

St. Louis City Ordinance 65155

FLOOR SUBSTITUTE
BOARD BILL NO. 248 [00]

INTRODUCED BY ALDERMAN Joseph D. Roddy

An ordinance pertaining to Adams Park; authorizing and directing the execution of a lease reviewed and recommended by the Board of Public Service and approved by the City Counselor as to form and as being in all respects consistent with Ordinance 59741, of certain land commonly known as Adams Park; and containing an emergency/ effective date clause.

WHEREAS, The City of St. Louis presently owns property known as Adams Park; and

WHEREAS, the Adams Park Community Center ("APCC") is a Missouri not-for-profit corporation, which is involved in ;the redevelopment of Adams Park School, Adams Park and the Adams Park Community Center; and

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

SECTION ONE. The Mayor and the Comptroller are hereby authorized and directed to execute a lease between the City and the APCC of certain land commonly known as Adams Park to the APCC, in substantially the form attached hereto as Exhibit 1, which is incorporated herein and made a part of this ordinance by this reference.

SECTION TWO. This ordinance being deemed necessary for the immediate preservation of the public health and safety is hereby declared an emergency measure pursuant to Sections 19 and 20 of Article IV of the City Charter, and shall become effective; i) upon its passage and approval by the Mayor or its adoption over the Mayor's disapproval; or ii) on the date the written approval of said lease by the Director of the Bureau of Outdoor Recreation, United States Department of the Interior, or the State Liaison Officer of the State Inter-Agency Council for Outdoor Recreation, or any representative delegated by the State Liaison Officer to act for him in his official capacity, which such approval is required under Section J.2 of the Land and Water Conservation Fund

Project Agreement between the State of Missouri and the City of St. Louis, for Project Number 29-00909 - Neighborhood Park Improvements I, dated June 12, 1978, is filed with the City Register; whichever date is later.

EXHIBIT 1
LEASE

_____ This Lease ("this Lease") made and entered into this _____ day of _____, 20____, (the "Date of this Lease") between the City of St. Louis, Missouri (the "City") and the Adams Park Community Center (the "APCC") witnesses that:

WHEREAS, the City of St. Louis presently owns property commonly known as Adams Park; and

WHEREAS, the APCC is a Missouri non-for-profit corporation, which is involved in the redevelopment of Adams Park School, Adams Park and the development of the Adams Park Community Center; and

WHEREAS, the Mayor and the Comptroller of the City, acting for and on behalf of the City pursuant to the City Charter and Ordinance _____ (B.B. _____) have been authorized and directed to execute and deliver this Lease; and

WHEREAS, this Lease has been reviewed and favorably recommended in writing by the Board of Public Service, and approved by the City Counselor as to form and as being in all respects consistent with Ordinance 59741, prior to the adoption of Ordinance _____ (B.B. _____); and

WHEREAS, this Lease complies with all of the terms, conditions required by said Ordinance 59741 and all procedures specified by said Ordinance 59741 have been followed with respect to this Lease;

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

1. POST COMPLETION RESPONSIBILITIES AS TO THE LAND AND WATER CONSERVATION AS TO THE LAND AND WATER CONSERVATION FUND, CHAPTER 675.9 as described in Exhibit A.

(a) LEASED PREMISES. The City hereby leases, lets and rents to the APCC, and the APCC hereby leases, lets and hires from the City, subject to all the provisions of this Lease, that certain tract of land commonly known as Adams Park (the "Leased Premises") in Forest Park described in Exhibit B and depicted on Exhibit C hereto, which are incorporated herein by this reference.

2. TERM. The initial term of this Lease shall be fifty (50) years from the Date of this Lease. This Lease may be renewed thereafter for two (2) or more successive renewal terms of twenty-five (25) years each upon the same terms and conditions, provided, however, that any such renewal term shall be subject to the approval of the City's Board of Aldermen by Resolution upon favorable recommendation by the City's Director of Parks, Recreation & Forestry (the "Director") and the City's Board of Estimate and Apportionment, and Department of Interior, National Park Service obtained prior to the commencement thereof.

3. RENT. As and for rent throughout the initial term and any renewal term hereof, the APCC shall pay to the City rent in the amount of one dollar (\$1.00) per year. The receipt of the rental payment for the entire initial term hereof is hereby acknowledged by the City. Such payment shall be held by the Comptroller in the Adams Park Fund authorized by Ordinance 61988, which is codified as Chapter 5.74, Revised Code, for use pursuant to that ordinance.

4. LEASEHOLD IMPROVEMENTS. As additional consideration for this Lease, the APCC agrees to commence promptly after the Date of this Lease, those projects, which are hereby expressly authorized, listed and depicted in Exhibit D hereto, which is incorporated herein by this reference, pursuant to plans and specifications approved by the City's Board of Public Service after review by the City's Preservation Board.

5. USE. The Leased Premises shall be held and maintained by the APCC as a public park.

6. MAINTENANCE, REPAIRS AND EXPENSES.

a. All costs and expenses of any kind whatever of operating and maintaining or which are related to the Leased Premises shall be borne by the APCC, including, but not limited to, the costs and expenses of the maintenance of all

grass, trees, shrubbery and other landscaping from time to time on the Leased Premises. Such maintenance shall be performed in a manner which is approved in advance by the Director. All, structures, exhibits, fences, fixtures, and other facilities of the APCC and all other improvements of the APCC erected within the Leased Premises pursuant to this Lease shall be properly maintained and kept in good repair by and at the sole cost and expense of the APCC.

b. Any structure, fence, fixture, or facility constructed, erected or renovated on the Leased Premises pursuant to this Lease shall be and remain the property of the City. Upon removal by the APCC of any structure, exhibit, fence, fixture, or facility constructed, erected or renovated on the Leased Premises pursuant to this Lease, the surface of the Leased Premises shall be restored to a condition suitable for park purposes at the sole cost and expense of the APCC, pursuant to plans and specifications approved by the City's Board of Public Service in writing, such approval not to be unreasonably withheld.

c. Charges for all utilities, including but not limited to, water, electricity, telephone, security alarm, power, heat, refrigeration, sewage and waste disposal within the Leased Premises shall be paid at the sole cost and expense of the APCC.

7. SIGNS & COMMERCIAL ADVERTISEMENT.

a. No exterior signs shall be erected without the prior written approval of the Director after review by the City's Preservation Board.

b. No exterior commercial advertisements on the Leased Premises not related to sponsorship of APCC or Adams Park School-related events shall be visible to the public from outside the Leased Premises.

8. CONSTRUCTION OR WORK. Any and all construction or work on the Leased Premises or on or in the facilities thereon by the APCC shall

be done in complete compliance with all applicable City, State and Federal Codes, any requirements of the City's Board of Public Service, and pursuant to plans and specifications approved by the City's Board of Public Service after review by the City's Preservation Board and subject to approval by or permit of any other City department or agency whose approval or permission may be required under the City Charter or City ordinances prior to the commencement of any such construction or work; provided, however, that construction or work not expressly authorized by this Lease shall also be subject to the approval provisions of said Ordinance 59741, which is codified in Chapter 22.42, Revised Code.

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

10. ENVIRONMENTAL LAWS.

a. The APCC shall comply in its occupancy and its use of the Leased Premises with any applicable laws pertaining to health of the environment including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as hereafter amended ("CERCLA"), the Resource Conservation and Recovery Act of 1976, as amended by the Used Oil Recycling Act of 1980, the Hazardous and Solid Waste Amendments of 1984, as hereafter amended ("RCRA"), the Federal Water Pollution Control Act, as now or hereafter amended ("FWPCA"), and any laws of the State of Missouri or any subdivision thereof, relating to the presence of, removal, spill, release, leaking or disposal of oil, petroleum, toxic pollutants, solid waste or other hazardous substances.

b. The APCC shall, periodically furnish the Director 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, the City 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 the City has reason to believe that a violation of any federal or state law or City ordinance has occurred or is about to occur.

11. INSPECTION. From time to time during the term of this Lease, and in addition to the inspections authorized in Section 10 hereof, authorized personnel of the City shall at all reasonable hours (with reasonable advance notice to the APCC) be permitted to enter upon and inspect the Leased Premises and the facilities thereon in order to ascertain that the Leased Premises and the facilities are being properly maintained and kept in repair and good order by the APCC.

12. ANNUAL REPORT. The APCC shall submit to the Director a written annual report describing in detail its activities and operations on the Leased Premises in the preceding calendar year, by June 30 of each year.

13. INDEMNIFICATION. The APCC shall indemnify and hold harmless the City, and all its departments, boards, officers, agents, and employees from all suits, actions, loss, expense, or claims or any kind whatsoever, including attorneys' fees and expenses, arising out of or relating in any way to the execution, performance, or non-performance of this Lease or the operation, use, occupancy or any condition of the Leased Premises, or of any improvement, facility, improvement, or thing of any kind on the Leased Premises, or caused by any action or omission, whether or not covered by insurance. The APCC shall defend the City, at the sole expense of the APCC, against any such claim, suit or action. This provision shall not apply, however, to any such liability as may be the result of the negligence or willful misconduct of the City or its employees or agents acting within the scope of their employment or agency.

14. INSURANCE.

a. During the term of this Lease, the APCC shall at no cost or expense to the City, maintain public liability and property damage insurance, naming the City as an insured on forms and with companies reasonably satisfactory to the

City, against claims for personal injury, death, or property damage occurring upon, in, or about the Leased Premises and the facilities thereon and on, in, or about the adjoining sidewalks and park area. Said insurance shall be a combined single limit of not less than three hundred thousand dollars (\$300,000.00) per occurrence and an aggregate amount one million dollars (\$1,000,000.00). The policies for such insurance may be for the mutual benefit of the APCC (including any entity affiliated with or acting with, under or through the APCC) and the City, or for the benefit of the City alone.

b. If at any time any of the insurance policies required by this Section shall be or become unsatisfactory to the City, as to form or substance (including coverage amounts) or issuer, the APCC shall, upon notice to that effect from the City, promptly obtain a new policy, and submit the same for approval to the City's Comptroller, provided, however, that within ten (10) days of receipt of notice to such effect from the City, the APCC notify the City that it disputes the content of such notice. In that event, such issue shall be resolved within forty-five (45) days by a panel consisting of the City's Comptroller or her/his designee, a designee of the APCC, and an insurance broker doing business in the Metropolitan Saint Louis Area jointly selected by the City's designee and the APCC's designee within ten (10) days after the APCC's or Operator's notice under this paragraph.

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

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

15. **NONDISCRIMINATION.** The APCC agrees that in the use of the Leased Premises or in the use of any premises, it will not exclude or discriminate against any person solely because of race, color or creed,

sex, sexual orientation, or for any reason not sanctioned by law and not applicable alike to persons generally in the use of said Leased Premises.

16. **MINORITY PARTICIPATION.** As specified in Exhibit E, which is incorporated herein by this reference, the APCC agrees to maximum utilization of minority business enterprises in construction on the Leased Premises. The APCC agrees to conform to all applicable federal, state and local equal opportunity laws. The APCC agrees to designate one of its employees as a Minority Participation Administrator, and to notify the City of the name, business address and telephone number of such administrator. During periods of major construction on the Leased Premises the APCC shall report monthly to the City's contract compliance officer the level of MBE and WBE participation in such construction projects. Such reports shall identify the MBE and WBE participants and set forth the amounts paid to such participants and the total project cost.

17. **NON-ASSIGNABILITY.** Without the prior written consent of the other party first obtained, neither party shall assign, sublease, lease or transfer, in whole or in part, this Lease or such party's interest in the Leased Premises. This Lease shall automatically and forthwith terminate if assigned, sold or otherwise transferred by the APCC without prior written consent by the City.

18. **NOTICE AND OPPORTUNITY TO CURE; TERMINATION.** In the event of the APCC's failure to comply with or perform any of the terms, covenants or agreements herein required to be complied with or performed by the APCC and the continuation of such failure for sixty (60) days after written notice of such failure from the City to the APCC (by registered or certified mail, return receipt requested), or, if the failure is of such a character as cannot reasonably be cured within a sixty (60) day period, then upon failure by the APCC within such sixty (60) day period to undertake such action as reasonably can be taken toward curing same, or failure thereafter diligently to prosecute such action to completion as promptly as reasonably possible after such action is initiated, then such failure shall constitute a breach of this Lease and all rights of the APCC hereunder, and this Lease, shall cease, terminate, be forfeited, and be void.

19. **RE-ENTRY.** If this Lease shall be terminated pursuant to Sections 17 or 18 hereof, the City may immediately or at any time thereafter re-

enter the Leased Premises and remove therefrom the APCC, its agents, employees, or other persons, and all or any of its property therefrom.

20. SUCCESSOR AND ASSIGNS. The covenants and agreements herein contained shall bind and inure to the benefit of the City, its successors and assigns, and the APCC, its successors and assigns.

21. LESSEE'S ACKNOWLEDGMENTS. The APCC acknowledges that neither expenditures of funds by the APCC, nor construction of improvements by the APCC, nor any representation by any City official or employee, shall create any valid expectancy or right in the APCC to renewal of this Lease, or obligation by the City to renew this Lease, and that the APCC's performance of all its undertakings in this Lease, over the term thereof, is a valid factor for consideration by the City in determining whether this Lease shall be renewed.

22. REPRESENTATIONS.

a. The APCC represents and warrants to the City that the APCC's execution, delivery and performance of this Lease will not conflict with or violate any constitutional provision, statute, rule, order or regulations of any governmental body applicable to the APCC and will not conflict with or violate any bylaw or rule however denominated of any corporation or any government or governmental agency applicable to the APCC. The APCC represents and warrants that the execution and delivery of this Lease has been duly authorized and that no further authorizations or approvals of the APCC or of any third party or agency are needed or will be needed with respect to the performance by the APCC of any of its obligations or agreements under this Lease throughout the term of this Lease (except for such routine and customary authorizations, permits or approvals as are described in this Lease).

b. The City represents and warrants to the APCC that the City's execution, delivery and performance of this Lease, will not conflict with or violate any constitutional provision, statute, rule, order or regulation applicable to the City and will not conflict with or violate the City Charter. The City represents and warrants that the execution and

delivery of this Lease has been duly authorized by the City's Board of Aldermen.

23. **GOVERNING LAW.** This Lease and the rights and liabilities of the parties to this Lease shall be governed by the laws of the State of Missouri. If any provision of this Lease is invalidated by judicial decision or statutory enactment, the invalidity of any such provision will not affect the validity of any other provisions of this Lease.

24. **CAPTIONS.** The captions or headings of the several sections of this Lease are for convenience only and shall not define, limit or construe the contents of such sections.

25. **NON-WAIVER.** No failure of either party to exercise any power given under this Lease or to insist upon strict compliance with the undertakings, duties and obligations of the other party hereunder, and no custom or practice of either party at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the provisions, covenants, terms and conditions of this Lease.

26. **GENDER.** Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

27. **MEMORANDUM OF LEASE.** The parties shall record a Memorandum of Lease with respect to this Lease in the real estate records of the City of St. Louis, Missouri.

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

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

Comptroller, City of St. Louis
Room 212, City Hall
1200 Market Street
St. Louis, Missouri 63103
Fax Number: 314-622-4354

With copies to:

Director of Parks, Recreation & Forestry
5600 Clayton Avenue (in Forest Park)
St. Louis, Missouri 63110
Fax Number: 314-535-390

City Counselor's Office

Room 314 City Hall
1200 Market Street
St. Louis, Missouri 63103
Fax Number: 314-622-4956

If to the APCC, delivery shall be to:

Adams Park Community Center
McCormack Baron & Associates
1101 Lucas Avenue, 6th Floor
St. Louis, Missouri 63101-1179
Fax: 314-436-0071

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

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

By: _____

(SEAL)

CITY OF ST. LOUIS, MISSOURI

By: _____

Mayor

By: _____

Comptroller

(SEAL)

City Register

Approved as to form:

City Counselor

Executed this ____ day of _____, 20____.

EXHIBIT A

EXHIBIT B

DESCRIPTION OF LEASED PREMISES

EXHIBIT C

DEPICTION OF LEASED PREMISES

EXHIBIT D

AUTHORIZED LEASEHOLD IMPROVEMENTS

Baseball & Soccer Field:

Site preparation including grading to achieve smooth surface, sloped for drainage

Dirt infield with removable bases

Flexible grass outfield for use as kickball, softball or soccer field

Irrigation system

Chain link backstops

Removable soccer goals

Bleachers

Drinking fountain

Eight-foot high, black powder-coat painted chain link fence at perimeter

Volleyball & Basketball Court:

Asphalt pavement overlay of existing pavement

Painted game lines

Pole-mounted basketball rims and backboards

Twelve-foot high, black powder-coat painted chain link fence at perimeter

Inserts in pavement for removable volleyball nets

Playground:

Restoration of existing fountain/water play area

Pre-school/elementary play equipment

Resilient play surface

Aluminum benches

East Property line Improvements:

Replacement of existing concrete retaining wall

Concrete steps/ramp with painted metal handrails

Right of Way Improvements:

Replacement or re-setting of granite curbs

Replacement of concrete sidewalks

Handicapped accessible curb cuts at street intersections

Street trees planted in grass lawn strip between curb and sidewalk

EXHIBIT E

POLICY STATEMENT OF

ADAMS PARK COMMUNITY CENTER, INC.

REGARDING DISADVANTAGED BUSINESS

ENTERPRISE PARTICIPATION

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
12/08/00	12/08/00	PARK	01/24/01	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
01/26/01			02/02/01	02/09/01
ORDINANCE	VETOED	VETO OVR	SIGNED BY MAYOR	
65155			02/15/01	