

ORDINANCE #67421
Board Bill No. 378

An ordinance pertaining to Forest Park; authorizing and directing the execution and delivery of a lease reviewed and recommended by the Board of Public Service and approved by the City Counselor, of a residence building in Forest Park known as the Cabanne House, to St. Louis Ambassadors, Inc., a Missouri not-for-profit corporation, for a term of ten years, with a renewal provision.

WHEREAS, Ordinance 59718, approved February 18, 1986, authorized the execution on behalf of the City of St. Louis (the "City") of a lease of certain property of the City, in Forest Park, consisting of a building known as the Cabanne House to St. Louis Ambassadors, Inc., a Missouri not-for profit corporation (the "Ambassadors"), for a term of twenty years from the date of execution;

WHEREAS, the City and the Ambassadors wish to continue the leasing of the Cabanne House by the Ambassadors on the terms and conditions set forth in the Lease authorized hereby;

WHEREAS, the Lease in the form authorized by this ordinance was reviewed and recommended by the Board of Public Service, and has been approved by the City Counselor as to form and as being, except as otherwise expressly noted herein, in all respects consistent with Chapter 22.42 of the Revised Code of the City of St. Louis, 1994, Annotated ("Code") prior to the adoption of Ordinance _____ (Board Bill 378); and

WHEREAS, the Board of Aldermen believes the Lease in the form authorized by this ordinance is in the best interests of the City;

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

SECTION ONE. The Mayor and the Comptroller of the City of St. Louis are authorized and directed to enter into a Lease to the St. Louis Ambassadors, Inc. of the Cabanne House, for purposes as set forth in such Lease, which shall be in substantially the form of Exhibit A hereto, incorporated herein by this reference.

SECTION TWO. Emergency clause. This being an ordinance for the preservation of public peace, health, and safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the mayor.

EXHIBIT A

LEASE AGREEMENT

This Lease ("this "Lease" or the "Lease"), is made and entered into as of this ____ day of _____, 2007 (the "Date Hereof") between the City of St. Louis, Missouri (the "City") and St. Louis Ambassadors, Inc., a Missouri not-for-profit corporation (the "Ambassadors").

PREMISES

WHEREAS, pursuant to Ordinance 59718, approved February 18, 1986, he City has leased certain property of the City, in Forest Park, consisting of a building known as the Cabanne House to the Ambassadors since 1986; and

WHEREAS, the City and the Ambassadors wish to continue the leasing of the Cabanne House by the Ambassadors on the terms and conditions set forth in this Lease;

NOW, THEREFORE, in consideration of the foregoing Premises and of the mutual promises, undertakings and agreements hereinafter set forth, the parties hereto agree as follows:

1. LEASED PREMISES. The City hereby leases, rents and lets to the Ambassadors, and the Ambassadors hereby leases, rents and hires from the City, subject to all the provisions of this Lease, that certain residence building in Forest Park known as the Cabanne House, 5330 Lindell Boulevard. This lease is of the Cabanne House building, only. The Ambassadors acknowledge and agree that all land, including but not limited to existing roads and parking areas, adjacent the building remains under the control of the City of St. Louis.

2. EFFECTIVE DATE AND TERM; RENEWAL. This Lease shall be in force and effect from the "Date Hereof" for a period of ten years, unless earlier terminated as herein provided; provided that this Lease may be renewed and extended for an additional term of ten years (the "Renewal Term"), as follows. Not less than ninety (90) and not more than one hundred twenty (120) days prior to the expiration of the initial term hereof, the Ambassadors may request the City to renew this Lease, by a writing addressed and delivered to the City's Director of Parks, Recreation and Forestry (the "Director"). The Director shall promptly certify to the Ambassadors and to the Mayor whether or not the Ambassadors have complied throughout the initial term hereof with the "Benchmarks" set forth on Exhibit 1 hereto. If such certification is affirmative the lease term shall be extended; if such certification is negative, this Lease shall terminate on the expiration of the initial term hereof.

3. RENT.

As and for rent throughout the initial term hereof and the Renewal Term, if any, the Ambassadors shall pay to the City rent in the amount of One Dollar (\$1.00) per year on the first business day of each such year, provided, the receipt of such payment for the initial term of this Lease is hereby acknowledged by the City. Such payments shall be held by the Comptroller in the Special Park Fund created by Ordinance 51336 for use pursuant to that Ordinance, or in any successor fund thereto. As and for additional rent, the Ambassadors shall maintain the building as provided in Section 7 hereof, and attain the Benchmarks as provided in Exhibit 1 hereto.

4. ACCOUNTING RECORDS; INSPECTION; AUDITS. The Ambassadors shall keep complete and accurate records of any and all gross revenues, earnings, receipts, fees commissions and income whatsoever from the operation of the Leased Premises or any activity conducted thereon, in accordance with generally accepted accounting procedures. Such records shall specifically include, but not be limited to, duplicate cash register receipts and copies of bank statements and deposit slips. The Ambassadors agrees to maintain these records for a period of two (2) years after the conclusion of any Lease year and further agrees that such financial records shall be open and available to the City's Comptroller's staff or other persons authorized by City for examination at all reasonable times during business hours.

5. USE.

A. It is understood and agreed that the Ambassadors will use the basement of the building for offices and storage. It is further understood and agreed that the first floor and second floor will be available for use by organizations or individuals for receptions, parties and similar events, for charges or fees as may be from time to time approved by the Director of Parks, Recreation & Forestry (the "Director"). During such receptions, parties and similar events, the basement restrooms may be used, and, upon application by the Ambassadors, the Director may issue permits to the Ambassadors for the use of the grounds bounded by Lindell, Union and the bike path. The Ambassadors shall be responsible for clean-up, or for causing clean-up, after such events. When an event is booked, the Ambassadors will notify the Department of Parks, Recreation and Forestry's Permit Manager within 24 hours of booking and provide copy of the executed rental agreement within 48 hours.

B. The City may use or sublease the first floor, second floor and basement bathrooms of the Cabanne House up to fifty (50) times per year for its use, or for use by organizations or individuals for receptions, parties and similar events. The City shall retain all proceeds of all such subleases. The City shall be responsible for clean-up, or for causing clean-up, after such events. The parties shall coordinate the scheduling of their bookings.

6. INSURANCE AND INDEMNIFICATION.

A. During the term of this Lease, the Ambassadors shall at no cost or expense to the City, maintain public liability insurance, naming the Ambassadors and the City, its officers and employees as additional insureds on forms and with companies satisfactory to the City, against claims for personal injury, death, or property damage occurring upon, in, or about the Cabanne House. Such insurance shall afford protection to the limits of not less than \$3,000,000 in respect to injury to or death of a single person, not less than \$3,000,000 in respect to any single occurrence, and not less than \$500,000 in respect to property damage for any single occurrence.

Copies of certificates of all such policies of insurance (or the renewals thereof) showing shall be maintained on file at all times with the City's Comptroller, accompanied by evidence that the premiums thereon have been paid.

All policies of insurance issued pursuant to this Section shall contain an agreement by the insurer that such policies shall not be canceled without at least thirty (30) days prior written notice to the City.

B. FIRE INSURANCE. The Ambassadors shall maintain, at the Ambassadors' sole expense, a standard form policy or policies of fire and extended coverage insurance on the Leased Premises. The Ambassadors agrees to maintain insurance coverage on, or otherwise assume financial liability for, personal property, furnishings and equipment owned by the Ambassadors.

C. INSURANCE REVISION. If at any time any of the insurance policies required by this Paragraph shall be or become unsatisfactory to City in its reasonable judgement, as to form or substance (including coverage amounts), or if a company issuing such policy shall have a Best's Rating of less than B¹², the Ambassadors shall, upon notice to that effect from the City, promptly obtain a new policy, and submit the same for approval to City's Comptroller.

D. INDEMNIFICATION. The Ambassadors and its sureties shall indemnify, and hold harmless City, and all its departments, boards, officers, agents and employees from all suits, actions, loss, expense, or claims of any kind whatsoever, including attorneys' fees or expenses, arising out of or relating in any way to the execution, performance, or non-performance of this Lease, whether or not covered by insurance. The Ambassadors shall, at City's option, defend City, at the Ambassadors' sole expense, against any such claim, suit or action. This provision does not apply, however, to any liability as may be the result of the direct and proximate negligence or willful misconduct of City or City's employees or agents acting within the scope of their employment or agency.

7. MAINTENANCE RESPONSIBILITY. The maintenance of the Cabanne House shall be effected by or at the expense of the Ambassadors. The Cabanne House shall be properly maintained and kept in good repair by the Ambassadors. The Ambassadors shall be solely responsible for all expenses and costs related to the Cabanne House; provided, however, that the City shall be responsible for individual repairs costing over Ten Thousand Dollars (\$10,000). The Ambassadors may not make alterations to the building without prior written approval of the Director.

8. UTILITY EXPENSES. Charges for all utilities, including but not limited to, water, electricity, telephone, power, heat, refrigeration, sewage and waste disposal within the Cabanne House shall be paid at the sole cost and expense of the Ambassadors.

9. INSPECTION. From time to time during the term of this Lease, authorized personnel of the City shall at all reasonable hours (with reasonable advance notice to the Ambassadors) be permitted to enter upon and inspect all parts of the Cabanne House in order to ascertain that the Cabanne House is being properly maintained and kept in reasonable repair and good order by the Ambassadors. The City will inspect the Cabanne House once per year within thirty days after the anniversary of the Date Hereof, and, within one week after such inspection shall direct the Ambassadors, in writing, to make necessary repairs.

10. CONSTRUCTION WORK. Any and all construction or work in or at the Cabanne House by the Ambassadors shall be done in complete compliance with all applicable City, State and Federal Codes and pursuant to the Plans approved by the City's Board of Public Service and subject to approval by or permit of any other City department or agency whose approval or permission may be required under the City's Charter or any applicable City Ordinance prior to the commencement of any such construction or work.

A. LICENSES AND PERMITS. The Ambassadors will secure and keep in force all licenses and permits required for its use of the Cabanne House. Except as otherwise specifically provided in this Lease, nothing in this Lease shall be construed to exempt the Ambassadors from the provisions of any City ordinance of general applicability.

11. NONDISCRIMINATION. The Ambassadors agrees that in the use of the Leased Premises or in the use of any premises, it will not exclude or discriminate against any person solely because of race, color or creed, or for any reason not sanctioned by law and not applicable alike to persons generally in the use of said Leased Premises.

12. MINORITY PARTICIPATION. The Ambassadors shall comply with all applicable City ordinances and Executive Orders pertaining to Minority Business Enterprise/Women's Business Enterprise/Disadvantaged Business Enterprise participation, in addition to all applicable federal, state and local equal opportunity laws.

13. NOTICES AND ADDRESSES. All notices, demands, requests or replies provided for or permitted by this Lease shall be in writing and may be delivered by any one of the following methods: (1) by personal delivery; (2) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid to the addresses stated below; (3) by deposit with an overnight express delivery service. Notice deposited with the United States Postal Service in the manner described above shall be deemed received three (3) business days after deposit with the Postal Service. Notice by overnight express

delivery service shall be deemed effective one (1) business day after deposit with the express delivery service. Notice by personal delivery shall be deemed effective at the time of personal delivery.

For purposes of notice, demand, or request, if to the City, delivery of such shall be to the City’s Comptroller at the following address:

Comptroller of the City of St. Louis
Room 212, City Hall
St. Louis, Missouri 63103

with copy to:

Director of Parks, Recreation and Forestry
5600 Clayton Avenue in Forest Park
St. Louis, Missouri 63110-1310

If to the Ambassadors, delivery shall be to:

St. Louis Ambassadors, Inc. ATTN: Chairman
Cabanne House
5330 Lindell
St. Louis, Missouri 63112

Each party shall have the right to designate a different address within the United States of America by the giving of notice in conformity with this Section.

14. ENVIRONMENTAL LAWS. The Ambassadors shall not take or omit any action which would constitute a violation of any applicable laws pertaining to health or the environment.

15. NONASSIGNABILITY. Except as provided in Section 5.B hereof, without the prior written consent of the other party first obtained, neither party shall assign, lease, sublease or transfer, in whole or in part, this Lease or such party’s interest in the Leased Premises, and such unconsented-to assignment, lease, sublease or transfer shall be null and void and of no effect.

16. AUTHORITY. The City and the Ambassadors represent, each to the other, that the City, the Ambassadors and their representative signatories each has full power and authority under its charter and the statutes of the State of Missouri, to enter into and execute this Lease.

17. SUCCESSORS AND ASSIGNS. The covenants and agreements contained in this Lease shall bind and inure to the benefit of the City, its successors and assigns, and the Ambassadors, its successors and assigns.

18. HEADINGS. The headings of the several Sections of this Lease are for convenience only and shall not define, limit or construe the contents of such Sections.

19. TERMINATION.

A. Notwithstanding Section 5.d. of Ordinance 59741 to the contrary, in the event of any material breach of any of the Ambassadors’ obligations hereunder which is not cured within sixty days after written notice of such material breach from the City’s Director of Parks, Recreation and Forestry to the Ambassadors, or, if the same material breach is of such a character as cannot reasonably be cured within a sixty (60) days period, then upon failure by the Ambassadors within such sixty (60) day period to undertake such action as reasonably can be taken toward curing same, or failure thereafter diligently to prosecute such action to completion as promptly as reasonably possible after such action is initiated, then such material breach shall constitute a default entitling the City, at the option of the City’s Board of Estimate and Apportionment, to terminate this Lease, upon written notice of such determination delivered to the Ambassadors.

B. Notwithstanding Section 5.d. of Ordinance 59741 and Section 19.A hereof, the Director may terminate this lease effective on January 31 of any year following a calendar year in which the Ambassadors fail to comply with one or more of the Benchmarks set forth in Exhibit 1 hereto. Notice of such termination shall be given in writing between January 1 and January 15 prior to the termination.

20. REENTRY. If this Lease is terminated, the City or its agents may immediately or at any time thereafter, reenter the Cabanne House and remove therefrom the Ambassadors, its agents, employees, or other persons, and thereupon the Ambassadors may, at its option, remove all or any of its personal property therefrom (which property shall remain the property of the Ambassadors), including any personal property.

IN WITNESS WHEREOF, this Lease is executed the day and year first above written.

CITY OF ST. LOUIS, MISSOURI

Saint Louis Ambassadors, Inc.

By: _____ By: _____
Mayor

By: _____
Comptroller

(SEAL)

City Register

APPROVED AS TO FORM:

City Counselor

**EXHIBIT 1
BENCHMARKS**

Ambassadors shall:

1. Document to the satisfaction of the Director of Parks, Recreation and Forestry ("Director"):
 - i) by June 1, 2007, paid Ambassadors' membership of at least one hundred fifty (150). "Paid membership" does not include any person whose dues are ninety (90) days or more in arrears. "Paid membership" shall cost at least One Hundred Twenty-Five Dollars (\$125) for persons over age Twenty-Five (25) and at least One Hundred Dollars for persons under age Twenty-Five. Corporate memberships are counted as four members.
 - ii) by December 31, 2007, that Ambassadors' paid membership on November 1, 2007 is at least two hundred (200).
 - iii) by June 1, 2008, and each year thereafter that Ambassadors' paid membership increased by at least forty (40) in the previous calendar year; and
 - iv) by June 1, 2016, that Ambassadors' paid membership as of May 1, 2016 is at least five hundred (500).
2. Award one or more college scholarships with a value of at least Eight Thousand Dollars (\$8,000.00) by May 15 of each year.
3. Provide funding of Ten Thousand Dollars (\$10,000.00) or the equivalent value in in-kind services for each of two "Special Projects" annually, for a total of Twenty Thousand Dollars (\$20,000.00). As used herein, "Special Projects" means projects agreed to in writing by December 31 of each year beginning in 2007 for the following calendar year, by i) the Ambassadors and the Mayor of the City or his/her designee as to the first project and ii) by the Ambassadors and the Director as to the second project, which second project shall be carried out in Forest Park.

Approved: February 16, 2007