

ORDINANCE #68356
Board Bill No. 51

An ordinance recommended and approved by the Airport Commission and the Board of Estimate and Apportionment, authorizing and directing the Director of Airports and the Comptroller on behalf of the City of St. Louis (the "City") the owner and operator of Lambert-St. Louis International Airport® (the "Airport") to accept and execute on behalf of the City a certain Other Transaction Agreement (the "Agreement") offered by the Federal Aviation Administration for the purchase and installation of Airport Surface Detection Equipment ("ASDE"), ASDE-X monitor(s), and ASDE-X system enhancement communication equipment at the Airport for a maximum obligation of Five Hundred Thousand Dollars (\$500,000) for the purchase and installation associated with the projects funded under the Agreement; 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 on behalf of the City of St. Louis (the "City"), the owner and operator of Lambert-St. Louis International Airport® (the "Airport"), are hereby authorized to accept and execute on behalf of the City an Other Transaction Agreement (the "Agreement") offered by the Federal Aviation Administration substantially in the form attached hereto as Exhibit A, and incorporated herein, which provides financial assistance to the City for the purchase and installation of Airport Surface Detection Equipment ("ASDE"), ASDE-X monitor(s), and ASDE-X system enhancement communication equipment at the Airport (the "Project") for a maximum obligation of Five Hundred Thousand Dollars (\$500,000) for purchase and installation of direct costs of the City associated with the Project.

SECTION TWO. All terms, conditions, statements, warranties, representations, covenants, agreements, and assurances contained in the Agreement and the incorporated materials referred to in the Agreement are hereby ratified and approved and made a part hereof.

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

EXHIBIT A

OTHER TRANSACTION AGREEMENT

**BETWEEN THE FEDERAL AVIATION ADMINISTRATION AND THE
CITY OF ST. LOUIS, MISSOURI**

WHEREAS, the Federal Aviation Administration (hereinafter the "FAA") wishes to transfer funds as specified herein to The City of St. Louis, Missouri (the "City") owner and operator of Lambert-St. Louis International Airport (hereinafter the "Airport"), to be used by the City for the purchase and installation at the Airport of:

- Airport Surface Detection Equipment, Model X (ASDE-X) data distribution rack in the FAA's Airport Traffic Control Tower (ATCT),
- ASDE-X monitor(s) in the Airport's Operations Center at Lambert St. Louis International Airport, St. Louis, Missouri.
- ASDE-X system enhancement communication equipment

THEREFORE BE IT RESOLVED, the FAA and the City (the "Parties") mutually agree as follows:

ARTICLE 1. PARTIES

The parties to this Other Transaction Agreement (hereinafter the "Agreement") are the FAA, and the City as represented by its Airport Director.

ARTICLE 2. RESPONSIBILITIES

FAA Responsibilities:

1. The FAA will transfer funds to the City to enable the purchase and installation of ASDE-X system enhancement communications equipment, ASDE-X data distribution rack and equipment in the FAA's ATCT, & ASDE-X monitor (s) in the Airport's Operations Center at Lambert St. Louis International Airport, St. Louis, Missouri.
2. The FAA will maintain the data distribution rack installed in the ATCT using Airport procured ASDE-X site spares and site test equipment.
3. The FAA will maintain the ASDE-X monitor (s) installed in the Airport's Operations Center utilizing parts purchased by the City.
4. The FAA will provide the necessary specifications to enable the City to procure and install the data distribution rack and the ASDE-X monitor(s).

City's Responsibilities:

1. The City will purchase and install the ASDE-X system enhancement communications equipment for use in the airport movement area. The City will not purchase this equipment until it receives the funds provided for under this Agreement and written approval from the FAA.
2. The City will purchase and install an ASDE-X data distribution rack in the ATCT and ASDE-X monitor (s) in the Airport's Operations Center.
3. The City will furnish, install, and maintain the necessary communications path between the data distribution rack and ASDE-X monitor(s).
4. The City will own and maintain the entire ASDE-X system enhancement communications equipment purchased via this Agreement.
5. The City will own the ASDE-X Monitor(s) installed in their Operation's Center and is responsible for the purchasing of any parts needed for repair.
6. The City will transfer ownership of the data distribution rack and associated equipment and spares in the ATCT at no cost to the FAA.

ARTICLE 3. EFFECTIVE DATE AND TERM

The effective date of this Agreement is the date on which it is signed by the FAA, after being signed by the City. This Agreement shall remain in effect until the Agreement is concluded in accordance with Article 13 unless earlier terminated by the parties as provided herein.

ARTICLE 4. SCHEDULE

The City, subject to the terms of this Agreement, agrees to complete the purchase and installation of the ASDE-X data distribution rack, communications network, vehicle transponders, and ASDE-X monitor(s) in their Operation's Center within 24-months from the effective date of this Agreement.

ARTICLE 5. REPORTING REQUIREMENTS

The City shall provide the FAA with a written progress report every three months on the purchase and installation on the ASDE-X equipment purchased under this Agreement. The progress report shall be sent to the FAA Contracting Officer and Point of Contact as set forth in ARTICLE 7, below.

ARTICLE 6. LEGAL AUTHORITY

This Agreement is entered into under the authority of 49 U.S.C. 106(l) and (m), which authorizes agreements and other transactions on such terms and conditions as the FAA Administrator determines as necessary. This Agreement is not a procurement contract, grant, or cooperative agreement. Nothing in this Agreement shall be construed as incorporating by reference or implication any provision

of Federal acquisition law or regulation.

ARTICLE 7. POINTS OF CONTACT

For the City

Name: William Korte
Assistant Airport Director
Operations and Maintenance

Address: St. Louis Airport Authority
P.O. BOX 10212
St. Louis, MO 63145
Phone: 314-426-8028
Fax: 314-890-1844
Email: WBKorte@flystl.com

For the Federal Aviation Administration regarding this agreement

Name: Robert Valdes
Contracting Officer

Address: Federal Aviation Administration
Room 4W41JS
600 Independence Ave., SW
Washington, DC 20003
Phone: 202-385-6157
Fax: 202-493-4717
Email: robert.valdes@faa.gov

For the Federal Aviation Administration regarding overall project lead

Name: Scott Schlegel, ATO-T
ASDE-X Project Lead

Address: Federal Aviation Administration
Room 5E1500
600 Independence Ave., SW
Washington, DC 20003
Phone: 202-385-8724
Fax: 202-267-5165
Email: scott.c.schlegel@faa.gov

ARTICLE 8. FUNDING AND PAYMENT

- 1) The FAA may contribute up to \$500,000.00 for City costs under this Agreement.
- 2) The FAA will not be responsible for any costs of any kind whatsoever for equipment purchases and installation over and above the transferred funds as specified herein, unless this Agreement is amended or modified prior to the costs being occurred.
- 3) Upon receipt of the funds provided under this Agreement, the City shall purchase and install the ASDE-X equipment at the Airport and all funds provided by the FAA under this Agreement shall be used by the City only for the aforementioned purpose.
- 4) The City shall be solely responsible for obtaining any additional funds over and above those provided by the FAA under this Agreement.
- 5) Nothing contained herein shall prevent this Agreement from being amended or modified. Such amendments and/or modifications must be in writing and signed by the parties.

- 6) The FAA may terminate this Agreement upon 30 days notice in writing if the terms and conditions contained herein are not complied with by the City.

ARTICLE 9. LIMITATION OF FUNDS

The liability of the FAA and the Federal Government’s liability to the Airport are limited to \$500,000.00 as set forth in ARTICLE 8.

ARTICLE 10. INSURANCE

The Airport shall arrange by insurance or otherwise for the full protection of the City from and against all liability to third parties arising out of, or related to, its performance of this Agreement. The FAA assumes no liability under this Agreement for the losses arising out of any action or inaction by the City, its employees, or contractors, or any third party acting on the City’s own behalf.

ARTICLE 11. AUDITS

- 1) The Federal Government has the right to examine and/or audit relevant financial records relating to this agreement for a period not to exceed three years, after expiration of the term of this Agreement.
- 2) The City will keep all project accounts and records which fully disclose the amount and disposition by it of the money transferred by the FAA to the Airport or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with a generally acceptable accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- 3) The City shall make available to the Secretary of Transportation, the FAA, and the Comptroller General of the United States, or any of their duly authorized representative, for the purpose of audit and examination, any books, document, papers, and records of the City that are pertinent to the money transferred by the FAA to the City. The Secretary or the FAA may require that the City conduct an appropriate audit. In any case in which an independent audit is made of the accounts of the City relating to the disposition of the proceeds of the money transferred or relating to the project in connection with which the aforementioned money transfer was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

ARTICLE 12. CHANGES AND MODIFICATIONS

Changes and/modifications to this Agreement shall be in writing and signed by the Federal Aviation Administration’s Contracting Officer and the City. Any modification shall cite this Agreement, and shall state the exact nature of the modification. No oral statement by any person shall be interpreted as modifying or otherwise affecting the terms of this Agreement. Notification of changes to parties other than as specified hereinabove shall not be considered to be in compliance with this requirement.

ARTICLE 13. DURATION OF AGREEMENT

This Agreement will be concluded when (1) the City or its contractor has completed the requirements outlined in Article 2, and (2) the FAA has approved the work. The FAA may also terminate this Agreement prior to its execution with or without cause with a 30-day notice in writing.

ARTICLE 14. CONSTRUCTION OF THE AGREEMENT

Each party acknowledges that all parties hereto participated equally in the negotiation and drafting of this Agreement and any amendments hereto, and that this Agreement shall not be construed more stringently against one party than against the other.

ARTICLE 15. DISPUTES

Where possible, disputes will be resolved by informal discussion between the parties. In the event that the parties are unable to resolve any disagreement through good faith negotiations, the dispute will be resolved by appropriate filing under the “Alternative Dispute Resolution Procedures” with the Federal Aviation Administration, Office of Dispute Resolution for Acquisition, (AGC-70),

800 Independence Avenue, S.W., Washington, D.C. 20591 (Phone: 202-267-3290 and Fax: 202-267-3720).

ARTICLE 16. LIMITATION OF LIABILITY

The FAA is liable only to the limit of funding provided under this Agreement. The FAA assumes no liability under this Agreement for any losses arising out of any action or inaction by the City, its employees, or contractors, or any third party action on its behalf. In no event shall the FAA be liable for claims for consequential damages.

ARTICLE 17. OFFICIALS NOT TO BENEFIT

FAA Acquisition Management System Clause 3.2.5-1, "Official Not to Benefit" and Clause 3.2.5-7, "Disclosure Regarding Payments to Influence Certain Federal Transactions" are attached hereto and incorporate by reference into this Agreement.

ARTICLE 18. PROTECTION OF INFORMATION

The parties agree that they shall take appropriate measures to protect proprietary, privileged or otherwise confidential information that may come into their possession as a result of this Agreement.

AGREED:

Federal Aviation Administration

By _____
Robert Valdes Date
Contracting Office

Witness: _____

Pursuant to City of St. Louis Ordinance _____ approved on _____, 2009.

The City of St. Louis, Missouri, Owner and Operator of Lambert-St. Louis International Airport:

By: _____
Director of Airports Date

Countersigned by:

By: _____
Comptroller Date

Approved As To Form:

By: _____
City Counselor Date

Attested to By:

By: _____
Register Date

Approved: June 8, 2009