

**ORDINANCE #65868**  
**Board Bill No. 410**

An Ordinance recommended and approved by the Airport Commission, the Board of Public Service, and the Board of Estimate and Apportionment, authorizing and directing the Mayor and the Comptroller of the City of St. Louis (the "City") to enter into, execute, acknowledge, deliver, and record on behalf of the City a First Amendment to the "Easement Agreement" between the City and The Bi-State Development Agency of the Missouri-Illinois Metropolitan District, dated July 8, 1994 (Comptroller Document No. 19184) that was authorized under City Ordinance No. 63169 approved July 3, 1994; authorizing and directing the City's Mayor, Comptroller, and/or the Director of Airports, as the case may be, to enter into, execute, acknowledge, certify, and record on behalf of the City any attendant or related agreements, documents, instruments, affidavits, and certifications, either referenced or contemplated in the Easement Agreement as amended by the First Amendment or deemed necessary to effectuate the terms set forth therein, or deemed necessary to preserve or protect the City's interest, said agreements, documents, instruments, affidavits, and certifications shall contain such terms, covenants, and conditions that are in the best interest of the City and its residents, Lambert-St. Louis International Airport, and the traveling public; the "First Amendment", which is attached hereto as ATTACHMENT "A" and made a part hereof, extends the term of the Easement Agreement from July 8, 2044 until December 31, 2075 and adds an assignability clause to the Easement Agreement; providing that the provisions set forth in this ordinance shall be applicable exclusively to this ordinance and the First Amendment; and containing a severability clause, and an emergency clause.

**WHEREAS**, the City of St. Louis (the "City") is the fee simple owner of certain real property situated in St. Louis County and in the City of Berkeley, Missouri, upon which is located Lambert-St. Louis International Airport (the "Airport"); and

**WHEREAS**, pursuant to an "Easement Agreement" dated July 8, 1994 (Comptroller Document No. 19184) between the City and The Bi-State Development Agency of the Missouri-Illinois Metropolitan District (the "Agency") that was authorized by City Ordinance No. 63169, approved July 3, 1994, the City granted the Agency an exclusive fifty (50) year easement and right-of-way upon, under, over, and across that portion of the Airport upon which the Agency constructed and now operates a light-rail, urban mass transit, public transportation system known as "MetroLink"; and

**WHEREAS**, the term of the Easement Agreement extends until July 8, 2044; and

**WHEREAS**, the Agency intends to enter into a leverage lease financing in order to obtain additional funds to provide for the operational and capital costs of MetroLink; and

**WHEREAS**, the leveraged lease financing will involve the existing thirty four (34) mile MetroLink alignment consisting of the right-of-way, stations, overhead catenary, power traction, and ancillary equipment, including the Agency's interest in a portion of the Airport upon which the Agency constructed and now operates MetroLink subject to the Easement Agreement; and

**WHEREAS**, in order to satisfy the requirements for the leveraged lease financing, it is necessary that the term of the Easement Agreement be extended until December 31, 2075, and that an assignability clause be added to the terms of the Easement Agreement.

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

**SECTION ONE.** The Mayor and the Comptroller of the City of St. Louis (the "City") are hereby authorized and directed to enter into, execute, acknowledge, deliver, and record on behalf of the City, a First Amendment to the "Easement Agreement" between the City and The Bi-State Development Agency of the Missouri-Illinois Metropolitan District, dated July 8, 1994 (Comptroller Document No. 19184) that was authorized under City Ordinance No. 63169 approved July 3, 1994; this "First Amendment" to read in words and figures as substantially set out in ATTACHMENT "A" which is attached hereto and made a part hereof.

**SECTION TWO.** The City's Mayor, Comptroller, and/or Director of Airports (as the case may be) are hereby authorized to enter into, execute, acknowledge, certify, and/or record on behalf of the City any attendant or related agreements, documents, instruments, affidavits, and certifications, either referenced or contemplated in the Easement Agreement as amended by the First Amendment, or deemed necessary to effectuate the terms set forth therein, or deemed necessary to preserve or protect the City's interest. Said agreements, documents, instruments, affidavits, and certifications shall contain such terms, covenants, and conditions that are in the best interest of the City and its residents, Lambert-St. Louis International Airport, and the traveling public.

**SECTION THREE.** The terms, covenants, and conditions set forth in this ordinance shall be applicable exclusively to this ordinance and the First Amendment to the Easement Agreement approved and authorized by this ordinance and shall not be

applicable to any other existing or future easements or other agreements, documents, or instruments unless specifically authorize by ordinance enacted after the effective date of this ordinance. All provisions of other City ordinances that are in conflict with this ordinance shall be of no force or effect as to the First Amendment to the Lease Agreement.

**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 is held invalid by the court of competent jurisdiction, such holding shall not invalidate the remaining sections, conditions, or provisions of this ordinance.

**SECTION FIVE.** This being an ordinance for the preservation of public peace, health, or safety or providing for a public work or improvement, it is hereby declared an emergency measure as designed in Article IV, Section 20 of the City's Charter and shall become effective immediately upon its approval by the Mayor of the City.

## ATTACHMENT "A"

### FIRST AMENDMENT TO EASEMENT AGREEMENT

This First Amendment to Easement Agreement ("First Amendment") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2002, by and between the City of St. Louis, Missouri ("Grantor"), a municipal corporation of the State of Missouri, whose address is 1200 Market Street, St. Louis, Missouri 63103, and The Bi-State Development Agency of the Missouri-Illinois Metropolitan District ("Grantee"), a body politic and corporate organized and existing under the laws of the United States and the States of Missouri and Illinois, whose address is 707 North First Street, St. Louis, Missouri 63102.

#### WITNESSETH:

**WHEREAS,** Grantor is the owner in fee simple of certain real property situated in St. Louis County, and in the City of Berkeley, Missouri, upon which is located the Lambert-St. Louis International Airport; and

**WHEREAS,** Grantor granted Grantee an exclusive, 50 year Easement and right-of-way upon, under, over and across the "Property" described on Exhibit A to the Easement Agreement (attached hereto as **ATTACHMENT "A-1"** and made a part hereof) between Grantor and Grantee dated July 8, 1994 and recorded in the office of the Recorder of Deeds, St. Louis County, Missouri, in Book 10256, Page 1929 on July 14, 1994; and is also filed in the office of The City Register (Comptroller's Document Number 19184)

**WHEREAS,** Grantor and Grantee desire to amend the Easement Agreement as set forth herein in accordance with Section 21 of the Easement Agreement which requires the parties to amend the Easement Agreement in writing.

**NOW THEREFORE,** in consideration of the mutual covenants contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Grantor and Grantee hereby amend the Easement Agreement as follows:

1. Term of the Easement Agreement. The term of the Easement and the Easement Agreement is hereby extended until December 31, 2075.

2. Assignment. The following provision is added as a new Section 24 of the Easement Agreement:

24. Assignment. The rights and benefits of Grantee under the Easement Agreement may be presently or collaterally assigned by Grantee by first obtaining the written approval of Grantor as provided in Ordinance 63657, and said approval shall not be unreasonably withheld, delayed, or conditioned. At least 120 days prior to any contemplated assignment of this Easement Agreement, Grantee shall submit a written request to the Grantor's Director of Airports. The assignment request to the Director of Airports must include a copy of the proposed assignment agreement. No assignment shall be made or shall be effective if Grantee is in default on any of the terms, covenants and conditions herein contained. No assignment shall be effective as it pertains to the Grantor until such time as the Director of Airports receives a fully executed copy of the approved assignment agreement as provided for above. The party to whom such assignment is made shall expressly assume in writing the terms, covenants, and conditions contained in this Easement Agreement; however, such assignment shall not release Grantee from any of the terms, covenants, conditions or obligations of this Easement Agreement. Any



My Commission Expires:

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2003, before me appeared Larry E. Salci, personally known to me, who being by me duly sworn, did say that he/she is the Executive Director of The Bi-State Development Agency of the Missouri-Illinois Metropolitan District, a body politic and corporate organized and existing pursuant to Chapter 70 of the Revised Statutes of Missouri, as amended, and that the seal affixed to the foregoing instrument is the seal of said agency and that said instrument was signed and sealed on behalf of said agency by authority of its Board of Commissioners, and that he acknowledged said instrument to be the free act and deed of said agency.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal in the county and state aforesaid the day and year written above,

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

My Commission Expires:

**Attachment "A-1"**  
 Easement Agreement  
 On file in the Register's Office.

**Approved: April 24, 2003**