

St. Louis City Ordinance 64474

FLOOR SUBSTITUTE

BOARD BILL NO. [98] 116

INTRODUCED BY ALDERMAN Craig Schmid

An ordinance recommended by the Port Authority Commission of the City of St. Louis to repeal Ordinances 62718, 63529, and 63530 and authorizing and directing the Mayor and the Comptroller to enter into a lease agreement between the City of St. Louis and Gasconade Enterprises, L.L.C. for the following real property on the unimproved Public Wharf for a period of twenty five (25) years commencing on the date of execution, in substantially the form attached hereto and incorporated by reference herein as Exhibit 1:

A tract of land being part of Blocks 2671, 2709, 2614, part of Wyandotte Street, 60 feet wide, as vacated by Ordinance 54162 and part of First Street in the City of St. Louis, Missouri and being more particularly described as follows:

Beginning at a point, said point being located 27.63 feet Southeasterly and radial to the point of tangency on the Easterly line of Missouri Pacific Railroad right-of-way opposite Osceola Street, 60 feet wide, said radial line being South 43 degrees 48 minutes 44 seconds East; thence along a curve to the right for which the radius point bears South 45 degrees 47 minutes 28 seconds East 1,800.00 feet, an arc distance of 133.69 feet to a point of tangency; thence North 48 degrees 27 minutes 52 seconds East 89.84 feet; thence North 45 degrees 50 minutes 08 seconds East 410.50 feet to a point of curvature to the left, said curve having a radius of 1,650.00 feet; thence along last said curve an arc distance of 178.61 feet to a point of tangency; thence North 39 degrees 38 minutes 54 seconds East 441.16; thence North 20 degrees 33 minutes 14 seconds East 98.42 feet to a point of curvature to the right for which the radius point bears South 69 degrees 26 minutes 46 seconds East 468.28 feet; thence along last said curve an arc distance of 94.86 feet to a point of tangency; thence North 32 degrees 09 minutes 36 seconds East 124.34 feet; thence South 54 degrees 52 minutes 41 seconds East 18.63 feet to a point of curvature to the left for which the radius point bears South 54 degrees 52 minutes 41 seconds East 452.43 feet; thence along last said curve an arc distance of 346.58 feet to a point of tangency; thence South 08 degrees 46 minutes 08 seconds East 91.74 feet; thence South 46 degrees 32 minutes 50 seconds East 329.01 feet more or less to the edge of water of the Mississippi River, as established on November

6, 1997; thence along last said edge of water the following courses and distances; thence South 39 degrees 06 minutes 41 seconds West 66.60 feet; thence South 40 degrees 12 minute 50 seconds West 140.07 feet; thence South 39 degrees 27 minutes 26 seconds West 139.21 feet; thence South 46 degrees 19 minutes 22 seconds West 107.95 feet; thence South 39 degrees 35 minutes 33 seconds West 177.50 feet; thence South 43 degrees 49 minutes 40 seconds West 145.78 feet; thence South 44 degrees 43 minutes 04 seconds West 260.80 feet; thence South 41 degrees 55 minutes 31 seconds West 80.49 feet; thence South 37 degrees 59 minutes 54 seconds West 74.60 feet to a point on the Southeasterly prolongation of the centerline of former Wyandotte Street, 60 feet wide vacated by Ordinance No. 54162; thence along last said prolongation line and last said centerline North 80 degrees 53 minutes 37 seconds West 613.53 feet; thence departing last said centerline North 35 degrees 01 minutes 52 seconds East 41.09 to a point of curvature to the right; said curve having a radius of 1,800.00 feet; thence along last said curve an arc distance of 288.33 feet to the Point of Beginning and containing 711,926 square feet or 16.344 acres more or less.

Also, approximately 2,400 linear feet of mooring privileges, between a point approximately 170 feet North of Harbor Point #9A and a point approximately 376 feet South of Harbor Point #8B, and authorizing and directing the Mayor and Comptroller to enter into a sublease agreement between the City of St. Louis and Gateway Distribution Center, Inc. for the following real property for the relocated salt pile for a period of twenty-five (25) years commencing on May 13, 1998, and ending on May 12, 2023, in substantially the form attached hereto and incorporated by reference herein as Exhibit 2: A parcel of land approximately three quarters (3/4) of an acre, surrounded by a chain link fence, located on the following described real estate, to wit:

A tract of land in part of lots 2,3,4 and 5 of the Subdivision in partition of part of U. S. Survey 369 in City Block 2612 of the City of St. Louis, Missouri, in part of lots 21 thru 37 Block **◆G◆** of Marine Villa Subdivision in City Block 2558 of said City, in part of lots 12 thru 20 of Marine Villa Addition in City Block 1764 of said City, in part of lots 29 and 30 and all of lots 31 thru 63 of Kayzer, Kennett and Smith **◆s** Marine Quarry Addition in said City Block 1764 and part of Osage Street and Koskiusko Avenue vacated by Ordinance No. 56029 and by Ordinance No. 56028, beginning at iron pipe set at the intersection of the Southeast Right-Of-Way line of Interstate Highway Route No. 55 with the Northeast line of Gasconade Avenue, 60 feet wide, being the Southwest Line of lot 2 of the Subdivision in partition of part of U. S. Survey 369 in City Block 2612 of the City of St. Louis, Missouri, said iron pipe being

distant South 59 degrees 12 minutes 34 seconds East 20 feet from the Southwest corner of said lot 2; thence North 53 degrees 47 minutes 45 seconds East, along said Southeast Right-Of-Way line 243.08 feet to a point in the Northeast line of said Lot 2 distant South 59 degrees 12 minutes 34 seconds East 1 foot from the Northwest corner thereof; thence continuing along said Right-Of-Way line North 39 degrees 15 minutes 23 seconds East 252.75 feet to a point in the Northeast line of lot 3 of last mentioned Subdivision distant South 59 degrees 12 minutes 34 seconds East 152.21 feet from the Northwest corner thereof; thence North 39 degrees 15 minutes 17 seconds East, along said Right-Of-Way line 161.76 feet to a point in the Northeast line of lot 5 of last mentioned Subdivision distant South 59 degrees 12 minutes 34 seconds East 176.02 feet from the Northwest corner thereof; thence crossing Osage Street, 60 feet wide, (vacated) along said Right-Of-Way line North 52 degrees 34 minutes 32 seconds East 64.61 feet to a point in the Southwest line of lot 21 Block **◆G◆** of **◆Marine Villa Subdivision◆** in City Block 2558 of said City, distant South 59 degrees 12 minutes 34 seconds East 40 feet from the Southwest corner of said Lot 21; thence North 43 degrees 48 minutes 20 seconds East, along said Right-Of-Way line, 444.04 feet to the Southeast corner of Lot 38 in said Block **◆G◆**; thence crossing Koskiusko Street, 60 feet wide, (vacated) along said Right-Of-Way line North 60 degrees 32 minutes 07 seconds East 120.93 feet to the Southwest corner of Lot 42 of Kayzer, Kennett, Smith**◆**s Marine Quarry Addition in City Block 1764 of said City; thence South 75 degrees 09 minutes 17 seconds East, along the Southwest line of said Right-Of-Way, 109.20 feet to a point in the Southwest line of Lot 20 of **◆Marine Villa Addition◆** in City Block 1764 of said City, distant South 59 degrees 12 minutes 34 seconds East, 105 feet from the Southwest corner thereof; thence North 43 degrees 19 minutes 10 seconds East along the Southeast line of said Right-Of-Way 230.49 feet to the Northeast corner of Lot 12 of last mentioned Subdivision; thence North 30 degrees 47 minutes 26 seconds East, along the Southeast line of said Right-of-Way 50 feet to the Southwest corner of Lot 30 of Kayzer, Kennett and Smith**◆**s Marine Quarry Addition in City Block 1764 of said City; thence South 74 degrees 16 minutes 40 seconds East, along the Southwest line of said Right-Of-Way, 192.33 feet to an iron pipe set in the Northwest line of First Street, 31 feet wide; thence South 50 degrees 33 minutes 51 seconds West, along the Northwest line of First Street 1272.89 feet to an iron pipe set at the beginning of a curve to the right having a radius of 2818.35 feet; thence Southwestwardly, along the Northwest line of First Street along said curve to the right 347.47 feet to the end of said curve; thence South 57 degrees 37 minutes 41 seconds West along the Northwest line of First Street 78.03 feet to an iron pipe set at the intersection of said Northwest line of First Street with the Northwest line of Gasconade Street;

thence North 59 degrees 12 minutes 34 seconds West along last mentioned line, 77.41 feet to the point of beginning, containing 5.677 acres, more or less.

and authorizing the Port Authority of the City of St. Louis and the Mayor and Comptroller on behalf of the City of St. Louis to enter into a mutual release with Gasconade Enterprises, L.L.C. to forego potential claims and litigation among the parties prior to the execution of the aforementioned lease agreement in substantially the form attached hereto and incorporated by reference herein as Exhibit 3.

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

SECTION ONE. The provisions of Ordinances 62718, 63529, 63530, are hereby repealed.

SECTION TWO. The Mayor and Comptroller of the City of St. Louis are hereby authorized and directed to enter into a lease agreement with Gasconade Enterprises, L.L.C., providing for the use by Lessee of the following portion of the unimproved Public Wharf:

A tract of land being part of Blocks 2671, 2709, 2614, part of Wyandotte Street, 60 feet wide, as vacated by Ordinance 54162 and part of First Street in the City of St. Louis, Missouri and being more particularly described as follows:

Beginning at a point, said point being located 27.63 feet Southeasterly and radial to the point of tangency on the Easterly line of Missouri Pacific Railroad right-of-way opposite Osceola Street, 60 feet wide, said radial line being South 43 degrees 48 minutes 44 seconds East; thence along a curve to the right for which the radius point bears South 45 degrees 47 minutes 28 seconds East 1,800.00 feet, an arc distance of 133.69 feet to a point of tangency; thence North 48 degrees 27 minutes 52 seconds East 89.84 feet; thence North 45 degrees 50 minutes 08 seconds East 410.50 feet to a point of curvature to the left, said curve having a radius of 1,650.00 feet; thence along last said curve an arc distance of 178.61 feet to a point of tangency; thence North 39 degrees 38 minutes 54 seconds East 441.16; thence North 20 degrees 33 minutes 14 seconds East 98.42 feet to a point of curvature to the right for which the radius point bears South 69 degrees 26 minutes 46 seconds East 468.28 feet; thence along last said curve an arc distance of 94.86 feet to a point of tangency; thence North 32 degrees 09 minutes 36 seconds East 124.34 feet; thence South 54 degrees 52 minutes 41 seconds East 18.63 feet to a point of curvature to the left for which the radius point bears South 54 degrees 52 minutes 41 seconds East 452.43 feet; thence along last said curve an arc distance of 346.58 feet to a

point of tangency; thence South 08 degrees 46 minutes 08 seconds East 91.74 feet; thence South 46 degrees 32 minutes 50 seconds East 329.01 feet more or less to the edge of water of the Mississippi River, as established on November 6, 1997; thence along last said edge of water the following courses and distances; thence South 39 degrees 06 minutes 41 seconds West 66.60 feet; thence South 40 degrees 12 minute 50 seconds West 140.07 feet; thence South 39 degrees 27 minutes 26 seconds West 139.21 feet; thence South 46 degrees 19 minutes 22 seconds West 107.95 feet; thence South 39 degrees 35 minutes 33 seconds West 177.50 feet; thence South 43 degrees 49 minutes 40 seconds West 145.78 feet; thence South 44 degrees 43 minutes 04 seconds West 260.80 feet; thence South 41 degrees 55 minutes 31 seconds West 80.49 feet; thence South 37 degrees 59 minutes 54 seconds West 74.60 feet to a point on the Southeasterly prolongation of the centerline of former Wyandotte Street, 60 feet wide vacated by Ordinance No. 54162; thence along last said prolongation line and last said centerline North 80 degrees 53 minutes 37 seconds West 613.53 feet; thence departing last said centerline North 35 degrees 01 minutes 52 seconds East 41.09 to a point of curvature to the right; said curve having a radius of 1,800.00 feet; thence along last said curve an arc distance of 288.33 feet to the Point of Beginning and containing 711,926 square feet or 16.344 acres more or less.

Also, approximately 2,400 linear feet of mooring privileges, between a point approximately 170 feet North of Harbor Point #9A and a point approximately 376 feet South of Harbor Point #8B,

SECTION THREE. The Mayor and the Comptroller are authorized and directed, upon execution of Gateway Distribution Center, Inc., to execute a sublease agreement between Gateway Distribution Center, Inc. and the City of St. Louis, to sublease the following real property for a period of twenty-five (25) years commencing on the date of execution, in substantially the form attached hereto and incorporated by reference herein as Exhibit 2:

A parcel of land approximately three quarters (3/4) of an acre, surrounded by a chain link fence, located on the following described real estate, to wit:

A tract of land in part of lots 2,3,4 and 5 of the Subdivision in partition of part of U. S. Survey 369 in City Block 2612 of the City of St. Louis, Missouri, in part of lots 21 thru 37 Block ◆G◆ of Marine Villa Subdivision in City Block 2558 of said City, in part of lots 12 thru 20 of Marine Villa Addition in City Block 1764 of said City, in part of lots 29 and 30 and all of lots 31 thru 63 of Kayzer, Kennett and Smith◆s Marine Quarry Addition in said City Block 1764 and part of Osage Street and Koskiusko Avenue vacated by Ordinance

No. 56029 and by Ordinance No. 56028, beginning at iron pipe set at the intersection of the Southeast Right-Of-Way line of Interstate Highway Route No. 55 with the Northeast line of Gasconade Avenue, 60 feet wide, being the Southwest Line of lot 2 of the Subdivision in partition of part of U. S. Survey 369 in City Block 2612 of the City of St. Louis, Missouri, said iron pipe being distant South 59 degrees 12 minutes 34 seconds East 20 feet from the Southwest corner of said lot 2; thence North 53 degrees 47 minutes 45 seconds East, along said Southeast Right-Of-Way line 243.08 feet to a point in the Northeast line of said Lot 2 distant South 59 degrees 12 minutes 34 seconds East 1 foot from the Northwest corner thereof; thence continuing along said Right-Of-Way line North 39 degrees 15 minutes 23 seconds East 252.75 feet to a point in the Northeast line of lot 3 of last mentioned Subdivision distant South 59 degrees 12 minutes 34 seconds East 152.21 feet from the Northwest corner thereof; thence North 39 degrees 15 minutes 17 seconds East, along said Right-Of-Way line 161.76 feet to a point in the Northeast line of lot 5 of last mentioned Subdivision distant South 59 degrees 12 minutes 34 seconds East 176.02 feet from the Northwest corner thereof; thence crossing Osage Street, 60 feet wide, (vacated) along said Right-Of-Way line North 52 degrees 34 minutes 32 seconds East 64.61 feet to a point in the Southwest line of lot 21 Block \diamond G \diamond of \diamond Marine Villa Subdivision \diamond in City Block 2558 of said City, distant South 59 degrees 12 minutes 34 seconds East 40 feet from the Southwest corner of said Lot 21; thence North 43 degrees 48 minutes 20 seconds East, along said Right-Of-Way line, 444.04 feet to the Southeast corner of Lot 38 in said Block \diamond G \diamond ; thence crossing Koskiusko Street, 60 feet wide, (vacated) along said Right-Of-Way line North 60 degrees 32 minutes 07 seconds East 120.93 feet to the Southwest corner of Lot 42 of Kayzer, Kennett, Smith \diamond 's Marine Quarry Addition in City Block 1764 of said City; thence South 75 degrees 09 minutes 17 seconds East, along the Southwest line of said Right-Of-Way, 109.20 feet to a point in the Southwest line of Lot 20 of \diamond Marine Villa Addition \diamond in City Block 1764 of said City, distant South 59 degrees 12 minutes 34 seconds East, 105 feet from the Southwest corner thereof; thence North 43 degrees 19 minutes 10 seconds East along the Southeast line of said Right-Of-Way 230.49 feet to the Northeast corner of Lot 12 of last mentioned Subdivision; thence North 30 degrees 47 minutes 26 seconds East, along the Southeast line of said Right-of-Way 50 feet to the Southwest corner of Lot 30 of Kayzer, Kennett and Smith \diamond 's Marine Quarry Addition in City Block 1764 of said City; thence South 74 degrees 16 minutes 40 seconds East, along the Southwest line of said Right-Of-Way, 192.33 feet to an iron pipe set in the Northwest line of First Street, 31 feet wide; thence South 50 degrees 33 minutes 51 seconds West, along the Northwest line of First Street 1272.89 feet to an iron pipe set at the beginning of a curve to the right

having a radius of 2818.35 feet; thence Southwestwardly, along the Northwest line of First Street along said curve to the right 347.47 feet to the end of said curve; thence South 57 degrees 37 minutes 41 seconds West along the Northwest line of First Street 78.03 feet to an iron pipe set at the intersection of said Northwest line of First Street with the Northwest line of Gasconade Street; thence North 59 degrees 12 minutes 34 seconds West along last mentioned line, 77.41 feet to the point of beginning, containing 5.677 acres, more or less.

SECTION FOUR. The Mayor and the Comptroller are authorized and directed, upon execution by Gasconade Enterprises, L.L.C., to execute a mutual release pertaining to any and all claims or causes of action whether known or unknown which either Gasconade Enterprises, L.L.C. its successors and assigns and the Port Authority of the City of St. Louis, and the City of St. Louis, which they have or may have for any damages resulting from the action or inactions of each party for the property leased by the City of St. Louis to Gasconade Enterprises, L.L.C. prior to a certain lease agreement dated _____ and set forth on Exhibit 3 hereto.

FLOOR SUBSTITUTE

EXHIBIT 1 LEASE AGREEMENT

This Agreement made and entered into as of this ____ day of _____, ____, by and between the City of St. Louis, a Municipal Corporation of the State of Missouri, hereinafter called Lessor, through its Mayor and Comptroller, and Gasconade Enterprises, L.L.C., a Missouri Limited Liability Company, hereinafter called Lessee.

WHEREAS, Lessor and Gateway Distribution Center, Inc. have entered into a Sublease Agreement, for a separate parcel of real property located at the northwest corner of First Street and Gasconade Street in the City of St. Louis, wherein Gateway Distribution Center Inc. is the Tenant / Sublessor and Lessor is the Sublessee for the new location of the City's Street Department Salt Pile;

WHEREAS, the parties have agreed that Gateway Distribution Center, Inc. will provide the Sublease Agreement for use by the Lessor for a period of twenty-five (25) years in exchange for the Lessee's right to use additional acreage of approximately six (6) acres in this Lease which was needed to facilitate the expanded construction project and to square the boundaries at the site of the Leased Area, as hereinafter defined;

WHEREAS, the parties hereto desire to enter into this Lease Agreement for the parcel of real property and its mooring rights as hereinafter described;

WITNESSETH:

1. In and for consideration of the rents to be paid by Lessee to the Lessor, as hereinafter set forth, and the mutual covenants and agreements herein contained, the Lessor hereby leases and lets to said Lessee the following described real estate (◆Leased Area◆), to wit:

A tract of land being part of Blocks 2671, 2709, 2614, part of Wyandotte Street, 60 feet wide, as vacated by Ordinance 54162 and part of First Street in the City of St. Louis, Missouri and being more particularly described as follows:

Beginning at a point, said point being located 27.63 feet Southeasterly and radial to the point of tangency on the Easterly line of Missouri Pacific Railroad right-of-way opposite Osceola Street, 60 feet wide, said radial line being South 43 degrees 48 minutes 44 seconds East; thence along a curve to the right for which the radius point bears South 45 degrees 47 minutes 28 seconds East 1,800.00 feet, an arc distance of 133.69 feet to a point of tangency; thence North 48 degrees 27 minutes 52 seconds East 89.84 feet; thence North 45 degrees 50 minutes 08 seconds East 410.50 feet to a point of curvature to the left, said curve having a radius of 1,650.00 feet; thence along last said curve an arc distance of 178.61 feet to a point of tangency; thence North 39 degrees 38 minutes 54 seconds East 441.16; thence North 20 degrees 33 minutes 14 seconds East 98.42 feet to a point of curvature to the right for which the radius point bears South 69 degrees 26 minutes 46 seconds East 468.28 feet; thence along last said curve an arc distance of 94.86 feet to a point of tangency; thence North 32 degrees 09 minutes 36 seconds East 124.34 feet; thence South 54 degrees 52 minutes 41 seconds East 18.63 feet to a point of curvature to the left for which the radius point bears South 54 degrees 52 minutes 41 seconds East 452.43 feet; thence along last said curve an arc distance of 346.58 feet to a point of tangency; thence South 08 degrees 46 minutes 08 seconds East 91.74 feet; thence South 46 degrees 32 minutes 50 seconds East 329.01 feet more or less to the edge of water of the Mississippi River, as established on November 6, 1997; thence along last said edge of water the following courses and distances; thence South 39 degrees 06 minutes 41 seconds West 66.60 feet; thence South 40 degrees 12 minute 50 seconds West 140.07 feet; thence South 39 degrees 27 minutes 26 seconds West 139.21 feet; thence South 46 degrees 19 minutes 22 seconds West 107.95 feet; thence South 39 degrees 35 minutes 33 seconds West 177.50 feet; thence South 43 degrees 49 minutes 40 seconds

West 145.78 feet; thence South 44 degrees 43 minutes 04 seconds West 260.80 feet; thence South /41 degrees 55 minutes 31 seconds West 80.49 feet; thence South 37 degrees 59 minutes 54 seconds West 74.60 feet to a point on the Southeasterly prolongation of the centerline of former Wyandotte Street, 60 feet wide vacated by Ordinance No. 54162; thence along last said prolongation line and last said centerline North 80 degrees 53 minutes 37 seconds West 613.53 feet; thence departing last said centerline North 35 degrees 01 minutes 52 seconds East 41.09 to a point of curvature to the right; said curve having a radius of 1,800.00 feet; thence along last said curve an arc distance of 288.33 feet to the Point of Beginning and containing 711,926 square feet or 16.344 acres more or less.

Also, approximately 2,400 linear feet of mooring privileges, between a point approximately 170 feet North of Harbor Point #9A and a point approximately 376 feet South of Harbor Point #8B,

2. The term of this Agreement shall be for a period of twenty five (25) years, beginning the _____ day of _____, _____, and terminating on the _____ day of _____, _____.

3. For the rights and privileges herein granted, the parties agree that the Leased Area's annual rental will be predicated on the amount of acreage specified in the original Land Lease agreement dated September 29, 1995, and the amount of linear feet specified in the original Mooring Rights lease dated December 28, 1992. Therefore, the current annual rental to be paid on the Leased Area is equal to the base rental on 439,084.8 square feet plus 2,400 linear feet of mooring rights, or Eighty-Four Thousand Thirty-Six Dollars and Seventy-Four Cents (\$84,036.74) per year.

4. The parties acknowledge that to prepare the Lease Area for development, Lessee encountered several unforeseen problems. Lessee has documented to Lessor that it has expended approximately \$2,000,000.00 in infrastructure/site expenditures to prepare the site for development. The parties agree that HUD gave Lessee a grant in the amount of \$1,000,000.00 for such infrastructure/site expenditures. Lessor agrees to reduce the amount payable under this Lease by \$931,329.00 over the next twenty five (25) years to reimburse Lessee for the cost of such unforeseen expenditures. Therefore, Lessor agrees to reduce the rent of Lessee, after all escalators have been added by an amount equal to \$37,253.16 annually. Initially, therefore, Lessee will pay monthly rent of \$3,898.63.

5. The base rent on 439,084.8 square feet and 2,400 linear feet of mooring rights to be paid to the Lessor for the rights and privileges leased hereunder for the Leased Area shall be subject to adjustments as provided by, and under the terms and conditions set forth in **Appendix A - STANDARD PROVISIONS, LEASES OF WHARF AND MOORING RIGHTS**, which is attached hereto and made a part hereof.

6. The Leased Area described above shall be used exclusively by Lessee for the operation of an Intermodal Distribution Center and Warehouse (**Leasehold Improvements**). Lessee shall not enter into any sublease, assignment, management agreement or other form of agreement which in substance allows the Leased Area to be used by another person or business entity without the express written consent of the Port Commission and the Board of Public Service of the City of St. Louis, which consent shall not be unreasonably withheld; except initially, Lessee shall be permitted to sublease the premises to Gateway Distribution Center, Inc., a Missouri corporation, without the express written consent of the Port Commission and the Board of Public Service.

7. The construction and operation of the Leasehold Improvements has and will be performed by Lessee and comply in all respects with the building codes and ordinances of the City of St. Louis and all other applicable laws. All plans and specifications for the Leasehold Improvements shall be submitted to Lessor's Board of Public Service for its approval prior to the construction of the Leasehold Improvements and any deviations from the approved plans and specifications are subject to approval by Lessor's Board of Public Service, which approval shall not be unreasonable withheld. Any and all Leasehold Improvements constructed by Lessee shall be maintained in good condition at the expense of the Lessee during the term of the Lease.

8. In accordance with the provisions of Ordinance 61755 of the City of St. Louis, the Port Authority shall advertise for proposals, on behalf of the City of St. Louis, for the use of the leased property six months prior to the termination of this Lease. The Port Authority shall include in such proposal a provision that the party submitting the highest reasonable bid, if such party is not the Lessee, shall be required to reimburse the Lessee herein for any improvements, buildings, structures or storage tanks approved by Lessor's Board of Public Service and existing on the property at the termination of this Lease. The proposal shall include the amount of reimbursement which shall be the fair market value of the improvements, buildings, structures or storage tanks at the time the Lease is terminated as determined by an independent appraiser to be selected by the Lessee and the Lessor. Notwithstanding the provisions of this

section, in the event that Lessee fails to submit a bid as a result of the Port Authority's advertisement for proposals, the Lessee shall not be entitled to any reimbursement from any party.

9. All notices and other communications provided for hereunder shall be in writing and shall be delivered or mailed, by certified mail, return receipt request, to the following addresses:

If to Lessee:

Mr. Glen T. Slay
Gasconade Enterprises, L.L.C.
1441 Hampton Avenue
St. Louis, MO 63139

With a copy to:

Paul Simon, Jr.
Helfrey, Simon & Jones, P.C.
212 South Central, Suite 300
St. Louis, MO 63105

If to Lessor:

The City of St. Louis
Room 212 City Hall
1200 Market Street
St. Louis, MO 63103

With a copy to:

The Port Authority of the City of St. Louis
1015 Locust Street, Suite 1200
St. Louis, MO 63101
Attn: Nick Nichols

The parties or either of them may designate in writing from time to time any changes in addresses or any names and addresses of substitute or supplementary persons in connection with said notices.

10. To the extent the provisions and terms contained herein are inconsistent with the terms of Appendix A - STANDARD PROVISIONS, LEASES OF

WHARF LAND AND MOORING RIGHTS, the terms hereof shall be controlling.

11. The Leased Area of this Lease includes real property that was previously leased by the City in two (2) prior leases, specifically a lease dated December 28, 1992, for the mooring rights included herein, and a lease dated September 29, 1995, for a portion of the land lease area included herein. This Lease Agreement specifically supersedes both of the previous leases and releases the tenant in those previous leases from further liability to Lessor under those previous leases.

IN WITNESS WHEREOF, the Parties hereto have duly executed and delivered this Lease Agreement.

LESSEE:

GASCONADE ENTERPRISES, L.L.C.

By: _____

ATTEST:

LESSOR:

CITY OF ST. LOUIS, MISSOURI

Mayor

Comptroller

ATTEST:

City Register

APPROVED AS TO FORM, ONLY:

City Counselor

STATE OF MISSOURI)

) ss. On this ____ day of _____, 1998, before me
CITY OF ST. LOUIS) appeared _____ and

_____ to me personally known, who being by me duly sworn did say that they are the Mayor and Comptroller of the City of St. Louis and that they are authorized to execute this Lease Agreement on behalf of the City of St. Louis under the authority of Ordinance No. _____ and acknowledge said instrument to be the free act and deed of the City of St. Louis.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid the day and year first above written.

Notary Public
My Commission Expires:

STATE OF MISSOURI)

) ss. On this ____ day of _____, 1998, before me a
CITY OF ST. LOUIS) Notary Public in and for the City of St. Louis, appeared
_____ who, being by me duly sworn did say that he is the Manager of Gasconade Enterprises, L.L.C. d/b/a Slay Industries and that said instrument was signed on behalf of said limited liability company by authority of its Members and said _____ acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid the day and year first above written.

Notary Public
My Commission Expires:

EXHIBIT 2

S U B L E A S E A G R E E M E N T

This Sublease Agreement made and entered into as of this ____ day of _____, 1998, by and between the City of St. Louis, a Municipal Corporation of the State of Missouri, hereinafter called Sublessee, through its

Mayor and Comptroller, and Gateway Distribution Center, Inc., a Missouri Corporation, hereinafter called Sublessor.

WHEREAS, Sublessor and Sublessee have entered into a separate Lease Agreement (hereinafter, the **Lease**), which is attached hereto and made a part hereof, for a separate parcel of real property and adjacent mooring rights located at 4100 South First Street, St. Louis, Missouri 63111 (hereinafter, the **Intermodal Facility**), wherein Sublessor is the Tenant and Sublessee is the Lessor;

WHEREAS, the parties have agreed that Sublessor will provide this Sublease parcel for use by the Sublessee for twenty five (25) years in exchange for the Sublessor's right to use additional acreage in the Lease which was needed to facilitate the expanded construction project and to square the boundaries at the Intermodal Facility;

WHEREAS, Sublessor improved the Subleased Area by purchasing the asphalt to pave the parcel, fencing it, adding outdoor lighting, and providing a trailer / office (hereinafter, the **Leasehold Improvements**), which Sublessee is using as a staging area and storage depot for the Street Department's Salt Pile operation;

WHEREAS, Sublessee has expended approximately \$50,000.00 to further improve the Leasehold Improvements; and,

WHEREAS, the parties hereto desire to enter into this Sublease Agreement for the parcel of real property as hereinafter described.

WITNESSETH:

1. In and for consideration of the rents to be paid by Sublessee to the Sublessor, as hereinafter set forth, and the mutual covenants and agreements herein contained, the Sublessor hereby leases and lets to said Sublessee a parcel of land approximately three quarters (3/4) of an acre, surrounded by a chain link fence, located on the following described real estate ("Subleased Area"), to wit: A parcel of land approximately three quarters (3/4) of an acre, surrounded by a chain link fence, located on the following described real estate, to wit:

A tract of land in part of lots 2,3,4 and 5 of the Subdivision in partition of part of U. S. Survey 369 in City Block 2612 of the City of St. Louis, Missouri, in part of lots 21 thru 37 Block **G** of Marine Villa Subdivision in City Block 2558 of said City, in part of lots 12 thru 20 of Marine Villa Addition in City

Block 1764 of said City, in part of lots 29 and 30 and all of lots 31 thru 63 of Kayzer, Kennett and Smith's Marine Quarry Addition in said City Block 1764 and part of Osage Street and Koskiusko Avenue vacated by Ordinance No. 56029 and by Ordinance No. 56028, beginning at iron pipe set at the intersection of the Southeast Right-Of-Way line of Interstate Highway Route No. 55 with the Northeast line of Gasconade Avenue, 60 feet wide, being the Southwest Line of lot 2 of the Subdivision in partition of part of U. S. Survey 369 in City Block 2612 of the City of St. Louis, Missouri, said iron pipe being distant South 59 degrees 12 minutes 34 seconds East 20 feet from the Southwest corner of said lot 2; thence North 53 degrees 47 minutes 45 seconds East, along said Southeast Right-Of-Way line 243.08 feet to a point in the Northeast line of said Lot 2 distant South 59 degrees 12 minutes 34 seconds East 1 foot from the Northwest corner thereof; thence continuing along said Right-Of-Way line North 39 degrees 15 minutes 23 seconds East 252.75 feet to a point in the Northeast line of lot 3 of last mentioned Subdivision distant South 59 degrees 12 minutes 34 seconds East 152.21 feet from the Northwest corner thereof; thence North 39 degrees 15 minutes 17 seconds East, along said Right-Of-Way line 161.76 feet to a point in the Northeast line of lot 5 of last mentioned Subdivision distant South 59 degrees 12 minutes 34 seconds East 176.02 feet from the Northwest corner thereof; thence crossing Osage Street, 60 feet wide, (vacated) along said Right-Of-Way line North 52 degrees 34 minutes 32 seconds East 64.61 feet to a point in the Southwest line of lot 21 Block G of Marine Villa Subdivision in City Block 2558 of said City, distant South 59 degrees 12 minutes 34 seconds East 40 feet from the Southwest corner of said Lot 21; thence North 43 degrees 48 minutes 20 seconds East, along said Right-Of-Way line, 444.04 feet to the Southeast corner of Lot 38 in said Block G; thence crossing Koskiusko Street, 60 feet wide, (vacated) along said Right-Of-Way line North 60 degrees 32 minutes 07 seconds East 120.93 feet to the Southwest corner of Lot 42 of Kayzer, Kennett, Smith's Marine Quarry Addition in City Block 1764 of said City; thence South 75 degrees 09 minutes 17 seconds East, along the Southwest line of said Right-Of-Way, 109.20 feet to a point in the Southwest line of Lot 20 of Marine Villa Addition in City Block 1764 of said City, distant South 59 degrees 12 minutes 34 seconds East, 105 feet from the Southwest corner thereof; thence North 43 degrees 19 minutes 10 seconds East along the Southeast line of said Right-Of-Way 230.49 feet to the Northeast corner of Lot 12 of last mentioned Subdivision; thence North 30 degrees 47 minutes 26 seconds East, along the Southeast line of said Right-of-Way 50 feet to the Southwest corner of Lot 30 of Kayzer, Kennett and Smith's Marine Quarry Addition in City Block 1764 of said City; thence South 74 degrees 16 minutes 40 seconds East, along the Southwest line of said Right-Of-Way, 192.33 feet to

an iron pipe set in the Northwest line of First Street, 31 feet wide; thence South 50 degrees 33 minutes 51 seconds West, along the Northwest line of First Street 1272.89 feet to an iron pipe set at the beginning of a curve to the right having a radius of 2818.35 feet; thence Southwestwardly, along the Northwest line of First Street along said curve to the right 347.47 feet to the end of said curve; thence South 57 degrees 37 minutes 41 seconds West along the Northwest line of First Street 78.03 feet to an iron pipe set at the intersection of said Northwest line of First Street with the Northwest line of Gasconade Street; thence North 59 degrees 12 minutes 34 seconds West along last mentioned line, 77.41 feet to the point of beginning, containing 5.677 acres, more or less.

2. The term of this Sublease Agreement shall be for a period of twenty five (25) years, beginning the 13th day of May, 1998, and terminating on the 12th day of May, 2023.

3. Sublessee shall pay rent to Sublessor in the amount of \$1.00 per year, the receipt of which is hereby acknowledged for the entire sublease term. The rent paid is non-refundable in the event this lease is canceled, terminated or otherwise ends prior to the expiration of the twenty five (25) year term.

4. The Subleased Area described above shall be used exclusively by Sublessee for the operation of the City's Street Department Salt Pile. Sublessee shall not enter into any sublease, assignment, management agreement or other form of agreement which in substance allows the Subleased Area to be used by another department, person or business entity without the prior written consent of the Sublessor. In the event Sublessee shall: (i) move the Salt Pile operation to another location so that the Subleased Area is vacated for a period exceeding two (2) months in succession; or (ii) cease using the Subleased Area for a staging area and storage depot for the City's Salt Pile, then this Sublease shall be automatically terminated. The terms and conditions of the Lease shall remain unchanged in the event of the cancellation, termination or expiration of this Sublease Agreement.

5. The operation and maintenance of the Leasehold Improvements shall be performed solely by Sublessee and at Sublessee's expense and cost, and shall comply in all respects with the building codes and ordinances of the City of St. Louis and all other applicable federal and state laws. All future plans and specifications for the Leasehold Improvements shall be submitted to Sublessor for its approval prior to the construction of the Leasehold Improvements and any deviations from the approved plans and specifications are subject to approval by Sublessor, which approval shall not be unreasonably withheld.

Any and all improvements contained on the parcel shall be maintained in good condition at the expense of the Sublessee during the term of the Sublease.

6. Sublessee shall pay or cause to be paid when due all charges, fees, assessments and related costs for public utility services (including, but not limited to, gas, water, sewer, electricity, light, heat, power, telephone and other communication services, and refuse and garbage collection) used, rendered or supplied upon or in connection with the Subleased Area throughout the term of this Sublease. If Sublessee desires any such utility service on the Subleased Area, Sublessee shall be responsible for all cost and expense in bringing any such utility service to the Subleased Area and obtaining meters separate from Overlandlord's meters for such service.

7. Sublessee agrees it shall not use, store, manufacture, dispose of, discharge or permit the use, storage, manufacture, disposal of or discharge of any pollutants, contaminants or harmful or hazardous substances (Hazardous Materials) from or on the Subleased Area or otherwise occupy the Subleased Area or permit the Subleased Area to be occupied in a manner which: (i) violates any law, regulation, rule or other governmental requirement; (ii) impairs the health, safety or condition of any person or property; (iii) adversely affects the use, enjoyment or value of the Subleased Area. Sublessor and Overlandlord shall have the right of access to the Subleased Area to inspect, test for and remedy any potential environmental problem. If such a condition is found to exist, the non-violating party shall notify the violating party thereof in writing. The violating party shall have a reasonable period of time to remediate the condition to the satisfaction of the Missouri Department of Natural Resources and the Environmental Protection Agency standards. The violating party shall indemnify and hold the other and the other's officers, shareholders, directors, partners, employees, agents, successors and assigns harmless from any loss, claim, liability or expense, including, without limitation, attorney's fees, court costs, removal, clean-up, remediation, transportation, disposal and restoration expenses, arising in connection with the indemnifying party's failure to comply with the provisions of this Section. This indemnification shall not relate to any condition of the Subleased Area existing prior to Sublessee's occupancy, whether known or unknown to Sublessee. The provisions of this Section shall survive the expiration or termination of this Sublease.

8. To the extent permitted by law, Sublessee shall indemnify, defend, and hold Sublessor and Overlandlord, their officers, directors, employees, partners, affiliates, agents, and related companies (and such related companies' officers, directors, affiliates, and agents), harmless from and against all costs,

damages, expenses, suits, actions, proceedings, liability, claims and demands on account of personal injuries (including death), or property loss or damage to others (including, but not limited to the Sublessee's employees, subcontractors, invitees, trespassers, and all others) arising out of or in any manner connected with the Subleased Area, including all actions by any governmental unit resulting from any chemical or other spill requiring any environmental cleanup or restoration on the Subleased Area, or connected to the operation of the Subleased Area. To the extent permitted by law, Sublessee shall indemnify, hold harmless and defend Sublessor and Overlandlord from and against any and all suits, actions, proceedings, fines, costs, damage, liability, expense or claims arising from or alleged to arise from any violation(s) of any law, rule or regulation regarding or related to the Sublessee's operation at the Subleased Area. The Sublessee shall be liable for Sublessor's and Overlandlord's attorneys' fees and all costs associated with litigation to enforce this Section.

9. All notices and other communications provided for hereunder shall be in writing and shall be delivered or mailed, by certified mail, return receipt requested, to the following addresses:

If to Sublessor:

Mr. Glen T. Slay
Gateway Distribution Center, Inc.
1441 Hampton Avenue
St. Louis, MO 63139

With a copy to:

Paul Simon, Jr.
Helfrey, Simon & Jones, P.C.
212 South Central, Suite 300
St. Louis, MO 63105

If to Sublessee:

The City of St. Louis
Room 212 City Hall
1200 Market Street
St. Louis, MO 63103

With a copy to:

party for the property leased by the City of St. Louis to Gasconade Enterprises, L.L.C. prior to a certain Lease Agreement dated _____.

IN WITNESS WHEREOF, WE SET OUR HANDS THIS _____ day of _____, _____.

GASCONADE ENTERPRISES, L.L.C.

BY _____

ATTEST _____

PORT AUTHORITY OF THE CITY OF ST. LOUIS

BY _____

ATTEST _____

CITY OF ST. LOUIS, MISSOURI

MAYOR

COMPTROLLER

ATTEST:

REGISTER

APPROVED AS TO FORM ONLY:

CITY COUNSELOR

APPENDIX "A"

STANDARD PROVISIONS

LEASES OF WHARF LAND AND MOORING RIGHTS

1. The base rate of \$0.0750 (current adjusted base rate \$0.12375) per square foot of land and \$7.50 (current adjusted base rate \$12.375) per linear foot of mooring may be adjusted at five year intervals beginning January 1, 1999 upon recommendation of the Port Commission and approval of the Board of Public Service. No such recommendation may be made by the Port Commission unless within 180 days before January 1, on which the adjusted rates are to become effective, the Port Commission shall conduct a public hearing with due notice to the public and to the users of City owned land and mooring rights. The maximum adjustment which can be recommended and approved shall be 25% of the base rates set out in the first sentence of this section. Each adjustment shall be added to the base rate plus any previous adjustments and the resultant rate shall be called the current adjusted base rate. If the recommended adjustment to the base rate by the Board of Public Service is in excess of 15%, the recommended raise of rate shall be approved by resolution of the Board of Aldermen. If the Board of Aldermen fails to act before the effective date of the rate, the rate then shall be automatically adjusted by 15%.

2. The above mooring area or leased parcel shall be used by Lessee only for purposes consistent with the lawful use of said area. Structures or major alterations shall be made in accordance with plans and specifications approved by Lessor through the Board of Public Service. Upon the expiration, termination, or cancellation of the lease agreement, the Lessee shall remove all and any vessels, boats, watercraft or other practical movable structures from the mooring, without expense to the Lessor, unless authorized by Section Eleven (11). In the event said vessels, boats, watercraft or other practical movable structures are not removed within ninety (90) days after receipt of notice by the Lessee, the Lessor may take possession of said vessels, boats, watercrafts or other practical movable structures or may cause same to be removed at the expense of the Lessee.

Written notice when required shall be deemed to be sufficient and delivered when deposited in the certified U.S. mail and sent to Lessee's last known address.

3. Definitions. As used in this agreement, the following terms shall have the meaning specified herein:

(1) The term "Discharge" shall have the meaning ascribed to such term by [311\(a\)\(2\)](#) of the Clean Water Act, 33 USC [1321\(a\)\(2\)](#);

(2) The term "Environmental Laws" shall mean any international, foreign, federal, state, regional, county, local, governmental, public or private statute,

law, regulation, ordinance, order, consent decree, judgment, permit, license, code, covenant, deed restriction, common law, treaty, convention or other requirement, pertaining to protection of the environment, health or safety of person, natural resources, conservation, wildlife, waste management, any Hazardous Material Activity (as hereinafter defined), and pollution (including, without limitation, regulation of releases and disposals to air, land, water and ground water), and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq. solid waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Solid Hazardous Waste Amendments of 1984, 42 U.S.C. 6901 et seq., Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. 1251 et seq., Clean Air Act of 1966, as amended, 42 U.S.C. 7401 et seq., Toxic Substances Control Act of 1976, 15 U.S.C. 2601 et seq., Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. 651 et seq., Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. 11001 et seq., National Environmental Policy Act of 1975, 42 U.S.C. (300(f) et seq., and any similar or implementing state law, and all amendments, rules, regulations, guidance documents and publications promulgated thereunder;

(3) The term "Hazardous Material" as used in this Agreement shall mean any hazardous or toxic chemical, waste, byproduct, pollutant, contaminant, compound, product or substance, including, without limitation, asbestos, polychlorinated, byphenyls, petroleum (including crude oil or any fraction thereof), and any material the exposure to, or manufacture, possession, presence, use, generation, storage, transportation, treatment, release, disposal, abatement, cleanup, removal, remediation or handling of which, is prohibited, controlled or regulated by any Environmental Law;

(4) The term "Infectious Waste" shall mean any substance designated or considered to be an infectious waste pursuant to any Environmental Law;

(5) The term "Oil" shall mean any substance designated or considered to be an oil pursuant to any Environmental Law;

(6) The term "Port Commission" shall mean the Commission of the Port Authority of the City of St. Louis;

(7) The term Solid Waste shall mean any substance designated or considered as a solid waste pursuant to any Environmental Law;

4. During the term of this lease or renewal or extension thereof, the Lessee agrees to abide by all City Ordinances, State Laws, Federal Laws, Coast Guard, Corps of Engineers and any other properly applicable governmental regulatory requirements, including, but not limited to, any and all such provisions regulating and/or relating to the: (1) transportation, storage, use, manufacture, disposal, discharge, release or spilling of hazardous materials; (2) transportation, storage, use, recovery, disposal, discharge, release or spilling of "oil"; (3) "discharges" of effluents, pollutants and/or toxic pollutants to either publicly owned treatment works or directly to waters of the United States or tributaries thereof; (4) emissions, release or discharges of pollutants and/or other substances into the air or land; (5) transportation, storage, treatment, disposal, discharge, release or spilling of "infectious waste" ; (6) transportation, storage, treatment, recycling, reclamation, disposal, discharge, release or spilling of "solid waste"; and (7) transportation, storage, or disposal of waste tires, used white goods and other appliances, waste oil, and/or used lead-acid batteries. Violation of any provision of federal or state law or City ordinance by Lessee shall be considered a breach of the lease agreement between Lessee and the City for which the City, at its sole option, may terminate the lease. In addition, Lessee shall call to the attention of the proper enforcement authorities, any violation of any federal or state law or local ordinance occurring on the leased premises of which Lessee has actual knowledge. Failure to do so on the part of the Lessee shall be considered a breach of this agreement for which the City, at its sole option, may terminate the lease.

Should Lessee's operation on the leased premises violate any provision of federal and/or state laws or regulations Lessee shall, immediately upon becoming aware of the existence of such violation, notify the Port Authority and undertake whatever action is necessary to remedy the violation and comply with the applicable provision(s), including but not limited to the institution of legal proceedings seeking an injunction in a court of competent jurisdiction. Should Lessee fail to remedy the violation, the City may notify Lessee of its intent to undertake remedial action. If Lessee fails to then institute reasonable remedial action within 96 hours of receiving said notice, the City may take whatever action is necessary to bring the leased premises into compliance. In the event that the City remediates an environmental condition at the leased premises, the Lessee shall reimburse the City for all costs incurred by the City in remedying such violation, including, but not limited to, reasonable attorneys fees and expenses, litigation costs, fees for engineering and consulting services, and costs of testing, remediation, removal and disposal.

5. Lessee agrees to hold Lessor harmless for all limits of liability and to defend the Lessor from any and all claims for injuries or damages resulting from or

rising out of Lessee's use of the leased premises or mooring area described herein; and that it will at all times during the term of this lease at its own cost, and for the benefit of the City, protect the City with Public Liability and Property Damage Insurance, issued in the name of Lessee and naming the City of St. Louis and Port Authority as named insured, covering each person up to \$500,000 with an overall limit as to all persons for each accident of \$1,000,000 and \$1,000,000 for property damage, approved by the City Counselor as to form and by the Comptroller as to surety and reserving the right of recovery by the City in the event of damage to City owned property, which shall be filed with the Port Authority and the Comptroller's Office before the lease is issued. Said insurance coverage must be maintained during the life of this lease, and any renewal or extension thereof. Included in the insurance policy shall be coverage requiring immediate removal of the vessel when the vessel is damaged or sunken from any cause whatsoever. This clause shall be expressed as a specific warranty by the insurance company regardless of cause.

Lessee, its successors and assigns, shall forever indemnify, defend and hold harmless, the City of St. Louis, the St. Louis Port Authority, its directors, officers, employees and agents, and successors and assigns, from and against all harms, including without limitation, damages, punitive damages, liabilities, losses, demands, claims, cost recovery actions, lawsuits, administrative proceeding, orders, response costs, compliance costs, investigation expenses, consultant fees, attorneys fees, paralegal fees and litigation expenses, arising from:

- (i) any Hazardous Material Activity by Lessee, its successors or assigns, or at the Property;
- (ii) the operation of any applicable Environmental Law against Seller or Property;
- (iii) the violation at the Property or by Seller of any applicable Environmental Law; or,
- (iv) any third party claims or suits filed or asserted.

Lessee, and its successors or assigns, shall pay all costs and expenses incurred by Lessor and its successors and assigns, to enforce the provisions of this indemnification, including without limitation, attorneys' and paralegal's fees and litigation expenses. The obligations of Lessee under this Section and this indemnification shall survive the termination of this Agreement and shall

remain in force beyond the expiration of any applicable statute of limitations and the full performance of Lessee's obligations hereunder.

Lessee shall be required to purchase and maintain environmental impairment liability insurance, during the term of this lease, in the amount of One Million Dollars (\$1,000,000.00), or such other amount as shall be determined solely by the Port Commission, and naming the City of St. Louis as an additional insured, if:

(1) at any time more than the reportable quantity of a hazardous material, oil or infectious waste will be stored or otherwise present on the leased premises in any type of container(s) (including, but not limited to, drums, barrels, boxes, bags, tank trucks or trailers, rail cars or storage tanks, whether above or below ground);

(2) Lessee is required by federal or state law and/or regulation, as a result of or in connection with Lessee's operations on the leased premises, to obtain a permit for (a) discharges of effluents, pollutants, toxic pollutants or other substances into waters of the United States, tributaries thereof, sewer systems and/or publicly owned treatment works; (b) discharges of effluents, pollutants or toxic pollutants to a sewer system and/or publicly owned treatment works subsequent to pretreatment thereof; (c) emissions, releases or discharges of pollutants or other substances into the air or land; (d) treatment, storage or disposal of hazardous waste(s); (e) treatment, storage or disposal of infectious waste(s); (f) treatment, storage, processing, management, recycling or disposal of solid waste(s); (g) operation of a waste tire site or waste tire processing facility; or (h) placement of fill or dredged material into the waters of the United States or adjacent property;

(3) Lessee reports required by Environmental Laws or is otherwise required to obtain a hazardous waste generator identification number from either the federal or a state government;

(4) Lessee engages in the recycling, recovery or reclamation of solid wastes, hazardous materials on the leased premises;

(5) Lessee engages in the manufacture of hazardous, extremely hazardous, and/or toxic substances on the leased premises.

The environmental impairment liability insurance required pursuant to the terms of the preceding paragraph shall provide coverage for unexpected and unintended liability, damages and injuries arising or resulting from sudden and

accidental, continuous or repeated discharges, spills and releases, into or onto the air, water, soil, sewer system or similar media, of any hazardous substance, hazardous waste, pollutant, toxic pollutant, extremely hazardous substance, toxic substance, infectious waste, solid waste, or similar material or substance, which disposal, discharge, release or spill occurs on or from the leased premises. The amount of environmental impairment liability insurance required hereunder may be adjusted at five year intervals beginning March 1, 1997, upon recommendation of the Port Commission and approval of the Board of Public Service. Such recommendation shall be made at least 30, but no more than 60, days prior to expiration of each five year period. The amount of environmental impairment liability insurance required shall not increase more than 25% in any five year period. If no recommendation is made by the Port Commission to adjust the amount of insurance required for a five year period prior to expiration of the previous five year period, or if the Port Commission recommendation is not approved by the Board of Public Service, the amount of insurance required shall automatically increase by 15%.

Any insurance policy which Lessee is required to obtain pursuant to the provisions of this section shall provide that said policy may not be canceled except upon the giving of thirty days notice of such cancellation to the Office of the Comptroller of the City of St. Louis. In the event that any policy which Lessee is required to obtain pursuant to the provisions hereof is canceled by the insurer, Lessee shall be required to obtain replacement insurance, and provide proof thereof to the Comptroller's Office, prior to the date that the cancellation becomes effective. Failure to do so shall be considered a breach of this lease. The Lessee shall notify or cause the insurance company to notify the Comptroller's Office of the renewal of all insurance required pursuant to the provisions of this section or of the cancellation of same. Failure to do so shall be considered a breach of this lease.

6. Upon the nonpayment of the rent specified herein at the time when the same becomes due, or upon the nonperformance by the Lessee of any of the substantive covenants hereinbefore or hereinafter mentioned, or those specifically covered herein, the Lessor, at its election may terminate this lease, provided that the Lessee shall, after notice of nonpayment or default, have thirty (30) days to cure any such nonpayment and ninety (90) days to cure any other default, unless the provisions hereof provide either that a specified breach is grounds for termination of the lease or that failure to cure within a specified time frame of less than ninety (90) days is grounds for termination. The failure and omission of the Lessor to declare this lease forfeited upon the default of said Lessee in the payment of said rents as the same become due, or the nonperformance of any of the substantive covenants to be performed by the

Lessee, shall not operate to bar, abridge, or destroy the right of the Lessor to declare this lease null and void upon any subsequent breach, forfeiture or cause therefore by the Lessee.

7. Lessee agrees to pay ad valorem taxes on boats, vessels, aircraft or watercraft and on operation of same that may be moored on said leased area or any operations within said leased area, including all other owned property and equipment, and it is agreed that the Lessee will not deny the authority of the proper assessing agency to assess ad valorem taxes on said improvements. The Lessee reserves the right to question the amount of such assessment in any court of competent jurisdiction or other tribunal established by law to correct the valuation of the property on which the assessment of such tax is based. Failure to do so shall be considered a breach of the terms of this lease. All barges in the transit shall be exempt.

8. If the Lessee remains in possession of the leased premises after the expiration of the terms for which it is leased and the Lessee pays rent and the Lessor accepts said rent, such possession shall be construed as creating a month to month tenancy and not a renewal or extension of this lease but such month to month tenancy shall not continue for more than one (1) year.

9. The Lessor reserves the right to modify, amend, or cancel said lease as set forth in section 10 hereof in the event the premises are needed for right of way, sewer or Floodwall construction purposes or any other necessary or reasonable municipal purposes or uses. Municipal purposes or uses shall include economic development in the Port District.

10. In the event that any portion of the leased parcel or mooring area shall be needed for any municipal purpose, subject to the same exclusion set forth in section 9 above, sewer, right of way, Floodwall or Floodwall construction, as set forth. in section 9 hereof, the Lessor shall have the right to modify, amend, or cancel this lease upon one (1) year's written notice thereof to Lessee and eliminate such portion of the leased or mooring area as shall be needed for such purpose. In such event, it is agreed and understood by Lessee that no claim or action for damages or other compensation shall arise or be allowed by reason of such termination or modification. Written notice when required shall be deemed to be sufficient and delivered when deposited in the Certified U.S. Mail and sent to Lessee's last known address.

11. If this lease is amended or modified under the provisions of Sections Nine (9) or Ten (10), the current rent shall be adjusted in direct proportion to the change made in the leased area. If the remaining area is not suitable to the

Lessee, Lessee shall have the right to terminate this lease without penalty by written notice within 90 days after receipt of the notice to amend provided by Section Ten (10).

12. In the event this lease is canceled, modified or amended under the provisions of Sections Nine (9) or Ten (10), the Lessor shall cause the Lessee to be reimbursed for the undepreciated cost of the capital improvements (not removable) the Lessee has made and paid for and not prorated to the Lessee's customer or paid for by Lessee's customer. Such capital improvement being only those which have been made pursuant to the written approval of the Board of Public Service and those improvements in place on the date hereof whether or not approved by said Board. It is agreed and understood that the term capital improvements shall not include wharf boats, vessels or other floating or transferable stationary improvements. Such reimbursement shall be made by or as a part of the cost of the intended new use. Reimbursement will not be based on anticipated profits, and no funds from general revenue shall be used for this purpose.

In the event that the rate for service to the customer has been increased to cover the cost of the capital improvements, this accumulated increased cost shall be deducted before the undepreciated cost of the capital improvements is determined.

13. The Lessee shall have the right to terminate this lease upon service of one (1) year's written notice and the payment of an additional one (1) year's rental which shall accompany such notice. The payment of the additional year's rental shall not relieve Lessee of the obligation to pay the current year's rental as provided herein.

14. Any sublease or assignment of this lease, change in corporate structure, or any rights thereunder, shall be valid only with the approval of the Board of Public Service of the City of St. Louis, the Port Commission and the Board of Aldermen of the City of St. Louis. If approved, all parts of this lease are binding on sublessor or assigns.

15. This lease may be canceled at the option of the City if, at any time during the term of this lease, the person or persons who on the date of execution of this lease own or owns a majority of the Lessee's voting shares of stock, ceases or cease to own majority of such shares, except as the result of transfer(s) by gift or inheritance, or public work offering pursuant to the Securities and Exchange Act of 1934, as amended, or merger into or consolidation with another corporation. Sale of a portion or all of the assets of the Lessee, or sale or

transfer of the lease by the Lessee, without Board of Public Service and Port Commission approval, which approval shall not be unreasonably withheld, makes this lease subject to cancellation at the option of the City.

If sale, transfer or assignment of Lessee's stock is approved, all parts of this lease are binding on the purchaser, transferee or assignee.

16. The Lessee agrees not to erect any barrier, fence or supporting structures or store any materials on the Floodwall itself or twenty-five (25) feet on either side of the Floodwall.

17. Any delinquent payment shall bear interest from the date due at prime rate plus two (2%) percent. Prime rate shall be that average rate as established by Mercantile Bank of St. Louis N.A. and NationsBank NA.

18. The Lessee shall not store any garbage or trash on the Wharf or mooring area, but must keep the area neat and free of all trash and rubble. Further, the Lessee shall prohibit and enforce the ruling that no trash or articles of any sort shall be thrown overboard or into the river. The Lessee shall enforce this clause on any craft or vehicle servicing, or being serviced by, the Lessee. Failure to do shall be considered a breach of this contract.

The Lessee shall have responsibility for the housekeeping on the Improved Wharf immediately in front of the mooring area. Failure to maintain this area as required by this lease and all other City ordinances when directed by the Board of Public Service with the approval of the Port Commission shall result in the cancellation of this lease.

19. Upon execution of this lease, the Lessee shall, at his own expense, have this lease recorded by the City's Recorder of Deeds and have the Register make a microfilm of the lease.

20. EQUAL OPPORTUNITY AND NONDISCRIMINATION GUIDELINES.

In any contract for work in connection with the redevelopment of any property in the Area, the Redeveloper (which term shall include Redeveloper, any designees, successors and assigns thereof, and any entity formed to implement the project of which the Redeveloper is a general partner), its contractors and subcontractors will include a clause requiring compliance with all federal, state and local laws, ordinances, or regulations governing equal opportunity and nondiscrimination, the Executive Orders of the Mayor of the City dated December 6, 1984, January 10, 1990, March 31, 1992, and all guidelines herein.

The Redeveloper and its contractor will not contract or subcontract with any party known to have been found in violation of any such laws, ordinances, regulations or these guidelines.

In the redevelopment of the Area, there shall be maximum utilization of bona fide minority business enterprises ("MBE's") and women business enterprises ("WBE's" and, together with MBE's, "disadvantaged business enterprises" or "DBE's"). The Redeveloper will set a minimum goal of twenty-five percent (25%) MBE participation and five percent (5%) WBE participation under these guidelines. In the event the Redeveloper fails to attain that goal, the Redeveloper may be required to show good cause therefor; provided however, that this requirement will be deemed to have been met when documentation evidences that all available resources (i.e. DBE suppliers, contractors, and subcontractors) willing to perform the work or provide the supplies--at a price which (i) is within the range requested by non-DBE's; or (ii) if higher than that requested by non-DBE's, is attributable to the effects of past discrimination--have been exhausted.

The term MBE shall mean a sole proprietorship, partnership, corporation, profit or non-profit organization owned, operated and controlled by minority group members who have at least fifty-one percent (51%) ownership. The minority group member(s) must have operations and management control and interest in capital and earnings commensurate with their percentage of ownership. The term Minority Group Member(s) shall mean persons legally residing in the United States who are Black, Hispanic, Native American (American Indian, Eskimo, Aleut or Native Hawaiian), Asian Pacific American (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands, Laos, Cambodia or Taiwan) or Asian Indian American (persons with origins from India, Pakistan or Bangladesh). The term WBE shall mean a sole proprietorship, partnership, corporation, profit or non-profit organization owned, operated and controlled by a woman or women who have at least fifty-one percent (51%) ownership. The woman or women must have operational and managerial control and interest in capital and earnings commensurate with their percentage of ownership.

The Redeveloper agrees for itself and its successors and assigns, that there shall be covenants to ensure that there shall be no discrimination on the part of the Redeveloper, its successors or assigns upon the basis of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap in the sale, lease, rental, use or occupancy of any property, or any Improvements erected or to be erected in the Area or any part thereof, and

those covenants shall run with the land and shall be enforceable by the LCRA, the City, and the United States of America, as their interests may appear in the project.

The Redeveloper agrees that if the redevelopment of the Area creates permanent jobs, it shall enter into an Employment Plan with the Saint Louis Agency on Training and Employment and the LCRA for referral of Jobs Training Partnership Act eligible individuals. Said plan shall specify the number of jobs to be covered by the Employment Plan, the target date for referrals to begin, and the procedure for referral.

21. After expiration of this lease, and if the Lessee operates on a month to month basis, all articles of the lease continue to apply for one year only.

22. Annually, the Lessee must present to the Port Commission a marine survey of the safety of the facilities operated by them.

23. All vessels must be moored in line parallel to the Floodwall and there shall be no mooring in such number as to violate any applicable permits obtained by Lessee from the U.S. Corps of Engineers without approval of the Board of Public Service and the Port Commission.

24. No auxiliary craft shall be moored to any craft covered by this lease except for public safety reasons and maintenance. Maintenance craft may be moored during the period maintenance is taking place.

25. Other than as to installations in existence on the date hereof which shall not be subject to the requirements set forth herein, after notice to the Board of Public Service and the Port Authority, Lessee shall have the right to install, or modify the installation or use of, deadmen and mooring cells on the bank adjacent to Lessee's mooring area in accordance with plans and specifications approved by a licensed marine engineer for such installation, or modification of the installation or use thereof. Lessee must obtain the proper permits from the City, State and Federal regulatory agencies. Lessee shall have the right to ingress and egress to the mooring facilities over the land between the Floodwall and the mooring area leased herein.

26. Lessee accepts the property in "as is" condition, and, except as otherwise expressly stated elsewhere in this agreement, without any express or implied warranties of suitability, merchantability, fitness for a particular purpose or environmental fitness. The City of St. Louis has made no representations or warranties, express or implied, and explicitly disclaims the same, concerning

the absence of any pollution, contamination, hazardous waste, hazardous or toxic material or substance, underground storage tanks or hazardous building materials in, on or around the leasehold or its improvements, except as may be specifically and expressly stated elsewhere in the lease agreement.

27. Lessee shall not remove any underground or aboveground storage tanks located on the leasehold without first obtaining the written consent of the Port Commission, which consent shall not be unreasonably withheld. In no event shall Lessee abandon in place an underground storage tank. Nor shall Lessee install any underground or aboveground storage tanks on the leased premises without first obtaining the permission of the Port Authority. Unless specifically stated elsewhere in this lease agreement, the Port Commission shall have absolute discretion to approve or deny a request by Lessee to install a new underground or aboveground storage tank. Notwithstanding the foregoing provision, where the Lessee proposes to replace an existing underground or aboveground storage tank with a new tank, the Port Commission shall not unreasonably withhold permission therefor.

28. Unless specifically stated elsewhere in this lease agreement, the Lessee must obtain the explicit written permission of the Port Commission prior to applying to an agency or agencies of the state and/or federal governments for a permit or license to:

(1) treat, store or dispose of hazardous materials;

(2) treat, store or dispose of waste oil;

(3) treat, store, process, manage, recycle or dispose of solid waste(s);

(4) operate a waste tire site or waste tire processing facility; or

(5) manufacture hazardous or toxic substances; on all or a portion of the leased premises. Nor, unless explicitly stated elsewhere in this lease agreement, shall Lessee engage in any of the operations enumerated above, for which a federal and/or state permit or license is required, without first obtaining explicit written permission therefor from the Port Commission. Lessee shall not apply for a permit or license to allow it to place, nor shall Lessee place, any fill or dredged material into the waters of the United States or tributaries thereof which are adjacent to or on the leased premises without first obtaining the explicit written approval of the Port Commission therefor.

29. Lessee agrees and warrants that, upon termination of Lessee's tenancy of the leased premises pursuant to the terms of this or a subsequent lease agreement, it shall return the leased premises to the City free of any and all hazardous or toxic substances, hazardous wastes, infectious wastes, solid waste (unless disposal of solid waste on the leasehold was specifically permitted by the terms of this lease or a subsequent written document executed on behalf of, and authorized by, the Port Commission), pollutants, and contaminants which were placed, released, discharged, disposed, and/or spilled on or into the leased premises during Lessee's tenancy. Lessee shall, upon termination of its tenancy, remove all product(s) or waste(s) stored in underground and aboveground storage tanks, located on the leased premises, which were installed or used during the term of the Lease. Upon termination of tenancy, Lessee shall also perform tank tightness testing on all underground and aboveground storage tanks and connecting piping, installed or used during the term of the Lease, and shall either remove or repair any tanks or piping which fail such tests. Lessee shall also either remove or decontaminate any soil contaminated by leaks from storage tanks or connecting piping installed or used during the term of the Lease. In the event that Lessee fails to perform its obligations pursuant to this section of the lease agreement, the City shall give Lessee notice of said failure within 30 days of discovering the Lessee's default of its obligations under this section. If Lessee fails to fully comply with its obligations hereunder within 30 days of such notice, the City may undertake such actions as are necessary to bring the leased premises into compliance with the standards set out herein. In the event that the City is required to undertake actions to bring the leased premises into compliance with said standards, Lessee shall reimburse the City for all costs thereof, including, but not limited to, reasonable attorneys fees and expenses, litigation costs, fees for engineering and consulting services, costs of testing, removal, and/or remediation, and disposal costs.

30. Lessee shall, with respect to its use of the leased premises, periodically furnish the Port Authority with satisfactory proof that it is in full compliance with any and all federal and/or state laws and regulations and City ordinances relating to or concerning air quality, water quality, noise, hazardous or toxic materials, hazardous wastes, infectious wastes, solid wastes, underground storage tanks and hazardous building materials. Further, Lessor shall have the right to inspect any and all portions of the leased premises, including facilities or vehicles located thereon, at any time during normal business hours or at any time if Lessor has reason to believe that a violation of any federal or state law or City ordinance has occurred or is about to occur. Should Lessee fail to comply with this provision, the City, after reasonable notice, may terminate this agreement.

31. This lease in its entirety covers all the covenants and agreements between the Lessor and Lessee and can only be changed, renewed, or extended in writing signed by the Lessor and Lessee and approved by the Port Commission and Board of Public Service, when authorized by an ordinance enacted for that purpose. The lease of Wharf property may not be extended to cover a period of time exceeding a total of 25 years as provided by Article I, Section 1(16), City Charter.

32. During the term of this Lease, and any extension thereof, Lessee shall be prohibited from conducting gaming activities on, within or from the Mooring Area, or on, within or from any vessel or other facility moored within the Mooring Area, nor shall Lessee take any action (including, without limitation, application for a Gaming License, application for appropriate zoning classification, or any other action of any kind or nature) which is in any way related to any possible use of the mooring, docking or other rights granted to Lessee herein for gaming purposes of any kind, without the prior express written consent of Lessor and in accordance with City Ordinance 63592.

33. The terms and conditions of this lease shall be binding on Lessee's heirs, successors or assigns.

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
07/10/98	07/10/98	T&C	07/15/98	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
07/17/98		09/11/98	09/11/98	10/02/98
ORDINANCE	VETOED		VETO OVR	
64474				