

ORDINANCE #66323
Board Bill No. 27

An Ordinance recommended by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City the "First Amendment To Lambert-St. Louis International Airport® (the "Airport") Concession Agreement (Display Advertising)" (hereinafter referred to as the "First Amendment") to the Airport Display Advertising Concession Agreement No. AL-356 between the City and Clear Channel Outdoor, Inc., d/b/a Clear Channel Airports, a corporation of the State of Delaware, dated August 19, 1999, and authorized by City Ordinance No. 64719, approved July 29, 1999 (the "Agreement"); the First Amendment to the Agreement, which is attached hereto as **ATTACHMENT "1"** and made a part hereof, was approved by the City's Airport Commission, and its terms are more fully described in Section One of this Ordinance; providing that the provisions set forth in this Ordinance shall be applicable exclusively to the Agreement as amended by the First Amendment; 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 of the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City the "First Amendment To Lambert-St. Louis International Airport® (the "Airport") Concession Agreement (Display Advertising)" (hereinafter referred to as the "First Amendment") to the Airport Display Advertising Concession Agreement No. AL-356 between the City and Clear Channel Outdoor, Inc., d/b/a Clear Channel Airports, a corporation of the State of Delaware, dated August 19, 1999, and authorized by City Ordinance No. 64719, approved July 29, 1999 (the "Agreement"); the First Amendment to the Agreement, which was approved by the City's Airport Commission, is to read in words and figures as set out in **ATTACHMENT "1"** and is attached hereto and made a part hereof.

SECTION TWO. The terms, covenants, and conditions set forth in this Ordinance shall be applicable exclusively to the Agreement as amended by the First Amendment and shall not be applicable to any other existing or future agreements, documents, or instruments unless specifically authorized by an ordinance after the effective date of this Ordinance. All provisions of other ordinances of the City that are in conflict with this Ordinance shall be of no force or effect as to this Ordinance or the agreements, documents, and instruments approved and/or authorized by this Ordinance.

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

ATTACHMENT 1

AIRPORT NUMBER.....

**FIRST AMENDMENT
TO
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
CONCESSION AGREEMENT
(DISPLAY ADVERTISING)**

THIS FIRST AMENDMENT, entered into this _____ day of _____, 2004, by and between the CITY OF ST. LOUIS, a municipal corporation of the State of Missouri ("City"), and CLEAR CHANNEL OUTDOOR, INC., doing business as CLEAR CHANNEL AIRPORTS ("Concessionaire"), a corporation of the State of Delaware, qualified to do business as a foreign corporation in the State of Missouri, hereinafter the "**First Amendment**".

WITNESSETH THAT:

WHEREAS, City and Concessionaire are parties to a Concession Agreement (AL-356) for Display Advertising dated August 19, 1999 ("**Agreement**") authorized by Ordinance 64719, approved July 29, 1999; and,

WHEREAS, the parties desire to revise certain terms and conditions of the Agreement and change the Concession Fees.

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

SECTION ONE: The original term of this Agreement consists of five (5) years commencing on September 1, 1999 and ending on August 31, 2004, unless sooner terminated in accordance with other provisions of the Agreement. It is hereby agreed that Section 401. Term., of the Agreement is hereby deleted in its entirety and the following is substituted:

Section 401. Term. The term of this Agreement shall consist of ten (10) years, unless sooner terminated in accordance with other provisions of the Agreement. The commencement and expiration dates for this Term are written below.

Commencement Date	<u>September 1, 1999</u>
Expiration Date	<u>August 31, 2009</u>

At the end of year six (6), August 31, 2005, and each year thereafter the Director on behalf of the City shall have the right to terminate this Agreement without cause or justification upon giving one years written notice to the Concessionaire.

SECTION TWO: Section 502. Concession Fees. of the Agreement is hereby deleted in its entirety and the following is substituted:

Section 502. Concession Fees. Concessionaire agrees to pay, for each contract year, a sum equal to the greater of the Minimum Guarantee or the Gross Revenue Percentage Fee (Gross Revenue multiplied by the Percentage set out below).

Contract Year	Minimum Guarantee
1 9/1/1999-8/31/2000	\$ 1,650,000.00
2 9/1/2000-8/31/2001	\$ 1,875,000.00
3 9/1/2001-8/31/2002	\$ 2,100,000.00
4 9/1/2002-8/31/2003	\$ 2,325,000.00
5 9/1/2003-8/31/2004	\$ 2,550,000.00
6 9/1/2004-8/31/2005	\$ 600,000.00
7 9/1/2005-8/31/2006	\$ 600,000.00
8 9/1/2006-8/31/2007	\$ 600,000.00
9 9/1/2007-8/31/2008	\$ 600,000.00
10 9/1/2008-8/31/2009	\$ 600,000.00

Gross Revenue Percentage Fee The Percentage Fee payable by the Concessionaire shall be as follows:

For Contract Year 1-5 the percentage will be sixty five percent (65%).
 For Contract Years 6-10 the percentage will be sixty (60%).

SECTION THREE: Section 708. Title to Improvements and Fixtures. The following paragraph is added to Section 708.

"Equipment" as defined in Section 101. Definitions. shall become part of the Premises with title vesting in the City upon expiration or earlier termination of this Agreement; subject, however, to Concessionaire's obligation to operate, repair, maintain and replace, and its right of possession, use and occupancy during the term and in accordance with the Agreement.

SECTION FOUR: Section 804. Utilities. of the Agreement is hereby deleted in its entirety and the following is substituted:

Section 804. Utilities. The Concessionaire shall be responsible for any modification or upgrade in electrical supply or other changes to the Premises made by the Concessionaire.

The Concessionaire agrees to pay a monthly charge for electricity consumed. The charge will be calculated based upon the list of approved advertising locations and the electrical specification for the displays provided by the Concessionaire at the time of installation. Based upon the current number and specification of installed displays, the monthly charge will be \$4,195.00.

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 FIVE: Section 1324. Americans with Disabilities Act (ADA). is added to the Agreement.

Section 1324. 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 SIX: Section 1325. Security Plan and Facilities. is added to the Agreement

Section 1325. Security Plan and Facilities. Concessionaire hereby acknowledges that City is required by the Transportation Security Administration's ("TSA") regulation 1542, 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 regulation 1542.

SECTION SEVEN: Section 1326. Environmental Notice. is added to the Agreement.

Section 1326. 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 EIGHT: Section 1327. Living Wage Compliance Provisions. is added to the Agreement.

Section 1327. Living Wage Compliance Provisions. This Agreement as amended by the First Amendment is subject to the St. Louis Living Wage Ordinance No. 65597 (the "Ordinance") and the "Regulations" associated therewith, as may be amended from time to time. Copies of the Ordinance and the Regulations may be obtained by contacting Mr. Jack Thomas, Assistant Airport Director, Airport Certification and Compliance 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"**), which is incorporated herein. 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 the execution of the First Amendment to this Agreement for existing employees and within thirty (30) days of employment for new employees thereafter.

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 as amended by the First Amendment.

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 effective as of the day the First Amendment to this Agreement is fully executed by the parties hereto.

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 as amended by the First Amendment, and to submit the reports required by the Regulations for each calendar year or portion thereof during which the Agreement as amended by the First Amendment 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 as amended, disbarment, and/or the payment of liquidated damages, as provided in the Ordinance and Regulations.

SECTION NINE: Section 1328. Radio Advertising. is added to the Agreement.

Section 1328. Radio Advertising. Beginning in Contract Year Six, Concessionaire will cause its affiliate, Clear Channel Radio, to provide to the City radio advertising time on stations owned by Clear Channel in an amount equal to one hundred thousand dollars (\$100,000.00) per contract year. The advertising will be placed by the City's designated advertising agency and the value will be calculated based upon the standard advertising rate for the station. The City may assign this right to place radio advertising to any commercial airline(s) operating or considering operating out of Lambert-St. Louis International Airport®. If, at the end of any Contract Year the Concessionaire or its affiliate have failed to provide to the City or its assignees all of the one hundred thousand dollars (\$100,000.00) worth of radio advertising time that has been requested by the City, its advertising agency or its assignees, Concessionaire will pay to the City the difference between the advertising time provided and one hundred thousand dollars (\$100,000.00). If the City or its assignees has placed in excess of one hundred thousand dollars (\$100,000.00) worth of radio advertising time, the City will credit the difference to Concessionaire against payments otherwise due from Concessionaire under the Agreement, as amended. No more than twenty five thousand dollars (\$25,000.00) worth of radio advertising time may be used by the City or assigned by it to be used to promote a single airline in any contract year. City and Concessionaire agree that during the term of the Agreement, as amended, Clear Channel Radio and its radio stations may display advertising on unsold diorama displays as Lambert-St. Louis International Airport®, without charge by Concessionaire and without treating any aspect of the use as Gross Revenue under the Agreement, as amended, however, no more than ten percent (10%) of the unsold diorama displays may be so used to advertise Clear Channel Radio stations.

SECTION TEN: All of the terms, covenants, warranties, and conditions of the Agreement not inconsistent with this First Amendment are unchanged and are hereby ratified and approved and shall remain in full force and effect.

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 _____.

CONCESSIONAIRE

ATTEST

Title: _____

Title: _____

Date: _____

Date: _____

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

The foregoing Amendment to Agreement was approved by the Airport Commission at its meeting on _____, 2004.

Commission Chairman and Director of Airports
Date _____

The foregoing Amendment was approved by the Board of Estimate and Apportionment at its meeting on _____, 2004.

Secretary, Board of Estimate and Apportionment
Date: _____

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

City Counselor, City of St. Louis
Date _____

Comptroller, City of St. Louis
Date: _____

ATTESTED TO BY:

Register, City of St. Louis
Date: _____

**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:

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

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).

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

**ST. LOUIS LIVING WAGE ORDINANCE
LIVING WAGE ACKNOWLEDGMENT & ACCEPTANCE DECLARATION**

CONTRACTING AGENCY: St. Louis Airport Authority

AGENCY CONTRACT NUMBER: NA

BIDDER'S NAME: _____

DATE PREPARED: _____

PREPARED BY: _____

PREPARER'S TELEPHONE NUMBER: _____

PREPARER'S ADDRESS AND ZIP CODE:

As the authorized representative of the above-referenced bidder, I hereby acknowledge that the bidder understands that the contract or agreement that will be executed with a successful bidder pursuant to this solicitation is subject to the St. Louis Living Wage Ordinance and the Regulations associated therewith. The bidder hereby agrees to comply with the Ordinance and the associated Regulations if awarded a contract pursuant to this solicitation. I am authorized to make the above representations on behalf of the bidder.

AUTHORIZED REPRESENTATIVE CERTIFICATION:

Signature

NAME: _____

TITLE: _____

DATE: _____

Approved: July 20, 2004