

**ORDINANCE #66046**  
**Board Bill No. 233**

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 to enter into and execute on behalf of the City of St. Louis (the "City") a Lambert-St. Louis International Airport Concession Agreement (the "Agreement"), between the City and Dynamic Vending, Inc.(the "Concessionaire"), granting to the Concessionaire the non-exclusive right, license, and privilege to operate a Vending Concession within the premises as described in the Agreement, subject to the terms, covenants, and conditions of the Agreement, which was approved by the Airport Commission and the Board of Estimate and Apportionment and is attached hereto as **ATTACHMENT "A"** and made a part hereof; directing that the Agreement be in compliance with all applicable disadvantaged business enterprise requirements and in compliance with all applicable federal, state, and local laws, ordinances, regulations, court decisions, and executive orders relating to equal employment opportunity; providing that the provisions set forth in this Ordinance shall be applicable exclusively to the Agreement; 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 a Lambert-St. Louis International Airport Concession Agreement (the "Agreement"), between the City and Dynamic Vending, Inc. (the "Concessionaire"), granting to the Concessionaire the non-exclusive right, license, and privilege to operate a Vending Concession within the premises as described in the Agreement, subject to the terms, covenants, and conditions of the Agreement that was approved by the Airport Commission and the Board of Estimate and Apportionment and is to read in words and figures as set out in **ATTACHMENT "A"**, which is attached hereto and made a part hereof.

**SECTION TWO.** The Agreement shall be in compliance with all applicable disadvantaged business enterprise requirements and in compliance with all applicable federal, state, and local laws, ordinances, regulations, court decisions, and executive orders relating to equal employment opportunity.

**SECTION THREE.** The terms, covenants, and conditions set forth in this Ordinance shall be applicable exclusively to the Agreement approved and authorized by this Ordinance and shall not be applicable to any other existing or future concession agreement or other agreements, documents, or instruments unless specifically authorized by ordinance enacted after the effective date of this Ordinance.

**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, 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**  
**LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT**  
**DYNAMIC VENDING, INC.**  
**VENDING CONCESSION AGREEMENT**  
**NO. AL-87**

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**AIRPORT NUMBER AL-87**

**LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT  
CONCESSION AGREEMENT  
(VENDING)**

THIS AGREEMENT, made and entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2003, by and between the CITY OF ST. LOUIS (“City”), a municipal corporation of the State of Missouri and Dynamic Vending, Inc., (“Concessionaire”), a corporation organized and existing under the laws of the State of Missouri.

WITNESSETH, That:

WHEREAS, the City now owns, operates and maintains an international airport known as “Lambert-St. Louis International Airport” (“Airport”), located in the County of St. Louis, Missouri;

WHEREAS, a Vending Concession at the Airport is essential for proper accommodation of the public;

WHEREAS, the City has determined that it is in the public interest for the following objectives to be met in the provision of a Vending Concession:

- to provide a first-class, full-service Vending Concession that meets Airport user needs and adds value to other Airport and airline services;
- to provide a high level of service at prices that are attractive to Airport users and competitive with local prices;
- to provide a Vending Concession that is operated by well trained, efficient, courteous and pleasant staff;
- to be responsive to both Federal Aviation Administration and City goals for Disadvantaged Business Enterprise participation in concessions.

WHEREAS, the City has advertised and received competitive bids for the right to manage and operate a Vending

Concessions at the Airport, and by this process the City has determined that the Concessionaire is a qualified operator of this service and has submitted a bid deemed advantageous to the public and the City;

NOW, THEREFORE, for and in consideration of the promises, and of the mutual covenants and agreements herein contained, and other valuable considerations, the City and the Concessionaire agree as follows:

## ARTICLE I DEFINITIONS

**Section 101. Definitions.** The following words and phrases shall have the following meanings:

“Agreement” shall mean this document and any amendments thereto, duly approved by the City.

“Airport” as stated in the preamble hereof.

“Airport Properties Department” shall mean that department of the City of St. Louis Airport Authority that has as its primary responsibility the administration of all tenant, permittee, concessionaire and other space at the Airport, and shall be the Concessionaire’s point of contact with the Airport on all issues related to this Agreement.

“Authority” shall mean the City of St. Louis department responsible for managing and operating the Airport.

“City” as stated in the preamble hereof.

“Concession Fee” shall mean the product of (i) Gross Receipts multiplied by (ii) the percentage specified in Article V hereof.

“Concessionaire” as stated in the preamble hereof.

“Contract Year” shall mean a period of five (5) consecutive twelve month periods commencing on the first day of the term of the Agreement, as specified in Section 401.

“Director” shall mean the Director of Airports of the Airport Authority of the City of St. Louis, and incorporates the granting of approval requirements of Section 1415 hereof.

“Disadvantaged Business Enterprise” or “DBE” shall mean a small business: (a) which is at least 51% owned by one or more socially and economically disadvantaged individuals, or, as in the case of a publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals who own it. Socially and economically disadvantaged individuals means those individuals who are citizens of the United States (or are lawfully admitted permanent residents) and who are refutably presumed to be women, Blacks, Hispanics, Native Americans, Asian-Pacific Americans or Asian Indian Americans and any other individuals or groups found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, as amended.

“Gross Revenue” shall mean the gross receipts from all sales made and services performed for cash or credit on the Airport, regardless of the point of origin or delivery of the order, and any other revenue of any type arising out of or in connection with Concessionaire’s operations on the Airport, whether performed by Concessionaire, its subcontractors, subsidiaries, associated companies or otherwise. Only the following may be excluded or deducted, as the case may be, from Gross Revenues:

- Federal, state, county and municipal sales taxes or other sales taxes collected from customers;
- Cash or credit refunds given to customers for services purchased at the Airport;
- The value of any supplies or equipment exchanged or transferred from or to other locations of Concessionaire's business not made for the purpose of avoiding a sale at the Airport;
- Receipts in the form of refunds from or the value of merchandise, supplies or equipment returned to shippers, suppliers

or manufacturers;

- The sale or trade-in value of any equipment or fixtures approved for removal by the Director and owned by Concessionaire.

“Metropolitan” shall mean the greater St. Louis metropolitan area.

“Minimum Guarantee” shall mean Concessionaire’s minimum annual concession fee, as set out in Section 502 herein.

“Percentage Fee” shall mean the product of (i) Gross Revenue multiplied by (ii) the percentage as set out in Article V.

“Premises” shall mean a location or locations described in Section 201 that have been designated by City for the sale of Concessionaire’s services and for other uses provided specifically herein.

“Removable Fixtures” shall mean all furnishings, equipment and fixtures installed by the Concessionaire, that are not permanently affixed to any wall, floor or ceiling in the Premises.

## ARTICLE II PREMISES

**Section 201. Premises.** City hereby permits Concessionaire to use at the Airport the Premises as described on Exhibit “A”, attached hereto and made a part hereof. The rights granted in Section 301 hereof may be exercised only on the Premises.

Concessionaire accepts 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. City without limitations expressly disclaims and negates, as to the Premises: a) any implied or expressed warranty of merchantability; b) any implied or expressed warranty of fitness for a particular purpose; and c) any implied warranty with respect to the Premises or any portion thereof.

The Director shall have the right to add, substitute, relocate or delete portions of the Premises upon notice to Concessionaire. Such changes will be made at the sole expense of Concessionaire and City will not be liable or responsible for any loss whatsoever including without limitation any inconvenience or loss by Concessionaire of work time, profit or business resulting from such changes.

**Section 202. Access.** Subject to and in accordance with the terms, covenants and conditions of this Agreement, the Concessionaire shall have the right of free access, ingress to and egress from the Premises for the Concessionaire’s employees, agents, guests, patrons and invitees.

## ARTICLE III CONCESSION RIGHTS

**Section 301. Rights.** City hereby grants to the Concessionaire, subject to all the terms, covenants and conditions of this Agreement, the nonexclusive right, license and privilege to operate a Vending Concession within the Premises. Concessionaire is not granted the right to offer for sale any other services or products. City does not envision, during the term hereof, granting Vending Concession rights to any other entity that would be in direct competition with Concessionaire.

The following vending machine products shall be offered for sale at all times at all vending locations inside the Airport Terminals and Concourses: bags of chips, snacks, and cookies; candy bars; chewing gum; mints. Beverages shall also be offered for sale at the remote (parking lot) locations. Any new products, services or prices must be approved in writing by the Director in accordance with Section 603 of this Agreement.

**Section 302. Limitation of Rights.** The Concessionaire is not granted the right to offer for sale any merchandise, vehicles, or other services, or engage in any other business or commercial activity on the Airport that is not specifically granted under this Agreement. If any services or products, other than those specifically mentioned in Section 301 are offered for sale by the Concessionaire, the Concessionaire will cease and desist from any further sale or provision thereof immediately and not later than upon receipt of written notice from the Director.

This Agreement grants no real or implied rights to any concession privileges on the Airport other than in the designated areas.

**Section 303. Agreements with Other Airport Tenants.** This Agreement specifically pertains to the Premises located in public access areas of the Airport, as delineated in Exhibit "A" hereof. Agreements with airlines or other airport tenants for services within their non-public leased space are excluded from the provisions of this Agreement.

**ARTICLE IV  
LEASE TERM**

**Section 401. Term.** The term of this Agreement shall consist of five (5) years commencing on the latter of October 1, 2003 or on the first day of the month following the date City fully executes this Agreement, and ending five (5) years thereafter unless sooner terminated or extended in accordance with other provisions of this Agreement. The initial commencement and expiration dates shall be written in the following spaces by the City.

Commencement Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

**Section 402. Surrender of Possession.** No notice to quit possession at the expiration date of the term of this Agreement shall be necessary. The Concessionaire covenants and agrees that at the expiration date of the term of this Agreement, or at the earlier termination hereof, it will peaceably surrender possession of the Premises, which in accordance with Section 708 shall be restored to original condition, reasonable wear and tear, acts of God, and other casualties excepted, and the City shall have the right to take possession of the Premises with or without due process of law.

**Section 403. Holdover Provision.** If Concessionaire shall, with the prior written approval of the Director, hold over after the expiration of the term of this Agreement, the resulting tenancy shall, unless otherwise mutually agreed, be a tenant at will on a month-to-month basis. During such month-to-month tenancy, Concessionaire shall pay to City the same Concession Fees as set forth in the final year herein, unless different fees shall be agreed upon, and shall be bound by all terms, covenants and conditions of this Agreement.

**ARTICLE V  
FEES AND RENTALS**

**Section 501. General.** The Concessionaire, for and in consideration of the rights and privileges granted herein, agrees to pay the concession fees set forth below in Section 502 and the utilities described in Section 804 of this Agreement, without demand during the term of this Agreement.

**Section 502. Concession Fees.**

A. The Concessionaire agrees to pay to City, for each Contract Year, a sum equal to the greater of the Minimum Annual Guarantee (hereinafter referred to as MAG) as set out in paragraph (B) of this Section, or the Gross Revenue Percentage Fee (Gross Revenue multiplied by the Percentage set out below).

<u>Year</u>	<u>Percentage</u>
1	32.5%
2	32.5%
3	32.5%
4	32.5%
5	34%

B. For Contract Year One and Contract Year Two, the Minimum Annual Guarantee (hereinafter referred to as MAG) shall be \$62,500 (Sixty-Two Thousand, Five Hundred Dollars) for each year. For Contract Year Three and each remaining Contract Year, the MAG shall be a sum of money representing 80% of the preceding Contract Year's Applicable Percentage Fees.

The Minimum Annual Guarantees shall be reduced by a maximum of twenty-five percent (25%) should originating/destination ("O&D") enplaned passengers fall by at least twenty-five percent (25%) or more in a one year period after Contract Year One. The base year for O&D enplanement comparisons is Contract Year One. O&D

enplanement numbers used for comparisons shall be taken from the statistics recorded by the City. This adjustment shall be subject to the following limitations: (1) this adjustment will take effect in the Contract Year immediately following the Contract Year in which the entire twenty-five percent (25%) reduction in O&D enplanements is attained, (2) this adjustment applies only to Contract Years subsequent to the entire twenty-five percent (25%) decline in O&D enplaned passengers and (3) this adjustment will be offset proportionally to one hundred percent (100%) of the applicable Contract Years' Minimum Annual Guarantees for Contract Years following the year in which O&D enplanements increases above seventy-five percent (75%) of Contract Year One O&D enplanements.

An example of this adjustment is as follows. O&D enplanements in Contract Year Three decrease to sixty-five percent (65%) of Contract Year One O&D enplanements. This will cause a maximum of a twenty-five percent (25%) reduction in the Minimum Annual Guarantee for Contract Year Four. O&D enplanements in Contract Year Four then increase to eighty-five percent (85%) of Contract Year One O&D enplanements. This will cause the Minimum Guarantee for Contract Year Five to increase to one hundred percent (100%) of the Minimum Annual Guarantee for Contract Year Five.

**Section 503. Payment.** Payments for each month of the Contract Years shall consist of (a) an amount equal to 1/12th the Minimum Guarantee, to be paid in advance on or before the first day of each month and (b) an amount equal to that portion of the Percentage Fee for the preceding month that is in excess of 1/12th the Minimum Guarantee, to be paid on or before the 15th day of the second and each succeeding month during the Concession Term. (See Section 505. Unpaid Fees for service charge.)

**Section 504. Reports.**

- A. The Concessionaire shall submit to the City by the 15th day of the second and each succeeding month of the Term hereof, one copy of an accurate statement of Gross Revenue. The final statement of Gross Revenue will be due by the 20th day of the month following expiration of this Agreement. These statements must separately state Gross Revenue for sales of products and services from each vending machine and be certified as accurate by an officer of Concessionaire. The final statement of Gross Revenue will be due by the 15th day of the month following expiration of this Agreement. City reserves the right to use these statements of Gross Revenue as a source of information to bidders in a future solicitation for bids for this concession.

Concessionaire shall report Gross Revenue, and the computation of Gross Revenue, in a form acceptable to the Director. The City reserves the right to use these statements of Gross Revenue as a source of information to bidders in a future solicitation for bids for this concession.

Concessionaire shall submit to City by the 15th day of the second and each succeeding month of the term hereof, two copies of accurate DBE participation reports. One report is to be submitted to the Airport Properties Department, P.O. Box 10212, St. Louis, Missouri, 63145, and the other to the Airport Authority's Contracts Administration/DBE Office, 13723 Riverport Drive, Maryland Heights, Missouri, 63043.

- B. The Concessionaire shall submit an audit report of Gross Revenue within 120 days following the conclusion of each Contract Year. These audit reports must be prepared by an independent Certified Public Accountant licensed to do business within the State of Missouri. The audit reports shall, at a minimum, certify the accuracy of (i) reported total accumulated Gross Revenue, (ii) the calculation of the total amount payable to the City based upon the accumulated Gross Revenue for the Contract Year and the Percentage Fee, and (iii) the aggregate amount attributable to DBE participants, if any. The audit reports shall also include a schedule showing the total of actual payments to the City during the Contract Year and shall state an opinion as to the correctness of the computation of Gross Revenue without exception.

If through such audit report it is established that additional fees are due the City, the Concessionaire shall pay such additional fees to the City not later than fifteen (15) days after completion of such statement and receipt of written notice from the Director. If it is established that the Concessionaire has overpaid the City, then such overpayment from the Concessionaire shall be credited to the fees and charges next thereafter due from the Concessionaire or paid to Concessionaire after the last Contract year. Concessionaire shall immediately notify City of any audit conducted by Federal, State or local authorities.

- C. Within thirty (30) days after the close of each Contract Year, except the last Contract Year, the Concessionaire shall provide the City with an estimate of projected monthly Gross Revenue for the subsequent Contract Year.
- D. Delivery of an audit report containing a qualified opinion, an adverse opinion or a disclaimer of opinion as defined in the

Statement on Auditing Standards, or as same may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, shall be deemed to be a default pursuant to Section 1101 (B) (10) herein.

- E. Concessionaire shall keep such records (copies of subcontracts, paid invoices, documentation of correspondence) as are necessary for the Airport Authority to determine compliance with the DBE participation requirement [at a minimum of three (3) years after the expiration or termination of this Agreement]. The Airport Authority reserves the right to investigate, monitor, audit and/or review records for compliance.

**Section 505. Unpaid Fees.** All unpaid fee payments due the City hereunder will bear a service charge of one-and-one-half percent (1½ %) per month if same is not paid and received by the City on or before the 15th of the month in which said payments are due, and the Concessionaire agrees that it will pay and discharge all costs and expenses including, without limitation, attorneys' fees and litigation costs incurred or expended by the City in collection of said delinquent amounts due, including services charges, within five (5) days of notice.

**Section 506. Performance and Payment Bond.** Concessionaire agrees to furnish a Performance and Payment Bond in a form acceptable to City in the principal amount of \$31,250.00 before the Concessionaire performs any work under this Agreement. Such bond, or other form of security acceptable to the City, shall remain in full force and effect throughout the term of this Agreement and shall extend sixty (60) days following the expiration or early termination of this Agreement. In the event that said bond should expire prior to expiration or early termination of this Agreement, Concessionaire covenants and agrees to provide City a renewal bond sixty (60) days prior to the expiration date or early termination of the expiring bond. Such bond will guarantee the payment of all Fees and performance of all other terms, covenants and conditions of this Agreement. The bond will be in the form of a standard commercial guaranty bond running to City, written by a surety company authorized to do business in Missouri and (1) having a "Best" key rating of not less than A and with a "Best" Financial Size Category of not less than Class VIII and (2) shown on the most recent U.S. Treasury Circular No. 570 as having an "underwriting limitation" of at least the amount of the penal sum of the bond. City may agree to another form of deposit which will provide equal protection of City's interest. If City cashes the Performance and Payment Bond or such other form of deposit, Concessionaire agrees to furnish a replacement Performance and Payment Bond or other such form of deposit in the same principal amount within fifteen (15) days.

**Section 507. Prompt Payment of Taxes and Fees.** The Concessionaire warrants, covenants and agrees to pay promptly all lawful general taxes or payments in lieu of taxes, special assessments, excises, license fees, permit fees, and utility service charges of whatever nature, applicable to its operation at the Airport, and to take out and keep current all licenses, municipal, state or federal, required for the conduct of its business at and upon the Airport or under this Agreement, and further covenants and agrees not to permit any of said taxes, payments, assessments, fees and charges to become delinquent.

**Section 508. Accounting Records and Reports.** During the term hereof, the Concessionaire will make available in the St. Louis area true, accurate, complete and auditable records of all business it conducts at the Airport. The Concessionaire will make same records available in the St. Louis area for at least three years following the expiration or early termination of this Agreement. These records will be accessible during usual business hours to the City or it's duly appointed agents or auditors. The Concessionaire is not required to maintain its records in the St. Louis area, as provided above, if it agrees to pay for all costs associated with conducting audits performed by the City at the Concessionaire's place of records.

**Section 509. Audit.** City or its designated agent reserves the right to audit Concessionaire, its subcontractors or others doing business under this Agreement, books and records and receipts at any time for the purpose of verifying the Gross Revenue hereunder. If as a result of such audit(s), it is established that additional fees or charges are due the City, the Concessionaire shall pay such fees or charges to the City not later than fifteen (15) days after completion of such audit and written notice by the Director. If the results of the audit(s) reveal a discrepancy of more than five percent (5%) between Gross Revenue reported by the Concessionaire and Gross Revenue determined by the audit, the cost of the audit shall be borne by the Concessionaire.

**Section 510. Additional Fees, Charges and Rentals.** The Concessionaire will pay additional fees, charges and rentals under the following conditions:

- A. if the City has paid any sum(s) or has incurred any obligation(s) or expense(s) for which the Concessionaire has agreed to pay or reimburse the City, or
- B. if the City is required or elects to pay any sum(s) or incur any obligation(s) or expense(s) because of the failure, neglect or refusal of the Concessionaire to perform or fulfill any of the terms, covenants or conditions of this Agreement.

Such payments will include all interest, costs, damages and penalties in conjunction with such sums so paid or expenses so incurred and may be added to any installment of fees, charges and rental thereafter due hereunder. Each and every part of such payment will be recoverable by the City in the same manner and with like remedies as if it were originally a part of the basic fees, charges and rentals, as set forth herein.

For all purposes under this paragraph, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum(s) by the City for any work done or material furnished will be prima facie evidence against Concessionaire that the amount of such payment was necessary and reasonable.

**Section 512. Notice, Place and Manner of Payment.** Payments will be made in legal tender of the United States at the Office of the Director at the Airport, or at such other place in the City of St. Louis, Missouri as the Director may hereafter notify Concessionaire.

## **ARTICLE VI CONCESSIONAIRE'S OPERATIONS**

**Section 601. Standards of Service.** The Concessionaire warrants, represents, covenants and agrees to meet the City's objectives as set out in the preamble hereof. The Concessionaire shall furnish a first class Vending Concession serving the needs of all users of the Airport by offering prompt and efficient services that are adequate to meet all reasonable demands thereof at the Airport on a fair, equal and nondiscriminatory basis to all categories of users and in a manner that will reflect credit upon the Concessionaire and the City. The Concessionaire shall provide new equipment, quality services and products and shall equip, organize, put into service and manage efficiently the Vending Concession to provide service in a clean, attractive and pleasant atmosphere. Concessionaire shall insure that servicing of vending machines shall be done at such times and in such manners as to minimize disruption of passenger traffic in the gate and/or other tenant operations. Concessionaire shall provide a method of providing prompt refunds due customers.

Concessionaire shall at all times retain one or more qualified, competent and experienced manager(s) who shall manage and supervise the operations and the facilities and represent and act for Concessionaire. The manager(s) shall ordinarily be available during regular business hours. Concessionaire shall display, clearly visible at all times on the outside of the vending machine, a twenty-four (24) hour toll-free telephone contact for immediate notification when the machine is out of service or for the convenience of customers experiencing problems with the vending machine.

**Section 602. Hours of Operation.** The hours of operation for serving the public shall be twenty-four (24) hours per day, seven (7) days per week. The Concessionaire may not change the hours of operation without written application to and the written approval of the Director. The Director may require the Concessionaire to change its hours of operation to reflect changing operational circumstances at the Airport.

**Section 603. Pricing.**

- A. The Concessionaire shall charge fair, reasonable and nondiscriminatory prices that are attractive to the public and substantially similar to the prices charged at comparable locations. Products containing selling prices printed by the manufacturer are excluded and must be sold for no more than published prices. For purposes of this Agreement, the comparable locations shall be vending machines retailers operating in the Metropolitan area. The Concessionaire shall comply with all applicable rules and regulations of the Federal Trade Commission and other government agencies.
- B. The Concessionaire submitted at the time of bid a complete list of all products proposed to be sold. This list shall contain the current Metropolitan area price comparison, including the name of the comparison locations, and proposed selling prices that comply with paragraph (A) of this section. Concessionaire shall not include in its comparison products and services that are sold for the manufactures printed prices on the products. The proposed prices shall not be implemented until approved in writing by the Director. The award of the bid to the Concessionaire does not imply approval of Concessionaire's proposed product price list.
- C. The Concessionaire shall not increase any prices without prior written approval of the Director. The Concessionaire's prices may normally only be increased following substantiation of cost price movements from vendors and a comparison of Metropolitan area prices that indicate that Metropolitan area prices have increased. Any of Concessionaire's prices found to be greater than comparison prices shall be reduced to Metropolitan area location comparisons. The Director reserves the right to independently compare the Concessionaire's prices to Metropolitan area prices and require the

Concessionaire to reduce prices based upon its comparison.

- D. A request for a price increase by the Concessionaire must include a complete schedule of all products/services and prices, including a comparison to Metropolitan area prices of the products sold. This schedule shall include a brief description of all products and services to be increased. All new products/services and prices must be added to the complete schedule of all products and prices and must be submitted in writing by the Concessionaire and approved in writing by the Director, prior to the sale of the new product(s)/service(s). The proposed prices for these products and services are subject to all pricing requirements of this Section. The Concessionaire shall give written notice to the Director of all products and services it intends to delete from the schedule. The Director reserves the right to deny the Concessionaire permission to delete any product or service from this schedule. Product additions and deletions may be proposed at any time. It is the Concessionaire's responsibility to ensure compliance with the price requirement of this section. Concessionaire's prices found to be more than Metropolitan area prices shall be reduced to no more than their Metropolitan area comparisons.

**Section 604. Promotion.**

- A. The Concessionaire covenants that it shall take all reasonable measures in every proper manner to maintain, develop and increase the business conducted by it hereunder. The Concessionaire shall not divert or cause or allow any business to be diverted from the Airport by referral or any other method.
- B. The Concessionaire shall arrange products in each location within the Premises in such a manner that will maximize overall sales and Gross Revenue. The Director may require the Concessionaire to make specific changes to product locations and/or visibility if such efforts are not being effectively made by Concessionaire.

**Section 605. Personnel.**

- A. The Concessionaire shall require its employees (except managerial and supervisory employees) to wear appropriate uniforms and badges to indicate the fact and nature of their employment.

The Concessionaire shall provide staff in adequate numbers to provide a high level of service. The Concessionaire shall employ only properly trained, efficient, pleasant, neat, clean and courteous personnel, each of whom shall be proficient in the duties to be performed in the operation of this Vending Concession. The Concessionaire agrees that it will be responsible for ensuring that its employees abide by all applicable laws, rules and regulations. The Concessionaire shall prohibit and restrain its agents, servants and employees from loud, noisy, boisterous or otherwise objectionable behavior. Upon objection from the Director concerning the conduct or appearance of any such persons, the Concessionaire shall immediately take all steps necessary to remove the cause of the objection.

- B. The Concessionaire, at its cost, acknowledges and agrees that it will conduct employee background checks of each of its personnel if required by the Federal Aviation Administration (FAA) and/or the Airport. The Concessionaire recognizes and agrees that security requirements may change and the Concessionaire agrees that it will comply with all such changes throughout the term of this Agreement.

The Concessionaire understands and agrees that fines and / or penalties may be assessed by the Federal Aviation Administration for the Concessionaire's noncompliance with the provisions of 14 CFR § 107 (1988) as amended or other applicable laws or regulations. The Concessionaire shall promptly reimburse the City for any fines or penalties paid by the City due to Concessionaire's noncompliance with said laws or regulations.

**Section 606. Manager.** The Concessionaire shall at all times retain one or more qualified, competent and experienced manager(s) who shall manage and supervise the operations and the facilities and represent and act for the Concessionaire. The manager(s) shall ordinarily be available during regular business hours. A responsible subordinate shall be in charge and available at all times during the manager's absence.

**Section 607. Deliveries.** The Concessionaire shall monitor the movement of its vehicles to minimize conflict with other functions and users of the Airport and shall coordinate its use of the Airport with other users. All deliveries are the responsibility of Concessionaire and not the Airport. The Concessionaire shall use only delivery carts equipped with pneumatic tires and rubber bumpers. Carts shall not have any exposed brackets or bolts. Deliveries shall be made at such times and in such manners as to minimize disruption of passenger traffic in the gate areas and/or other tenant operations.

**Section 608. Record Keeping.** The Concessionaire agrees to provide a system for the collection of all monies and provision of accounting, audit and statements of Gross Revenue as required by Article V of this Agreement. Concessionaire shall ensure that a point of sale system or other recording method is provided, capable of providing comprehensive records, in a format acceptable by the Director, of daily, monthly and annual sales of Concessionaire (and DBE participant, if applicable), for each vending machine under this Agreement. These records must be maintained by Concessionaire for a minimum of three (3) years.

**Section 609. Transition Period.** If applicable, during any future transition of the Vending Concession to another concessionaire, the incumbent Concessionaire shall use its best efforts to assure a smooth transition and agrees to closely coordinate the planning and execution of the transition with the Director.

**Section 610. Operation.**

- A. The Concessionaire shall be responsible for all aspects of the management and operation of this concession. Further, the Concessionaire will provide and be responsible for all employees and necessary components of the operation, including inventory, fixtures, equipment and supplies.
- B. The City shall not be responsible for any goods, merchandise or equipment used, maintained or stored on the Premises, nor will it be responsible for damage to such goods or merchandise resulting from flood, fire, explosion, vandalism or other causes outside the control and responsibility of the City.

**Section 611. Communication.**

- A. The Concessionaire's local manager shall schedule monthly or quarterly meetings (at the Properties Department's discretion) with the appropriate representative of the Airport Properties Department to discuss sales and any other relevant issues which may affect Concessionaire's operation at the Airport. The Concessionaire shall also be available for meetings at other times as necessary.
- B. The Concessionaire shall be responsible for notifying the Airport Properties Department of any problem that reduces service or sales levels or in any way impairs the Concessionaire's operation. The Airport will make every reasonable effort to assist in eliminating such problems.

**Section 612. Customer Complaints.** Concessionaire will establish procedures for handling all customer complaints. Concessionaire will respond in writing to every complaint, written or oral, within seven (7) calendar days of the complaint and will make good faith efforts to explain, resolve or rectify the cause of the complaint. Concessionaire will provide the Director with a copy of each such complaint and its written response thereto. Concessionaire will also provide the Director with a monthly summary of complaints received together with the resolution/disposition of the complaints.

## ARTICLE VII IMPROVEMENTS AND ALTERATIONS

**Section 701. Construction by the Concessionaire.**

- A. The Concessionaire takes the Premises "AS IS" and agrees, at Concessionaire's sole cost and expense, to ("Build-out") demolish existing improvements as required and design, erect, install, construct, equip, and furnish the Improvements in the Premises in accordance with plans prepared by Concessionaire and approved by the Director subject to the requirements of this Article VII.

All improvements shall be constructed by the Concessionaire in accordance with plans prepared by the Concessionaire and approved by the Director subject to the requirements of this Article VII.

- B. The Concessionaire agrees that all such work shall be completed according to the Tenant Design Standards, which are filed of record in the Office of the Director.

**Section 702. Preparation of Plans and Specifications.** The Concessionaire shall submit detailed drawings, plans and specifications for improving and equipping the Premises, prepared in accordance with the Tenant Design Standards. The Concessionaire will begin work on proposed construction only after it has received the written approval of its plans and specifications

from the Director.

**Section 703. Contractor's Liability Insurance.** In any contract that pertains to improving and equipping the Premises, Concessionaire shall require the contractor to cause St. Louis County, the City, its Board of Aldermen, Airport Commission and their respective officers, agents and employees, to be insured against the risk of claims and demands, just or unjust, by third persons against the City, its Board of Aldermen, Airport Commission and their respective officers, agents and employees, against and from all such claims and demands, a combined single limit of not less than \$2,000,000 for bodily injury and property damage and include the City as an Additional Insured. Said insurance shall be in a form agreeable to the City, and certificates showing proof of coverage shall be delivered to the Director for approval before any constructing, improving or equipping of Premises commences.

**Section 704. Performance and Payment Bonds.** The Concessionaire shall require each of its contractors and suppliers of construction materials to furnish Performance and Payment Bonds in the full amount of any contract in a form acceptable to the City. The Payment Bond shall comply with the coverage requirements and conditions of Section 107.170 RSMo 1994 as amended. Copies of the bonds shall be given to the Director for approval before work begins. Any sum(s) 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.

**Section 705. Mechanics' and Materialmen's Liens.** The Concessionaire agrees not to permit any mechanics' or materialmen's or any other lien to be foreclosed upon the Premises or any part or parcel thereof, or the improvements thereon, by reason of any work or labor performed or materials furnished by any mechanic or materialman or for any other reason.

**Section 706. Certificates of Completion.** Upon the completion of the improvements hereunder, the Concessionaire shall submit to the Director a copy of its acceptance letter certifying completion, and 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 Concessionaire.

**Section 707. Signs.**

- A. The Concessionaire shall not erect, maintain or display any signs on the Premises without the prior written approval of the Director. The term "sign" as used herein, shall mean advertising signs, billboards, identification signs or symbols, posters, displays, logos, or any similar devices. Subject to the foregoing, the Concessionaire shall have the right to install such advertising and identification signs as may be necessary for the proper conduct of a Vending Concession as contemplated hereunder. The Concessionaire shall comply with all rules promulgated by the Director regarding the placement of signs and advertising in the Premises.
- B. The Concessionaire shall be responsible for the cost of any new signs or modifications to Airport directories and other existing signs, including sign systems required by the Director. All modifications to these signs must be approved by the Director and are subject to all applicable requirements of this Section 707 and the Tenant Design Standards.
- C. Prior to the erection, construction or placement of any sign, the Concessionaire shall submit to the Director for approval all drawings, electrical details, sketches, designs, elevations, mounting details and dimensions of such signs. Any conditions, restrictions or limitations with respect to the use thereof as stated by the Director in writing shall become conditions of the Agreement.
- D. The Concessionaire shall not obstruct its counter space with advertising matter, displays or other literature not directly pertaining to its Vending Concession. The Concessionaire shall not place any signs outside of the Premises.

**Section 708. Title to Improvements and Fixtures.** All improvements constructed or placed in the Premises by the Concessionaire that are not Removable Fixtures, as well as all alterations, modifications and enlargements thereof shall become part of the Premises with title vesting in the City upon expiration or earlier termination of this Agreement. This vesting of title is subject, however, to the Concessionaire's obligation to operate, repair, maintain and replace, and its right of possession, use and occupancy during the term and in accordance with this Agreement.

All Removable Fixtures shall remain the property of the Concessionaire, and shall be removed by the Concessionaire at date of expiration or termination of this Agreement. Within sixty (60) days of the commencement of the operation in the Premises, a list of such Removable Fixtures shall be submitted in writing to the Director by Concessionaire for the Director's approval, and such list shall be periodically updated by Concessionaire.

The City reserves the right and the Concessionaire agrees that the Director may require the Concessionaire to remove any or all Improvements and structures and restore the Premises to their original condition at the time the Concessionaire took possession of the Premises. The Concessionaire agrees to bear all costs of such removals and restorations.

#### ARTICLE VIII USE OF PREMISES

##### **Section 801. Compliance with Laws and Regulations.**

The Concessionaire shall comply with all Rules and Regulations which the Director may establish from time to time. In addition, the Concessionaire warrants, represents, and agrees that it shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, city, local and other governmental authorities, now or hereafter applicable to the Premises or to any adjoining public ways, as to the manner of use or the condition of the Premises or of adjoining public ways.

**Section 802. Repairs and Maintenance.** The Concessionaire will provide and pay for all repairs and maintenance of the Premises, except the following which shall be the responsibility of the City:

- A. The structural components of the terminal buildings.
- B. The utility system up to the Concessionaire's point of connection, except where the utility systems are owned or controlled by the utility companies.

The Concessionaire will perform the following functions as part of its responsibilities in the repair and maintenance of the Premises. The following list includes certain functions, but the Concessionaire's responsibilities are not limited to those functions:

- A. Perform daily custodial services.
- B. Keep all its equipment and fixtures in good repair and appearance.
- C. Keep premises free from all fire and other hazards to persons and property and furnish and maintain adequate portable fire protection equipment.
- D. Repair all damage to the Premises and the Airport when such damage results from the careless or negligent acts of the Concessionaire or the Concessionaire's employees or agents.
- E. Provide for complete, sanitary handling and disposal of all trash, garbage and refuse (liquid or solid) in accordance with standards established by the Director applicable to all Airport tenants. Such standards may require the use of special devices including, but not limited to special containers, compactors and disposal systems. The Concessionaire agrees to promptly provide and install such devices and to abide by all standards.
- F. Confine all handling and holding of the Concessionaire's property to the Premises.
- G. Keep all papers and debris picked up daily from the Premises.
- H. Keep Premises free of all pests and provide pest control services as needed.
- I. No storage will be permitted on the exterior areas of the Premises.

The Director may temporarily or permanently close any roadway or other right-of-way for access to the Premises, so long as another means of access is provided. The Concessionaire understands and agrees that there may be inconveniences caused by construction or renovations of the Airport, and the Concessionaire hereby releases and discharges the City from any and all inconvenience claims, liability or causes of action arising out of or incidental to the closing of any right-of-way, including without limitation loss of profit or business incidental, consequential, or special damages.

**Section 803. Right to Enter, Inspect and Make Repairs.** The City and its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right (at such times as may be reasonable under the circumstances and with

as little interruption of the Concessionaire's operations as is reasonably practicable) to enter upon and in the Premises for the following purposes:

To inspect such Premises to determine whether the Concessionaire has complied and is complying, with the terms, covenants or conditions of this Agreement.

In the event the Concessionaire is obligated but has failed to perform maintenance and make repairs after the City has given the Concessionaire notice to do so, the Concessionaire shall promptly reimburse the City for the cost thereof plus an overhead charge of fifteen percent (15%).

To gain access to the mechanical, electrical, utility and structural systems of the Airport for the purpose of maintaining and repairing such systems.

To gain access to the Premises in order to perform studies, inspections, assessments, environmental inspections or assessments, etc.

In case of emergency, City and its authorized officers, employees, agents, contractors, subcontractors and other representative shall have the right to enter the Premises by whatever means necessary to remedy the emergency situation and without liability to Concessionaire for any damage related thereto.

**Section 804. Utilities.** The City shall provide and pay for electrical outlets to the Premises at the locations as delineated in Exhibit "A" hereof. The Concessionaire shall be responsible for any necessary upgrade in the electrical supply caused by increased lighting or other changes to the Premises made by the Concessionaire.

The City shall not be liable to the Concessionaire for damages or any losses for the interruption of any utility service, or for any delay in the supplying or furnishing of any utility service. The Concessionaire does hereby release and discharge the City from any and all inconvenience, claims or cause of actions arising out of or incidental to such interruption, including, without limitation, loss of profit or business or incidental, consequential, or special damages.

**Section 805. Interference with Air Navigation.** The Concessionaire warrants, represents, and agrees that no obstruction to air navigation, as such are defined from time to time by application of the criteria of Part 77 of the Federal Aviation regulations or subsequent and additional regulations of the Federal Aviation Administration, will be constructed or permitted to remain on the Premises. Any obstructions will be immediately removed by the Concessionaire at its expense. The Concessionaire further warrants, represents and agrees not to install any structures, objects, machinery or equipment that would interfere with the operation of navigation aides, the safe and efficient operations of the Airport, or the operations of other tenants and users of the Airport.

## ARTICLE IX LOSS OF AND LIABILITIES PERTAINING TO PREMISES

**Section 901. Liability Insurance.** The Concessionaire, at its expense and, at all times during the term hereof, shall cause St. Louis County, the City, the Board of Aldermen, the Airport Commission, the officers, agents and employees of said entities and the Concessionaire 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 have arisen out of the activities of the Concessionaire, its officers, agents, employees, and independent contractors pursuant to this Agreement, whether on or off of the Premises or the Airport, under the following types of coverage:

- A. Commercial General Liability;
- B. Automobile Liability (all vehicles, including hired and non-owned).

The minimum limits of coverage for the above classes of insurance shall equal a single limit of \$5,000,000 comprised of such primary and excess policies of insurance as the Concessionaire finds feasible to purchase during the term of this Agreement.

Insofar as said insurance provides protection against liability for damages to a third party for bodily injury, death and property damage, the City and its Board of Aldermen, Airport Commission, officers, agents, and employees shall be named as an Additional Insured. Such liability insurance coverage shall also extend to damage, destruction and injury to City-owned or leased property and City personnel, and caused by or resulting from work, acts, operations, or omissions of the Concessionaire, its officers,

agents, employees, consultants, contractors, licensees, invitees and independent contractors. In addition, such insurance shall include contractual liability sufficient to cover concessionaire's indemnity obligation hereunder. The City shall have no liability for any premiums charged for such coverage, and the inclusion of the City and its Board of Aldermen, Airport Commission, officers, agents and employees as an Additional Insured is not intended to, and shall not make the City a partner or joint venturer with the Concessionaire in its operations hereunder.

Concessionaire will maintain, and upon request furnish evidence to City, adequate provisions for workers compensation insurance, Social Security and Unemployment Compensation in at least statutory limits to the extent such provisions are applicable to Concessionaire's operations hereunder.

**Section 902. Property Insurance.** The Concessionaire will provide fire, lightening, extended coverage and other related insurance coverage for the full value of the Improvements and equipment or property existing or installed on the Premises.

**Section 903. Damage or Destruction of Terminal.** The building in which the Premises are located will be insured by the City under a policy of fire and extended coverage.

If the building is destroyed or damaged to such an extent as to be economically irreparable, the City may terminate this Agreement by written notice to the Concessionaire. All rental payments will cease as of the date of the destruction or damage.

If the building is repairable, the City will begin such repairs as soon as is practicable. Rental payments on untenable portions will cease as of the date of the damage. Rental payments will continue to be due on the tenantable areas. The City will attempt to find temporary facilities for use by the Concessionaire during the repairs and the Concessionaire will pay rental for the temporary facilities. City will not be liable or responsible for any losses of any kind whatsoever, including, without limitation, any inconvenience or loss by Concessionaire of business or profit resulting from such damage or any incidental, consequential, or special damages.

**Section 904. Evidence of Insurance.** Certificates or other evidence of insurance coverage required of the Concessionaire in this Article IX shall be delivered to the Director in form and content satisfactory to the City.

At least fifteen (15) days prior to the expiration of any such policy, the Concessionaire shall submit to the Director a certificate showing that such insurance coverage has been renewed. If such coverage is canceled or reduced, the Concessionaire shall within fifteen (15) days after the date of such written notice from the insurer of such cancellation or reduction in coverage file with the Director a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies.

All policies of insurance herein shall be in a form and in a company or companies approved by the City and qualified to do insurance business in the State of Missouri. Each such policy shall provide that the policy may not be materially changed, altered or canceled by the insurer during its term without first giving thirty (30) days written notice to the Director.

**Section 905. Conditions of Default.** This Agreement shall be considered in default when the Concessionaire fails to fulfill or comply with any term, covenant or condition of this Agreement. Said default shall constitute a material breach hereof and shall be cause for the termination of the Agreement by the City.

**Section 906. Indemnification.** The Concessionaire shall protect, defend, and hold St. Louis County, the City, the Board of Aldermen, the Airport Commission, and officers, agents and employees of said entities, completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to 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 whatsoever, arising out of or incident to, this Agreement and/or the use or occupancy of the Premises and/or the acts or omissions of the Concessionaire's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused by the sole negligence of the City of St. Louis. The Director or his/her designee shall give to the Concessionaire reasonable notice of any such claims or actions. The Concessionaire shall also use counsel reasonably acceptable to the City Counselor of the City of St. Louis or his/her designee, after consultation with the Airport Director or his designee in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this Agreement.

**Section 907. Adjustment of Claims.** The Concessionaire shall provide for the prompt and efficient handling of all claims

for bodily injury, property damage or theft arising out of the activities of the Concessionaire under this Agreement.

**Section 908. Occupancy of Premises.** The Concessionaire accepts the Premises “AS IS”. The Concessionaire agrees that it will not permit any act of omission or commission or condition to exist on the Premises which would increase the premium rate of insurance thereon or on the terminal or invalidate any such insurance.

**Section 909. Waiver of Subrogation.** Concessionaire on behalf of itself and its insurers, hereby waives any claim or right of recovery from the City, its Board of Aldermen, Airport Commission, officers, agents and employees for any loss or damage to Concessionaire’s officers, agents, or employees or its property or the property of others under Concessionaire’s control, to the extent that such loss is covered by valid insurance policies or could be covered by an “all risk” physical damage property insurance policy. Concessionaire shall provide notice of this waiver of subrogation to its insurer(s).

## ARTICLE X ASSIGNMENT AND SUBCONTRACTING

**Section 1001. Assignment.** The Concessionaire shall not transfer or assign this Agreement. Any such transfer or assignment shall constitute a default on the part of the Concessionaire under this Agreement. No action or failure to act on the part of any officer, agent or employee of the City shall constitute a waiver by the City of this provision of the Agreement.

**Section 1002. Subcontracting.** Concessionaire shall not subcontract or sublet the Premises, or any portion thereof except as may be required to secure DBE participation and only with the prior written approval of the City. The parties understand and agree that Concessionaire is responsible for the performance of its subcontractors under this Agreement. Such subcontract must require, at a minimum, the strict compliance with all provisions of this Agreement and that subcontractor will use the Premises solely for the purposes identified in this Agreement.

**Section 1003. Bankruptcy.** In the event that there is an assignment of this Agreement by operation of law, the City shall be entitled within ninety (90) days after notice thereof given in writing to exercise the City’s option hereby given to end the term on the date which shall be no sooner than forty-five (45) days after the date of such determination by the City. An assignment by operation of law, as the term is used herein, shall include but not be limited to the vesting of Concessionaire’s right, title and interest in the Concessionaire’s furnishings, removable fixtures, equipment, or Concessionaire’s interest in this Agreement, in a trustee in bankruptcy or in an assignee for the benefit of creditors or in a purchase thereof at judicial sale or other involuntary or forced sale. It is the purpose of the foregoing provision to prevent the vesting in any such purchaser, referee, trustee or assignee any rights, title or interest in the City premises or any of the removable fixtures, except subject to the City’s right to end the term.

## ARTICLE XI TERMINATION OF AGREEMENT IN ENTIRETY

**Section 1101. City’s Right to Terminate.** The City, acting by and through its Director, may declare this Agreement terminated in its entirety, in the manner provided in Section 1103 hereof, upon the happening of any one or more of the following events. By example, but not by way of limitation, the following acts or omissions shall constitute a material breach of the Agreement justifying the termination of this Agreement in its entirety.

- A. If the fees, charges, or other money payments which the Concessionaire herein agrees to pay, or any part thereof, shall be unpaid after the date the same shall become due.
- B. If, during the term of this Agreement, the Concessionaire shall:
  - 1. apply for, or consent to the appointment of a receiver, trustee, or liquidator of all or a substantial part of its assets;
  - 2. file a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they come due;
  - 3. make a general assignment for the benefit of creditors;
  - 4. file a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of an insolvency law;
  - 5. file an answer admitting the material allegations of a petition filed against any said assignee or sublessee in any

bankruptcy, reorganization or insolvency proceedings; or if during the term of this Agreement, an order, judgment or decree shall be entered by any court of competent jurisdiction, or the application of a creditor, adjudicating the Concessionaire as bankrupt or insolvent; or approving a petition seeking a reorganization of the Concessionaire, and such order, judgment or decree, shall continue unstayed and in effect for any period of ninety (90) consecutive days;

6. fail to maintain the quality of services and prices to the satisfaction of the Director as required hereunder;
7. fail to prevent cessation or deterioration of service for a period which in the opinion of the Director, materially and adversely affects the overall performance of the Concessionaire under this Agreement;
8. allow a lien to be filed against the Concessionaire or any of the equipment or furnishings therein because of or resulting from any act or omission of the Concessionaire that is not removed or enjoined within thirty (30) days;
9. desert, vacate or discontinue all or a portion of its operation of the Premises that in the opinion of the Director results in a failure to provide the public and others the service contemplated hereunder;
10. fail in the performance of any term, covenant or condition herein required to be performed by the Concessionaire.

On the date set forth in the notice of termination, the term of this Agreement and all right, title and interest of Concessionaire shall expire, except as otherwise provided in Section 1103 hereof.

Failure of the City to take any authorized action upon default of any term, covenant or condition required to be performed, kept and observed by the Concessionaire shall not be construed to be or act as a waiver of default or in any subsequent default of any term, covenant or condition herein contained to be performed, kept and observed by Concessionaire. The acceptance of monies by the City from the Concessionaire for any period or periods after a default by the Concessionaire of any term, covenant or condition herein required to be performed, kept and observed by the Concessionaire shall not be deemed a waiver or estopping of any right on the part of the City to terminate this Agreement for failure by the Concessionaire to so perform, keep or observe any said term, covenant or condition.

**Section 1102. The Concessionaire's Right to Terminate.**

The Concessionaire, at its option, may declare this Agreement terminated in its entirety, in the manner provided in Section 1103 hereof for the following causes:

If a court of competent jurisdiction issues an injunction or restraining order against the City preventing or restraining the use of the Airport for Airport purposes in its entirety or in substantial entirety.

If the City shall have abandoned the Airport for a period of at least sixty (60) days and shall have failed to operate and maintain the Airport in such manner as to permit landings and takeoffs of planes by scheduled air carriers.

If the City shall have failed in the performance of any specific covenant constituting a material breach within the control of the City and required by this Agreement to be performed by the City.

**Section 1103. Procedures for Termination.** No termination declared by either party shall be effective unless and until not less than forty-five (45) days have elapsed after notice by either party to the other specifying the date and cause of termination, except for the Concessionaire's failure to make any payments or Performance and Payment Bond specified in Article V or provide any insurance coverage specified in Article IX. The effective date of termination shall be forty-five (45) days from the payment(s) due date with notice to the Concessionaire or thirty (30) days from the date the insurance coverage or Performance and Payment Bond is not provided with notice to the Concessionaire; and no such termination, except for termination for the Concessionaire's failure to make any payments or provide insurance or Performance and Payment Bond, shall be effective if the party at default (1) cannot by the nature of the default cure it within such forty-five (45) day period, (2) commences to correct such default within said forty-five (45) days and (3) corrects the same as promptly as is reasonably practicable.

In the event that suit shall be instituted by the City upon the default of payment of charges and fees as provided herein, then the Concessionaire agrees also to pay, without limitation, reasonable attorneys' fees, litigation fees, and court costs.

**Section 1104. Rights Cumulative.** It is understood and agreed that the rights and remedies of the City and the Concessionaire specified in this Article are not intended to be and shall not be exclusive of one another or exclusive of any common law right of either of the parties hereto or any other remedies otherwise available to the parties at law or in equity.

## ARTICLE XII

### DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

**Section 1201. Compliance.**

A. The Concessionaire agrees as a condition hereunder to meet a minimum DBE participation goal of not less than thirty percent (30%) of the total Gross Revenues earned in the exercise of the concession rights granted in Section 301. This goal remains in effect throughout the term of the Agreement. Credit toward the DBE goal will only be given for the use of DBE's certified by processes acceptable to the Director. Concessionaire submitted at time of Bid a DBE participation plan which detailed the method(s) and percentage of DBE participation it offers in the performance of this Agreement. This DBE participation plan must be approved in writing by the Director before it may be implemented. Concessionaire is obligated to meet the 30% DBE participation or the amount of participation detailed in its DBE participation plan as approved by the Director.

The Concessionaire submitted at the time of bid evidence that it completed the applicable good faith efforts procedure specified in the Vending Concession bid specifications.

B. If these good faith efforts resulted in the fulfillment of the DBE goal, the Concessionaire will not be required to perform additional good faith efforts, except in the event that the Concessionaire's DBE participation fails to continue to meet the goal or comply with the applicable federal regulations. In the event the Concessionaire's DBE participation fails to continue to meet the goal or comply with applicable federal regulations, the Concessionaire will be required to perform the good faith efforts procedure specified in the applicable federal regulations for the type of participation sought within four (4) months following the loss of DBE participation and continue at intervals of not less than twelve (12) months, or until the DBE goal is reached by the Concessionaire.

C. 1. If these good faith efforts did not result in fulfillment of the DBE goal, the Concessionaire must again complete the good faith efforts procedure specified in the applicable federal regulations for the type of participation sought within four (4) months following commencement of the term of this Agreement and continue at intervals of not less than twelve (12) months, or until the DBE goal is reached by the Concessionaire.

2. This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations 49 CFR Part 23, Subpart F. The Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F.

The Concessionaire agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements.

3. The Concessionaire shall operate its Vending Concession in compliance with all other requirements imposed by or pursuant to 49 C.F.R. Part 23, as applicable, and as said regulations may be amended or new regulations promulgated. The Concessionaire shall also comply with any City of St. Louis executive order, resolution or ordinance enacted, now or in the future, to implement the foregoing federal regulations, as applicable. In the event of breach of any of the above covenants, the City shall have the right to terminate this Agreement.

## ARTICLE XIII

### LIQUIDATED DAMAGES

**Section 1301. Liquidated Damages.** Concessionaire recognizes and hereby agrees and stipulates that the City will lose revenue and/or incur certain cost or expense, the amounts of which are difficult to ascertain, if Concessionaire violates any of the terms, covenants or conditions enumerated below. Therefore, the Concessionaire agrees and stipulates that the Director, on behalf of the City, may elect after written notice to the Concessionaire of said violation to impose the charges set forth below as liquidated damages on the basis of each violation per day:

<b>VIOLATION</b>	<b>SECOND VIOLATION</b>	<b>THIRD VIOLATION</b>
Violation of Article III, Rights, Limitation of Rights	\$100.00	\$500.00
Violation of Article VI, Concessionaires Operations	\$100.00	\$500.00
Violation of Article VII, Improvement and Alterations	\$100.00	\$500.00
Violation Article VIII, Use of Premises Clause	\$100.00	\$500.00

Concessionaire shall make payments to the City for said imposed charges for liquidated damages within thirty (30) calendar days of the City’s written request or demand.

**ARTICLE XIV  
MISCELLANEOUS PROVISIONS**

**Section 1401. Notice.** Except as herein otherwise expressly provided, all notices required to be given to the City hereunder shall be in writing and shall be sent by certified mail, return receipt requested, addressed to the Director of Airports, St. Louis Airport Authority, 10701 Lambert International Boulevard, P.O. Box 10212 Lambert Station, St. Louis, MO 63145. All notices, demands, and requests by the City to the Concessionaire shall be sent by certified mail, return receipt requested addressed to:

President  
Dynamic Vending, Inc.  
5433 Eagle Industrial Ct.  
St. Louis, MO 63042

A copy of all notices shall also be mailed to the Airport Business and Marketing Manager at the same address.

Either or both parties may designate in writing from time to time any changes in addresses or any addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notice shall be the date such notice is mailed to the Concessionaire or said Director.

**Section 1402. Non-Discrimination and Affirmative Action Program.**

- A. The Concessionaire hereto understands and agrees that the City in the operation and use of Lambert-St. Louis International Airport will not on the grounds of race, creed, color, religion, sex, national origin or ancestry, discriminate or permit discrimination against any person or group of persons in a manner prohibited by Part 21 of the Federal Aviation Regulations of the Office of the Secretary of Transportation. The Concessionaire hereby agrees that his premises shall be posted to such effect as required by said regulations.
- B. The Concessionaire agrees that in performing under this Agreement, neither he/she nor anyone under his/her control will permit discrimination against any employee, worker or applicant for employment because of race, creed, color, religion, sex, national origin or ancestry. The Concessionaire will take affirmative action to insure that applicants are employed and that employees are treated fairly without regard to race, creed, color, religion, sex, national origin or ancestry. Such action must include, but shall not be limited to the following: actions to bar, employ, upgrade or recruit; expel, discharge, demote or transfer; layoff, terminate or create intolerable working conditions, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- C. The Concessionaire will in all printed or circulated solicitations or other advertisement or publication for employees placed by or on behalf of the Concessionaire state that all qualified applicants shall receive meaningful consideration for employment without regard to race, creed, color, religion, sex, national origin or ancestry. All advertisements or solicitations for applicants for employment must contain the phrase “An Equal Opportunity Employer”. The Concessionaire

shall not make inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination because of race, creed, color, religion, sex, national origin or ancestry.

- D. The Concessionaire agrees that should it be determined by the Concessionaire or the City that he/she will be unable to conform to their approved positive employment program submitted to determine eligibility under the fair employment practices provisions of the City Code, he/she will notify the Fair Employment Practices Division of the Civil Rights Enforcement Agency (CREA) within ten (10) days of such determination to ascertain the steps to be taken by the Concessionaire to achieve the provisions of their program.
- E. The Concessionaire will permit reasonable access by the City to such persons, reports and records as are necessary for the purpose of ascertaining compliance with fair employment practices.
- F. The Concessionaire further agrees that these clauses (B through E) covering discrimination and equal opportunity practices in all matters of employment and training for employment will be incorporated by the Concessionaire in all contracts or agreements Concessionaire enters into with suppliers of materials or services, contractors and subcontractors, including all labor organizations who may furnish skilled, unskilled and craft union skilled labor, or who may perform any such labor or service in connection with this Agreement.
- G. Whenever the Concessionaire is sued by a subcontractor, vendor, individual, group or association as a result of compliance with the clauses (A through F) of these provisions relating to fair employment practices, the Concessionaire shall notify the City Counselor in writing of such suit or threatened suit within ten (10) days.
- H. The Concessionaire will establish and maintain for the term of this Agreement an affirmative action program according to the Mayor's Executive Order on Equal Opportunity in Employment. The City reserves the right to take such action as the City of St. Louis and the United States Government may direct to enforce the above covenants.
- I. The Concessionaire assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Concessionaire assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Concessionaire assures that it will require that its covered sub organizations provide assurances to the City that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

**Section 1403. No Personal Liability.** No Alderman, Commissioner, Director, officer, employee or other agent of either party shall be personally liable under or in connection with this Agreement.

**Section 1404. Force Majeure.** Neither the City nor the Concessionaire shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control.

**Section 1405. Successors and Assigns.** All of the terms, provisions, covenants, stipulations, conditions and considerations of this Agreement shall extend to and bind the legal representatives, successors, sublessees and assigns of the respective parties hereto.

**Section 1406. Quiet Enjoyment.** Subject to the provisions of the Agreement, the City covenants that the Concessionaire on paying the rentals and otherwise performing its covenants and other obligations hereunder shall have quiet and peaceable possession of the Premises.

**Section 1407. Operation and Maintenance of the Airport.** The City shall at all times operate the Airport properly and in a sound and economical manner; and the City shall use reasonable effort to maintain, preserve and keep the same or cause the same to be maintained, preserved and kept with the appurtenances in good repair, working order and condition, and shall from time to time use reasonable effort to make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Airport may be properly and advantageously conducted in conformity with standards customarily followed by municipalities operating airports of like size and character.

**Section 1408. Title to the Site.** The Premises from the date hereof until the termination of this Agreement shall be owned in fee simple title by the City or in such lesser estate as in the opinion of the City Counselor is sufficient to permit the letting thereof by the City as herein provided for the full term provided in this Agreement.

**Section 1409. Agreements with the United States.** This Agreement is subject and subordinate to the provisions of any agreements heretofore made between the City and the United States relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of Federal rights or property to the City for Airport purposes, or to the expenditure of Federal funds for the extension, expansion, or development of the Airport, including the expenditure of Federal funds for the development of the Airport in accordance with the provisions of the Airport and Airway Development Act, as it has been amended from time to time.

**Section 1410. Modifications for Granting FAA Funds.** In the event that the Federal Aviation Administration requires modifications or changes to this document as a condition precedent to granting of funds for the improvement of the Airport, the Concessionaire agrees to consent to such reasonable amendments, modifications, revisions, supplements, deletions of any of the terms, conditions, or requirements of this Agreement as may be reasonably required to enable the City to obtain said Federal Aviation Administration funds.

**Section 1411. Governing Law.** This Agreement shall be deemed to have been made and be construed in accordance with the laws of the State of Missouri, and is subject to the City Charter and ordinances as may be amended from time to time.

**Section 1412. Headings.** The headings of the Articles and Sections of this Agreement are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

**Section 1413. Amendments.** This Agreement may be amended from time to time by written agreement, duly authorized and executed by representatives of all the parties hereto.

**Section 1414. Previous Agreements.** It is expressly understood that the terms and provisions of this Agreement shall in no way affect or impair the terms, obligations or conditions of any existing or prior agreement between the Concessionaire and the City.

**Section 1415. Required Approvals.** When the consent, approval, waiver, or certification ("Approval") of other the party is required under the terms of this Agreement, such Approval must be in writing and signed by the party making the Approval. No such approval shall be unreasonably requested or withheld. Whenever the Approval of the City or the Director of Airports is required, the Approval must be from the Director of Airports or his/her authorized or designated representative. The City and Concessionaire agree that extensions of time for performance may be made by the written mutual consent of the Director of Airports and the Concessionaire or its designee.

**Section 1416. Waivers.** No waiver of default by either party of any of the terms, covenants and conditions hereto to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party. Any such waiver must be in writing and signed by the party waiving.

**Section 1417. Invalid Provisions.** In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either the City or the Concessionaire in its respective rights and obligations contained in the valid covenants, conditions and provisions of this Agreement.

**Section 1418. Entire Agreement.** This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein. This Agreement may be amended only in writing and executed by duly authorized representatives of the parties hereto.

**Section 1419. Not a Lease.** This Agreement is not a lease, and the right to use the Premises is entirely dependent upon the rights and privileges granted hereunder. The Concessionaire will in no instance be deemed to have acquired any possessory rights against the City or the Premises or be deemed to be a tenant of the City.

**Section 1420. Advertising.** The Concessionaire shall have no right to use the trademarks, symbols, trade names or name of the Airport or Premises either directly or indirectly in connection with any production, promotion service or publication without the prior written consent of the Director.

**Section 1421. Conflicts Between Tenants.** In the event of a conflict between the Concessionaire and any other tenant, licensee or concessionaire as to the respective rights of the others, the Director shall review the applicable agreements and by reasonable interpretation thereof determine the rights of each lessee, licensee, and / or other concessionaire and shall make a final decision to which the Concessionaire agrees to be bound. All determinations by the Director are final.

**Section 1422. Prevailing Wage.** Concessionaire shall, as a condition of the Agreement, 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. This section is in accordance with and is subject to City Ordinance No. 62124.

**Section 1423. Solicitation For Bids.** The Concessionaire's bid, including all exhibits, schedules, addenda, attachments, policies, bonds, letters of credit and the Solicitation For Bids for Vending Concession at the Airport dated June 3, 2003 is hereby made a part of the this Agreement and is incorporated herein by reference. Providing that if an express provision of this Agreement is in conflict with any provision of the Concessionaire's Bid or the Solicitation For Bids referred to above, the provisions of this Agreement shall prevail.

**Section 1424. Americans with Disabilities Act (ADA).** Concessionaire shall be responsible for compliance with the Federal ADA, plus any federal, state, or local laws and City Ordinances pertaining to the disabled individual having access to Concessionaire's services.

**Section 1425. Time is of the Essence.** Time is of the essence in this Agreement. The parties agree that time shall be of the essence in the performance of each and every obligation and understanding of this Agreement.

**Section 1426. Acknowledgment of Terms and Conditions.** The parties affirm each has full knowledge of the terms, covenants, conditions and requirements contained in this Agreement. As such, the terms of this Agreement shall be fairly construed and the usual rule of construction, if applicable, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed, in the interpretation of this Agreement or any amendments, modifications or exhibits thereto.

**Section 1427. Security Plan and Facilities.** Concessionaire hereby acknowledges that City is required by Federal Aviation Regulations, Part 107, to adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to air operations areas. City has met said requirements by developing a master security plan for the Airport, and Concessionaire warrants, covenants and agrees to be fully bound by and immediately responsive to the requirements of the plan in connection with Concessionaire's exercise of the privileges granted to the Concessionaire hereunder. Concessionaire will promptly (within 30 days of the City's request) reimburse City for all fines or penalties imposed upon City by the FAA resulting from Agent's negligence or failure to act in relation to Part 107.

**Section 1428. Environmental Notice.** Concessionaire shall promptly notify the Director of (1) any change in the nature of the Concessionaire's operations on the Premises that will materially and/or substantially change the City's or Concessionaire's potential obligations or liabilities under the environmental laws, or (2) the commencement of any governmental entity of a formal administrative proceeding before an administrative law judge or a civil or criminal action before a judicial tribunal alleging a violation of any environmental law in connection with Concessionaire's operations on the Premises.

**Section 1429. Living Wage Compliance Provisions.** This Agreement is subject to the St. Louis Living Wage Ordinance No. 65597 and the Regulations associated therewith, as may be amended from time to time. Copies of Ordinance and Regulations may be obtained by contacting Mr. Jack Thomas, Assistant Airport Director, DBE Program Office, 13723 Riverport Drive, 3rd Floor, Maryland Heights, Missouri, 63043 and are incorporated herein by reference. The Ordinance and Regulations require the following compliance measures, and Concessionaire hereby warrants, represents, stipulates, and agrees to comply with these measures:

- A. **Minimum Compensation:** The Concessionaire hereby agrees to pay an initial hourly wage to each employee performing services related to this Agreement in an amount no less than the amount stated on the attached Living Wage Bulletin (Exhibit "B"). The initial rate shall be adjusted each year no later than April 1, and Concessionaire hereby agrees to adjust

the initial hourly rate to the adjusted rate specified in the Bulletin at the time the Bulletin is issued.

- B. Notification: Concessionaire shall provide the Living Wage Bulletin to all employees, together with a "Notice of Coverage", in English, Spanish, and other languages spoken by a significant number of the Contractor's employees within thirty (30) days of contract execution for existing employees and within thirty (30) days of employment for new employees.
- C. Posting: Concessionaire shall post the Living Wage Bulletin, together with a "Notice of Coverage", in English, Spanish, and other languages spoken by a significant number of the Contractor's employees, in a prominent place in a communal area of each worksite covered by the Agreement.
- D. Subcontractors and Sublessees: Concessionaire hereby agrees to require Subcontractors and Sublessees, as defined in the Regulations, to comply with the requirements of the Living Wage Regulations, and hereby agrees to be responsible for the compliance of such Subcontractors and Sublessees. Concessionaire shall include these Living Wage Compliance Provisions in any contract with such Subcontractors and Sublessees.
- E. Term of Compliance: Concessionaire hereby agrees to comply with these Living Wage Compliance Provisions and with the Regulations for the entire term of the Agreement, and to submit the reports required by the Regulations for each calendar year or portion thereof during which such Agreement is in effect.
- F. Reporting: Concessionaire shall provide the Annual Reports and attachments required by the Ordinance and Regulations.
- G. Penalties: Concessionaire acknowledges and agrees that failure to comply with any provision of the Ordinance and/or Regulations and/or providing false information may result in the imposition of penalties specified in the Ordinance and/or Regulations. These penalties, as provided in the Ordinance and Regulations, may include, without limitation, suspension or termination of the Agreement, disbarment, and/or the payment of liquidated damages, as provided in the Ordinance and Regulations.

IN WITNESS WHEREOF, the parties hereto affixed their hands and seals as set forth below for themselves, their successors and assigns.

Pursuant to City of St. Louis Ordinance \_\_\_\_\_, approved on \_\_\_\_\_.

DYNAMIC VENDING, INC.

ATTEST

\_\_\_\_\_

\_\_\_\_\_

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved by the Airport Commission at its meeting on \_\_\_\_\_ 2003.

\_\_\_\_\_  
Commission Chairman and Director of Airports

Date \_\_\_\_\_

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Secretary, Board of Estimate and Apportionment

Date: \_\_\_\_\_

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

\_\_\_\_\_  
City Counselor, City of St. Louis

\_\_\_\_\_  
Comptroller, City of St. Louis

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTESTED TO BY:

\_\_\_\_\_  
Register, City of St. Louis

Date: \_\_\_\_\_

**EXHIBIT "A"**

**VENDING MACHINE LOCATIONS  
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT**

The table below designates the location for vending machine placement in the Airport and the maximum number of machines approved for each location. The exact location and placement of each machine will be specified by the Airport Business and Marketing Manager, whose determination is final.

LOCATION NUMBER	LOCATION DESCRIPTION	MAXIMUM DEVICES
CONCOURSE A:		
A1	Inside Vending Alcove near Gate A2	1
A2	Inside Vending Alcove near Gate A14	1
A3	Vending Room #A-2080 against back wall	2
CONCOURSE B:		
B1	Vending Corridor across from B2/B4 Holdroom	2
CONCOURSE C:		
C1	Against north concourse wall across from Gates C1/C3	1
C2	Inside Vending Alcove across from Gate C6	1
C3	Against north concourse wall across from Gate C17	2
C4	Inside Vending Alcove area near Gate 25	2
CONCOURSE D:		
D1	Inside Vending Alcove across from Gate D6	1
D2	Inside Vending Alcove across from Gate D16	1
D3	Inside Vending Alcove across from Gate D22	1
D4	Inside Vending Alcove across from Pasta House Restaurant	2
D5	Inside Vending Alcove across from News/Gift Shop	1
D6	Inside Vending Alcove across from Gate D36	2
MAIN TERMINAL:		
MT1	Mid-Level, south side of west escalator	1
MT2	Mid-Level, south side of east escalator	2
EAST TERMINAL:		

ET1	Against north-west concourse wall near Gate E33	2
ET2	Inside Vending Alcove across from Gate E20	1
ET3	Inside Vending Alcove across from Gate E-10	1
ET4	Lower Level Vending Area near Exit ET-12	2
SPRINGDALE EMPLOYEE PARKING LOT:	South, outside wall of Security Guard Facility (2 Beverage Machines)	2
WEST TAXI STAGING AREA, PEAR TREE LANE	Inside Vending Area in facility, west end of parking lot (2 Beverage Machines, 1 Snack Machine)	3
TOTAL:		34

**EXHIBIT “B”**

**ST. LOUIS LIVING WAGE ORDINANCE  
LIVING WAGE ANNOUNCEMENT BULLETIN**

**NOTICE OF ST. LOUIS LIVING WAGE RATES  
EFFECTIVE APRIL 1, 2003**

In accordance with Ordinance No. 65597, the St. Louis Living Wage Ordinance (“Ordinance”) and the Regulations associated therewith, the City Compliance Official for the City of St. Louis has determined that the following living wage rates are now in effect for employees of covered contracts:

- 1) Where health benefits as defined in the Ordinance are provided to the employee, the living wage rate is **\$9.54** per hour (130% of the federal poverty level income guideline for a family of three); and
- 2) Where health benefits as defined in the Ordinance are **not** provided to the employee, the living wage rate is **\$11.63** per hour (130% of the federal poverty level income guideline for a family of three, plus fringe benefit rates as defined in the Ordinance).
- 3) Wages required under Chapter 6.20 of the Revised Code of the City of St. Louis: **\$2.09** per hour.

These rates are based upon federal poverty level income guidelines as defined in the Ordinance and these rates are effective as of **April 1, 2003**. These rates will be further adjusted periodically when the federal poverty level income guideline is adjusted by the U.S. Department of Health and Human Services or pursuant to Chapter 6.20 of the Revised Code of the City of St. Louis.

The Ordinance applies to employers who are covered by the Ordinance as defined in the Ordinance, where the contract or grant is entered into or renewed after the effective date of the Ordinance, which is November 3, 2002. A copy of the Ordinance may be obtained from:

City Compliance Official  
DBE Program Office  
13723 N. Riverport Drive, 3rd Floor  
Maryland Heights, MO 63043  
314-551-5000  
[AirportContractsContact@lambert-stl.org](mailto:AirportContractsContact@lambert-stl.org)

**Approved: October 24, 2003**