Section 904. Termination by Lessee.

At any time that Lessee is neither in default nor has committed an Event of Default hereunder, Lessee may terminate this Agreement to the extent set forth below, at Lessee's option, prior to the scheduled expiration date set forth in Section 301, by giving the City 30 days' advance Notice upon or after the happening and during the continuance of any of the following events:

- A. Any action of the FAA or any federal, state, county, or municipal governmental agency refusing to permit Lessee to operate into, from, or through the Premises as Lessee has previously operated regularly thereon, and the remaining in force of such refusal for a period of at least 60 days;
- B. Any failure by the City to keep, perform and observe any material promise, covenant, or other provision of this Agreement for a period of 30 days after Notice specifying such failure and requesting that it be remedied is given to the City by Lessee; provided, however, that any such failure which can be cured, but which cannot with due diligence be cured within such 30 day period, shall not give rise to Lessee's right to terminate this Agreement if corrective action is instituted by the City within such 30 day period and diligently pursued until the failure is corrected; or
- C. Lessee is prevented from conducting its business at the Premises for a period in excess of 90 consecutive days for any reason other than causes directly controlled by Lessee.

ARTICLE X
SURRENDER OF PREMISES

Section 1001. Surrender of Premises.

- A. Surrender of Premises. On expiration of the term of this Agreement or earlier termination as hereinafter provided, or on reassignment or reallocation of the Premises as provided herein, Lessee shall:
1. peaceably surrender possession of the Premises and other space made available to Lessee hereunder in a clean, sanitary, and good condition, excepting only reasonable wear and tear (taking into account repair and maintenance required to be done by Lessee), acts of God, fire, and other casualties, and conditions that can be conclusively shown by Lessee existed prior to Lessee's occupancy or use of said Premises under this Agreement or any subsequent agreement with the City, and the City shall have the right to take possession of said Premises and other space made available to Lessee hereunder; and
 2. return the Premises to the City in a condition such that Hazardous Materials which were placed, stored, used, generated, treated, released, discharged, disposed, and/or spilled on, under, or about the Premises by Lessee, its officers, directors, employees, agents, contractors, or suppliers do not exceed allowable levels established under applicable Environmental Laws and Environmental Permits in accordance with Subsection 406(C). If the City

is required under applicable Environmental Laws to undertake actions to bring the Premises into compliance with this provision, or any applicable Environmental Laws or Environmental Permits as a result of Lessee's failure to timely correct same in accordance with Subsection 406(C), Lessee shall reimburse the City for any Remediation Costs incurred by the City, as provided for in Subsection 406(E).

The City shall not be required to notify Lessee to quit possession at the expiration date of the term of this Agreement.

- B. Removal of Personal Property. Provided Lessee is not in default for non-payment of Rents or any other payment due hereunder, Lessee shall have the right, on expiration or early termination of this Agreement and within 30 days thereafter, to remove or dispose of all trade fixtures and equipment and other personal property installed or placed by Lessee, in, on, or about the Airport. Lessee shall not be entitled to remove non-trade fixtures without the advance consent of the City. If, following the expiration or early termination of this Agreement, the City has immediate need to accommodate a new tenant, the City may remove and store Lessee's trade fixtures, equipment and personal property, at Lessee's risk.
- C. Removal Damages. Lessee shall repair any damage caused by the removal of its trade fixtures, equipment, or personal property. Removal shall be at Lessee's expense. Notwithstanding the above, consideration shall be given to the intended long-term use of the premises and if the City determines that such premises would not be maintained for a period warranting the repairs indicated above, the City may alter or waive the repair requirement of this Subsection. If the Premises are yielded or delivered to the City in need of repair, reconditioning, or restoration to the condition that existed when Lessee first used the Premises pursuant to this Agreement or any preceding agreement (reasonable wear and tear taking into account repair and maintenance required to be done by Lessee excepted), after reasonable notification by the City to Lessee, the City shall repair or recondition said Premises and the cost thereof, plus actual administrative costs, shall be invoiced to Lessee and payable immediately. The City shall determine the condition of the Premises at the expiration or early termination of this Agreement.
- D. Ownership of Fixtures and Personal Property Not Removed. If, after 30 days following any of the actions or remedies authorized by Subsection 902(A) or the expiration of this Agreement, Lessee fails to remove its fixtures and other personal property from the Premises, such fixtures and personal property may be deemed abandoned. In addition to whatever other rights are available to the City, with prior notification of Lessee, the City may: (i) remove, sell, or store Lessee property at Lessee's expense, or (ii) take title to Lessee property in lieu of removal on behalf of Lessee. If the City takes title to such property or otherwise disposes of the property, the City shall be entitled to all proceeds of sale of such Lessee property as liquidated damages for the breach of this covenant to remove.

ARTICLE XI MISCELLANEOUS PROVISIONS

Section 1101. Relationship of Parties. Nothing herein contained is intended or shall be construed to create or establish any relationship other than that of lessor and lessee, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Lessee the general representative or agent of the City for any purpose whatsoever.

Section 1102. Amendment. Except as otherwise expressly provided herein, this Agreement may not be changed, modified, discharged, or extended except by written amendment duly executed by the parties.

Section 1103. Subordination to Agreements with the United States.

- A. This Agreement shall be subordinated to the provisions of any existing or future agreement between the City and the United States Government or governmental authority, relating to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds or the approval to impose or use PFCs for the improvement or development of the Airport. Lessee shall not cause the City to violate any assurances made by the City to the United States Government in connection with the granting of such federal funds or the approval of such PFCs.
- B. All provisions of this Agreement shall be subordinate to the rights of the United States of America to operate all of the Airport or any part thereof during time of war or national emergency. Such rights shall supersede any provisions of this Agreement inconsistent with the operation of the Airport by the United States of America.

Section 1104. Subordination to Trust Indenture.

- A. This Agreement and all rights granted to Airline hereunder are expressly subordinated and subject to the lien and provisions

of the pledges, covenants (including rate covenants), transfers, hypothecation, or assignments made by the City in the Trust Indenture and any bond ordinance (including related documents authorized or approved by such ordinance) enacted by the City regarding the issuance of bonds. The City expressly reserves the right to make such pledges and grant such liens and enter into covenants as it may deem necessary or desirable to secure and provide for the payment of bonds, including the creation of reserves therefor.

- B. Lessee understands that the City is and will be the issuer of bonds. With respect to outstanding bonds that may be issued in the future, the interest on which is intended to be excludable from gross income of the holders of such bonds for federal income tax purposes under federal law, Lessee shall not act, or fail to act (and will immediately cease and desist from any action, or failure to act) with respect to the use of the Premises, if the act or failure to act may cause the City to fail to be in compliance with the provisions of federal law with respect to those types of bonds, as it now exists or may be amended, supplemented, or replaced, or the regulations or rulings issued thereunder, nor will Lessee take, or persist in, any action or omission that may cause the interest on the tax-exempt bonds either (i) not to be excludable from the gross income of the holders thereof for federal income tax purposes; or (ii) to become subject to the alternative minimum tax for federal income tax purposes.

Section 1105. Certificate in Connection with Issuance of Bonds. In connection with any issuance of bonds by the City, upon not less than 30 days prior request by the City, Lessee shall deliver to the City a statement in writing certifying:

- A. that this Agreement is unmodified and in full force and effect (or if there have been modifications, a description of such modifications and that the Agreement as modified is in full force and effect);
- B. that to Lessee's knowledge the City is not in default under any provision of this Agreement, or, if in default, the nature thereof in detail; and
- C. such further matters as may be reasonably requested by the City, it being intended that any such statement may be relied upon by the parties involved in such issuance of Bonds.

Section 1106. No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein expressed or implied shall give or be construed to give to any person or entity other than the parties hereto and their assigns any legal or equitable rights hereunder.

Section 1107. Counterparts. This Agreement may be executed in one or more counterparts.

Section 1108. Exhibits. All certificates, documents, exhibits, attachments, riders, and addenda referred to herein, including the exhibits referred hereto, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

Section 1109. Survival of Warranties. All warranties and covenants set forth in this Agreement shall survive the execution and performance of this Agreement.

Section 1110. Quiet Enjoyment. Upon payment of all amounts due hereunder and performance of the covenants and agreements on the part of Lessee to be performed hereunder, the City shall not act or fail to act, except as otherwise provided by this Agreement, in a manner that will prevent Lessee from peaceably having and, in accordance with the terms hereof, enjoying the Premises and all rights, licenses, services, and privileges of the Airport and its appurtenances and facilities granted herein.

Section 1111. No Personal Liability.

- A. The City shall not be liable for any acts or omissions of any Lessee or any condition resulting from the operations or activities of tenants or their representatives.
- B. No director, officer, employee, or agent of the City or Lessee shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach hereof or because of its or their execution of this Agreement. Any administrative complaint brought against the City relating to any aspect of this Agreement shall be brought against the City and not against named individual respondents.

Section 1112. Governing Law and Forum Selection. This Agreement is made and entered into in the State of Missouri, and Missouri law shall govern and apply to this Agreement. Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Agreement shall be brought only in a federal or state court in the City of St. Louis, Missouri. Lessee and the City

hereby admit and consent to the jurisdiction and venue of such courts. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 1113. Communications and Notices.

- A. Except as otherwise expressly provided in this Agreement, all communications, including notifications, requests, authorizations, approvals, demands, and consents provided for hereunder shall be in writing.

If to the City, to: Airport Director
Lambert-St. Louis International Airport
10701 Lambert International Boulevard
St. Louis, Missouri 63145

If to Lessee, to: Delta Airlines, Inc.
Regional Director, Airport and Corporate Affairs
P.O. Box 20706
1030 Delta Blvd., Dept. #887
Atlanta, GA 30320-6001

or to such other person or address as either the City or Lessee may hereafter designate by Notice to the other in accordance with Subsection 1113(B).

- B. All Notices required by this Agreement shall be mailed via certified mail return-receipt requested, via overnight mail with receipt, or personally delivered to the City and Lessee at the addresses set forth in Subsection 1113(A), with copy to:

If to the City: Office of the City Counselor
Airport Legal Department
10701 Lambert International Boulevard
St. Louis, Missouri 63145

If to Lessee, to: Delta Airlines, Inc.
Regional Director, Airport and Corporate Affairs
P.O. Box 20706
1030 Delta Blvd., Dept. #887
Atlanta, GA 30320-6001

or to such other person or address as either the City or Lessee may hereafter designate by Notice.

Except as otherwise expressly provided hereunder, any such Notice shall be deemed to have been given or made: (i) if sent by certified mail, 5 days after being deposited in the mails, postage prepaid and properly addressed; (ii) if via overnight mail, the next business day; and (iii) if delivered by personal service, when delivered to the addressee.

Section 1114. Force Majeure.

- A. Neither party hereto shall be liable to the other for any failure, delay, or interruption in performing its obligations hereunder due to acts, events or conditions beyond its control, including acts of God, weather conditions, shortages of energy or materials, embargoes, riots, rebellions, sabotage, acts of a public enemy, war, terrorism, insurrection, strikes, boycotts, picketing, slow-downs, work stoppages or other labor actions affecting the rights or obligations of the City or Lessee hereunder, their respective contractors or subcontractors, except to the extent that such failure, delay or interruption directly or indirectly results from failure on the part of the City or Lessee to use reasonable care to prevent, or make reasonable efforts to cure, such failure, delay or interruption; provided, however, that, except as herein specifically provided, nothing in this Section is intended or shall be construed to abate, postpone or in any respect diminish Lessee's obligations to make any payments due to the City pursuant to this Agreement.
- B. The City shall be under no obligation to supply any service if and to the extent and during any period that the supplying of any such service or the use of any component necessary therefor shall be prohibited or rationed by any law, ordinance, rule, regulation, requirement, order or directive of any federal, state, county or municipal government having jurisdiction.

Section 1115. Invalid Provisions. If any covenant, condition, or provision in this Agreement is held to be invalid, illegal, or

unenforceable by any court of competent jurisdiction, or conclusively determined to be inconsistent with federal law or FAA grant assurances, such covenant, condition, or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City or Lessee in its respective rights and obligations contained in the valid covenants, conditions, or provisions of this Agreement.

Section 1116. No Waiver. No provision of this Agreement shall be deemed to have been waived by either party unless such waiver is in writing, signed by the party making the waiver and addressed to the other party, nor shall any custom or practice that may evolve between the parties in the administration of the terms of this Agreement be construed to waive or lessen the right of either party to insist upon the performance of the other party in strict accordance with the terms of this Agreement.

Section 1117. City's Rights and Remedies are Cumulative. All rights and remedies of the City as provided herein and under law are cumulative in nature.

Section 1118. Construction of Agreement. The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein.

Section 1119. Timing. The parties expressly agree that time is of the essence in this Agreement. Failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the other party, without liability, of any obligation to accept such performance.

Section 1120. Representatives. The City and Lessee shall each designate a representative who, except as otherwise provided hereunder, shall be authorized to act for the City and Lessee, respectively, with respect to any actions to be taken by either of them under the terms of this Agreement. Except as specifically set forth herein, for the purposes of actions to be taken by it or by the City, the City's representative shall be the Airport Director. Lessee's representative shall be designated in a Notice delivered to the City. Any party hereto may change its designated representative by Notice to the other party.

Section 1121. Approvals.

- A. Whenever in this Agreement any approval is required, such decision shall be promptly rendered and shall not be unreasonably withheld or conditioned. No disapproval shall be valid if such disapproval constitutes an anticompetitive act as described by a federal agency having jurisdiction over such matters.
- B. Unless otherwise required by state or local law, wherever in this Agreement the approval, authorization, consent, certification, determination, waiver, or any other action of the City is required, it may be performed by the Airport Director, unless otherwise provided herein. In taking such actions, the Airport Director shall act reasonably, and take into consideration the best interest of the traveling public and the operations of the Airport.
- C. In all instances in this Agreement where consent or approval of one party is required for an action by the other party, such consent shall be in writing unless otherwise agreed by the parties.

Section 1122. Successors and Assigns. The terms, conditions, and covenants of this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and upon their permitted successors, assigns and sublessees, if any. This provision shall not constitute a waiver of any conditions regarding assignment or subletting contained in this Agreement.

Section 1123. Authority to Execute. The person(s) executing this Agreement on behalf of Lessee warrants to the City that Lessee is a duly authorized and existing corporation, that Lessee is qualified to do business in the State of Missouri, that Lessee has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Lessee is authorized to do so.

Section 1124. Other Agreements. The City acknowledges that Lessee may have entered into other agreements with the City with respect to Lessee's operations at the Airport, which agreements may grant certain additional rights to, and impose certain additional obligations upon, Lessee in addition to those rights and obligations set forth herein. Nothing in this Agreement shall serve to restrict any such additional rights or obligations.

Section 1125. Entire Agreement. This Agreement, including the attached exhibits, embodies the entire agreement between the City and Lessee relating to the subject matter hereof, and supersedes all prior agreements and understandings, written or oral, express or implied, between the City and Lessee relating thereto.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Authorized by City Ordinance _____, approved _____, 2011.

The foregoing Agreement was approved by the Airport Commission at its meeting on the ____ day of _____, 2011.

THE CITY OF ST. LOUIS BY:

Commission Chairman and Director of Airports Date

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

City Counselor Date
City of St. Louis

Comptroller, Date
City of St. Louis

ATTESTED TO BY:

Register, Date
City of St. Louis

The Board of Estimate and Apportionment approved the foregoing Agreement in substance at its meeting on the ____ day of _____, 2011.

Secretary, Date
Board of Estimate & Apportionment

DELTA AIRLINES, inc.

BY: _____

Title: _____

Date: _____

Approved: June 8, 2011

**ORDINANCE #68903
Board Bill No. 73**

An ordinance recommended and approved by the Airport Commission and the Board of Estimate and Apportionment, making certain findings with respect to the transfer of Six Million Dollars (\$6,000,000) of excess moneys that The City of St. Louis (the "City"), the owner and operator of Lambert-St. Louis International Airport® (the "Airport"), intends to transfer from the "Airport Development Fund" (established under Ordinance 59286, Section 13, approved October 26, 1984) into the "Airport Contingency Fund" (established under Ordinance 59286 approved October 26, 1984, Exhibit A, Article V, Sections 502 and 510) in accordance with Section 509.F of the Lambert-St. Louis International Airport® Amended and Restated Indenture of Trust between the City, as Grantor, and UMB Bank, N.A., as Trustee, dated as of October 15, 1984, as amended and restated as of July 1, 2009; authorizing transfers in the total amount of Six Million Dollars (\$6,000,000) from the Airport Development Fund into the Airport Contingency Fund; further authorizing transfers of funds in the total amount not to exceed Six Million Dollars (\$6,000,000) from the Airport Contingency Fund to the Airport Revenue Fund (established under Ordinance 59286, approved October 26, 1984) as are required for the purposes of making funds available for the estimated costs of the Air Service Incentive Program for the Airport adopted by Ordinance 68478, approved November 6, 2009 and the Amended & Restated Air Service Incentive Program for Fiscal Years 2010 through 2014; containing a severability clause; and containing an emergency clause.

WHEREAS, The City of St. Louis, Missouri (the ‘City’) owns an airport known as the Lambert St. Louis International Airport (the ‘Airport’) which is operated by the Airport Authority of the City;

WHEREAS, pursuant to Section 509.F of the Lambert-St. Louis International Airport® Amended and Restated Indenture of Trust between UMB Bank, N.A., Trustee, dated as of October 15, 1984, as amended and restated as of July 1, 2009 (the ‘Restated Indenture’), the City may, but if and only to the extent consistent with the ‘Capital Budget’ provided for in Section 816 of the Restated Indenture, transfer from the ‘Airport Development Fund’ (established under Ordinance 59286, Section 13, approved October 26, 1984) into the ‘Airport Contingency Fund’ (established under Ordinance 59286 approved October 26, 1984, Exhibit A, Article V, Sections 502 and 510) any moneys in the Airport Development Fund which are no longer needed for the purposes of moneys on deposit in the Airport Development Fund;

WHEREAS, the City, acting in the best interest of the City, the Airport and the traveling public, anticipates that up to Six Million Dollars (\$6,000,000) may be required for the purposes of making funds available for the estimated costs of the Air Service Incentive Program for the Airport authorized by Ordinance 68478, approved November 6, 2009 and the Amended and Restated Air Service Incentive Program for Fiscal Years 2010 through 2014;

WHEREAS, there is a balance in excess of Six Million Dollars (\$6,000,000) available for transfer from the Airport Development Fund into the Airport Contingency Fund;

WHEREAS, it is now in the best interest of the City, the operation of the Airport, and the traveling public to authorize the transfer of funds from the Airport Development Fund into the Airport Contingency Fund in the total amount of Six Million Dollars (\$6,000,000); and

WHEREAS, this Ordinance authorizing the transfer of Six Million Dollars (\$6,000,000) from the City’s Airport Development Fund into the Airport Contingency Fund and then the transfer of Six Million Dollars (\$6,000,000) from the Airport Contingency Fund into the Airport Revenue Fund (established under Ordinance 59286, Section 13, approved October 26, 1984) are recommended by the City’s Airport Commission and the City’s Board of Estimate and Apportionment.

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

SECTION ONE. The Board of Aldermen for The City of St. Louis hereby adopts and incorporates herein the foregoing recitals as findings and further finds that the Six Million Dollars (\$6,000,000) of excess moneys or funds that the City intends to transfer from the Airport Development Fund into the Airport Contingency Fund is no longer needed for the purposes of moneys on deposit in the Airport Development Fund and that said transfer is consistent with the Airport Capital Budget in accordance with Section 509.F of the Lambert-St. Louis International Airport® Amended and Restated Indenture of Trust between the City, as Grantor, and UMB Bank, N.A., as Trustee, dated as of October 15, 1984, as amended and restated as of July 1, 2009.

SECTION TWO. There is hereby authorized a transfer of funds in the total amount of Six Million Dollars (\$6,000,000) from the Airport Development Fund into the Airport Contingency Fund.

SECTION THREE. There is hereby further authorized transfers as are required of sufficient funds or moneys on deposit in the Airport Contingency Fund in the total amount not to exceed Six Million Dollars (\$6,000,000) from the Airport Contingency Fund to the Airport Revenue Fund for the purposes of making funds available for the Air Service Incentive Program for the Airport, adopted by Ordinance 68478, approved November 6, 2009 and the Amended and Restated Air Service Incentive Program for Fiscal Years 2010 through 2014 adopted by the Board of Aldermen.

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

SECTION FIVE. This being an ordinance making an appropriation and providing for payment of current expenses, it is hereby declared to be an emergency measure as defined in Article IV, Section 20 of the Charter of the City and shall become effective immediately upon its approval by the Mayor of the City.

Approved: June 8, 2011

ORDINANCE #68904
Board Bill No. 74

An Ordinance recommended and approved by the Airport Commission and the Board of Estimate and Apportionment that provides for financial incentives for air service at Lambert St. Louis International Airport® (the “Airport”); determines and finds that it is in the best of interests of The City of St. Louis, Missouri (the “City”), the Airport and others to encourage service at the Airport by new passenger and/or cargo airlines and to stimulate service by airlines currently using the Airport by the adoption of programs providing for financial incentives for new airlines and new air service at the Airport; repeals the Air Service Incentive Program for the Airport for Fiscal Years 2010 through 2012 previously authorized by Ordinance 68478, approved November 6, 2009; adopts an Amended and Restated Air Service Incentive Program for Fiscal Years 2010 through 2014; containing a severability clause; and containing an emergency clause.

WHEREAS, The City of St. Louis, Missouri (the “City”) owns an airport known as the Lambert-St. Louis International Airport® (the “Airport”) which is operated by the Airport Authority of the City;

WHEREAS, it is in the best interests of the City, the Airport, the traveling public using the Airport and the residents of the St. Louis metropolitan area to encourage new passenger and/or cargo airlines to provide air service at the Airport, and to stimulate passenger and/or cargo air service to domestic and international destinations by the airlines currently using the Airport;

WHEREAS, the City desires to broaden passenger and/or cargo activity at the Airport; attract new/additional passenger and/or cargo air service to the St. Louis market; increase the number of non-stop destinations served from the Airport; increase the number of passengers traveling through the Airport; increase the amount of cargo processed at the Airport; increase non-airline revenues generated at the Airport; and, over time, reduce the airlines’ unit cost to operate at the Airport by the adoption of a program of financial incentives for new airlines and new air service; and

WHEREAS, in order to accomplish the foregoing the City ratified and adopted the Air Service Incentive Program for Fiscal Years 2010 through 2012 authorized by Ordinance 68478, approved November 6, 2009 (the “Program”);

WHEREAS, the Federal Aviation Administration recently issued its Air Carrier Incentive Program Guidebook (the “FAA Incentive Program Guidelines”) indicating that airport sponsors may not require an air carrier to be a signatory airline as a prerequisite for the receipt of incentives;

WHEREAS, the City desires to comply with the FAA Incentive Program Guidelines and to otherwise further enhance the effectiveness of the Program;

WHEREAS, in order to accomplish the foregoing, the City intends to ratify and adopt the Amended and Restated Air Service Incentive Program attached hereto as ATTACHMENT A, for air service at the Airport commencing in Fiscal Year 2010 and shall remain in effect through Fiscal Year 2014.

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

SECTION ONE. The Board of Aldermen of The City of St. Louis, Missouri (the “City”) hereby determines and finds that it is in the best interests of the City, Lambert St. Louis International Airport® (the “Airport”), the traveling public using the Airport, and the residents of the St. Louis metropolitan area to encourage new passenger and/or cargo airlines to provide air service at the Airport, and to stimulate passenger and/or cargo air service to domestic and international destinations by airlines currently using the Airport by the adoption of a program of financial incentives for new airlines and new air service.

SECTION TWO. The City hereby repeals the Air Service Incentive Program for the Airport for Fiscal Years 2010 through 2012, previously authorized by Ordinance 68478, approval November 6, 2009 (the “Program”); adopts an Amended and Restated Air Service Incentive Program (the “Amended Program”) as set out in ATTACHMENT A, which was approved and previously adopted by the City’s Airport Commission and the City’s Board of Estimate and Apportionment; and grants the Director of Airports the authority to waive certain Airport fees and charges associated with qualifying flights operated by eligible airlines, as provided for in the Amended Program.

SECTION THREE. The Director of Airports is authorized and directed to implement the terms of the Program and the Amended Program, including, without limitation: securing appropriations necessary to fund the Program and the Amended Program; accepting applications from airlines interested in participating in an incentive program; determining airline eligibility and flight qualifications; approving or rejecting applications based on the standards set forth in the Program and the Amended Program; monitoring compliance with the terms and conditions for participation, and, if necessary, terminating an airline’s eligibility for

participation; and any and all other actions necessary to implement and administer the Program and the Amended Program.

SECTION FOUR. The sections, conditions, or provisions of this Ordinance or portions thereof shall be severable. If any section, condition, or provision of this Ordinance or portion thereof contained herein is held invalid by a court of competent jurisdiction, such holding shall not invalidate the remaining sections, conditions, or provisions or portion thereof of this Ordinance unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

SECTION FIVE. This being an ordinance for the preservation of public peace, health, or safety, it is hereby declared to be an emergency measure as defined in Article IV, Section 20 of the City Charter and shall become effective immediately upon its approval by the Mayor of the City.

ATTACHMENT A

AMENDED AND RESTATED AIR SERVICE INCENTIVE PROGRAM FOR FISCAL YEARS 2010 THROUGH 2014

**City of St. Louis
Lambert-St. Louis International Airport®**

ATTACHMENT A

AMENDED AND RESTATED AIR SERVICE INCENTIVE PROGRAM

The City of St. Louis, Missouri, is adopting this Passenger Air Service Incentive Program (individually, "Program I," "Program II," "Program III," "Program IV," "Program V," "Program VI" and "Program VII," collectively the "Incentive Program") to stimulate passenger and cargo air service at the Airport.

SECTION 101: GENERAL

A. Overall Goals

The goals of the Incentive Program are to:

1. broaden passenger and/or cargo airline activity at the Airport;
2. attract new/additional passenger and/or cargo air service to the St. Louis market;
3. increase the number of non-stop destinations served from St. Louis;
4. increase the number of passengers traveling through the Airport;
5. increase the amount of cargo processed at the Airport;
6. increase non-airline (concessions, parking, etc.) revenues to the Airport; and
7. over time, reduce the airlines' unit cost to operate at the Airport.

B. Term

The Incentive Program shall become effective for air service at the Airport commencing in Fiscal Year 2010 and shall remain in effect through Fiscal Year 2014.

C. Funding

Subject to the availability of funds and appropriations by the City, the Incentive Program shall be funded solely from the Airport's Contingency Fund. Financial benefits conferred through the Incentive Program shall not exceed \$1,700,000.00 during Fiscal Year 2010, \$5,700,000.00 during Fiscal Year 2011; \$2,000,000.00 during Fiscal Year 2012; \$2,000,000.00 during Fiscal Year 2013 and \$2,000,000.00 during Fiscal Year 2014; provided, however, that any appropriated amounts in excess of actual financial benefits conferred in each Fiscal Year shall be carried over to the immediately-following Fiscal Year to be used in accordance with the Incentive Program to include Fiscal Year 2015 for those Eligible Airlines with Qualifying Flight activity that extends beyond the

end of Fiscal Year 2014. If necessary, the available annual funding shall be prorated among the Incentive Programs' participants.

Waivers of Landing Fees and Terminal Building Rents offered by the City under this Incentive Program shall not have the effect of increasing the rentals, fees, or charges imposed on other aeronautical users of the Airport, including other airlines.

D. Compliance with Federal Obligations

The terms and implementation of this Incentive Program shall be, at all times, subordinated to applicable state and federal laws and regulations, and the provisions of any existing or future agreement between the City and the United States Government or governmental authority, relating to the operation or maintenance of the Airport. The Incentive Program may be terminated, in whole or in part, if it is determined to violate applicable laws, regulations, or any assurance made by the City to the United States Government in connection with the receipt of federal grants-in-aid or the approval of Passenger Facility Charges.

E. Incentive Program Definitions

The words and phrases defined below have the following meaning when used elsewhere in this Incentive Program:

Airline Operating Agreement and Terminal Building Space Permit: means that agreement with the City providing for the use of the Airport by an airline that is not a party to an Airport Use and Lease Agreement, as it may be amended from time to time or a successor agreement.

Airport Use and Lease Agreement: means the agreement first adopted by Ordinance No. 66926, approved on December 14, 2005, as it may be amended from time to time or a successor agreement.

Airport: means the Lambert-St. Louis International Airport, together with any additions, improvements, or enlargements made from time to time.

Airport Director: means the Airport Director of the City or the person performing the functions of that office, as authorized by the City's Mayor, or that person authorized by the Airport Director to act for or on behalf of the Airport Director with respect to any particular matter.

City: means The City of St. Louis, Missouri.

Direct Flight: means a flight served on a one-stop, same aircraft basis.

Essential Air Service (EAS): means flights to the Airport from rural areas pursuant to the Essential Air Service Program administered by the U.S. Department of Transportation.

Fiscal Year: means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as the City may establish by ordinance.

Landing Fees: means the fees payable in accordance with Section 503 of the Airport Use and Lease Agreement, or similar fees in other agreements for the use of the Airport, as may be applicable.

Seasonal Flight: means a flight that operates from the Airport less than 12 consecutive months.

Terminal Building Rents: means the charges payable in accordance with Sections 502 and 504 of the Airport Use and Lease Agreement, or similar charges in other agreements for the use of the Airport, as may be applicable.

Transoceanic Destinations: means a destination outside of North/Central America and the Caribbean.

SECTION 102: PROGRAM I – NEW ENTRANT AIRLINES (PASSENGER)

A. Program I Goals

1. Attract new passenger airlines to, and increase competition among passenger airlines in, the St. Louis air service market.
2. Help mitigate the financial impact to new entrant passenger airlines when beginning passenger air service at the

Airport.

3. Compete with other airports seeking to attract new entrant passenger airlines.

B. Program I Definitions

Eligible Airline: an airline that has not provided passenger air service at the Airport in the previous 12 months, and that begins new scheduled passenger air service at the Airport and commits to maintain such service for a period of 24 consecutive months, is eligible to participate in Program I, *except*:

1. An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger service begins; or
2. An airline that consolidates with, or merges into, another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger service begins.

To become an Eligible Airline, an airline must have entered into or commit to enter into, and be in compliance with, all of the terms of an Airport Use and Lease Agreement or an Airline Operating Agreement and Terminal Building Space Permit.

Qualifying Flight: a regularly scheduled passenger non-stop roundtrip flight at the Airport (designated by a particular flight number or numbers) that is first operated by an Eligible Airline during that airline's initial 30 days of operations at the Airport qualifies for the purposes of Program I.

C. Program I Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program I, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees incurred by that airline's Qualifying Flights beginning on the date in which each Qualifying Flight is first operated, and continuing for a period of up to 12 consecutive months thereafter for each such Qualifying Flight; and
2. Terminal Building Rents associated with the space initially leased or assigned to an Eligible Airline and associated with the Qualifying Flight(s) for up to the first 12 consecutive months of operations by that airline at the Airport.

SECTION 103: PROGRAM II – NEW AIRPORT-WIDE NON-STOP DESTINATIONS (PASSENGER)

A. Program II Goals

1. Stimulate the introduction of passenger air service to new Airport-wide non-stop destinations from the Airport.
2. Ease the economic risk associated with beginning passenger air service to new Airport-wide non-stop destinations.
3. Help mitigate the financial impact of starting new passenger air service to a new Airport-wide non-stop destination from the Airport.

B. Program II Definitions

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 24 consecutive months is eligible to participate in Program II, *except*:

An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is providing non-stop roundtrip flights between the Airport and such other airport on, or discontinued such service within the 12 months prior to, the date on which the Qualifying Flights begin.

To become an Eligible Airline, an airline must have entered into, and be in compliance with, all the terms of an Airport Use and Lease Agreement or an Airline Operating Agreement and Terminal Building Space Permit.

An airline participating in Program I that is also an Eligible Airline under Program II may request to participate in Program II for any Qualifying Flight for which the airline is not receiving an incentive under Program I.

Qualifying Flight: a new regularly scheduled passenger non-stop roundtrip flight (designated by a particular number or numbers) between the Airport and an airport that:

1. is not being served by any other airline; and
2. has not been served from the Airport by the Eligible Airline during the previous 12 months.

C. Program II Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program II, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees associated with that airline's Qualifying Flights and incurred up to the first 12 consecutive months of operations of that service.
2. Incremental Terminal Building Rents, if any, associated with that airline's Qualifying Flights and incurred up to the first 12 consecutive months of operations of that service.

SECTION 104: PROGRAM III – NEW AIRLINE-SPECIFIC NON-STOP DESTINATIONS (PASSENGER)

A. Program III Goals

1. Stimulate the introduction of passenger air service to new airline-specific non-stop destinations from the Airport.
2. Ease the economic risk associated with beginning passenger air service to new airline-specific non-stop destinations.
3. Help mitigate the financial impact of starting new passenger air service to a new airline-specific non-stop destination from the Airport.

B. Program III Definitions

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 24 consecutive months is eligible to participate in Program III, *except*:

An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is providing non-stop roundtrip flights between the Airport and such other airport on, or discontinued such service within the 12 months prior to, the date on which the Qualifying Flights begin.

To become an Eligible Airline, an airline must have entered into, and be in compliance with, all the terms of an Airport Use and Lease Agreement or an Airline Operating Agreement and Terminal Building Space Permit.

An airline participating in Program I that is also an Eligible Airline under Program III may request to participate in Program III for any Qualifying Flight for which the airline is not receiving an incentive under Program I.

Qualifying Flight: a new regularly scheduled passenger non-stop roundtrip flight (designated by a particular flight number or numbers) between the Airport and an airport that has not been served from the Airport by the airline operating such new service during the previous 12 months qualifies for the purposes of Program III.

C. Program III Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program III, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees associated with that airline's Qualifying Flights and incurred up to the first 9 consecutive months of operations of that service.
2. Incremental Terminal Building Rents, if any, associated with that airline's Qualifying Flights and incurred up to the first 9 consecutive months of operations of that service.

SECTION 105: PROGRAM IV – NEW DIRECT DESTINATIONS (PASSENGER)

A. Program IV Goals

1. Stimulate the introduction of passenger air service to new direct destinations from the Airport.
2. Ease the economic risk associated with beginning passenger air service to new direct destinations.
3. Help mitigate the financial impact of starting new passenger air service to a new direct destination from the Airport.

B. Program IV Definitions

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 12 consecutive months is eligible to participate in Program III, *except*:

An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is providing direct roundtrip flights between the Airport and such other airport on, or discontinued such service within the 12 months prior to, the date on which the Qualifying Flights begin.

To become an Eligible Airline, an airline must have entered into, and be in compliance with, all the terms of an Airport Use and Lease Agreement or an Airline Operating Agreement and Terminal Building Space Permit.

An airline participating in Program I that is also an Eligible Airline under Program IV may request to participate in Program IV for any Qualifying Flight for which the airline is not receiving an incentive under Program I.

Qualifying Flight: a new regularly scheduled passenger bi-directional Direct Flight (designated by a particular flight number or numbers) between the Airport and an airport that has not been served from the Airport by the airline operating such new service during the previous 12 months that results in increased departures at the Airport for the airline qualifies for the purposes of Program IV.

C. Program IV Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program IV, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees associated with that airline's Qualifying Flights and incurred up to the first 6 consecutive months of operations of that service.
2. Incremental Terminal Building Rents, if any, associated with that airline's Qualifying Flights and incurred up to the first 6 consecutive months of operations of that service.

Upon the Airport Director's determination that during the initial 12 consecutive months following the beginning of a Qualifying Flight under Program IV the service has become a Qualifying Flight under Program II or Program III (i.e. a Direct Flight has become a new Airport-wide non-stop destination flight or a new airline-specific non-stop destination flight), the Airline shall be eligible to receive Program II or Program III Incentives less any Program IV Incentives received prior to such determination and is subject to Program II or Program III eligibility requirements.

SECTION 106: PROGRAM V – NEW TRANSOCEANIC DESTINATIONS (PASSENGER AND CARGO)

A. Program V Goals

1. Stimulate the introduction of new air service—passenger and/or cargo—at the Airport to Transoceanic

Destinations.

2. Help mitigate the financial impact of beginning passenger and/or cargo air service to new Transoceanic Destinations from the Airport. .
3. Compete with other airports seeking to attract similar air service to Transoceanic Destinations.

B. Program V Definitions

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 24 consecutive months is eligible to participate in Program IV; except:

1. An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger and/or cargo service begins; or
2. An airline that consolidates with, or merges into, another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger and/or cargo service begins.

To become an Eligible Airline, an airline must have entered into or commit to enter into, and be in compliance with, all of the terms of the Airport Use and Lease Agreement or an Airline Operating Agreement and Terminal Building Space Permit.

Qualifying Flight: a regularly scheduled passenger and/or cargo flight (designated by a particular flight number or numbers) between the Airport and a Transoceanic Destination served by the same aircraft on a one-stop or less basis for a passenger flight and a two-stop or less basis for a cargo flight and listed as non-stop or direct service that is first operated by an Eligible Airline during that Airline's initial 30 days of operations of the Qualifying Flight at the Airport is a Qualifying Flight for the purposes of Program V.

C. Program V Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program V and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees associated with that airline's Qualifying Flights and incurred up to the first 18 consecutive months of operations of that service.
2. Terminal Building Rents or incremental Terminal Building Rents, or other building rents paid directly to the airport, if any, associated with an airline's Qualifying Flights or assigned to an Eligible Airline and incurred up to the first 18 consecutive months of operations by that service.

SECTION 107: PROGRAM VI – NEW SEASONAL AIR SERVICE (PASSENGER)

A. Program VI Goals:

1. Stimulate the introduction of passenger Seasonal Flights to new airline-specific non-stop destinations from the Airport.
2. Ease the economic risk associated with beginning passenger Seasonal Flights to new airline-specific non-stop destinations from the Airport.
3. Help mitigate the financial impact of starting passenger Seasonal Flights to new airline-specific non-stop destinations from the Airport.

B. Program VI Definitions:

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service until a time agreed upon by the Airport Director, except;

1. An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another

airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger service begins; or

2. An airline that consolidates with, or merges into, another airline that is serving the Airport on or discontinued service at the Airport within the 12 months prior to the date on which the new Seasonal Air Service begins.

To become an Eligible Airline, an airline must have entered into or commit to enter into, and be in compliance with, all the terms of the Airport Use and Lease Agreement or an Airline Operating Agreement and Terminal Building Space Permit.

Qualifying Flight: A new regularly scheduled passenger non-stop round trip Seasonal Flight between the Airport and an airport that has not been served from the Airport by the airline operating such new service during the previous 12 months is a qualifying scheduled service for purposes of Program VI.

C. Program VI Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program VI, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Thirty percent (30%) of the Landing Fees associated with that airline's Qualifying Flights and incurred during the first season of service of such Qualifying Flights.
2. Thirty percent (30%) of the Terminal Building Rents or incremental Terminal Building Rents, if any, associated with that Airline's Qualifying Flights and incurred during the first season of such Qualifying Flights.

SECTION 108: PROGRAM VII – TRIAL AIR SERVICE (PASSENGER)

A. Program VII Goals:

1. Stimulate the introduction of air service to new airline-specific non-stop destinations from the Airport.
2. Ease the economic risk associated with beginning passenger air service to new airline-specific non-stop destinations from the Airport.
3. Help mitigate the financial impact of starting passenger air service to new airline-specific non-stop destinations from the Airport.

B. Program VII Definitions:

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 12 consecutive months is eligible to participate in Program VII, except;

1. An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger service begins; or
2. An airline that consolidates with, or merges into, another airline that is serving the Airport on or discontinued service at the Airport within the 12 months prior to the date on which the new Seasonal Air Service begins.

To become an Eligible Airline, an airline must have entered into or commit to enter into, and be in compliance with, all the terms of the Airport Use and Lease Agreement or an Airline Operating Agreement and Terminal Building Space Permit.

Qualifying Flight: A new, regularly scheduled, non-stop, round trip passenger flight between the Airport and an airport that has not been served from the Airport by the airline operating such new service during the previous 12 months is a qualifying flight for purposes of Program VII. An Airline may request a change in the original destination during the flight's initial 12 month operating period, but such request must be approved by the Airport Director to be considered a substitution and be counted as a Qualifying Flight.

C. Program VII Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program VII, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing fees associated with that airline's Qualifying Flight and incurred up to the first 3 consecutive months of operations of that service.
2. Terminal Building Rents or incremental Terminal Building Rents, if any, associated with that airline's Qualifying Flight and incurred up to the first 3 consecutive months of operation of that service.

SECTION 108: PROCEDURES

A. Application Process

1. Before commencing new service that may qualify for any Incentive Program, an airline desiring to participate must petition in writing to the Airport Director. A petition should include sufficient information to demonstrate eligibility to participate in the desired program and flight qualifications, including, without limitation: the type of new service to be offered, the destination airport, the date on which the new service will begin, and the type of aircraft to be used for the new service. If applicable, a petition to participate in Programs II - VI also should include evidence that the airline would incur incremental Terminal Building Rents as a result of operating the applicable Qualifying Flights.
2. The Airport Director may request any additional information as may be necessary to consider an application.
3. An application must be approved by the Airport Director before an airline is eligible to participate, and its flights qualify for participation, in the Incentive Program.
4. The Airport Director may reject an application if the Airport Director determines that:
 - a. the airline is not eligible to participate in the Incentive Program;
 - b. the proposed service does not qualify for an incentive; or
 - c. the proposed service does not meet the Incentive Program's goals.
5. The Airport Director may terminate an airline's eligibility to participate if that airline fails to meet or maintain any of the requirements for participation.

B. Reports

An airline participating in the Incentive Program may be required to provide operational reports to show it is meeting the applicable requirements.

C. Year-End Settlement

Contemporaneously with the year-end accounting, recalculation and settlement of fees and charges payable by airlines operating at the Airport, Airport staff shall calculate the aggregate actual financial benefits conferred in the form of fee and rent waivers to all the airlines that participated in the Incentive Program during the previous Fiscal Year. If the amount of aggregate actual financial benefits conferred exceed the authorized amount for that Fiscal Year, the financial benefits shall be prorated among all the airlines participating in the Incentive Program based on the percentage that results from dividing the total aircraft landed weight of each Eligible Airline for its Qualifying Flights during that Fiscal Year, by the aggregate landed weight of all Eligible Airlines for their Qualifying Flights during such period.

Any benefits actually conferred to an airline participating in the Incentive Program in excess of that airline's prorated authorized amount, if any, shall be paid by the airline to the City upon demand.

D. Retroactive payment of waived fees

If the eligibility of an airline that is participating in the Incentive Program is terminated by the Airport Director for failure to meet or maintain the requirements for participation, such airline shall pay to the City an amount equal to the applicable Landing Fees and/or Terminal Building Rents that were waived in accordance with the Incentive Program.

Approved: June 8, 2011

ORDINANCE #68905
Board Bill No. 67

An ordinance amending Ordinance No. 68098; authorizing the execution of an amendment to Redevelopment Agreement by and between the City of St. Louis and City Hospital Powerhouse TIF, Inc.; prescribing the form and details of said amendment; making certain findings with respect thereto; authorizing other related actions; and containing a severability clause, an appropriation clause, and an emergency clause.

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri, as amended (the “Act” or “TIF Act”), the City adopted Ordinance No. 68098, which authorized the execution of a redevelopment agreement (the “*Redevelopment Agreement*”); all capitalized terms used but not defined herein shall have the meaning set forth in the Redevelopment Agreement by and between the City and City Hospital Development IV, LLC setting forth the terms and obligations of the parties with respect to the implementation of the Redevelopment Project described therein; and

WHEREAS, the City subsequently executed or intends to execute the Redevelopment Agreement with City Hospital Powerhouse TIF, Inc. (the “*Developer*”); and

WHEREAS, the Developer and the City desire to approve and execute an amendment to the Redevelopment Agreement (the “*Amendment*”); and

WHEREAS, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants to authorize the City to execute the Amendment in order to amend the Redevelopment Agreement; and

WHEREAS, the Board of Aldermen hereby determines that the terms of the Amendment attached as Exhibit A hereto and incorporated herein by reference are acceptable and that the execution, delivery and performance by the City and the Developer of the attached Amendment is necessary and desirable and in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the TIF Act.

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

Section 1. The Board of Aldermen finds and determines that it is necessary and desirable to enter into the Amendment with the Developer in order to implement the Redevelopment Project and to enable the Developer to carry out its proposal for development of the Redevelopment Project.

Section 2. The Board of Aldermen hereby approves, and the Mayor and Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the Amendment by and between the City and the Developer attached hereto as Exhibit A, and the City Register is hereby authorized and directed to attest to the Amendment and to affix the seal of the City thereto. The Amendment shall be in substantially the form attached, with such changes therein as shall be approved by said Mayor and Comptroller executing the same and as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized.

Section 3. There is hereby appropriated and set apart all Phase 2A Revenues, as those terms are defined in the Redevelopment Agreement as amended by the Amendment, of the City Hospital RPA 2 Special Allocation Fund to be used to fund Phase 2A of the Redevelopment Project.

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

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

Section 6. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Section 7. This being an ordinance containing an appropriation, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the Mayor.

EXHIBIT A

Form of First Amendment to Redevelopment Agreement (Attached hereto.)

FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT

This First Amendment to Redevelopment Agreement (this "Amendment") is made and entered into as of this ___ day of _____, 2011, by and between the City of St. Louis, Missouri, a municipal corporation and political subdivision of the State of Missouri ("City"), and City Hospital Powerhouse TIF, Inc., a Missouri corporation (the "Developer").

RECITALS

A. By Ordinance No. 65977, the City of St. Louis adopted that certain City Hospital TIF Redevelopment Plan dated June 13, 2003, which document was subsequently amended on April 20, 2007 (as so amended, the "Original Plan") and designated certain real property within the City of St. Louis as a "Redevelopment Area" pursuant to the TIF Act.

B. An affiliate of Developer submitted its development proposal dated March 12, 2008, as revised March 19, 2008 (as may be amended from time to time, the "Redevelopment Proposal") to the TIF Commission for redevelopment of a portion of the Redevelopment Area.

C. On May 16, 2008, following a public hearing held on that date, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Second Amendment to City Hospital Redevelopment Plan dated March 28, 2008, as revised May 14, 2008, which was subsequently revised on June 5, 2008 and June 24, 2008, amending the Original Plan (as may be subsequently amended, the "Redevelopment Plan"), the Redevelopment Project with respect to RPA 2 described in the Redevelopment Plan (the "Redevelopment Project") and the Redevelopment Area, and recommending that the Board of Aldermen: (1) adopting tax increment financing with respect to Redevelopment Project Area 2 or RPA 2 of the Redevelopment Area ("RPA 2") by passage of an ordinance complying with the terms of Section 99.845 of the Act; and (2) adopt an ordinance in the form required by the Act (a) approving the Redevelopment Plan as amended, and (b) approving the Redevelopment Project.

D. On July 29, 2008, after due consideration of the TIF Commission's recommendations, the Mayor signed Ordinance No. 68097 [Board Bill No. 160] affirming the designation of the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, approving the Redevelopment Plan, approving the Redevelopment Project described in the Redevelopment Plan and adopting tax increment allocation financing within RPA 2.

E. On July 29, 2008, the Mayor signed Ordinance No. 68098 [Board Bill No. 161] affirming adoption of the Redevelopment Area, Redevelopment Plan and Redevelopment Project, and authorizing the City to enter into a Redevelopment Agreement with respect to Phase 2 of RPA 2.

F. Pursuant to the authorization contained in Ordinance No. 68098, the City has previously entered into (or intends

to shortly enter into) a Redevelopment Agreement with Developer with respect to Phase 2 of RPA 2 (such agreement being the "Phase 2 Agreement").

G. On _____, 2011, the Mayor signed Ordinance No. _____ [Board Bill No. ____] authorizing the City and the Developer to enter into this Amendment to amend certain provisions of the Phase 2 Agreement.

H. The City and the Developer intend to enter into this Amendment to modify certain terms of the Phase 2 Agreement.

AGREEMENT

Now therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Any references in the Phase 2 Agreement to the words "Phase 2" (including any phrases or defined terms using the words "Phase 2") shall be replaced with the words "Phase 2A" except for the references to the words "Phase 2":

- (a) in Recital G;
- (b) in the definition of the term "Authorizing Ordinance";
- (c) in the definition of the term "Phase 2";
- (d) in the definition of the term "Phase 2 Property";
- (e) in the definition of the term "Redevelopment Project"; and
- (f) on Exhibit A.

2. The definition of the term "Phase 2A" in Section 1.1 shall be inserted in appropriate alphabetical order in such section as follows:

"Phase 2A" means the acquisition, rehabilitation and renovation of the existing building within the Phase 2A Property of the Redevelopment Area into commercial space the Redevelopment Plan."

3. The definition of the term "Phase 2A Property" in Section 1.1 shall be inserted in appropriate alphabetical order in such section as follows:

"Phase 2A Property" means the real property in the City of St. Louis comprising a portion of the Phase 2 Property legally described as: 'Lot 3 of Carroll-Dillon Boundary Adjustment Plat, according to the plat thereof recorded in Book 17162008 page 0142 and in City Block 1250 of the St. Louis City, Missouri, Records; together with the North half of the former Carroll Street adjoining thereto, as vacated by Ordinance Number 68270 of the City of St. Louis.'"

4. The legal description of the Phase 2A Property shall be added to Exhibit A.

5. In Section 3.4, the reference to the date "December 31, 2011" shall be deleted and replaced with "October 31, 2012" and the date "December 31, 2012" shall be deleted and replaced with "October 31, 2013".

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

7. Except as expressly set forth herein, the provisions of the Original Agreement shall remain as set forth therein.

[Remainder of page intentionally left blank. Signature pages to follow.]

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

"CITY"

CITY OF ST. LOUIS, MISSOURI

By: _____
Francis G. Slay, Mayor

By: _____
Darlene Green, Comptroller

(SEAL)

Attest:

Parrie May, City Register

Approved as to Form:

_____, City Counselor

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

On this ____ day of _____, 2011, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

My Commission Expires:

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

On this ____ day of _____, 2011, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

My Commission Expires:

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

“DEVELOPER”

CITY HOSPITAL POWERHOUSE TIF, INC., a Missouri

corporation

By: _____

Name: Christopher Goodson

Title: President

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

On this _____ day of _____, 2011, before me appeared Christopher Goodson, to me personally known, who, being by me duly sworn, did say that he is the President of CITY HOSPITAL POWERHOUSE TIF, INC., a Missouri corporation, and that he is authorized to sign the instrument on behalf of said corporation by authority of its members, and acknowledged to me that he executed the within instrument as said company's free act and deed.

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

Notary Public

My Commission Expires:

Approved: June 16, 2011

**ORDINANCE #68906
Board Bill No. 11**

An ordinance amending Ordinance #67941 approved March 17, 2008, by modifying the terms of the ten (10) year real estate tax abatement for 1208 Hebert Street in the 1204-08, 1205 and 1219 Hebert Street Redevelopment Area authorized by Ordinance #67941.

WHEREAS, Ordinance #67941 approved a Redevelopment Plan for the 1204-08, 1205 and 1219 Hebert Street Redevelopment Area ("Area") after finding that the area was blighted as defined in Section 99.320 of the Revised Statutes of Missouri, 2000, as amended (the "Statute" being Sections 99.300 to 99.715 inclusive).

WHEREAS, the third paragraph of Section Fourteen of Ordinance #67941 provides that "if property in the Area is sold by the LCRA to an urban redevelopment corporation formed pursuant to Chapter 353 of the Missouri Statutes, or if any such corporation shall own property within the Area, then for up to the first ten (10) years after the date the redevelopment corporation shall acquire title to such property, taxes on such property shall be based upon the assessment of land, exclusive of any improvements thereon, during the calendar year preceding the calendar year during which such corporation shall have acquired title to such property. In addition to such taxes, any such corporation shall for the same ten (10) year period make a payment in lieu of taxes to the Collector of Revenue of the City of St. Louis in an amount based upon the assessment on the improvements located on the property during the calendar year preceding the calendar year during which such corporation shall have title of such property. If property shall be tax-exempt because it is owned by the LCRA and leased to any such corporation, then such corporation for the first ten (10) years of such lease shall make payments in lieu of taxes to the Collector of Revenue of the City in an amount based upon the assessment on the property, including land and improvements, during the calendar year preceding the calendar year during which such corporation shall lease such property."

WHEREAS, the property at 1208 Hebert Street in the Area has been redeveloped but the transfer of title provided for in Ordinance #67941 has not yet occurred, and it has been determined that the assessed value of the property in the Area has been significantly increased in the last two years and for tax abatement to be based on the "pre-development" value of the property it should be based on the 2008 assessed value rather than the assessed value "during the calendar year preceding the calendar year" during which tax abatement is initiated.

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

SECTION ONE. The third paragraph of Section Fourteen of Ordinance #67941 and the third paragraph of Section F of the Blighting Study and Plan for the 1204-08, 1205 and 1219 Hebert Street Redevelopment Area (the "Plan") approved by Ordinance #67941 are hereby amended to read as follows:

If the property in the Area is sold by the LCRA to an urban redevelopment corporation formed pursuant to Chapter 353 of the Missouri Statutes, or if any such corporation shall own property within the Area, then for up to the first ten (10) years after the date the redevelopment corporation shall acquire title to such property, taxes on such property shall be based upon the assessment of land, exclusive of any improvements thereon, during the calendar year prior to the calendar year during which such Corporation shall have acquired title to such property. In addition to such taxes, any such corporation shall for up to the same ten (10) year period make a payment in lieu of taxes to the Collector of Revenue of the City of St. Louis in an amount based upon the assessment on the improvements located at 1208 Hebert Street as of January 1, 2008, and the payment for all other properties in the Area shall be an amount based upon the assessment on the improvements therein during the calendar year prior to the calendar year during which such corporation shall acquire title to such other properties. If property shall be tax-exempt because it is owned by the LCRA and leased to any such corporation, then such corporation for up to the first ten (10) years of such lease shall make payments in lieu of taxes to the Collector of Revenue of the City in an amount based upon the assessment on the property, including land and improvements thereon, during the calendar year prior to the calendar year during such corporation shall lease such property.

SECTION TWO. The remainder of Section Fourteen and all other sections of Ordinance #67941 and the remainder of Section F of the Plan and all other sections of the Plan shall remain the same as approved on March 17, 2008.

Approved: June 16, 2011

ORDINANCE #68907
Board Bill No. 13

An ordinance recommended by the Board of Public Service to vacate above surface, surface and sub-service rights for vehicle, equestrian and pedestrian travel in 1) A portion of Second beginning approximately 24 feet north of Brooklyn and continuing 160 feet southwardly to a point approximately 73 feet south of Brooklyn and adjoining City Blocks 238, 239, 249 and 250-S. 2) The 20 foot wide north/south alley in City Block 249 and bounded by Brooklyn, Second, Mound and Broadway. 3) A portion of Eighth beginning approximately 102 feet north of Howard and extending northwardly 327 feet northwardly to a point and adjoining City Blocks 620, 653, 654, and 655. 4) A portion of Howard beginning 60 feet west of Eighth and extending 103.15 ± 23.60 feet to Interstate Highway 70 right-of-way and adjoining City Blocks 609 and 653. 5) Ninth from Brooklyn southwardly 363.85 ± 35.11 feet to Interstate Highway 70 right-of-way and adjoining City Blocks 620, 650 and 653. 6) Tenth from Howard northwardly 107.75 ± 7.25 feet to a point and adjoining City Blocks 649 and 650. 7) The 20 foot wide north/south alley in City Block 649 and bounded by Interstate Highway 70, Tenth, Howard and Eleventh. 8) Howard from Tenth to Eleventh and adjoining City Blocks 611 and 649. 9) Eleventh from Mullanphy to Cass and adjoining City Blocks 601 and 602 in the City of St. Louis, Missouri, as hereinafter described, in accordance with Charter authority, and in conformity with Section 14 of Article XXI of the Charter and imposing certain conditions on such vacation.

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

SECTION ONE: The above surface, surface and sub-surface rights of vehicle, equestrian and pedestrian travel, between the rights-of-way of:

A tract of land being part of 2nd Street right-of-way (variable width) at the Brooklyn Street right-of-way (forty feet wide), located in Blocks 238, 239, 249 and 250-S of the City of St. Louis, Missouri and being more particularly described as follows:

Beginning at the intersection of the northerly right-of-way line of said Brooklyn Street with the westerly right-of-way line of said 2nd Street; thence along said westerly right-of-way line, north 14 degrees 52 minutes 57 seconds west, a distance of 25.07 feet; thence departing said westerly right-of-way line, north 64 degrees 55 minutes 34 seconds east, a distance of 33.53 feet to the easterly right-of-way line of said 2nd Street; thence along said easterly right-of-way line, south 14 degrees 52 minutes 57 seconds east, a distance of 160.52 feet; thence departing said easterly right-of-way line, south 61 degrees 29 minutes 22 seconds west, a distance of 37.04 feet to the westerly right-of-way line of above said 2nd Street; thence along said westerly right-of-way line, north 14 degrees 52 minutes 57 seconds west, a distance of 73.24 feet to the intersection of said westerly right-of-way line with the southerly right-of-way line of above said Brooklyn Street; thence north 12 degrees 14

minutes 25 seconds west, a distance of 65.08 feet to the point of beginning and containing 5,647 square feet or 0.130 acres, more or less.

A tract of land being a 20 foot wide north-south alley located in Block 249 bounded on the south by Mound Street (fifty-nine feet wide) and bounded on the north by Brooklyn Street (sixty-five feet wide). Located east of Broadway (variable width) and west of Second Street (variable width), City of St. Louis, Missouri, and being more particularly described as follows:

Commencing at the intersection of the southerly right-of-way line of said Brooklyn Street with the easterly right-of-way line of said Broadway; thence along said southerly right-of-way line, north 74 degrees 58 minutes 21 seconds east, a distance of 147.96 feet to the point of beginning, said point being at the intersection of the westerly line of said alley; thence continuing along said southerly right-of-way line, north 74 degrees 58 minutes 21 seconds east, 20.00 feet to the intersection of the easterly line of said alley with said southerly right-of-way line; thence along said easterly line, south 14 degrees 54 minutes 15 seconds east, a distance of 245.35 feet to a point in the northerly right-of-way line of said Mound Street; thence along said northerly right-of-way line, south 81 degrees 54 minutes 26 seconds west, a distance of 20.14 feet to the westerly line of above said alley, thence along said westerly line, north 14 degrees 54 minutes 15 seconds west, a distance of 242.92 feet to the point of beginning and containing 4,883 square feet or 0.112 acres, more or less.

A tract of land being part of the 8th Street right-of-way (variable width), lying north of Howard Street (sixty feet wide) right-of-way and south of the Brooklyn Street (forty feet wide) right-of-way located in Blocks 620, 653, 654 and 655 of the City of St. Louis, Missouri, and being more particularly described as follows:

Commencing at the intersection of the westerly right-of-way line of said 8th Street with the northerly line of said Howard Street; thence along said westerly right-of-way line, north 13 degrees 12 minutes 14 seconds east, a distance of 102.51 feet to the point of beginning of the herein described tract, thence continuing along said westerly line the following courses and distances: north 13 degrees 12 minutes 14 seconds east, a distance of 134.22 feet; thence south 76 degrees 38 minutes 04 seconds east, a distance of 5.50 feet; thence north 13 degrees 12 minutes 14 seconds east, a distance of 192.87 feet to the northerly right-of-way line of said 8th Street; thence along said northerly right-of-way line south 76 degrees 41 minutes 40 seconds east, a distance of 50.06 feet to the easterly right-of-way line of said 8th Street, thence along said easterly right-of-way line the following courses and distances: south 13 degrees 16 minutes 12 seconds west, a distance of 76.22 feet; thence south 76 degrees 38 minutes 04 seconds east, a distance of 4.82 feet; thence south 13 degrees 15 minutes 42 seconds west, a distance of 250.82 feet; thence departing said easterly right-of-way line north 76 degrees 44 minutes 18 seconds west, a distance of 60.05 feet to the point of beginning and containing 18,265 square feet or 0.419 acres, more or less.

A tract of land being part of the Howard Street (sixty feet wide), lying north and east of and adjoining the Missouri Interstate 70 right-of-way (variable width), and west of the 8th Street right-of-way (variable width), located in Blocks 653 and 609 of the City of St. Louis, Missouri, and being more particularly described as follows:

Beginning at the intersection of the northerly right-of-way line of said Howard Street with the northeasterly right-of-way line of said Missouri Interstate 70, thence along said northerly line, south 76 degrees 37 minutes 07 seconds east, a distance of 126.75 feet; thence departing said northerly line, south 13 degrees 22 minutes 53 seconds west, a distance of 60.00 feet to the southerly line of said Howard Street, said line also being the northerly line of said Missouri Interstate 70; thence along said northerly line, north 76 degrees 37 minutes 07 seconds west, a distance of 79.56 feet, thence along the northeasterly line of said Missouri Interstate 70, north 24 degrees 47 minutes 58 seconds west, a distance of 76.33 to the point of beginning and containing 6.189 square feet or 0.142 acres, more or less.

A tract of land being part of the 9th Street right-of-way (variable width) lying north of and adjoining the Missouri Interstate 70 right-of-way (variable width) and south of Brooklyn Street right-of-way (forty feet wide), located in Blocks 620, 650 and 653 of the City of St. Louis, Missouri, and being more particularly described as follows:

Beginning at the intersection of the easterly right-of-way line of said 9th Street with the northeasterly right-of-way line of said Missouri Interstate 70; thence along said northeasterly right-of-way line, north 24 degrees 47 minutes 58 seconds west, a distance of 89.33 feet; thence, north 13 degrees 12 minutes 14 seconds east, a distance of 328.73 feet to the intersection of said northeasterly right-of-way line with the prolongation of the southerly right-of-way line of said Brooklyn Street; thence along said prolongation, south 76 degrees 38 minutes 25 seconds east, a distance of 50.00 feet to the easterly line of said 9th Street; thence along said easterly line the following courses and distance: south 13 degrees 12 minutes 14 seconds west, a distance of 268.73 feet; thence, south 76 degrees 38 minutes 04 seconds east, a distance of 5.00 feet; thence south 13 degrees 12 minutes 14 seconds west, a distance of 130.23 feet to the point of beginning and containing 18,668 square feet or 0.429 acres, more or less.

A tract of land being part of 10th Street (sixty feet wide), lying north of Howard Street (sixty feet wide), located in Blocks 649 and 650 of the City of St. Louis, Missouri, and being more particularly described as follows:

Beginning at the intersection of the northerly right-of-way line of said Howard Street with the westerly right-of-way line of said 10th Street; thence along said westerly right-of-way line, north 13 degrees 15 minutes 08 seconds east, a distance of 100.50 feet to the right-of-way of Missouri Interstate Highway 70 (variable width); thence along said right-of-way line, north 89 degrees 28 minutes 46 seconds east, a distance of 61.73 feet to the easterly right-of-way line of said 10th Street; thence along said easterly right-of-way line, south 13 degrees 15 minutes 08 seconds west, a distance of 115.00 feet to the intersection of said easterly right-of-way line with the northerly right-of-way line of said Howard Street; thence north 76 degrees 46 minutes 09 seconds west, a distance of 60.00 feet to the point of beginning and containing 6,465 square feet or 0.148 acres, more or less.

A tract of land being part of the Howard Street right-of-way (sixty feet wide), and an alley (twenty feet wide), located in Blocks 649 and 611 of the City of St. Louis, Missouri, and being more particularly described as follows:

Beginning at the intersection of the easterly right-of-way line of 11th Street (sixty feet wide) with the northerly right-of-way line of said Howard Street; thence along said northerly right-of-way line, south 76 degrees 46 minutes 09 seconds east, a distance of 125.05 feet to the intersection of said northerly right-of-way line with the westerly right-of-way line of said alley; thence along the westerly right-of-way line of said alley, north 13 degrees 12 minutes 32 seconds east, a distance of 313.38 feet; thence departing the westerly right-of-way line of said alley, south 76 degrees 46 minutes 09 seconds east, a distance of 20.00 feet to the easterly right-of-way line of said alley; thence along the easterly right-of-way line of said alley, south 13 degrees 12 minutes 32 seconds west, a distance of 313.38 feet to the intersection of said easterly right-of-way line with the northerly right-of-way line of said Howard Street; thence along said northerly right-of-way line, south 76 degrees 46 minutes 09 seconds east, a distance of 125.69 feet to the intersection of said northerly right-of-way line with the westerly right-of-way line of 10th Street (sixty feet wide); thence departing said northerly right-of-way line, south 13 degrees 15 minutes 08 seconds west, a distance of 60.00 feet to the intersection of said westerly right-of-way line of said 10th Street with the southerly right-of-way line of said Howard Street; thence along said southerly right-of-way line, north 76 degrees 46 minutes 09 seconds west, a distance of 270.69 feet to the intersection of said southerly right-of-way line with the easterly right-of-way line of 11th Street; thence departing the southerly right-of-way line said 11th Street, north 13 degrees 12 minutes 32 seconds east, a distance of 60.00 feet to the point of beginning and containing 22,510 square feet or 0.517 acres, more or less.

A tract of land being part of the 11th Street (60 feet wide) right-of-way and part of a 15 feet wide alley, said tract being bounded northerly by Mullanphy Street (60 feet wide) and bounded southerly by Cass Avenue (80 feet wide), being located in Blocks 601 and 602 of the City of St. Louis, Missouri, and being more particularly described as follows:

Beginning at the intersection of the northerly right-of-way line of said Cass Avenue with the

westerly right-of-way line of said 11th Street; thence along said westerly right-of-way line, north 13 degrees 12 minutes 32 seconds east, a distance of 457.96 feet to the point of intersection of said westerly right-of-way line of said 11th Street with the southerly right-of-way line of said Mullanphy Street; thence south 76 degrees 44 minutes 43 seconds east, a distance of 60.00 feet to the intersection of the easterly right-of-way line of said 11th Street, thence along said easterly right-of-way line, south 13 degrees 12 minutes 32 seconds west, a distance of 309.20 feet to the northerly line of a 15 foot wide alley; thence along said northerly line, south 76 degrees 45 minutes 16 seconds east, a distance of 78.08 feet; thence departing said northerly line, south 18 degrees 35 minutes 44 seconds west, a distance of 15.07 feet to the southerly line of said alley; thence along said southerly line, north 76 degrees 45 minutes 16 seconds west, a distance of 76.67 feet to the easterly right-of-way line of said 11th Street; thence along said easterly line, south 13 degrees 12 minutes 32 seconds west, a distance of 133.75 feet to the intersection of said easterly right-of-way line with the northerly line of said Cass Avenue; thence north 76 degrees 45 minutes 16 seconds west, a distance of 60.00 feet to the point of beginning and containing 28.638 square feet or 0.657 acres, more or less.

are, upon the conditions hereinafter set out, vacated.

SECTION TWO: The State of Missouri Highways and Transportation Commission will use vacated areas as part of the Missouri State Highway system for part of the Mississippi River Bridge Project. This vacation is in conjunction with the "Missouri Highways and Transportation Commission Municipal Agreement".

SECTION THREE: All rights of the public in the land bearing rights-of-way traversed by the foregoing conditionally vacated alleys and streets, are reserved to the City of St. Louis for the public including present and future uses of utilities, governmental service entities and franchise holders, except such rights as are specifically abandoned or released herein.

SECTION FOUR: The owners of the land may, at their election and expense remove the surface pavement of said so vacated alleys and streets provided however, all utilities within the rights-of-way shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

SECTION FIVE: The City, utilities, governmental service entities and franchise holders shall have the right and access to go upon the land and occupation hereof within the rights-of-way for purposes associated with the maintenance, construction or planning of existing or future facilities, being careful not to disrupt or disturb the owners interests more than is reasonably required.

SECTION SIX: The owner(s) shall not place any improvement upon, over or in the area(s) vacated without: 1) lawful permit from the Building Division or Authorized City agency as governed by the Board of Public Service; 2) obtaining written consent of the utilities, governmental service entities and franchise holders, present or future. The written consent with the terms and conditions thereof shall be filed in writing with the Board of Public Service by each of the above agencies as needed and approved by such Board prior to construction.

SECTION SEVEN: The owners may secure the removal of all or any part of the facilities of a utility, governmental service entity or franchise holder by agreement in writing with such utilities, governmental entity or franchise holder, filed with the Board of Public Service prior to the undertaking of such removal.

SECTION EIGHT: In the event that granite curbing or cobblestones are removed within the vacated area, the Department of Streets of the City of St. Louis must be notified. Owner(s) must have curbing cobblestones returned to the Department of Streets in good condition.

SECTION NINE: This ordinance shall be ineffective unless within three hundred sixty (360) days after its approval, or such longer time as is fixed by the Board of Public Service not to exceed three (3) days prior to the affidavit submittal date as specified in the last section of this ordinance, the owner(s) of the area to be vacated must fulfill the following monetary requirements, if applicable, as specified by the City of St. Louis Agencies listed below. All monies received will be deposited by these agencies with the Comptroller of the City of St. Louis.

- 1) CITY WATER DIVISION to cover the full expenses of removal and/or relocation of Water facilities, if any.
- 2) CITY TRAFFIC AND TRANSPORTATION DIVISION to cover the full expense of removal, relocation and/or purchase of all lighting facilities, if any. All street signs must be returned.

- 3) CITY STREET DEPARTMENT to cover the full expenses required for the adjustments of the City's alley(s), sidewalk(s) and street(s) as affected by the vacated area(s) as specified in Sections Two and Eight of the Ordinance.

SECTION TEN: An affidavit stating that all of the conditions be submitted to the Director of Streets for review of compliance with conditions 2 years from the date of the signing and approval of this ordinance. Once the Director of Streets has verified compliance, the affidavit will be forwarded to the Board of Public Service for acceptance. If this affidavit is not submitted within the prescribed time the ordinance will be null and void.

Approved: June 16, 2011

ORDINANCE #68908
Board Bill No 38

An ordinance recommended by the Board of Public Service to vacate above surface, surface and sub-service rights for vehicle, equestrian and pedestrian travel in 1) 20 foot wide east/west alley in City Block 3459 as bounded by Pope, Prescott, Clarence and Ouida, 2) 20 foot wide east/west alley in City Block 3462 as bounded by Carrie, Prescott, Pope and Ouida, 3) 20 foot wide east/west alley in City Block 3463 as bounded by Carrie, Bulwer, Pope and Prescott, 4) Ouida from Carrie to Pope, 5) Pope from Ouida to Bulwer, 6) Prescott from Carrie to Clarence in the City of St. Louis, Missouri, as hereinafter described, in accordance with Charter authority, and in conformity with Section 14 of Article XXI of the Charter and imposing certain conditions on such vacation.

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

SECTION ONE: The above surface, surface and sub-surface rights of vehicle, equestrian and pedestrian travel, between the rights-of-way of:

A tract of land being all of a Twenty (20) feet wide alley located in City Block 3459, being part of Block 55 of the Subdivision of O'Fallon Estate, per the plat thereof as recorded in SRB 6, pages 198 and 199 of the St. Louis City records, located in Township 46 North, Range 5 East of the Fifth Principal Meridian, City of St. Louis, Missouri being more particularly described as follows:

Beginning at the intersection of the northeastern right-of-way line of Ouida Avenue, 50 feet wide, also being the southwestern line of above said City Block 3459, with the northwestern right-of-way line of said Twenty (20) feet wide alley; thence along said northwestern right-of-way line north 55 degrees 43 minutes 43 seconds east, 300.00 feet to the northeastern line of said City Block 3459, said point also being located on the southwestern right-of-way line of Prescott Avenue, 80 feet wide, (platted as Fifth Street); thence along the direct southeasterly prolongation of said southwestern right-of-way line south 37 degrees 14 minutes 23 seconds east, 20.03 feet to the southeastern right-of-way line of above said Twenty (20) feet wide alley; thence along said southeastern right-of-way line south 55 degrees 43 minutes 43 seconds west, 300.00 feet to the southwestern line of said City Block 3459, said point also being located on the northeastern right-of-way line of above said Ouida Avenue; thence on a direct northwesterly prolongation of said northeastern right-of-way line north 37 degrees 14 minutes 23 seconds west, 20.03 feet to the Point of Beginning and containing 6,000 square feet or 0.137 acres more or less.

A tract of land being all of a Twenty (20) feet wide alley located in City Block 3462, being part of Block 56 of the subdivision of O'Fallon Estate, per the plat thereof as recorded in SRB 6, pages 198 and 199 of the St. Louis City records, located in Township 46 North, Range 5 East of the Fifth Principal Meridian, City of St. Louis, Missouri being more particularly described as follows:

Beginning at the intersection of the northeastern right-of-way line of Ouida Avenue, 50 feet wide, (platted as Sixth Street) also being the southwestern line of above said City Block 3462, with the northwestern right-of-way line of said Twenty (20) feet wide alley; thence along said northwestern right-of-way line north 55 degrees 43 minutes 43 seconds east, 300.00 feet to the northeastern line of said City Block 3462, said point also being located on the southwestern right-of-way line of Prescott Avenue, 80 feet wide, (platted as Fifth Street); thence along the direct southeasterly prolongation of said southwestern right-of-way line south 37 degrees 09 minutes 37 seconds east, 20.03 feet to the southeastern right-of-way

line of above said Twenty (20) feet wide alley; thence along said southeastern right-of-way line south 55 degrees 43 minutes 43 seconds west, 300.00 feet to the southwestern line of said City Block 3462, said point also being located on the northeastern right-of-way line of above said Ouida Avenue thence on a direct northwesterly prolongation of said northeastern right-of-way line north 37 degrees 09 minutes 28 seconds west, 20.03 feet to the Point of Beginning and containing 6,000 square feet or 0.137 acres more or less.

A tract of land being all of a Twenty (20) feet wide alley located in City Block 3463, being part of Block 75 of the Subdivision of O'Fallon Estate, per the plat thereof as recorded in SRB 6, pages 198 and 199 of the St. Louis City records, located in Township 46 North, Range 5 East of the Fifth Principal Meridian, City of St. Louis, Missouri, being more particularly described as follows:

Beginning at the intersection of the northeastern right-of-way line of Prescott Avenue, 80 feet wide, (platted as Fifth Street) also being the southwestern line of above said City Block 3463, with the northwestern right-of-way line of said Twenty (20) feet wide alley; thence along said northwestern right-of-way line north 55 degrees 43 minutes 43 seconds east, 530.00 feet to the northeastern line of said City Block 3463, said point also being located on the southwestern right-of-way line of Bulwer Avenue, 80 feet wide (platted as Fourth Street) thence along the direct southeasterly prolongation of said southwestern right-of-way line south 37 degrees 09 minutes 37 seconds east, 20.03 feet to the southeastern right-of-way line of above said Twenty (20) feet wide alley; thence along said southeastern right-of-way line south 55 degrees 43 minutes 43 seconds west, 530.00 feet to the southwestern line of said City Block 3463, said point also being located on the northeastern right-of-way line of above said Prescott Avenue; thence on the direct northwesterly prolongation of said northeastern right-of-way line north 37 degrees 09 minutes 37 seconds west, 20.03 feet to the Point of Beginning and containing 10,600 square feet or 0.243 acres more or less.

All of that portion of Ouida Avenue, fifty (50) feet wide (platted as Sixth Street) located between Carrie Avenue, eighty (80) feet wide and Pope Avenue, sixty (60) feet wide as established by the Subdivision of O'Fallon Estate, per the plat thereof as recorded in SRB 6, pages 198 and 199 of the St. Louis City records, located in Township 46 North, Range 5 East of the Fifth Principal Meridian, City of St. Louis, Missouri, being more particularly described as follows:

Beginning at the northernmost corner of City Block 3461, also being Block 56W of above said the Subdivision of O'Fallon Estate, said point also being located on the southeastern right-of-way line of above said Carrie Avenue; thence on a direct northeasterly prolongation of said southeastern right-of-way line north 55 degrees 43 minutes 43 seconds east, 50.06 feet to the westernmost corner of City Block 3462, said point also being located on the northeastern right-of-way line of above said Ouida Avenue; thence along said northeastern right-of-way line south 37 degrees 09 minutes 28 seconds east, 310.42 feet to its intersection with the northwestern right-of-way line of Pope Avenue, 60 feet wide; thence on the direct southwesterly prolongation of said northwestern right-of-way line south 55 degrees 27 minutes 39 seconds west, 50.05 feet to the southwestern right-of-way line of above said Ouida Avenue; thence along said southwestern right-of-way line north 37 degrees 09 minutes 28 seconds west, 310.65 feet to the Point of Beginning and containing 15, 526 square feet or 0.356 acres more or less.

All of that portion of Pope Avenue, sixty (60) feet wide between Ouida Avenue (platted as Sixth Street) and Bulwer Avenue eighty (80) feet wide (platted as Fourth Street) and Prescott Avenue, eighty (80) feet wide (platted as Fifth Street), between Carrie Avenue, eighty (80) feet wide and Clarence Avenue, sixty (60) feet wide, as established by the Subdivision of O'Fallon Estate, per the plat thereof as recorded in SRB 6, pages 198 and 199 of the St. Louis City records, located in Township 46 North Range 5 East of the Fifth Principal Meridian, City of St. Louis, Missouri, being more particularly described as follows:

Beginning at the northernmost corner of City Block 3462, said point also being located at the intersection of the southeast right-of-way line of above said Carrie Avenue with the southwestern right-of-way line of above said Prescott Avenue; thence on the direct northeasterly prolongation of said southeastern right-of-way line north 55 degrees 43 minutes 43 seconds east 80.10 feet to the northeastern right-of-way line of said Prescott

Avenue; thence along said northeastern right-of-way line south 37 degrees 09 minutes 37 seconds east, 310.42 feet to its intersection with the northwestern right-of-way line of above said Pope Avenue; thence along said northwestern right-of-way line north 55 degrees 43 minutes 43 seconds east, 530.00 feet to its intersection with the southwestern right-of-way line of above said Bulwer Avenue; thence on a direct southeasterly prolongation of said southwestern right-of-way line south 37 degrees 09 minutes 37 seconds east, 60.08 feet to the southeastern right-of-way line of above said Pope Avenue; thence along said southeastern right-of-way line south 55 degrees 43 minutes 43 seconds west, 530.00 feet to its intersection with the northeastern right-of-way line of above said Prescott Avenue; thence along said northeastern right-of-way line south 37 degrees 14 minutes 23 seconds east, 310.42 feet to its intersection with the northwestern right-of-way line of above said Clarence Avenue; thence on the direct southwesterly prolongation of said northwestern right-of-way line south 55 degrees 43 minutes 43 seconds west 80.10 feet to the southwestern right-of-way line of said Prescott Avenue; thence along said southwestern right-of-way line north 37 degrees 14 minutes 23 seconds west, 310.42 feet to its intersection with the southeastern right-of-way line of said Pope Avenue; thence along said southeastern right-of-way line south 55 degrees 43 minutes 43 seconds west 300.00 feet to the northeastern right-of-way line of above said Ouida Avenue; thence on the direct northwesterly prolongation of said northeastern right-of-way line north 37 degrees 09 minutes 40 seconds west, 60.08 feet to the northwestern right-of-way line of said Pope Avenue; thence along said northwestern right-of-way line north 55 degrees 43 minutes 43 seconds east, 300.00 feet to its intersection with the southwestern right-of-way line of said Prescott Avenue; thence along said southwestern right-of-way line north 37 degrees 09 minutes 37 seconds west, 310.42 feet to the Point of Beginning and containing 104,274 square feet or 2.393 acres more or less.

are, upon the conditions hereinafter set out, vacated.

SECTION TWO: Petitioned by Planned Industrial Expansion Authority, Land Clearance for Redevelopment Authority, Land Reutilization Authority, DRK Properties LLC, Pizzazz Bars & Restaurant and Crown Castle GT Co. LLC. Vacated areas will be used to consolidate property for commercial development.

SECTION THREE: All rights of the public in the land bearing rights-of-way traversed by the foregoing conditionally vacated alleys and streets, are reserved to the City of St. Louis for the public including present and future uses of utilities, governmental service entities and franchise holders, except such rights as are specifically abandoned or released herein.

SECTION FOUR: The owners of the land may, at their election and expense remove the surface pavement of said so vacated alleys and streets provided however, all utilities within the rights-of-way shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

SECTION FIVE: The City, utilities, governmental service entities and franchise holders shall have the right and access to go upon the land and occupation hereof within the rights-of-way for purposes associated with the maintenance, construction or planning of existing or future facilities, being careful not to disrupt or disturb the owners interests more than is reasonably required.

SECTION SIX: The owner(s) shall not place any improvement upon, over or in the area(s) vacated without: 1) lawful permit from the Building Division or Authorized City agency as governed by the Board of Public Service; 2) obtaining written consent of the utilities, governmental service entities and franchise holders, present or future. The written consent with the terms and conditions thereof shall be filed in writing with the Board of Public Service by each of the above agencies as needed and approved by such Board prior to construction.

SECTION SEVEN: The owners may secure the removal of all or any part of the facilities of a utility, governmental service entity or franchise holder by agreement in writing with such utilities, governmental entity or franchise holder, filed with the Board of Public Service prior to the undertaking of such removal.

SECTION EIGHT: In the event that granite curbing or cobblestones are removed within the vacated area, the Department of Streets of the City of St. Louis must be notified. Owner(s) must have curbing cobblestones returned to the Department of Streets in good condition.

SECTION NINE: This ordinance shall be ineffective unless within three hundred sixty (360) days after its approval, or

such longer time as is fixed by the Board of Public Service not to exceed three (3) days prior to the affidavit submittal date as specified in the last section of this ordinance, the owner(s) of the area to be vacated must fulfill the following monetary requirements, if applicable, as specified by the City of St. Louis Agencies listed below. All monies received will be deposited by these agencies with the Comptroller of the City of St. Louis.

- 1) CITY WATER DIVISION to cover the full expenses of removal and/or relocation of Water facilities, if any.
- 2) CITY TRAFFIC AND TRANSPORTATION DIVISION to cover the full expense of removal, relocation and/or purchase of all lighting facilities, if any. All street signs must be returned.
- 3) CITY STREET DEPARTMENT to cover the full expenses required for the adjustments of the City's alley(s), sidewalk(s) and street(s) as affected by the vacated area(s) as specified in Sections Two and Eight of the Ordinance.

SECTION TEN: An affidavit stating that all of the conditions be submitted to the Director of Streets for review of compliance with conditions 2 years from the date of the signing and approval of this ordinance. Once the Director of Streets has verified compliance, the affidavit will be forwarded to the Board of Public Service for acceptance. If this affidavit is not submitted within the prescribed time the ordinance will be null and void.

Approved: June 16, 2011

ORDINANCE #68909
Board Bill No. 46

An ordinance recommended by the Port Authority Commission of the City of St. Louis authorizing and directing the Mayor and the Comptroller to enter into an Option to Lease Agreement between the City of St. Louis ("City") and Grace Hill Settlement House ("Grace Hill") for the lease of certain land on the Unimproved Wharf with said option to lease to be exercised by Grace Hill Settlement House within ten (10) years following the commencement date of the Option to Lease Agreement; approving the form of said Option to Lease Agreement; authorizing and directing the Mayor and Comptroller to enter into a Lease Agreement between the City and Grace Hill for certain land on the Unimproved Wharf should Grace Hill properly exercise its option to lease as provided for in the Option to Lease Agreement; and approving the form of said Lease Agreement.

WHEREAS, the City owns two (2) parcels of real estate along the Mississippi riverfront as particularly described on Exhibit A to the Option to Lease, attached hereto as Exhibit 1, and hereinafter referred to as the "Mary Meachum Site." The Mary Meachum Site is Missouri's first nationally recognized Underground Railroad Site where, according to 19th century newspaper accounts and the records of Henry Shaw, Mary Meachum, a free woman of color, assisted nine freedom seekers who attempted to escape slavery; and

WHEREAS, the Mary Meachum Site was commemorated by Mayor Slay in 2001 and an annual enactment of the event has occurred there every year since 2003; and

WHEREAS, Grace Hill and the City desire to collaborate with respect to the development of the Mary Meachum Site into a national tourist destination to commemorate Mary Meachum's efforts to transport slaves to freedom; and

WHEREAS, the City has used the Mary Meachum Site to store milling materials and equipment related to the repair and maintenance of City streets (the "Milling Operations"); and

WHEREAS, the City has relocated its Milling Operations to facilitate the aforesaid development of the Mary Meachum Site; and

WHEREAS, Grace Hill has located an alternative site owned by Federal Express Freight ("FedEx") located at 5300 Hall Street in the City of St. Louis (the "FedEx Site") which FedEx is willing to donate to the Land Clearance for Redevelopment Authority of the City of St. Louis ("LCRA"); and

WHEREAS, the Port Authority of the City of St. Louis approved the Option to Lease Agreement, in the substantially the form attached hereto as Exhibit 1, and its Lease Agreement, attached as Exhibit B to the Option to Lease Agreement, by Port Resolution 10-PT-39 on December 14, 2010; and

WHEREAS, the Board of Aldermen finds that the provisions of the Option to Lease Agreement, attached as Exhibit 1

hereto, and the Lease Agreement, attached as Exhibit B to the Option to Lease Agreement (Exhibit 1), and incorporated herein by reference as if fully set out, are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with public purposes; and

WHEREAS, the Board of Aldermen finds that execution by the City of the Option to Lease Agreement, and that performance by the City and Grace Hill of their respective obligations under the Option to Lease Agreement are necessary and desirable and in the best interests of the City and the health, safety, morals, and welfare of its residents; and

WHEREAS, should Grace Hill properly exercise its option under the Option to Lease Agreement the Board of Alderman finds that that execution by the City of the Lease Agreement and that performance by the City and Grace Hill of their respective obligations under the Lease Agreement are necessary and desirable and in the best interests of the City and the health, safety, morals, and welfare of its residents.

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

SECTION ONE. Findings. The Board of Alderman hereby adopts the foregoing recitals as findings.

SECTION TWO. Authorization of Option to Lease Agreement. The Mayor and Comptroller of the City of St. Louis are hereby authorized and directed to enter into a Option to Lease Agreement with Grace Hill for the lease of certain land on the Unimproved Wharf with said option to lease to be properly exercised by Grace Hill within ten (10) years following the commencement date of the Option to Lease Agreement, in substantially the form attached hereto and incorporated by reference herein as Exhibit 1 (including its attached Exhibit B (“Lease Agreement”)) and hereby made a part of this Ordinance, with such changes therein as shall be approved by the Mayor and Comptroller, upon the advice of the City Counselor of the City of St. Louis executing such documents, such officers signatures thereon being conclusive evidence of their approval thereof.

SECTION THREE. Authorization of Lease Agreement. If said option to lease is properly exercised by Grace Hill according to the Option to Lease Agreement (Exhibit 1), the Mayor and Comptroller of the City of St. Louis are hereby authorized and directed to enter into the Lease Agreement with Grace Hill for certain land privileges on the Unimproved Wharf for a period of ten (10) years commencing on the date of execution with three (3) five-year (5-year) mutual options, in substantially the form attached hereto and incorporated by reference herein as Exhibit B to the Option to Lease Agreement (Exhibit 1), and hereby made a part of this Ordinance, with such changes therein as shall be approved by the Mayor and Comptroller, upon the advice of the City Counselor of the City of St. Louis executing such documents, such officers signatures thereon being conclusive evidence of their approval thereof.

EXHIBIT 1

OPTION TO LEASE

THIS OPTION TO LEASE (the “Option”) is entered into this ____ day of _____, 20__ (“Commencement Date”), by and between GRACE HILL SETTLEMENT HOUSE, a Missouri non-profit corporation (“Grace Hill”), and THE CITY OF ST. LOUIS, MISSOURI, a city and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Missouri (the “City”).

WHEREAS, the City owns two (2) parcels of real estate along the Mississippi riverfront as described on Exhibit A attached hereto and incorporated herein by this reference (the “Mary Meachum Site”), which is Missouri’s first nationally recognized Underground Railroad Site where, according to 19th century newspaper accounts and the records of Henry Shaw, Mary Meachum, a free woman of color, assisted nine freedom seekers who attempted to escape slavery;

WHEREAS, the Mary Meachum Site was commemorated by Mayor Slay in 2001 and an annual enactment of the event has occurred there every year since 2003;

WHEREAS, Grace Hill and the City desire to collaborate with respect to the development of the Mary Meachum Site into a national tourist destination to commemorate Mary Meachum’s efforts to transport slaves to freedom;

WHEREAS, the City has used the Mary Meachum Site to store milling materials and equipment related to the repair and maintenance of City streets (the “Milling Operations”);

WHEREAS, the City has relocated its Milling Operations to facilitate the aforesaid development of the Mary Meachum Site; and

WHEREAS, In exchange for this accommodation, Grace Hill has secured a donation of property by Federal Express Freight ("FedEx") located at 5300 Hall Street in the City of St. Louis (the "FedEx Site") which FedEx is willing to donate to the Land Clearance for Redevelopment Authority of the City of St. Louis to benefit City economic development efforts.

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

1. Option to Lease. The City hereby grants to Grace Hill an option to lease the unimproved properties known as the Mary Meachum Site (the "Leased Premises", as described on the attached Exhibit A). This Option is granted in consideration of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the agreement with Grace Hill to use the properties owned by the City in accordance with that certain One-Year Board of Public Service Permit between the City and Grace Hill dated _____.

2. Term of Option. Grace Hill shall have the right to exercise this Option for ten (10) years following the Commencement Date of this Option to Lease by giving written notice of such election to the City prior to _____ (the "Option Termination Date"), which is the date upon which this Option shall expire. Grace Hill shall exercise this Option by delivering to the City (prior to the Option Termination Date) a copy of the Lease Agreement (attached hereto as Exhibit B) signed on behalf of Grace Hill. Provided Grace Hill exercises this Option and delivers a signed copy of the Lease Agreement to the City prior to the Option Termination Date as set forth above, the City shall in turn sign the Lease Agreement within _____ (__) days thereafter, and deliver a fully-executed copy of the Lease Agreement to Grace Hill.

3. The Lease Agreement. Upon full execution of the Lease Agreement, such Lease Agreement shall become operative in accordance with its terms. The Leased Premises will be delivered to Grace Hill by the City upon such date when the Lease Agreement is fully signed by both parties and is operative.

4. Expiration of Option to Lease. In the event Grace Hill does not exercise this Option prior to the Option Termination Date set forth above, this Option shall expire and shall have no further force and effect.

5. Miscellaneous. The captions of the sections of this Option are inserted for convenience only and shall not be used in the interpretation or construction of any provisions of this Option. If any provision of this Option is held invalid or unenforceable, the holdings shall affect only the provision in question and that provision in other circumstances, and all other provisions of this Option shall remain in full force and effect. The rule that the terms of an agreement are strictly construed against the drafting party shall have no application to the construction or interpretation of this Option. The interpretation and enforceability of this Option shall be governed by the laws of the State of Missouri. All exhibits and other attachments to this Option are hereby incorporated herein by this reference as though fully set forth herein.

INTENDING TO BE FULLY BOUND, the parties hereto have executed this Option the day and year first above written.

[SIGNATURE PAGES FOLLOW]

GRACE HILL SETTLEMENT HOUSE,
a Missouri non-profit corporation

By: _____

Printed Name: _____

Title: _____

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

On this ____ day of _____, 20____, before me personally appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of GRACE HILL SETTLEMENT HOUSE, a Missouri non-profit corporation, and that said instrument was signed by the _____ on behalf of said corporation by authority of its board of directors; and said officer acknowledged said instrument to be the free act and deed of said corporation for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My commission expires: _____

CITY OF ST. LOUIS, MISSOURI

Mayor

Comptroller

Attest:

Register

Approved as to Form:

City Counselor

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

On this ____ day of _____, 20____, before me personally appeared Francis Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, and Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the City of St. Louis, Missouri, and that said instrument was signed by the Mayor and the Comptroller on behalf of said City of St. Louis; and said Mayor and Comptroller each acknowledged said instrument to be the free act and deed of said CITY OF ST. LOUIS for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My commission expires: _____

EXHIBIT A

Legal Description of the Leased Premises

Parcel 1:

Commencing at a found cross, being 1828.92' feet east of the centerline intersection of East Grand (60'W) Avenue and Hall (80'W) Street on top of the flood wall at the flood wall gate over East Grand Avenue, said point also being on the centerline extension of East Grand Avenue; thence south 55 degrees 42 minutes 10 seconds west a distance of 67.71' feet along the centerline of Grand (60'W) Avenue to a point; thence south 26 degrees 41 minutes 41 seconds east a distance of 30.23' feet to a point of being on the south right-of-way of East Grand (60'W) Avenue, said point also being the POINT OF BEGINNING of the herein described property:

Thence north 55 degrees 42 minutes 10 seconds east along the south right-of-way of East Grand (60'W) Avenue a distance of 95.21' feet to a point on the west lease area of "American River Transportation Co. lease known as Lease #3 Wharf area north line of MSD lease north to East Grand Ave."; Thence continuing along the Lease #3 south 30 degrees, 24 minutes, 56 seconds east a distance of 902.31' feet to a point. Said point also being 25 feet offset east from the flood wall; thence north 55 degrees, 37 minutes, 22 seconds east a distance of 179.26' feet to a point. Said point being the south line of Lease #3, and the north line of the former lease to MSD;

thence south 34 degrees, 22 minutes, 38 seconds east along the east line of the former lease to MSD 128' feet to the southeast corner of the former lease to MSD; thence south 55 degrees, 37 minutes west 60' feet to a point at or near the top of bank of the Mississippi River; thence along or near the top of bank south 37 degrees, 35 minutes, 29 seconds east 363.21' feet to a point; thence continuing along or near the top of bank south 8 degrees, 55 minutes, 31 seconds east a distance of 138.27' feet to a point; thence to a point of the low water mark of the Mississippi River or north 81 degrees, 42 minutes, 05 seconds east a distance of 68.00' feet to a mathematical meandering line; thence a southerly direction along a mathematical meandering line south 24 degrees, 37 minutes 13 seconds east a distance of 50.80' feet; thence continuing along said meandering line south 1 degree, 55 minutes, 30 seconds west a distance of 84.64' feet to a point; thence continuing to a point at or near the top of bank of Mississippi River south 81 degrees, 42 minutes, 05 seconds west a distance of 54.45' feet; thence continuing along a line at or near the top of bank of the Mississippi River south 10 degrees, 02 minutes, 56 seconds east 286.65' feet to a point on the north line of Ferry (60' W Paper Street) Street; thence continuing along the north line of Ferry Street south 64 degrees, 67 minutes, 49 seconds west 210.00' feet to a point; thence leaving said right-of-way line north 24 degrees, 16 minutes, 11 seconds west a distance west of 1297.20' feet to a point; thence north 25 degrees, 38 minutes, 01 seconds west a distance of 105.94' feet to a point; thence north 29 degrees, 07 minutes, 01 seconds west a distance of 133.21' feet to a point; thence north 33 degrees, 19 minutes, 21 seconds west a distance of 176.48' feet to a point; thence north 31 degrees, 00 minutes, 01 seconds west a distance of 67.18' feet to a point; thence north 26 degrees, 41 minutes, 41 seconds west a distance of 172.93' feet to the point of beginning and containing 429,176 square feet or 9.853 acres and being subject to easements, deed and other restrictions of record.

The Leased Premises does not include mooring rights.

Parcel 2:

A tract of land in the east portion of Block 2506, City of St. Louis, Missouri being more particularly described as follows:

Commencing at the north east corner of property conveyed to Terminal Railroad Association Property, also being the northeast corner of lot 1 in block 1 of Buschman Addition, thence continuing along the east line of Terminal Railroad Association property south 11 degrees, 23 minutes, 46 seconds east a distance of 59.33' feet; thence north 64 degrees, 57 minutes, 49 seconds east a distance of 70.00' feet to a point; thence south 1 degrees, 41 minutes, 04 seconds east a distance of 53.00' feet to the POINT OF BEGINNING of the following described tract of land:

Thence continuing along the south line of Terminal Railroad Association of St. Louis Easement north 64 degrees, 51 minutes, 58 seconds east 188.87' feet to a point; thence continuing along the east line of the Port Authority Lease #1 Wharf area south 20 degrees, 31 minutes, 27 seconds east 178.56' feet to a point; thence continuing along the Port Authority Lease #1 south 10 degrees, 44 minutes, 46 seconds east 94.17' feet, thence south 72 degrees, 12 minutes, 13 seconds west 188.57' feet to a point; thence north 16 degrees, 47 minutes, 59 seconds west 247.73' feet to the point of beginning and containing 50,202 square feet or 1.152 acres and being subject to easements, deeds, and other restrictions of record.

The Leased Premises does not include any mooring rights.

EXHIBIT B

LEASE AGREEMENT

This Agreement, made and entered into as of the ____ day of _____, 20____, 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 Grace Hill Settlement House, a Missouri non-profit corporation (hereinafter called "Lessee").

WITNESSETH:

1. The term "Lease" shall mean this Agreement, including amendments thereto, together with any Exhibits, and the attached APPENDIX A, and any amendments thereto.

2. 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 said Lessee the property described in Exhibit A attached hereto and incorporated herein by this reference (the "Leased Premises").

3. The term of this Lease shall be for a period of ten (10) years, beginning on the ____ day of _____, 20____, and terminating on the ____ day of _____, 20____, with three (3) five year options, each option to be exercised with the mutual consent of Lessee and Lessor's Port Authority Commission and Board of Public Service, which consent may be withheld for

any reason or for no reason at all. Lessee must give six (6) months written notice to the Office of the Comptroller, 1200 Market Street, Room 212, St. Louis, Missouri 63103, prior to the expiration of this Lease or any extension thereof , if Lessee wishes to exercise an option to extend for an additional five (5) year period.

4. For the rights and privileges herein granted, Lessee agrees to pay to Lessor rent in the amount of One Dollar (\$1.00) per year, notwithstanding and instead of the provisions of Section 1 of Appendix A.

5. The Leased Premises shall be used only for the purpose of a park called the Mary Meachum Freedom Crossing and riverfront trail.

6. The Leases Premises 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 in accordance with APPENDIX "A," paragraph 2, and within the vicinity of 25 feet on either side of the Flood Wall/Levee, approval of the U.S. Corps of Engineers, City of St. Louis Street Department and the Metropolitan St. Louis Sewer District shall also be required.

7. The Leased Premises includes levee and/or floodwall areas within the Flood Protection System. As such, the City retains the right to access the area for regular inspections, maintenance, repairs and/or improvements whenever deemed necessary. The System includes levees and floodwalls as well as 25 feet from the toe of the floodwall and levee on both east (wet) and west (city) sides of the System. The integrity of the System is a priority over any other approved development of the Leased Premises.

8. All other matters governing this Lease are set forth in said APPENDIX "A."

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Lease Agreement.

LESSEE:

GRACE HILL SETTLEMENT HOUSE

By: _____

LESSOR:

THE CITY OF ST. LOUIS

By: _____

Mayor

ATTEST:

By: _____

Comptroller

ATTEST:

City Register

APPROVED AS TO FORM, ONLY:

City Counselor

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

On this ____ day of _____, 20__, before me appeared FRANCIS G. SLAY and DARLENE GREEN to me personally known, who being by me duly sworn did say that they are, respectively, the Mayor and 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 of St. Louis aforesaid the day and year first above written.

(SEAL)

Notary Public

Print Name: _____

My Commission expires:

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

On this ____ day of _____, 20__, before me, a Notary Public in and for the City of St. Louis, Missouri, appeared _____ who, being duly sworn, did say that he/she is _____ of _____ and that said Lease Agreement was signed in behalf of said company by authority of instrument to be the free act and deed of said company.

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.

(SEAL)

Notary Public

Print Name: _____

My Commission expires:

EXHIBIT A

Legal Description of Leased Premises

Parcel 1:

Commencing at a found cross, being 1828.92' feet east of the centerline intersection of East Grand (60'W) Avenue and Hall (80'W) Street on top of the flood wall at the flood wall gate over East Grand Avenue, said point also being on the centerline extension of East Grand Avenue; thence south 55 degrees 42 minutes 10 seconds west a distance of 67.71' feet along the centerline of Grand (60'W) Avenue to a point; thence south 26 degrees 41 minutes 41 seconds east a distance of 30.23' feet to a point of being on the south right-of-way of East Grand (60'W) Avenue, said point also being the POINT OF BEGINNING of the herein described property:

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distance of 133.21' feet to a point; thence north 33 degrees, 19 minutes, 21 seconds west a distance of 176.48' feet to a point; thence north 31 degrees, 00 minutes, 01 seconds west a distance of 67.18' feet to a point; thence north 26 degrees, 41 minutes, 41 seconds west a distance of 172.93' feet to the point of beginning and containing 429,176 square feet or 9.853 acres and being subject to easements, deed and other restrictions of record.

The Leased Premises does not include mooring rights.

Parcel 2:

A tract of land in the east portion of Block 2506, City of St. Louis, Missouri being more particularly described as follows:

Commencing at the north east corner of property conveyed to Terminal Railroad Association Property, also being the northeast corner of lot 1 in block 1 of Buschman Addition, thence continuing along the east line of Terminal Railroad Association property south 11 degrees, 23 minutes, 46 seconds east a distance of 59.33' feet; thence north 64 degrees, 57 minutes, 49 seconds east a distance of 70.00' feet to a point; thence south 1 degrees, 41 minutes, 04 seconds east a distance of 53.00' feet to the POINT OF BEGINNING of the following described tract of land:

Thence continuing along the south line of Terminal Railroad Association of St. Louis Easement north 64 degrees, 51 minutes, 58 seconds east 188.87' feet to a point; thence continuing along the east line of the Port Authority Lease #1 Wharf area south 20 degrees, 31 minutes, 27 seconds east 178.56' feet to a point; thence continuing along the Port Authority Lease #1 south 10 degrees, 44 minutes, 46 seconds east 94.17' feet, thence south 72 degrees, 12 minutes, 13 seconds west 188.57' feet to a point; thence north 16 degrees, 47 minutes, 59 seconds west 247.73' feet to the point of beginning and containing 50,202 square feet or 1.152 acres and being subject to easements, deeds, and other restrictions of record.

The Leased Premises does not include any mooring rights.

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

1. The base rate of \$0.0750 (current adjusted base rate \$0.1575) per square foot of land and \$7.50 (current adjusted base rate \$15.75) per linear foot of mooring may be adjusted at five year intervals beginning January 1, 2014, 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 twenty-five percent (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 fifteen percent (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 increase, the rate then shall be automatically adjusted by fifteen percent (15%).

2. The mooring area or Leased Premises 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 this Lease, the Lessee shall remove all and any vessels, boats, watercraft or other practical movable structures from the Leased Premises and mooring area, without expense to the Lessor. 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 Lease, the following terms shall have the meaning specified herein:

(1) The term "City" shall mean 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.

(2) The term "Discharge" shall have the meaning ascribed to such term by §311(a)(2) of the Clean Water Act, 33 U.S.C. 1321(a)(2);

(3) The term "Environmental Law" shall mean any international, foreign, federal, state, regional, county, local, governmental, public or private statute, law, regulation, ordinance, order, consent decree, judgment, permit, license, code, covenant, deed restriction, common law, treaty, convention or other requirement, pertaining to protection of the environment, health or safety of person, natural resources, conservation, wildlife, waste management, any Hazardous Material Activity (as hereinafter defined), and pollution (including, without limitation, regulation of releases and disposals to air, land, water and ground water), including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, 42 U.S.C. 9601 et seq.; Solid Waste Disposal Act (SWDA) of 1965, 42 U.S.C. 6901 et seq., as amended by the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984; Federal Water Pollution Control Act (Clean Water Act) of 1948, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987; Air Pollution Control Act of 1955, 42 U.S.C. 7401 et seq., as amended by the Clean Air Act of 1990; Toxic Substances Control Act (TSCA) of 1976, 15 U.S.C. 2601 et seq., as amended from time to time, and regulations promulgated thereunder; Occupational Safety and Health (OSH) Act of 1970, 29 U.S.C. 651 et seq., as amended from time to time, and regulations promulgated thereunder; Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, 42 U.S.C. 11001 et seq., as amended by the Debt Collection Improvement Act (DCIA) of 1996; National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., as amended from time to time, and regulations promulgated thereunder; and any similar or implementing state law, and all amendments, rules, regulations, guidance documents and publications promulgated thereunder;

(4) The term "Hazardous Material" as used in this Lease shall mean any hazardous or toxic chemical, waste, byproduct, pollutant, contaminant, compound, product or substance, including, without limitation, asbestos, polychlorinated biphenyls, petroleum (including crude oil or any fraction thereof), and any material the exposure to, or manufacture, possession, presence, use, generation, storage, transportation, treatment, release, disposal, abatement, cleanup, removal, remediation or handling of which, is prohibited, controlled or regulated by any Environmental Law;

(5) The term "Improved Wharf" shall mean Improved Wharf as defined in Section 21.08.060 of the Revised Code of the City of St. Louis;

(6) The term "Infectious Waste" shall mean any substance designated or considered to be an Infectious Waste pursuant to any Environmental Law;

(7) The term "Lease" shall mean the Lease Agreement to which this Appendix A is attached together with any Exhibits and together with this Appendix A, and any amendments thereto;

(8) The term "Lease Agreement" shall mean the lease agreement, including amendments thereto, to which this Appendix A is attached;

(9) The term "Leased Premises" shall mean the leased premises and/or mooring area or leased area as defined in Section One (1) or other Sections, of the Lease Agreement;

(10) The term "Oil" shall mean any substance designated or considered to be an oil pursuant to any Environmental Law;

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

(12) The term "Solid Waste" shall mean any substance designated or considered as a solid waste pursuant to any Environmental Law.

4. During the Term of this Lease or renewal or extension thereof, the Lessee agrees to abide by all City Ordinances; Executive Orders; 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 the: (1) transportation, storage, use, manufacture, disposal, discharge, release or spillage of Hazardous Material; (2) transportation, storage, use, recovery, disposal, discharge, release or spillage of Oil; (3) Discharge of effluents, pollutants and/or toxic pollutants to either publicly owned treatment works or directly to waters of the United States or tributaries thereof; (4) emissions, release or discharges of pollutants and/or other substances into the air or land; (5) transportation, storage, treatment, disposal, discharge, and release or spillage of Infectious Waste; (6) transportation, storage, treatment, recycling, reclamation, disposal, discharge, and release or spillage of Solid Waste; and (7) 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 Lease for which the City, at its sole option, may terminate the Lease.

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 Commission and undertake whatever action is necessary to remedy the violation and comply with the applicable provision(s), including but not limited to the institution of legal proceedings seeking an injunction in a court of competent jurisdiction. 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 ninety-six (96) hours of receiving said notice, the City may take whatever action is necessary to bring the Leased Premises into compliance. In the event that the City remedies any such violation or remediates an environmental condition at the Leased Premises, the 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 from and to defend the Lessor from any and all claims for injuries or damages resulting from or arising out of Lessee's use of the Leased Premises or mooring area described herein; furthermore Lessee 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 and Port Commission as additional non-contributing named insureds, covering each person up to One Million Dollars (\$1,000,000) with an overall limit as to all persons for each occurrence of Three Million Dollars (\$3,000,000) as well as coverage of Three Million Dollars (\$3,000,000) 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.

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, and its successors and assigns, shall forever indemnify, defend and hold harmless, the City of St. Louis, the Port Commission, its governing members, directors, officers, agents, attorneys, employees, independent contractors, and successors and assigns, from and against all claims, without limitation, damages, punitive damages, liabilities, losses, demands, claims, cost recovery actions, lawsuits, administrative proceedings, orders, response costs, compliance costs, investigation expenses, consultant fees, attorneys fees, paralegal fees and litigation expenses, arising from: (i) any Hazardous Material activity by Lessee, its successors or assigns, or at the Leased Premises; (ii) the operation of any applicable Environmental Law against Lessee or Leased Premises; (iii) any environmental assessment, investigation, and environmental remediation expenses; (iv) the violation at the Leased Premises or by Lessee of any applicable Environmental Law; or (v) any third party claims or suits filed or asserted.

Promptly after receiving notice, the Lessee, and its successors or assigns, shall pay all costs and expenses incurred by Lessor and its successors and assigns to enforce the provisions of this indemnification, including without limitation, attorney and paralegal fees and litigation expenses. The obligations of Lessee under this Section Five (5) and this indemnification shall survive the termination of this Lease and shall remain in force beyond the expiration of any applicable statute of limitations and the full performance of Lessee's obligations hereunder.

Lessee shall be required to purchase and maintain environmental impairment liability insurance, during the term of this Lease, in the amount of Three Million Dollars (\$3,000,000.00), or such other amount as shall be determined solely by the Port Commission, and naming the City of St. Louis as an additional primary, non-contributing insured, if:

(1) at any time more than the reportable quantity of a Hazardous Material, Oil or Infectious Waste will be stored or otherwise present on the Leased Premises in any form whatsoever, including 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) any Discharge 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) any Discharges of effluents, pollutants or toxic pollutants to a sewer system and/or publicly owned treatment works subsequent to pretreatment thereof; (c) any emission, release or Discharge of pollutants or other substances into the air or land; (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 onto adjacent property;

(3) Lessee is required by Environmental Laws 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 Waste and/or Hazardous Material on the Leased Premises;

(5) Lessee engages in the manufacture of hazardous, extremely hazardous, or toxic substances, or Hazardous Material, in, on, or about the Leased Premises.

The environmental impairment liability insurance required pursuant to the terms of this Section Five (5) 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 Material, pollutant, toxic pollutant, extremely hazardous substance, toxic substance, Infectious Waste, Solid Waste, or similar material or substance, which disposal, Discharge, release or spill occurs in, on, from, or about the Leased Premises.

Any insurance policy which Lessee is required to obtain pursuant to the provisions of this Section Five (5) shall provide that said policy may not be canceled except upon the giving of thirty (30) days notice of such cancellation to the Comptroller's Office and the Port Commission. Furthermore, any policy limit requirements for any insurance policy which Lessee is required to obtain pursuant to this Section Five (5) maybe increased and adjusted upon recommendation and approval of the Board of Public Service. In the event that any policy which Lessee is required to obtain pursuant to the provisions hereof is canceled by the insurer or has an expiration date prior to the expiration of the Term of this Lease, Lessee shall be required to obtain replacement insurance, and provide proof thereof to the Comptroller's Office and the Port Commission, prior to the date that the cancellation or expiration 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 and the Port Commission 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.

For any type of insurance, Lessee is required to provide, pursuant to this Section Five (5), certificates evidencing such insurance and copies of the policy governing such insurance to the Comptroller's Office and to the Port Commission before the Lease is issued, and shall file replacement certificates of insurance and policies at least fifteen (15) days prior to the expiration of any original or replacement certificates. Lessee shall maintain said insurance coverage during the life of this Lease, and any renewal or extension thereof, and shall provide proof of same within five (5) days of request by the City or the Port Commission. If Lessee, at any time during the Term of this Lease after execution of this Lease, commences engagement in any of the activities or is required to obtain any permit or number referenced in subparagraphs (1) through (5) of this Section Five (5), Lessee shall furnish such certificates and policy copies to the Comptroller and to the Port Commission prior to engaging in any such activities or obtaining any such permit or number. Failure to do so shall be considered a breach of this Lease.

6. Upon the nonpayment of the rent due under the Lease at the time when the same becomes due, or upon the nonperformance by the Lessee of any of the provisions or requirements under the Lease, the Lessor, at its election, may terminate this Lease, provided that the Lessee shall, after notice of nonpayment, breach or default, have thirty (30) days to cure any such nonpayment, and ninety (90) days to cure any such other breach, unless the provisions hereof provide either that a specified breach is grounds for immediate termination of the Lease or that failure to cure within a specified time frame of less than thirty (30) days is grounds for immediate termination (such as violating a statute or other law). The failure and omission of the Lessor to declare this Lease forfeited upon the breach or 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 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. 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 pay ad valorem and/or other taxes, fees and/or assessments due as and when due, whether or not such taxes, fees and/or assessments are appealed, shall be considered a breach of the terms of this Lease. All barges In Transit shall be exempt from the payment of taxes, fees and/or assessments. "In Transit" shall mean moored at the Leased Premises for not more than seven (7) calendar days in any 365-day period.

8. If the Lessee remains in possession of the Leased Premises after the expiration of the Term 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. If the Lessee continues to occupy the Leased Premises on a month to month basis following the expiration of the Lease Term, Lessee's obligations under the Lease shall continue in full force and effect for the duration of Lessee's occupancy of the Leased Premises. Any such month to month tenancy may be terminated by Lessor at any time.

9. The Lessor reserves the right to modify, amend, or cancel this Lease as set forth in Section Ten (10) hereof 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.

10. In the event that any portion of the Leased Premises or mooring area shall be needed for any municipal purpose as set forth in Section Nine (9) above, 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 or mooring area as shall be needed for such purpose, which portion may include all of such Leased Premises or mooring area. 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 in Section Eleven (11) below. Written notice when required shall be deemed to be sufficient and delivered when sent by Certified U.S. Mail to Lessee's last known address.

11. If this Lease is amended or modified under the provisions of Sections Nine (9) and/or Ten (10), 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 by Section Ten (10) 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 Sections Nine (9) and Ten (10). 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 Section Ten (10) above on the one-year anniversary of the date of the notice referenced in Section Ten (10) above, provided, however, that in the case of an emergency as described in Section Ten (10) above, the Lease shall be deemed terminated on the date specified in the notice.

12. In the event this Lease is canceled, modified or amended under the provisions of Sections Nine (9) and/or Ten (10) hereof, the Lessor shall cause the Lessee to be reimbursed, in accordance with the provisions of this Section Twelve (12), for the cost of capital improvements the Lessee has made and paid for on the Leased Premises pursuant to the written approval of the 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 as described in Section Eight (8), above. 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 Twelve (12).

In the event that the rate/rates for service to Lessee's customer(s) has/have been increased expressly and by separate invoice line item to cover the cost of any capital improvement made by Lessee, Lessor and Lessee agree that the sum of all payments made by such customers with respect to such capital improvement and the terms of the financing for such capital improvement shall be taken into account in determining the Lessee's cost of the capital improvement.

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. In the event Lessee shall terminate pursuant to this Section Thirteen (13), no reimbursement shall be made by Lessor under Section Twelve (12).

14. Any sublease, transfer, sale or assignment of Lessee's rights or interests under this Lease, and/or change in corporate structure of Lessee are expressly prohibited unless and until the Board of Public Service, the Port Commission and the Board of Aldermen of the City of St. Louis approves such action. Failure to obtain such approvals before taking any such action shall

be considered a breach of this Lease. If such action is so approved, all parts of this Lease are binding on any sublessee, assignee, successor, or new or modified corporate entity.

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

This Lease may be canceled at the option of the City, in its sole discretion, if the Lessee sells a majority of or all of the assets of the Lessee without Board of Public Service and Port Commission approval, which approval shall not be unreasonably withheld. If sale, transfer or assignment of Lessee's stock is approved, all parts of this Lease are binding on the purchaser, transferee or assignee. If the approvals described in this Section are obtained with respect to an action described in this Section, or if no such approvals are required with respect to an action described in this section, all parts of this Lease are binding on any sublessee, assignee, or new or modified corporate entity.

16. 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 City and any lawfully designated agent or representative of the City 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 City or its lawfully designated agent or representative deems necessary, in the City'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.

17. Any payment due pursuant to this Lease which is not timely paid shall be delinquent and shall bear interest from the date due at prime rate plus two (2) percent. Prime rate shall be that average rate as established by U.S. Bank N.A. or Bank of America N.A., or any successors or assigns of such Banks.

18. The Lessee shall not store, or allow the storage of, any garbage or trash on the Leased Premises or mooring area. 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 Wharf, mooring area, or Leased Premises. Lessee shall be responsible for enforcing this prohibition. Lessee shall also be responsible for ensuring that the Leased Premises and the adjoining river are at all times neat and free of all trash, rubble, and debris, regardless of whether or not such trash, rubble, and debris was deposited by Lessee. The Lessee shall enforce this clause on any craft or vehicle servicing, or being serviced by, the Lessee. Lessee's failure to abide by the provisions of this section shall be considered a breach of this Lease.

The Lessee shall have responsibility for the housekeeping on the Improved Wharf immediately in front of the mooring area and Leased Premises. Failure to maintain this area as required by this Lease or to abide by any other City ordinances shall result in the cancellation of this Lease upon approval by the Board of Public Service and the Port Commission.

19. Upon execution of this Lease, the Lessee shall, at his own expense, have this Lease recorded by the City's Recorder of Deeds.

20. 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 permanent 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.

21. On or within thirty (30) days before or after January 1 of each year, Lessee must present to the Port Commission a marine survey by a qualified marine engineer, acceptable to the Port Commission, attesting to the safety of all of the facilities operated by Lessee on, at or in the Leased Premises. Lessee's failure to provide such survey and/or failure of the survey to unequivocally assert that all such facilities are safe shall be considered a breach of this Lease.

22. All vessels must be moored in line parallel to the Floodwall and all mooring activities shall be conducted only pursuant to and shall comply in all respects with all applicable permits.

23. No auxiliary craft shall be moored to any craft or vessel subject to this Lease except for clear and explicit emergency public safety reasons, except as expressly permitted by the Coast Guard and Army Corps of Engineers, and except temporarily for maintenance purposes. Maintenance craft may be moored to another craft or vessel only during the actual time period when maintenance is taking place.

24. After notice to the Board of Public Service and the Port Commission, after submission to the Board of Public Service and the Port Commission of drawings and specifications signed and sealed by a licensed marine engineer, and after issuance of all applicable permits from all applicable City, state and federal regulatory agencies, 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 and Leased Premises in accordance with said signed and sealed drawings and specifications and permits. Installations in existence on the date hereof shall be permitted to remain, but any and all modifications or replacement of such installations shall be subject to the requirements of this section.

Lessee shall have the right to ingress and egress to the mooring facilities over the land between the Floodwall and the Leased Premises.

25. Lessee accepts the property in "as is" condition, and, except as otherwise expressly stated elsewhere in this Lease, without any express or implied warranties of suitability, merchantability, fitness for a particular purpose or environmental fitness. The City and the Port Commission have made no representations or warranties, express or implied, and explicitly disclaims the same, concerning the absence of any pollution, contamination, Hazardous Material, Infectious Waste, Solid Waste, underground storage tanks, or hazardous building materials in, on or about the Lease Premises or its improvements, except as may be specifically and expressly stated elsewhere in this Lease.

26. Lessee shall not remove any underground or aboveground storage tanks located on the Leased Premises without first obtaining the written consent of the Port Commission, which consent shall not be unreasonably withheld. Any such removal shall be performed in accordance with any and all applicable laws, regulations and ordinances. During the term of this Lease or any extension thereto, Lessee shall not abandon an underground or aboveground storage tank in place, and Lessee shall remove or replace or repair any such tank within ninety (90) days of any discontinuation of use. Lessee shall not install any underground or aboveground storage tanks on the Leased Premises without first obtaining the permission of the Port Commission. Unless specifically stated elsewhere in this Lease, 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.

27. 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 Material(s);
- (2) treat, store or dispose of waste Oil;
- (3) treat, store, process, manage, recycle or dispose of Solid Waste(s);
- (4) operate a waste tire site or waste tire processing facility; or
- (5) manufacture Hazardous Material(s);

on all or any portion of the Leased Premises. Further, 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. The Port Commission may, in its absolute and unfettered discretion, grant or deny approval for any activity referenced in this Section. Should the Port Commission deny permission for any such activity, Lessee shall abandon plans for such activity on, in or at the Leased Premises and shall not conduct such activity on, in or at the Leased Premises unless and until the Port Commission grants express written approval for such activity.

28. 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, and except for ordinary wear and tear. 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 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 City free of any and all Hazardous Material, Infectious Waste, Solid Waste (unless disposal of solid waste on the Leased Premises 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, into, or about the Leased Premises. Lessee shall, upon the expiration or earlier termination of this Lease, 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 or expiration of the Lease, 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, upon request and at the sole discretion of the Port Commission, remove any tanks that were installed by Lessee pursuant to this Lease or a prior lease agreement between the City and the Lessee. 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. Any such removal and/or decontamination shall be performed in accordance with any and all applicable laws, regulations and ordinances at Lessee's sole cost and expense, which obligation shall survive the expiration or termination of this Lease. In the event that Lessee fails to perform its obligations pursuant to this Section of the Lease, the City shall give Lessee notice of said failure within thirty (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 thirty (30) days of such notice, the City may undertake any and all legal actions, including but not limited to, injunction and/or specific performance, 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. The Lessee expressly agrees that the City may attach liens to any of Lessee's real and personal property located in the City of St. Louis in order to recover the City's costs of bringing the Leased Premises into compliance with the standards set out herein.

29. Lessee shall, with respect to its use of the Leased Premises, periodically furnish the Port Commission 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 Lease.

30. 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 or mooring area, or on, within or from any vessel or other facility moored within the Leased Premises or mooring area, 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 mooring, docking or other rights granted to Lessee herein for gaming purposes of any kind, without the prior express written consent of the City and Port Commission.

31. The terms and conditions of this Lease shall be binding on Lessee's heirs, successors and assigns.

32. No expiration or early termination of this Lease shall relieve Lessee of its liability and obligations under this Lease, and such liability and obligations shall survive any expiration or early termination. In the event of any such expiration or early

termination, whether or not the Leased Premises or any part thereof shall have been relet, Lessee shall continue to pay to the Lessor the Base Rental and all other sums, amounts and charges required to be paid by Lessee during the Term of this Lease.

Except as otherwise expressly provided herein, this Lease and the rights of Lessor and the obligations of Lessee hereunder shall not be affected by: (i) any damage to or theft, loss or destruction of any of the Leased Premises, (ii) any default on the part of Lessee hereunder or under any Note, Mortgage, Assignment or any other agreement, (iii) any latent or other defect in any of the Leased Premises, (iv) any violation of any provision of this Lease by Lessor, (v) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution or winding-up of, or other proceeding affecting, Lessee, (vi) the exercise of any remedy, including foreclosure, under any Mortgage or Assignment, (vii) any action with respect to this Lease (including the disaffirmance hereof) which may be taken by Lessee, any trustee, receiver or liquidator of Lessee or any court under the Federal Bankruptcy Code or otherwise, (viii) market or economic changes, or (ix) any other cause, whether similar or dissimilar to the foregoing, any present or future Law to the contrary notwithstanding.

In the event that either (a) Lessee's business fails to operate for any reason for any period in excess of ninety (90) days and Lessee fails to use due diligence to resume its operations, or (b) Lessee's business fails to operate for any reason for any period in excess of one-hundred eighty (180) days regardless of Lessee's due diligence, Lessor may terminate this Lease at the end of either such period. In the event that Lessee or any corporate entity or individual holding a majority of control over Lessee declares bankruptcy, Lessor may terminate this Lease unless such termination is expressly prohibited by a court of law.

33. This Lease, including any exhibits and this Appendix in their collective entirety, includes all the covenants and agreements between the Lessor and Lessee. This Lease and its exhibits and this Appendix can be changed, renewed, or extended only by amendment in writing signed by Lessor and Lessee and approved by the Port Commission and Board of Public Service, and only when such amendment is authorized by an ordinance enacted for that purpose. In no event shall the lease of wharf property be extended to cover a period of time exceeding a total of twenty-five (25) years as provided by City Charter Article I, Section 1(16).

Approved: June 16, 2011

ORDINANCE #68910
Board Bill No. 62

An ordinance amending Ordinance #67436 approved February 26, 2007, by modifying the terms of the ten (10) year real estate tax abatement for the 3100-42 Franklin Avenue/3121-37 Delmar Blvd. Redevelopment Area authorized by Ordinance #67436.

WHEREAS, Ordinance #67436 approved a Redevelopment Plan for the 3100-42 Franklin Avenue/3121-37 Delmar Blvd. Redevelopment Area ("Area") after finding that the area was blighted as defined in Section 99.320 of the Revised Statutes of Missouri, 2000, as amended (the "Statute" being Sections 99.300 to 99.715 inclusive).

WHEREAS, the third paragraph of Section Fourteen of Ordinance #67436 provides that "if property in the Area is sold by the LCRA to an urban redevelopment corporation formed pursuant to Chapter 353 of the Missouri Statutes, or if any such corporation shall own property within the Area, then for up to the first ten (10) years after the date the redevelopment corporation shall acquire title to such property, taxes on such property shall be based upon the assessment of land, exclusive of any improvements thereon, during the calendar year preceding the calendar year during which such corporation shall have acquired title to such property. In addition to such taxes, any such corporation shall for the same ten (10) year period make a payment in lieu of taxes to the Collector of Revenue of the City of St. Louis in an amount based upon the assessment on the improvements located on the property during the calendar year preceding the calendar year during which such corporation shall have title of such property. If property shall be tax-exempt because it is owned by the LCRA and leased to any such corporation, then such corporation for the first ten (10) years of such lease shall make payments in lieu of taxes to the Collector of Revenue of the City in an amount based upon the assessment on the property, including land and improvements, during the calendar year preceding the calendar year during which such corporation shall lease such property."

WHEREAS, the property in the Area has been redeveloped but the transfer of title provided for in Ordinance #67436 has not yet occurred, and it has been determined that the assessed value of the property in the Area has been significantly increased in the last four years and for tax abatement to be based on the "pre-development" value of the property it should be based on the 2007 assessed value rather than the assessed value "during the calendar year preceding the calendar year" during which tax abatement is initiated.

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

SECTION ONE. The third paragraph of Section Fourteen of Ordinance #67436 and the third paragraph of Section F of

Exhibit B to the Ordinance, the Blighting Study and Plan for the 3100-42 Franklin Avenue/3121-37 Delmar Blvd. Redevelopment Area (the "Plan") approved by Ordinance #67436 are hereby amended to read as follows:

If the property in the Area is sold by the LCRA to an urban redevelopment corporation formed pursuant to Chapter 353 of the Missouri Statutes, or if any such corporation shall own property within the Area, then for up to the first ten (10) years after the date the redevelopment corporation shall acquire title to such property, taxes on such property shall be based upon the assessment of land, exclusive of any improvements thereon, during the calendar year prior to the calendar year during which such Corporation shall have acquired title to such property. In addition to such taxes, any such corporation shall for up to the same ten (10) year period make a payment in lieu of taxes to the Collector of Revenue of the City of St. Louis in an amount based upon the assessment on the improvements located on the property as of January 1, 2007. If property shall be tax-exempt because it is owned by the LCRA and leased to any such corporation, then such corporation for up to the first ten (10) years of such lease shall make payments in lieu of taxes to the Collector of Revenue of the City in an amount based upon the assessment on the property, including land and improvements thereon, as of January 1, 2007.

SECTION TWO. The remainder of Section Fourteen and all other sections of Ordinance #67436 and the remainder of Section F of the Plan and all other sections of the Plan shall remain the same as approved on February 26, 2007.

Approved: June 16, 2011