

1 **COMMITTEE SUBSTITUTE**

2 **BOARD BILL NO. 376 INTRODUCED BY ALDERMEN JOSEPH D.**
3 **RODDY/PHYLLIS YOUNG/JOSEPH VOLLMER/ ALFRED WESSELS/LYDA**
4 **KREWSON/ APRIL FORD-GRIFFIN/ DIONNE FLOWERS/ FREEMAN BOSLEY, SR./**
5 **GREGORY J. CARTER/ O. L. SHELTON**

6 AN ORDINANCE RELATING TO PARKS; RECOMMENDED BY THE BOARD OF
7 ESTIMATE AND APPORTIONMENT AND THE BOARD OF PUBLIC SERVICE
8 PROVIDING FOR A FURTHER AMENDMENT TO THE LEASE AGREEMENT BETWEEN
9 THE CITY OF ST. LOUIS AND BARNES-JEWISH HOSPITAL (FORMERLY KNOWN AS
10 BARNES HOSPITAL) AS ORIGINALLY AUTHORIZED BY ORDINANCE NO. 56576, AS
11 AMENDED BY ORDINANCE NO. 58982; CONFIRMING THE PRIOR AGREEMENT AS
12 AMENDED, EXTENDING THE TERM OF SAID LEASE AGREEMENT, PERMITTING
13 DEVELOPMENT OF THE LEASED PREMISES, PROVIDING FOR THE CREATION OF A
14 SPECIAL FUND TO BE KNOWN AS THE NEIGHBORHOOD PARK FUND FOR THE
15 PURPOSE OF FUNDING CERTAIN PARK CAPITAL IMPROVMENTS AND
16 RECREATIONAL PURPOSES THROUGHOUT THE CITY;PROVIDING FOR THE
17 EXECUTION OF A BJH MAINTENANCE TRUST AGREEMENT AND A FPF
18 MAINTENANCE TRUST AND COOPERATION AGREEMENTS AND GOVERNING
19 DONATIONS THEREUNDER AND PROVIDING FOR THE EXECUTION OF AN
20 EASEMENT AGREEMENT AND A MAINTENANCE COOPERATION AGREEMENT;
21 AUTHORIZING AND APPROVING CERTAIN DOCUMENTS AND OTHER ACTIONS;
22 AND CONTAINING AN EMERGENCY CLAUSE.

23 WHEREAS, by Ordinance 56576, approved July 17, 1973, the City of St. Louis, Missouri (the
24 “City”) was authorized to enter into an Agreement providing for the development of a sub-
25 surface parking facility in an area generally bordered by Euclid, Kingshighway, Barnes Hospital
26 Plaza and Clayton Avenue (the “Leased Premises”);

27 WHEREAS, pursuant to Ordinance 56576, the City entered into said Agreement and a lease of
28 such area with Barnes Hospital, a not-for-profit corporation of the State of Missouri (now known
29 as Barnes-Jewish Hospital, “BJH”), as lessee (“Original Lease”);

30 WHEREAS, said sub-surface parking facility was constructed by Barnes Hospital and is
31 currently operated by BJH;

32 WHEREAS, pursuant to the Original Lease, Barnes Hospital restored the surface of said sub-
33 surface parking facility consistent with public park purposes;

34 WHEREAS, by Ordinance 58982, approved December 7, 1983, an Amendment to Agreement
35 amending the Original Lease was authorized extending the term of the Original Lease, expanding
36 the area of the Leased Premises thereunder and providing for further development of the sub-
37 surface parking garage (“First Amendment”);

January 19, 2007

Page 1 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 WHEREAS, pursuant to Ordinance 58982, the City entered into said First Amendment with
2 Barnes Hospital to memorialize their understandings effective as of the date of Ordinance 58982;

3 WHEREAS, BJH is a successor in interest to Barnes Hospital under the Original Lease, as
4 amended by the First Amendment;

5 WHEREAS, BJH is committed to the City and for over 100 years BJH (and its predecessors,
6 Barnes Hospital and Jewish Hospital) has provided health-care services to the St. Louis
7 community;

8 WHEREAS, BJH has remained, invested and grown in the City even as many other hospitals
9 relocated to St. Louis County and beyond;

10 WHEREAS, BJH consistently provides more charity care than any other hospital in the State of
11 Missouri and in 2004 alone, BJC HealthCare hospitals provided more than \$160 million in
12 charity and uncompensated care;

13 WHEREAS, BJH is the only adult hospital within the City limits that delivers babies;

14 WHEREAS, BJC HealthCare, parent of BJH, maintains its corporate headquarters in the City;

15 WHEREAS, over 15,000 of BJC HealthCare's 26,000 employees are based in the City,
16 providing the City with approximately \$5 million in annual earnings taxes;

17 WHEREAS, BJH was once again ranked among one of the ten best hospitals in America by US
18 News & World Report;

19 WHEREAS, BJH and BJC have been good neighbors and partners with the Forest Park
20 Southeast and Central West End neighborhoods, providing more than \$50,000,000 in grants and
21 investments over the past several decades;

22 WHEREAS, BJH and affiliated institutions, including St. Louis Children's Hospital, provide
23 vital services to the residents of the City and the expansion of its operations and facilities will
24 greatly improve the provision of said services;

25 WHEREAS, BJH desires to improve further its existing buildings and facilities and to replace,
26 erect or install permanent improvements upon the Leased Premises as an integral part of the
27 operations of BJH and its affiliated institutions and has agreed that not less than 15% of the
28 Leased Premises shall be maintained as green space;

29 WHEREAS, the Leased Premises are remote from the rest of Forest Park by virtue of being
30 separated from the rest of Forest Park by Kingshighway;

31 WHEREAS, BJH and the City desire to improve the maintenance of Forest Park by increasing
32 the funds available for such maintenance, the City is desirous of establishing a long-term funding

January 19, 2007

Page 2 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-Griffin/Shelton/ Flowers/Bosley/Carter

1 mechanism for the maintenance of Forest Park in order to meet the policy guidelines of the
2 Forest Park Master Plan, and as a result, BJH will make contributions to the maintenance of
3 Forest Park which are to be governed by a BJH Maintenance Trust Agreement (as hereinafter
4 defined);

5 WHEREAS, after consideration and action by the Forest Park Advisory Board and the Planning
6 Commission, the Amended and Restated Lease (as hereinafter defined) complies with the Forest
7 Park Master Plan and the City’s Strategic Land Use Plan and requires no further approval by the
8 Forest Park Advisory Board, the Planning Commission and any other now existing or hereafter
9 created similar and/or successor organizations;

10 WHEREAS, this Ordinance has been recommended by the Board of Estimate and
11 Apportionment and by the Board of Public Service;

12 WHEREAS, the Amended and Restated Lease (as hereinafter defined) has been approved by the
13 City Counselor; and

14 WHEREAS, the Board of Aldermen finds that it is in the best interest of the City to authorize
15 and direct the Mayor and the Comptroller to execute and enter into a “Second Amendment to
16 Agreement,” which is an amendment and restatement with BJH of the Original Lease as
17 amended by the First Amendment, and which provides for an extension of the term of the lease,
18 an expansion of the authorized uses of the Leased Premises under the lease, an Easement (as
19 hereinafter defined) granting continued pedestrian and vehicular access to Kingshighway via
20 Clayton Avenue, Euclid and Barnes-Jewish Hospital Plaza, the obligation of BJH to make a
21 contribution to fund certain costs of relocating the park improvements currently located on the
22 Leased Premises and for other public works; and to authorize and direct the Mayor and the
23 Comptroller to execute and enter into a BJH Maintenance Trust Agreement (as hereinafter
24 defined) providing for specified donations by BJH and the dedication of such donations in trust
25 for the maintenance of Forest Park, all as hereinafter provided, and a FPF Maintenance Trust
26 Agreement and a Maintenance Cooperation Agreement (both as hereinafter defined) with Forest
27 Park Forever, Inc.

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

29 SECTION ONE. Amended and Restated Lease. The Mayor and the Comptroller of the City
30 shall be and hereby are authorized and directed to enter into that certain Second Amendment to
31 Agreement (the “Amended and Restated Lease”) in substantially the form attached hereto as
32 Exhibit 1, incorporated herein and made a part of this Ordinance by this reference, by and
33 between the City, as lessor, and Barnes-Jewish Hospital (“BJH”), as lessee, which provides for
34 an extension of the term of the Original Lease as amended by the First Amendment, an
35 expansion of the authorized uses of the Leased Premises under the lease, an easement granting
36 continued pedestrian and vehicular access to Kingshighway via Clayton Avenue and Euclid (the
37 “Easement”), the obligation of BJH to make contributions to fund certain costs to relocate the
38 park improvements currently located on the Leased Premises and providing for other public
39 works, as described in such Amended and Restated Lease.

January 19, 2007

Page 3 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 SECTION TWO. Rent. All rental payments under Section 4 of said Amended and Restated
2 Lease shall be held by the Comptroller of the City in an account for the use and benefit of the
3 Department of Parks, Recreation and Forestry of the City as provided in the Amended and
4 Restated Lease.

5 SECTION THREE. BJH Maintenance Trust Agreement; FPF Maintenance Trust Agreement,
6 Maintenance Cooperation Agreement. The Mayor and the Comptroller of the City are hereby
7 authorized and directed to enter into that certain BJH Maintenance Trust Agreement (the “BJH
8 Maintenance Trust Agreement”) in substantially the form attached hereto as Exhibit 2,
9 incorporated herein and made a part of this Ordinance by this reference, by and among the City,
10 BJH, and the trustee named therein, which provides for payments of the cost of maintaining
11 Forest Park, as described in such BJH Maintenance Trust Agreement, for purposes as set forth in
12 such BJH Maintenance Trust Agreement. The Mayor and the Comptroller of the City are hereby
13 authorized and directed to enter into that certain FPF Maintenance Trust Agreement (the “FPF
14 Maintenance Trust Agreement”) in substantially the form attached hereto as Exhibit 3,
15 incorporated herein and made a part of this Ordinance by this reference, by and among the City,
16 Forest Park Forever, Inc., a Missouri not-for-profit corporation, and the trustee name therein,
17 which provided for payments of a portion of the cost of in maintaining Forest Park, as described
18 in such FPF Maintenance Trust Agreement, for the purposes as set forth in such FPF
19 Maintenance Trust Agreement. The Mayor and the Comptroller of the City are hereby
20 authorized and directed to enter into that certain Maintenance Cooperation Agreement (the
21 “Maintenance Cooperation Agreement”) in substantially the form attached hereto as Exhibit 4,
22 incorporated herein and made a part of this Ordinance by this reference, by and between the City
23 and Forest Park Forever, Inc., a Missouri not-for-profit corporation, which provides for certain
24 shared responsibilities for maintaining Forest Park, as described in such Maintenance
25 Cooperation Agreement, for purposes as set forth in such Maintenance Cooperation Agreement.

26 SECTION FOUR. All donations under the BJH Maintenance Trust Agreement and FPF
27 Maintenance Trust Agreement shall be held by the trustee named therein, and shall be invested
28 and disbursed as provided in said agreements.

29 SECTION FIVE. Public Works. The design, installation and performance of the Public Works,
30 as described and provided for in Section 5 of the Amended and Restated Lease are hereby
31 authorized, to wit: (a) the study, design and performance of road work, in connection with the
32 improvement of vehicular, pedestrian and bike access to Clayton Avenue in order to improve
33 access to and from Forest Park and to coordinate with the changes being made to Kingshighway
34 and the ramp from westbound I-64/40 to northbound Kingshighway and the reconstruction and
35 improvement of Clayton Avenue from Euclid to McKinley/Wilken and McKinley Wilken to I-
36 64/40; and (b) funding the cost to relocate the playground equipment currently located in Hudlin
37 Park and the installation of tennis courts on the portion of Forest Park south of Clayton Avenue,
38 east of Kingshighway and north of I-64/40, fund the restoration, improvement and lighting of
39 existing tennis courts at AAA, name them in honor of Richard Hudlin make them available for
40 public access and to fund the construction and restoration of new and/or existing handball
41 facilities in the area immediately adjacent to Lindell Pavilion. The estimated cost of these Public

January 19, 2007

Page 4 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 Works as established by the City’s Board of Public Service is \$1,500,000 and shall be paid out of
2 the payment to be made by BJH pursuant to Section 5 of the Amended and Restated Lease and
3 from the funds on deposit in the hereinafter created Barnes-Jewish Hospital Forest Park Public
4 Works Account. Such work shall be done using materials specified by the Board of Public
5 Service, and in accordance with detailed plans and specifications finally adopted and approved
6 by the Board of Public Service before bids are advertised therefor.

7 **SECTION SIX. Public Works Account.** A Barnes-Jewish Hospital Forest Park Public Works
8 Account is hereby established in the Special Park Fund established by Ordinance 51336 and
9 referred to as the Forest Park Fund by Ordinance 61988 and the funds paid by BJH pursuant to
10 Section 5 of said Amended and Restated Lease shall be deposited therein.

11 **SECTION SEVEN. Easement.** The Mayor and the Comptroller of the City of St. Louis are
12 hereby authorized and directed to enter into that certain Easement (the “Easement”) in
13 substantially the form attached hereto as Exhibit 5, incorporated herein and made a part of this
14 Ordinance by this reference, by and between the City of St. Louis and Barnes-Jewish Hospital,
15 which provides for continued pedestrian and vehicular access to Kingshighway from Clayton
16 Avenue through Forest Park, whereby Clayton Avenue will remain open to two-way vehicular
17 traffic, and also provides for access to Kingshighway via Euclid and Barnes-Jewish Hospital
18 Plaza and provides for an easement to install and maintain utilities.

19 **SECTION EIGHT.** The Director of Parks, Recreation and Forestry and the Budget Division are
20 directed to include in the City budget to be prepared for Fiscal Year 2008 the sum of One Million
21 Six Hundred Thousand Dollars (\$1,600,000) from General Revenue, to be appropriated
22 conditioned on payment by BJH of its initial payment to the BJH Maintenance Trust, and in
23 every year thereafter in which such BJH payment is made, for payment to a special fund, hereby
24 created, to be known as the Neighborhood Park Fund. Moneys in the Neighborhood Park Fund
25 may be expended solely (i) in Fiscal Year 2008, for the acquisition and improvement of land and
26 facilities for park and recreational use within a one and one-half mile radius of the Leased
27 Premises; and (ii) in each Fiscal Year thereafter, as follows” a) One Million Two Hundred
28 Thousand Dollars (\$1,200,000) thereof for park capital improvement projects and recreation
29 purposes throughout the City; b) Three Hundred Thousand dollars (\$300,000) thereof for
30 recreational programs administered by the Director of Parks, Recreation and Forestry for
31 children throughout the City; c) One Hundred Thousand Dollars for a program to be
32 administered by the Director of Parks, Recreation and Forestry to provide access for low-income
33 children, as determined by such Director, to fee-based non-public recreational programs selected
34 by such Director in the City. As part of the annual budget preparation process, the Director of
35 Parks, Recreation and Forestry shall submit to the Budget Division recommendations for
36 expenditure of revenues in the Neighborhood Park Fund; provided, said recommendations shall
37 be approved by resolution of the Parks and Environmental Matters Committee of the Board of
38 Aldermen prior to their submission to the Budget Division.

39 **SECTION NINE. Further Action.** The Mayor and the Comptroller, and the other appropriate
40 officers, agents and employees of the City, upon the recommendation of the Board of Estimate

January 19, 2007

Page 5 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-Griffin/Shelton/ Flowers/Bosley/Carter

1 and Apportionment, are hereby authorized and directed to take such other and further action, and
2 to execute, deliver and file such other and further documents, certificates and instruments not
3 inconsistent herewith as may be necessary or desirable to carry out and comply with the intent of
4 this Ordinance, and to carry out, comply with and perform the duties of the City with respect to
5 the Amended and Restated Lease, the BJH Maintenance Trust Agreement, the FPF Maintenance
6 Trust Agreement, the Maintenance Cooperation Agreement and the Easement.

7 SECTION TEN. This being an Ordinance providing in part for public works and improvements,
8 it is hereby declared to be an emergency measure pursuant to Article IV Sections 19 and 20 of
9 the Charter of the City, and shall take effect immediately upon approval by the Mayor or its
10 adoption over his disapproval.

January 19, 2007

Page 6 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 EXHIBIT 1

2 SECOND AMENDMENT TO AGREEMENT
3 BETWEEN
4 CITY OF ST. LOUIS, MISSOURI
5 AND
6 BARNES-JEWISH HOSPITAL

7 This Second Amendment to Agreement (this “Lease”), made and entered into this _____ day
8 of _____, 2007 (the “Date of this Lease”) between the City of St. Louis, Missouri
9 (the “City”) and Barnes-Jewish Hospital (“BJH”) witnesses that:

10 WHEREAS, by Ordinance 56576, approved July 17, 1973, the City was authorized to enter into
11 an Agreement providing for the development of a sub-surface parking facility in an area
12 generally bordered by Euclid, Kingshighway, Barnes Hospital Plaza and Clayton Avenue (the
13 “Leased Premises”);

14 WHEREAS, pursuant to Ordinance 56576, the City entered into said Agreement and a lease of
15 such area with Barnes Hospital, a not-for-profit corporation of the State of Missouri (now known
16 as Barnes-Jewish Hospital, “BJH”), as lessee (“Original Lease”);

17 WHEREAS, said sub-surface parking facility was constructed by Barnes Hospital and is
18 currently operated by BJH;

19 WHEREAS, pursuant to said Original Lease, Barnes Hospital restored the surface of said sub-
20 surface parking facility consistent with public park purposes (the “Hudlin Improvements”);

21 WHEREAS, by Ordinance 58982, approved December 7, 1983, an Amendment to Agreement
22 amending the Original Lease was authorized extending the term of the Original Lease, expanding
23 the use of the Leased Premises thereunder and providing for further development of the sub-
24 surface parking facility (“First Amendment”);

25 WHEREAS, pursuant to Ordinance 58982, the City entered into said First Amendment with
26 Barnes Hospital to memorialize their understandings effective as of the date of Ordinance 58982;

27 WHEREAS, BJH is a successor in interest to Barnes Hospital under the Original Lease, as
28 amended by the First Amendment;

29 WHEREAS, BJH is committed to the City and for over 100 years BJH (and its predecessors,
30 Barnes Hospital and Jewish Hospital) has provided health-care services to the St. Louis
31 community;

32 WHEREAS, BJH has remained, invested and grown in the City even as many other hospitals
33 relocated to St. Louis County and beyond;

January 19, 2007

Page 7 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 WHEREAS, BJH consistently provides more charity care than any other hospital in the State of
2 Missouri and in 2004 alone, BJC Hospital hospitals provided more than \$160 million in charity
3 and uncompensated care;

4 WHEREAS, BJH is the only adult hospital within the City limits that delivers babies;

5 WHEREAS, BJC HealthCare, parent of BJH, maintains its corporate headquarters in the City;

6 WHEREAS, over 15,000 of BJC HealthCare's 26,000 employees are based in the City,
7 providing the City with approximately \$5 million in annual earnings taxes;

8 WHEREAS, BJH was once again ranked among one of the ten best hospitals in America by US
9 News & World Report;

10 WHEREAS, BJH and BJC have been good neighbors and partners with the Forest Park
11 Southeast and Central West End neighborhoods, providing more than \$50,000,000 in grants and
12 investments over the past several decades.

13 WHEREAS, BJH and affiliated institutions, including St. Louis Children's Hospital, provide
14 vital services to the residents of the City and the expansion of its operations and facilities will
15 greatly improve the provision of said services;

16 WHEREAS, BJH desires to improve further its existing buildings and facilities and to replace,
17 erect or install permanent improvements upon the Leased Premises as an integral part of the
18 operations of BJH and its affiliated institutions and has agreed that not less than 15% of the
19 Leased Premises shall be maintained as green space;

20 WHEREAS, the Leased Premises are remote from the rest of Forest Park by virtue of being
21 separated from the rest of Forest Park by Kingshighway;

22 WHEREAS, BJH and the City desire to improve the maintenance of Forest Park by increasing
23 the funds available for such maintenance, the City is desirous of establishing a long-term funding
24 mechanism for the maintenance of Forest Park in order to meet the policy guidelines of the
25 Forest Park Master Plan, and as a result, BJH will make contributions to the maintenance of
26 Forest Park which are to be governed by a Maintenance Trust Agreement (as hereinafter
27 defined);

28 WHEREAS, the Board of Aldermen found in Ordinance _____ (BB# _____) (the
29 "Ordinance") that it is in the best interest of the City to authorize and direct the Mayor and the
30 Comptroller to execute and enter into this Lease, which is an amendment and restatement with
31 BJH of the Original Agreement as amended by the First Amendment, which provides for an
32 extension of the term of the lease, an expansion of the authorized uses of the Leased Premises
33 under the lease, an easement granting continued pedestrian and vehicular access to
34 Kingshighway via Clayton Avenue and Euclid, the obligation to relocate the park improvements
35 currently located on the Leased Premises and providing for other public works and to authorize

January 19, 2007

Page 8 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 and direct the Mayor and the Comptroller to also execute and enter into (a) a Maintenance Trust
2 Agreement (as hereinafter defined) providing for specified donations by BJH and the dedication
3 of such donations in trust for the maintenance of Forest Park; (b) an Easement (as hereinafter
4 defined) granting continued pedestrian and vehicular access to Kingshighway from Clayton
5 Avenue through Forest Park, whereby Clayton Avenue will remain open to two-way vehicular
6 traffic, and also provides for access to Kingshighway via Euclid and Barnes-Jewish Hospital
7 Plaza and provides for an easement to install and maintain utilities; and (c) a Maintenance
8 Cooperation Agreement (as hereinafter defined), all as hereinafter provided;

9 WHEREAS, after consideration and action by the Forest Park Advisory Board and the Planning
10 Commission, this Lease complies with the Forest Park Master Plan and the City's Strategic Land
11 Use Plan and requires no further approval by the Forest Park Advisory Board, the Planning
12 Commission and any other now existing or hereafter created similar and/or successor
13 organizations;

14 WHEREAS, the St. Louis Municipal Finance Corporation ("SLMFC"), pursuant to the Indenture
15 of Trust dated as of March 1, 1997, as supplemented by the First Supplemental Indenture of
16 Trust dated as of December 1, 2004 (collectively, the "Indenture"), issued its \$16,400,000 Forest
17 Park Leasehold Revenue Refunding Bonds (City of St. Louis, Missouri, Lessee) Series 2004 (the
18 "Bonds") in order to finance and refinance certain improvements to Forest Park;

19 WHEREAS, the City entered into a Lease Purchase Agreement dated as of March 1, 1997, as
20 supplemented by that First Supplemental Lease Purchase Agreement dated as of December 1,
21 2004 (collectively, the "Lease Purchase Agreement"), in order to provide payments necessary to
22 fund amounts due on the Bonds;

23 WHEREAS, the Leased Premises are currently subject to the Base Lease from the City to
24 SLMFC dated as of March 1, 1997 (the "Base Lease", together with the Indenture and the Lease
25 Purchase Agreement, the "Bond Financing Documents");

26 WHEREAS, the Bond Financing Documents are being amended in order to exclude the Leased
27 Premises from the terms thereof pursuant to the terms of Ordinance _____ (B.B. #
28 [_____]);

29 WHEREAS, the existing zoning is being amended to allow for institutional use of the Leased
30 Premises pursuant to the terms of Ordinance _____ (B.B. #[_____]) (as amended, the "Zoning
31 Ordinance"); and

32 WHEREAS, except as otherwise expressly noted herein, this Lease complies with all of the
33 terms and conditions required by Ordinance 59741 and all procedures specified by said
34 Ordinance have been followed with respect to this Lease.

35 NOW, THEREFORE, in consideration of the premises and of the mutual promises, undertakings
36 and agreements hereinafter set forth, the receipt and sufficiency of which is hereby
37 acknowledged, the City and BJH hereby agree as follows:

January 19, 2007

Page 9 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 1. LEASED PREMISES.

2 (a) Leased Premises. The City hereby confirms its lease to BJH of those certain tract
3 of land (the “Leased Premises”) described in Exhibit A hereto. Within the scope of the Leased
4 Premises are all portions of Forest Park located in the area that is north of Clayton Avenue, west
5 of Euclid Avenue, south of Barnes-Jewish Hospital Plaza and east of Kingshighway Boulevard.

6 (b) Highway Modifications. It is anticipated that upon completion of the highway
7 modifications to the intersection of Kingshighway Boulevard and Highway I-64/40, a portion of
8 the Leased Premises may be required to be dedicated to use by the Missouri Department of
9 Transportation as additional right-of-way along the east line of Kingshighway Boulevard. Upon
10 completion of the modifications to the intersection of Kingshighway Boulevard and Highway I-
11 64/40, any portion of Leased Premises, which are required to be a dedicated right-of-way to the
12 Missouri Department of Transportation, shall be released from the terms of this Lease and
13 excluded from the definition of the Leased Premises (the “Modifications”). The parties further
14 shall commission a survey at BJH’s expense to locate the boundaries of the Leased Premises if
15 modified by the additions to the right-of-way dedicated to the Missouri Highway Department for
16 use in connection with Highway I-64/40. The legal description generated by that survey shall be
17 agreed to by the parties and a modification to this Lease shall be prepared substituting the new
18 definition of Leased Premises and thereafter such defined area shall be Leased Premises.
19 Further, there shall be a calculation of the total square feet subject to the terms of this Lease after
20 such Modifications and the amount of the contributions to be made under the Maintenance Trust
21 Agreement shall be modified in accordance with Section 3 thereof.

22 (c) Easement. In connection with the development by BJH of the Leased Premises,
23 the City hereby agrees to grant BJH an easement in substantially the form set forth in Exhibit B
24 hereto, which provides for continuing pedestrian and vehicular access to Kingshighway from
25 Clayton Avenue through Forest Park, whereby Clayton Avenue will remain open to two-way
26 vehicular traffic, and also provides for access to Kingshighway via Euclid and Barnes-Jewish
27 Hospital Plaza and provides for an easement to install and maintain utilities (the “Easement”).

28 (d) Utilities. The City pledges to cooperate with third parties that provide utility
29 service to the Leased Premises in the development and improvement of the Leased Premises.

30 (e) The use and occupancy of the Leased Premises is subject to existing easements,
31 rights of way, restrictions or covenants of record, if any, and existing rights of way for sewers,
32 pipelines, conduits and utilities, provided the parties acknowledge that the limitations on the use
33 and occupancy of the Leased Premises are being modified as follows: (i) to allow for
34 institutional use during the term of the Lease as provided in that change in zoning as adopted by
35 Ordinance _____ (B.B. # [____]) (as amended and/or restated from time to time, “Zoning
36 Ordinance”); (ii) other changes in the use and occupancy of the Leased Premises related to the
37 Zoning Ordinance; (iii) the releases and amendments to the Bond Financing Documents under
38 Section 2; (iv) the Easement; (v) the relocation of the Hudlin Improvements as provided in
39 Section 5; and (vi) the Modifications.

January 19, 2007

Page 10 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 2. RELEASE OF BOND FINANCING; AMENDMENT OF EXISTING ZONING.

2 (a) The Leased Premises are subject to Bond Financing Documents.

3 (b) The St. Louis Municipal Finance Corporation issued the Bonds in order to finance
4 certain improvements to Forest Park.

5 (c) The City entered into the Lease Purchase Agreement in order to provide payments
6 necessary to fund amounts due on the Bonds.

7 (d) Simultaneously with the execution of this Lease, the Bond Financing Documents
8 are being amended in order to exclude the Leased Premises from the terms thereof pursuant to
9 the terms of Ordinance _____ (B.B. # [_____]).

10 (e) Simultaneously with the execution of this Lease, the zoning is being amended to
11 allow for institutional use of the Leased Premises pursuant to the terms of Ordinance ____
12 (B.B. #[_____]).

13 3. TERM. The current term under the Original Lease, as amended by the First Amendment,
14 is hereby extended, and such term shall continue until June 30, 2071. Thereafter this Lease shall
15 automatically renew for one renewal term of twenty-five (25) years, upon the same terms and
16 conditions hereof, unless BJH shall give written notice to the City at least three (3) years prior to
17 the expiration of the initial term of this Lease of its election not to renew and extend the term of
18 this Lease. Notwithstanding Ordinance 59741, the City and BJH acknowledge that BJH will be
19 expending funds and constructing improvements on the Leased Premises, and such expenditures
20 and construction shall create a basis and consideration for expecting the Lease to be renewed.

21 4. RENT. Throughout the initial term and any renewal term hereof, BJH shall pay upon
22 demand to the City rent in the amount of One Dollar (\$1.00) per year (“Rent”); the receipt of
23 such payment for the entire initial term and renewal term hereof is hereby acknowledged by the
24 City. Such rent shall be paid to the City’s Comptroller to be held in a special fund for the
25 account of the City’s Department of Parks, Recreation and Forestry, to wit, the Special Park
26 Fund established by Ordinance 51336 and referred to as the “Forest Park Fund” by Ordinance
27 61988. In addition to Rent, BJH shall make yearly contributions to the Trustee in the amounts
28 and at the times as determined pursuant to the Maintenance Trust Agreement.

29 5. PUBLIC WORKS.

30 (a) BJH agrees to fund in accordance with Section 5(b) hereof during the term of this
31 Lease public works including certain improvements to Forest Park and other locations (the
32 “Public Works”), including (i) the study, design and performance of road work, in connection
33 with the improvement of vehicular, pedestrian and bike access to Clayton Avenue in order to
34 improve access to and from Forest Park and to coordinate with the changes being made to
35 Kingshighway and the ramp from westbound I-64/40 to northbound Kingshighway and the
36 reconstruction and improvement of Clayton Avenue from Euclid to McKinley/Wilken and

January 19, 2007

Page 11 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 McKinley Wilken to I-64/40 (“Initial Public Work Improvements);” and (ii) funding the cost to
2 relocate the playground equipment currently located in Hudlin Park and the installation of tennis
3 courts on the portion of Forest Park south of Clayton Avenue, east of Kingshighway and north of
4 I-64/40, fund the restoration, improvement and lighting of existing tennis courts at AAA, name
5 them in honor of Richard Hudlin make them available for public access and to fund the
6 construction and restoration of new and/or existing handball facilities in the area immediately
7 adjacent to Lindell pavilion (collectively, the “Hudlin Improvements Relocation”). BJH agrees
8 to continue to maintain the current location of Hudlin Park as a “park-like setting” from the date
9 of execution of this Lease until such time as the commencement of the Hudlin Improvements
10 Relocation. The Public Works shall be performed by the City using materials specified by the
11 Board of Public Service, and in accordance with detailed plans and specifications finally adopted
12 and approved by the Board of Public Service before bids are advertised therefor. The Board of
13 Public Service shall cause the Public Works to be performed in accordance with its customary
14 procedures.

15 (b) BJH shall pay to the City on or before fifteen (15) days after the latest of (i)
16 execution of the Lease, (ii) the amendment of the Bond Financing Documents in order to exclude
17 the Leased Premises from the terms thereof pursuant to the terms of Ordinance _____ (B.B.
18 # [_____]) and (iii) the amendment of the existing zoning pursuant to the terms of
19 Ordinance _____ (B.B. # [_____]), the sum of \$1,500,000, which the City will
20 deposit in the Barnes-Jewish Public Works Account established pursuant to Section Six of
21 Ordinance # _____ (B.B. ____) and will utilize the amounts on deposit in such account solely for
22 the design, installation, construction, and performance of the Public Works; any portion of the
23 Public Works that are located in Forest Park shall be consistent with the City’s Forest Park
24 Master Plan, adopted [_____] (as amended, the “Master Plan”).

25 (c) The Initial Public Work Improvements shall be completed promptly by the Board
26 of Public Service; the Hudlin Improvements Relocation shall be completed promptly, but no later
27 than the date of the commencement of construction of improvements on the Leased Premises by
28 BJH.

29 (d) The cost of the Public Works shall include the following components, as may be
30 applicable, which are attributable to the Public Works: general requirements, building permit
31 fees, demolition and removals, earthwork, paving and striping, curbs, drainage structures and tie-
32 ins, landscape, irrigation, planters, electrical and lighting, traffic signalization, architectural,
33 design, engineering, planning, professionals and construction fees, labor, materials, supplies,
34 equipment, reasonable related administrative costs (including, but not limited to, bond and
35 insurance premiums), reasonable related overhead, actual out-of-pocket costs that are a material
36 component of the improvements and contingency. The City shall provide to BJH information
37 reasonably necessary to determine the cost to BJH of performing the Public Works.

38 (e) All necessary building, excavation, electrical and mechanical permits required by
39 law or ordinance will be obtained by the City or its contractors in the normal course. Prior to the
40 commencement of installation and construction of any of the Public Works, the City will obtain

January 19, 2007

Page 12 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-Griffin/Shelton/ Flowers/Bosley/Carter

1 and maintain in force during installation and construction, insurance in amounts specified by the
2 Board of Public Service and payment and performance bonds on which BJH will be an
3 additional obligee, for the full amount of each contract let to perform such Public Works.

4 (f) Upon completion of each of the Public Works, the Board of Public Service will
5 accept the Public Works on behalf of the City.

6 (g) Upon acceptance by the City of the Public Works, the City thereafter shall be
7 solely responsible for all costs of same, including but not limited to, the costs of maintenance,
8 repair, operation and all other expenses associated with such Public Works and BJH shall have
9 no interest or responsibility for any kind therein.

10 (h) Representatives of BJH and the City shall meet on an annual basis to discuss the
11 status of planning and work on the Public Works and any current BJH issues. The City shall
12 give BJH thirty (30) days written notice of the time and date for such meeting.

13 6. USE.

14 (a) The Leased Premises shall be held, maintained and operated by BJH and not less
15 than 15% of the Leased Premises shall be maintained as green space.

16 (b) (b) Notwithstanding the foregoing, BJH may:

17 (i) assign this Lease or sublet all or any portion of the Leased Premises, without the City's
18 consent, to: (A) The Washington University ("WU"), (B) to any affiliate of BJH or WU, direct or
19 indirect, or (C) in connection with any merger, consolidation or transfer of substantially all of
20 BJH's assets, and

21 (ii) sublet any portion of the Leased Premises, without the City's consent, to: (A) to any
22 individual or entity engaged in the practice of medicine or provision of health care-related
23 services, or (B) third party vendors for the purpose of providing services in the Washington
24 University Medical Center area integral to the operation of BJH, WU or any of their direct or
25 indirect affiliates described in (b)(i) above and to those individuals and entities described in
26 (b)(ii)(A) above.

27
28 (c) The City has identified the portion of Forest Park south of Clayton Avenue, east
29 of Kingshighway and north of I-64/40 as site to perform a portion of the Hudlin Improvements
30 Relocation. The City's failure to perform the Hudlin Improvements Relocation shall not serve to
31 limit BJH's use of the Leased Premises; specifically, the parties agree that at any time on or after
32 December 1, 2009, BJH shall have the right to remove the Hudlin Improvements, even if the
33 City has not completed the Hudlin Improvements Relocation, if BJH requires the Leased
34 Premises for an alternate use.

35 7. OPERATION OF LEASED PREMISES; CONSTRUCTION BY LESSEE (AND
36 OTHER AUTHORIZED PARTIES)

January 19, 2007

Page 13 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 (a) Improvements. BJH shall have the right at any time during the term of this Lease
2 to replace, erect or install upon the Leased Premises permanent improvements and to erect or
3 install additions to or substitutions for those Improvements initially to be constructed on the
4 Leased Premises, to rearrange, remodel and alter such Improvements and to remove the Hudlin
5 Improvements as provided of Section 6(c) (collectively, the “Improvements”).

6 (b) Any Improvements erected or installed on the Leased Premises pursuant to this
7 Lease shall be and remain the property of BJH.

8 (c) The City and BJH acknowledge and agree that (i) the Leased Premises, including
9 any Improvements, for the term of this Lease, shall not be subject to the review or other
10 requirements of the Forest Park Advisory Board, the Planning Commission and any other now
11 existing or hereafter created similar and/or successor organizations; nor shall the Leased
12 Premises be subject to the City’s Heritage and Urban Design Code or any provisions of Chapter
13 22.42 of the Code; and notwithstanding any provision or recommendation of the Master Plan,
14 Ordinance 59741, Ordinance 63769 and any other now existing or hereafter adopted ordinances,
15 restrictions or policies or process of the City relating thereto, the community unit plan shall
16 govern the design and construction of all additions, structures, site plans or improvements of
17 BJH on the Leased Premises, to the exclusion of any other design or review standards,
18 procedures or process of the City, now existing or hereafter adopted by the City; (ii) pursuant to
19 (i) above, BJH shall be entitled and is expressly authorized to build and develop structures,
20 buildings or improvements upon the Leased Premises, in accordance with the provisions of this
21 Section 7, provided BJH complies with the applicable codes as set forth in Section 12(c) as well
22 as State and Federal law, and (iii) site planning, building and construction design, and land use
23 for the Leased Premises shall be determined solely by BJH pursuant to its own planning process
24 (subject to the use limitations set forth in Section 6 of this Lease).

25 (d) The construction of Improvements shall be done promptly and in a good,
26 workmanlike manner. The cost of such work shall be paid promptly so that the Leased Premises
27 and the Improvements shall at all times be free of mechanics liens and/or liens for labor and
28 materials supplied to BJH. In the event any such lien is placed on the Leased Premises and/or
29 the Improvements, BJH shall promptly give the City notice of such lien and shall indemnify the
30 City and pay all costs relating thereto.

31 (e) Excavations and Shoring. If any excavation or other construction shall be made
32 upon the Leased Premises or any adjoining premises, street or alley, BJH shall, and does hereby,
33 assume all obligations of both the owner and the occupant of the Leased Premises with respect to
34 shoring and lateral support and agrees, to the extent that either the owner or occupant of the
35 Leased Premises may be obligated so to do, to shore the foundations and walls of the adjoining
36 premises as the case may be, and to do any other act or thing, to the extent necessary for the
37 safety or preservation of the adjoining premises and roadways to prevent any claims or liens
38 against City, the Leased Premises or the Improvements by reason of failure to furnish such
39 lateral support or shoring, all at BJH’s sole cost and expense.

January 19, 2007

Page 14 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 (f) Easements. The City agrees, upon the reasonable request of BJH, to recommend
2 to the City's Board of Aldermen that the City join in the grant of new easements or alteration of
3 existing easements upon or over the Leased Premises which may be necessary for public utilities,
4 public purposes, access to public roads and ways, and reciprocal easements among separately
5 developed parcels within the Leased Premises, provided such grant or grants are necessary for
6 the operation of the Leased Premises and Improvements for the uses herein permitted and
7 provided the City's Board of Public Service reasonably approves, in advance, of the
8 configuration and terms of such grant or grants or alteration of easements; provided BJH shall
9 indemnify and reimburse the City for any reasonable out-of-pocket expense it may incur relating
10 to such easements.

11 8. INDEMNIFICATION. BJH shall indemnify and hold harmless the City, and all its
12 departments, boards, officers, agents, and employees from all suits, actions, loss, expense, or
13 claims of any kind whatsoever, including attorneys' fees or expenses, arising out of or relating in
14 any way to the execution, performance, or non-performance of (i) this Lease or the operation, use
15 or occupancy of the Leased Premises, (ii) the grant of the Easement, and (iii) the zoning, whether
16 or not covered by insurance. BJH shall, at the City's option, defend the City with counsel
17 reasonably approved by the City Counselor, at BJH' sole expense, against any such claim, suit or
18 action. This provision shall not apply, however, to any such liability as may be the result of the
19 negligence or willful misconduct of the City or the City's employees or agents.

20 9. TAXES, REPAIRS, MAINTENANCE AND EXPENSES.

21 (a) Payment of Impositions. BJH agrees to pay, as additional rent, before any fine,
22 penalty, interest or cost may be added thereto for the non-payment thereof, all taxes,
23 assessments, water rates and charges, levies, and other governmental charges (all of which taxes,
24 assessments, water rates or charges, levies and other governmental charges are hereinafter
25 sometimes referred to as "Impositions"), which, as a result of the existence of the Lease and/or
26 the Improvements, are assessed, levied, confirmed, imposed or become a lien upon the
27 Improvements or become payable during the term of this Lease; provided, however, that if, by
28 law, any such Imposition is payable, or may at the option of the taxpayer be paid, in installments
29 (whether or not interest shall accrue on the unpaid balance of such Imposition), BJH may pay the
30 same (and any accrued interest on the unpaid balance of such Imposition) in installments as the
31 same respectively become due and before any fine, penalty, interest or cost may be added thereto
32 for the non-payment of any such installment and interest.

33 (b) Right to Contest Impositions. BJH shall have the right to contest the amount or
34 validity of any Imposition by appropriate legal proceedings, but this shall not be construed in any
35 way as modifying BJH's covenant to pay such Imposition at the time and in the manner as in this
36 Section 9 provided, unless BJH shall have given City indemnity reasonably sufficient to pay the
37 Imposition, together with all interest and penalties in connection therewith, and all charges that
38 may be assessed against or become a charge on the Improvements in said legal proceedings.

January 19, 2007

Page 15 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 (c) Impositions Contested in City's Name. Any such contest may be made in the
2 name of City (with the consent of the City Counselor, such consent not to be unreasonably
3 withheld) or BJH, or both, as BJH shall determine; and City agrees to cooperate reasonably with
4 BJH in any such contest but without expense to City. BJH shall be entitled to any refund of any
5 Imposition and penalties or interest thereon which have been paid by BJH or which have been
6 paid by City and for which City has been fully reimbursed.

7 (d) City Payment of Real Estate Taxes. BJH anticipates that during the term of this
8 Lease, the Leased Premises and the Improvements shall be exempt from real estate taxes. The
9 City shall pay, or cause to be paid by any third party transferee of the City, any and all real estate
10 taxes imposed on the Leased Premises and for the Improvements resulting from the City's
11 transfer of ownership of the Leased Premises.

12 (e) All costs and expenses of any kind whatever of operating and maintaining or
13 which are related to the Leased Premises shall be borne by BJH, including, but not limited to, the
14 costs and expenses of the maintenance of all grass, trees, shrubbery, sidewalks, curbs, parking
15 and other landscaping from time to time on the Leased Premises.

16 (f) All buildings, structures, fences, fixtures, parking and other facilities of BJH and
17 all other improvements of BJH erected within the Leased Premises pursuant to this Lease shall
18 be properly maintained and kept in good repair by and at the sole cost and expense of BJH.

19 (g) Removal of Dangerous Conditions. BJH shall, during the term of this Lease, at
20 BJH's sole expense, do all things reasonably necessary to remove any known dangerous
21 condition from time to time existing on the Leased Premises, including, but not by way of
22 limitation, promptly taking appropriate measures to prevent or repair any erosion, collapse or
23 other unstable condition in the Leased Premises.

24 (h) Additional Maintenance Requirements. Commencing on the date hereof, and
25 throughout the term of this Lease, BJH shall at BJH's sole expense, maintain the portion of
26 Forest Park which is east of Kingshighway Boulevard, south of Clayton Avenue, west of Euclid
27 Avenue and north of I-64/40, including all costs and expenses of maintaining all grass, trees,
28 shrubbery, sidewalks, curbs, landscaping and any improvements installed by the City on said site
29 included within the scope of the "Hudlin Improvements Relocation".
30

31 10. PUBLIC UTILITY CHARGES. BJH shall pay or cause to be paid all charges for gas,
32 water, sewer, electricity, light, heat or power, telephone or other communication service used,
33 rendered or supplied upon or in connection with the Leased Premises and the Improvements and
34 also any charges or expenses in connection with any alterations, additions, installations or
35 changes required or desired in connection with the supplying or using of such utilities or services
36 or substitutes therefor throughout the term of this Lease, and to indemnify City and save it
37 harmless against any liability or damages on such account. BJH shall also at its sole expense
38 procure any and all necessary permits, licenses or other authorization required for the lawful and
39 proper installation and maintenance upon the Leased Premises and in or on the Improvements of

January 19, 2007

Page 16 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any such
2 service to the Improvements and upon the Leased Premises.

3 11. NONDISCRIMINATION. BJH agrees that in the use of the Leased Premises, it will not
4 exclude or discriminate against any person solely because of race, color or creed, gender or
5 sexual orientation, or for any reason not sanctioned by law and not applicable alike to persons
6 generally in the use of said Leased Premises.

7 12. COMPLIANCE WITH LAW; LICENSES AND PERMITS.

8 (a) Compliance with Laws and Easements. Except as specifically exempted
9 hereunder, BJH shall throughout the term of this Lease, at BJH's sole expense, promptly comply
10 with all laws and ordinances and the orders, rules, regulations, and requirements of all Federal,
11 State and municipal governments and appropriate departments, commissions, boards and officers
12 thereof (whether or not the same require structural repairs or alterations) and with all easement
13 agreements or restrictions (whether public or private) applicable to the Leased Premises and
14 Improvements or the use of the Leased Premises and the Improvements. BJH shall likewise
15 observe and comply with the requirements of all policies of public liability, fire and all other
16 policies of insurance at any time in force with respect to the Improvements.

17 (b) BJH will secure and keep in force all licenses and permits required for its use of
18 the Leased Premises.

19 (c) Except as otherwise specifically provided in Section 7 or otherwise in this Lease,
20 nothing in this Lease shall be construed to exempt BJH from the provisions of any City
21 ordinance of general applicability.

22 13. COMMERCIAL ADVERTISEMENTS. BJH shall be entitled to name and re-name any
23 of its property, including additions, structures, or improvements on the Leased Premises or any
24 portion or portions thereof, for the term of this Lease. BJH shall be entitled to erect and/or
25 display such names on the Leased Premises or Improvements subject only to the terms of
26 applicable zoning laws and any community unit plan, provided that no such name or display
27 shall indicate that BJH owns the fee title to the Leased Premises.

28 14. INSPECTION. From time to time during the term of this Lease, authorized personnel of
29 the City shall, at reasonable hours, with reasonable advance written notice to BJH, and subject to
30 and in compliance with all BJH policies and procedures and the terms of this Lease, be permitted
31 to enter upon and inspect the Leased Premises in order to ascertain that the Leased Premises are
32 being maintained and kept in repair and good order as required by this Lease.

33 15. DAMAGE OR DESTRUCTION; PROPERTY INSURANCE.

34 (a) BJH shall at its sole cost, procure and maintain on file with the City's Comptroller
35 at all times during the initial term and any renewal term of this Lease certificates or other
36 evidence of insurance as specified in Section 15(b) hereof. The policies described in Section

January 19, 2007

Page 17 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 15(b)(i) shall name “The City of St. Louis and its officers, agents, and employees” as additional
2 insureds.

3 (b) (i) Comprehensive Liability Insurance (to include premises, operations, products,
4 and completed operations and personal and bodily injury including death), shall be provided in
5 the initial minimum amounts specified below:

	Each Occurrence	Aggregate
7 Bodily Injury	\$3,000,000	\$3,000,000
8 Umbrella Coverage	\$10,000,000	
9 Automobile	\$	

10 (ii) Workers compensation insurance.

11 (iii) Builders Risk, property and casualty insurance.

12 (c) Prior to cancellation of any insurance policy under (b)(i), the City shall be given
13 thirty (30) days written notice.

14 (d) (i) From time to time, but not more frequently than once every five (5) years, the
15 levels or nature of insurance required to be maintained by BJH under Section 15(b)(i) shall be
16 reviewed upon the written request of the City’s Comptroller or BJH to determine whether such
17 levels or nature of coverage are consistent with those maintained by other parties engaged in
18 similar activities in similar locations, and the levels of required coverage shall be reasonably
19 adjusted.

20 (ii) Upon written notice from the City’s Comptroller that the limitations on
21 liability of the City under section 537.610 RSMo. have been increased pursuant to subsection
22 537.610.5 above the amounts of coverage provided by BJH as of the time of such notice, BJH
23 shall within ten business days cause its liability coverage to be increased to the amount
24 determined pursuant to subsection 537.610.5, and shall provide evidence of such increase to the
25 Comptroller.

26 (e) BJH may engage in a self-insurance program and/or share the insurance coverage
27 with its affiliates to cover the risks described in this Section 15 at levels and in a manner
28 consistent with other similarly situated institutions.

29 (f) BJH shall not be in default under this Lease for failure to maintain the insurance
30 described in Section 15(b) to the extent and during the period such insurance is not commercially
31 available.

January 19, 2007

Page 18 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 (g) Notwithstanding anything contained in this Lease to the contrary, proceeds of any
2 insurance other than the insurance described in Section 15(b)(i) shall be the sole property of BJH
3 and the City shall have no interest and/or rights thereto.

4 16. CONDEMNATION.

5 (a) If the whole of the Leased Premises shall be taken or condemned under the right
6 of eminent domain or if such a substantial part of the Leased Premises shall be taken as shall
7 result in the portion remaining being unsuitable for the use being made thereof at the time of
8 such taking, then this Lease shall terminate as of the date upon which title shall vest in the
9 condemning authority. The net awards or payments on account of any taking shall be
10 apportioned as follows:

11 (i) BJH shall receive an equitable portion (taking into account the number of
12 years remaining in the Term, exclusive of any unexercised options to
13 renew, as if this Lease had not terminated hereunder) of the then value of
14 the Improvements constructed by BJH, exclusive of the value of the land
15 and the value of any unexpired right of occupancy by BJH, as well as
16 BJH's relocation costs.

17 (ii) City shall receive the remainder of such award.

18 (b) If only a part of the Leased Premises shall be so taken or condemned and the part
19 not so taken can be adapted for the use then being made thereof, this Lease shall remain in full
20 force and effect, and BJH, whether or not its portion of the awards or payments, if any, on
21 account of such taking shall be sufficient for the purpose, at its own expense shall promptly
22 commence and complete the restoration of the Improvements on the Leased Premises as nearly
23 as possible to their value, condition and character immediately prior to such taking or
24 condemnation.

25 (c) In the event of any such taking or condemnation in whole or in part, the entire
26 award attributed to the value of the Improvements and BJH's relocations costs (if any) shall be
27 paid to City but City shall cause the same to be held in trust for disbursement as herein provided,
28 and BJH hereby assigns to City the right to receive such award or awards in trust.

29 (d) In the event of a partial taking that shall not result in termination of this Lease,
30 City shall cause that portion of the net awards or payments attributed to the value of the
31 Improvements on the Leased Premises to be applied to pay the cost of restoration of such
32 Improvements. The balance of such portion, if any, remaining after completion of such
33 restoration, shall be equitably apportioned between City and BJH as provided in (a) above.

34 (e) If the award or payments on account of any taking shall not be divided or
35 apportioned by the court or the condemning authority into the portions set forth in (a), and if City
36 and BJH shall be unable to agree on such apportionment, then such apportionment shall be
37 determined by appraisers. City and BJH shall each appoint an appraiser, and the two appraisers

January 19, 2007

Page 19 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 so appointed shall promptly appoint a third appraiser. The three appraisers shall jointly
2 determine the appropriate apportionment and shall render their decision within thirty (30) days
3 after the appointment of the third appraiser. The appraisal agreed upon by a majority shall be
4 binding upon the parties. All appraisers shall be members of the American Institute of Real
5 Estate Appraisers (M.A.I.) or, if such Institute shall not then exist, members of its successor
6 organization or an organization of substantially equivalent stature. The fees of the appraisers
7 shall be borne equally by City and BJH.

8 17. MINORITY PARTICIPATION. As specified in Exhibit D hereto, which is incorporated
9 herein by this reference, BJH agrees to utilization of minority business enterprises in
10 construction on the Leased Premises. BJH agrees to conform to all applicable federal, state and
11 local equal opportunity laws.

12 18. REPRESENTATIONS.

13 (a) BJH represents and warrants to the City that BJH's execution, delivery and
14 performance of this Lease will not conflict with or violate any constitutional provision, statute,
15 rule, order or regulation of any governmental body applicable to BJH and will not conflict with
16 or violate any bylaw or rule however denominated of any government or governmental agency
17 applicable to BJH. BJH represents and warrants that the execution and delivery of this Lease has
18 been duly authorized by BJH's Board of Directors and that no further authorizations or approvals
19 of BJH or of any third party or agency are needed or will be needed with respect to the
20 performance by BJH of any of its obligations or agreements under the Lease throughout the term
21 of this Lease (except for such routine and customary authorizations, permits or approvals as are
22 described in this Lease).

23 [(b) The City represents and warrants to BJH that the City's execution, delivery and
24 performance of this Lease will not conflict with or violate any constitutional provision, statute,
25 rule, order or regulation applicable to the City and will not conflict with or violate the Charter of
26 the City of St. Louis. The City represents and warrants to BJH that the execution and delivery of
27 this Lease has been duly authorized by the City's Board of Aldermen and that no further
28 authorizations or approvals of the City or of any third party or agency or governmental body are
29 needed or will be needed with respect to the performance by the City of any of its obligations or
30 agreements under the Lease throughout the term of this Lease (except for such routine and
31 customary authorizations, permits and approvals as are necessary in connection with the Public
32 Works).] [Consider using replacement language from other Leases.]

33 19. ANNUAL REPORT. Notwithstanding Ordinance 59741, BJH shall submit to the City's
34 Director of Parks, Recreation and Forestry and the Forest Park Advisory Board its written annual
35 reports for its prior fiscal years on or before March 31 of every year describing in detail the
36 activities and operations of the Leased Premises by BJH and an update of its current long-range
37 plans for the Leased Premises.

38 20. DEFAULT, TERMINATION AND REMEDIES. Notwithstanding Section 5.d. of
39 Ordinance 59741 to the contrary:
January 19, 2007

Page 20 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1
2 (a) The following conditions will, upon expiration of any cure period set forth in Section 20(b),
3 constitute a breach of this Lease:

4
5 (i) failure of BJH to make lease payments or failure of BJH to maintain the
6 insurance required in Section 15 of this Lease; or

7
8 (ii) any violation by BJH of the use limitations set forth in Section 6 hereof; or

9
10 (iii) failure of BJH to fund the Public Works as and when provided in Section 5
11 hereto; or

12
13 (iv) failure of BJH to fund donations as and when provided under the
14 Maintenance Trust Agreement.

15
16 (b) BJH may cure any default hereunder within thirty (30) days after written notice of a default
17 under Section 20(a)(i) or (iv) above or within one (1) year after written notice of a default under
18 Sections 20(a)(ii) or (iii) above from the City's Board of Estimate and Apportionment to BJH by
19 registered or certified mail; provided that if the default is of such a character as cannot
20 reasonably be cured within such periods, if BJH demonstrates good cause for additional time,
21 BJH shall be entitled to an additional sixty (60) days for any default under Section 20(a)(i) or an
22 additional two (2) years for any default under Section 20(a)(ii) or (iii) above to cure said default.
23 A default under Section 20(a) shall constitute a breach of this Lease and if not cured within the
24 applicable cure periods set forth in this Section 20(b), this Lease may be immediately terminated
25 and forfeited.

26
27 (c) Upon the violation of any provision of this Lease by BJH, the City shall be entitled to
28 exercise any remedies available in equity and at law, including, but not limited to, specific
29 performance.

30
31 (d) If any court of competent and final jurisdiction concludes that the City is in any material
32 breach of Section 18(d) of this Agreement and that BJH is entitled to recover monetary damages
33 therefor, then any such damages payable by the City to BJH shall not exceed an amount
34 equivalent to the sum of rents paid by BJH under this Agreement for the five (5) years prior to
35 the date of the judgment and donations made by BJH under the Maintenance Trust Agreement
36 for the five (5) years prior to the date of the judgment.

37
38 21. RE-ENTRY.

39 If this Lease shall be terminated pursuant to Section 20 hereof, if this Lease is not
40 renewed and extended pursuant to Section 3 hereof or at the end of the term of this Lease or any
41 renewal thereof, BJH shall have the right to promptly (and in all events by the end of the term of
42 this Lease) remove all or any of its property therefrom (which property shall remain the property

January 19, 2007

Page 21 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 of BJH), including any personal property or any structure or portions thereof which it has placed
2 on the Leased Premises; provided that upon completion of any removal of such property or
3 structure, BJH shall notify the City and thereafter the City or its agents and servants may
4 immediately re-enter the Leased Premises and any property or structure which remains after said
5 notice shall become the property of the City; provided that if BJH shall make a determination to
6 remove any or all buildings on the Leased Premises, BJH shall notify the City and the City shall
7 have an option for a period of three (3) months following notice from BJH to purchase such
8 buildings which are to be removed for a purchase price equal to the fair market value of such
9 buildings, provided, further that if BJH shall make a determination to remove any or all buildings
10 on the Leased Premises, or if requested to do so by the City, BJH shall be obligated to restore the
11 Leased Premises to a condition suitable for park purposes at the sole cost and expense of BJH.

12 (b) The rights and obligations of BJH under this Section 21 shall survive for three (3)
13 years after any termination of this Lease.

14 22. ASSIGNABILITY AND SUBLETTING.

15 (a) Notwithstanding any provision in Chapter 3.94 of the Code, either party may
16 assign, transfer or sublease, in whole or in part, this Lease or such party's interest in the Leased
17 Premises, without the prior consent of the other party; provided, however that any assignee,
18 transferee or sublessee of BJH shall be an entity or person described in Section 6(b) of this
19 Lease.

20 (b) All leases or subleases granted by BJH pursuant to Section 6(b) demising all or
21 any part of the Leased Premises and Improvements (i) shall be subject to all the terms and
22 conditions of this Lease and the rights of City hereunder, and (ii) shall, at the option of City,
23 terminate upon the termination of this Lease at any time for any reason.

24 23. SUCCESSORS AND ASSIGNS. Subject to Section 22 hereof, the covenants and
25 agreements contained in this Lease shall bind and inure to the benefit of the City, its successors
26 and assigns, and to the benefit of BJH, its permitted successors and assigns.

27 24. MORTGAGING THE LEASEHOLD AND THE IMPROVEMENTS;
28 SUBORDINATION OF FEE; ESTOPPEL CERTIFICATES.

29 (a) Limitation on Mortgages/Deeds of Trust - Leasehold. BJH is hereby given the
30 right, at any time and from time to time, to mortgage its interest in the Leased Premises and in
31 the Improvements by one or more deeds of trust; provided, however, (i) that BJH at the time any
32 such deed of trust is made shall not be in default under this Lease, (ii) that no holder of any such
33 deed of trust or anyone claiming by, through or under such holder shall by virtue thereof acquire
34 any greater rights in the Leased Premises and in the Improvements or any portion thereof than
35 BJH has under this Lease, and (iii) that any such deed of trust shall be subject and subordinate to
36 all conditions and covenants of this Lease and to the rights of City hereunder. In the event of a
37 foreclosure or disposition in lieu of foreclosure of any such deed of trust, the holder thereof (or

January 19, 2007

Page 22 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 its assignee or purchaser at foreclosure) shall promptly cure any existing or accrued defaults of
2 BJH hereunder and under the Maintenance Trust Agreement.

3 (b) Right of Mortgagee to Cure Defaults. If the leasehold estate shall from time to
4 time be encumbered by the lien of a deed of trust by BJH and if City shall be notified in writing
5 of such deed of trust, then, so long as such deed of trust shall continue in force and until delivery
6 of a Trustee's deed to the purchaser at a foreclosure sale thereof, notice of default in the
7 performance of the covenants of this Lease shall simultaneously be given to the record holder of
8 said deed of trust, and such holder shall have the right, within the period of thirty (30) days
9 thereafter, to take such action or to make such payment as may be necessary to cure any such
10 default to the same extent and with the same effect as though done by BJH. In the event such
11 default is of a nature that it cannot be cured within said thirty (30) days and City elects to
12 terminate this Lease pursuant to Section 20, then such holder shall have an option to enter into a
13 new lease for the unexpired term hereof (ignoring for such purposes the termination by reason of
14 BJH's default) on the same terms and conditions hereof, and such holder shall have ninety (90)
15 days following the commencement of such new lease in which to cure the default which gave
16 rise to the termination of this Lease. The option of such holder to enter into a new lease shall be
17 exercisable by written notice to City within one hundred eighty (180) days following the
18 termination of this Lease.

19 (c) Estoppel Certificates. City and BJH each agree at any time and from time to time,
20 so long as this Lease shall remain in effect, and provided no default then exists, upon not less
21 than twenty (20) days prior written request by the other party to execute, acknowledge and
22 deliver to the other party a statement in writing certifying that this Lease is unmodified and in
23 full force and effect (or if there have been modifications that the same is in full force and effect
24 as modified, stating the modifications), and the dates to which the rent and other charges have
25 been paid in advance, if any, it being intended that any such statement delivered pursuant to this
26 Section 24(c) may be relied upon by any prospective purchaser of City's fee simple interest or
27 any mortgagee or assignee of any mortgage upon the Leased Premises and Improvements or by
28 any assignee or mortgagee of BJH's leasehold estate, as the case may be.

29 25. TITLE TO BUILDING AND IMPROVEMENTS.

30 (a) Title and Lien Paramount. City shall have fee simple title to the Leased Premises
31 and the remainder interest in the Leased Premises and Improvements paramount to all others.

32 (b) BJH Not to Encumber City's Interest. BJH shall have no right or power to and
33 shall not in any way encumber the title of City in and to the Leased Premises or any remainder
34 interest in the Leased Premises and Improvements. The fee simple estate of City in the Leased
35 Premises and the remainder interest of City in the Leased Premises and any remaining
36 Improvements shall not be in any way subject to any claim by way of lien or otherwise, whether
37 claimed by operation of law or by virtue of any express or implied lease or contract or other
38 instrument made by BJH and any claim to a lien or otherwise upon the Leased Premises or in the
39 remaining Improvements arising from any act or omission of BJH shall accrue only against the

January 19, 2007

Page 23 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 leasehold estate of BJH in the Leased Premises and Improvements and shall in all respects be
2 subject to the paramount rights of City in the Leased Premises and the Improvements.

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

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

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

14 29. NOTICES AND ADDRESSES. All notices, demands, requests or replies provided for or
15 permitted by this Lease shall be in writing and delivered by deposit with the United States Postal
16 Service as certified or registered mail, return receipt request, postage prepaid to the addresses
17 stated below or by deposit with an overnight express delivery service. Notices mailed in the
18 manner described above shall be deemed effective three (3) business days after deposit with the
19 Postal Service and notices sent by overnight express delivery shall be deemed effective one (1)
20 business day after deposit with such delivery service.

21 For purposes of notice, demand, request, reply or repayment, if to the City, delivery shall be to
22 the City at the following address:

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

26 and

27 Department of Parks Recreation and Forestry
28 Forest Park
29 5600 Clayton Road
30 St. Louis, Missouri 63110
31 Attn: Director

32 And

33 City Counselor
34 Room 314, City Hall
35 St. Louis, Missouri 63103

January 19, 2007

Page 24 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 If to BJH, delivery shall be to:

2 Barnes-Jewish Hospital
3 One Barnes-Jewish Hospital Plaza
4 St. Louis, Missouri 63110
5 Attn.: President

6 with a copy to:

7 BJC HealthCare
8 Mailstop 90-66-500
9 4444 Forest Park Ave., Suite 500
10 St. Louis, Missouri 63108
11 Attn.: Senior Vice President and General Counsel

12 and

13 Bryan Cave LLP
14 One Metropolitan Square
15 211 N. Broadway, Suite 3600
16 St. Louis, MO 63102-2750
17 Attn: Linda M. Martínez

18 Each party shall have the right to designate a different address or addressee within the United
19 States of America by giving of notice in conformity with this Section 29.

20 30. GENDER. Words of the masculine gender shall be deemed and construed to include
21 correlative words of the feminine and neuter genders.

22 31. MEMORANDUM OF LEASE. The parties shall record a Memorandum of this Lease in
23 the real estate records of the City of St. Louis, Missouri.

24 32. MISCELLANEOUS

25 (a) Modification. None of the covenants, terms or conditions of this Lease to be kept
26 and performed by the City or BJH shall in any manner be waived, modified, changed or
27 abandoned except by a written instrument, duly signed and acknowledged by the City and BJH.

28 (b) Right of First Refusal. If during the term of this Lease the City desires to sell the
29 Leased Premises, including the City's residual interest in the Improvements thereon, the City
30 shall notify BJH in writing of the price and the terms and conditions on which the City would be
31 willing to sell the Leased Premises. After receipt of such notice, BJH shall have an option for a
32 period of six (6) months in which to purchase, or enter into a binding contract agreed to by the
33 City to purchase, the Leased Premises at the price in cash or on such other terms and conditions
34 as may be offered by the City. If BJH does not exercise this option to purchase or contract to

January 19, 2007

Page 25 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1 purchase the Leased Premises, thereafter the City shall have a period of one (1) year in which to
2 sell the Leased Premises, subject to the Lease, on any terms and conditions the City that are
3 materially the same as those offered to BJH, but not at a price that is lower than that which was
4 offered to BJH without BJH's prior written consent. If the City does not sell the Leased
5 Premises during the one-year period, then any future proposed sale of the Leased Premises shall
6 be subject to BJH's right of first refusal as described above.

7 (c) Broker's Fees. The City and BJH represent to each other that they have not
8 employed the services of brokers in connection with the leasing of the Leased Premises and
9 Improvements as set forth in this Lease. To the extent there is any misrepresentation by either
10 party in connection with the provisions of this paragraph, the misrepresenting party shall be
11 liable for all broker's fees and commissions contracted for or agreed to by such misrepresenting
12 party and shall indemnify and hold the innocent party harmless against same.

13 [balance of page left blank intentionally]

January 19, 2007

Page 26 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-
Griffin/Shelton/ Flowers/Bosley/Carter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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

CITY OF ST. LOUIS, MISSOURI

[SEAL]

By: _____
Name: Francis G. Slay
Title: Mayor

ATTEST:

Name: Parrie L. May
Title: City Register

By: _____
Name: Darlene Green
Title: Comptroller

APPROVED AS TO FORM:

Name: Patricia A. Hageman
Title: City Counselor

[NOTARY]

BARNES-JEWISH HOSPITAL

[SEAL]

By: _____
Name: _____
Title: _____

[NOTARY]

January 19, 2007

Page 27 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-Griffin/Shelton/ Flowers/Bosley/Carter

EXHIBIT A

LEASED PREMISES

Existing Hudlin Park

A tract of land being located in Part of Block 2022 of the City of St. Louis, and being more particularly described as follows:

BEGINNING at the point of intersection of the South line of Barnes-Jewish Hospital Plaza, 130 feet wide, with the West line of Euclid Avenue, 130 feet wide, thence along said West line South 04 degrees 27 minutes 35 seconds West 576.98 feet to the North line of Clayton Avenue, 60 feet wide, thence along said North line South 88 degrees 48 minutes 38 seconds West 484.28 feet to the East line of Kingshighway, variable width, thence along said East line the following courses and distances: thence North 50 degrees 43 minutes 46 seconds West 32.29 feet to a point of curvature to the right for which the radius point bears North 39 degrees 16 minutes 16 seconds East 560.69 feet; thence along last said curve with a chord which bears North 23 degrees 58 minutes 45 seconds West 504.73 feet, an arc length of 523.54 feet to a point of non-tangency; thence North 02 degrees 38 minutes 54 seconds East 128.81 feet; thence North 47 degrees 38 minutes 54 seconds East 14.14 feet to the South line of above said Barnes-Jewish Hospital Plaza; thence along last said South line South 87 degrees 20 minutes 24 seconds East 743.56 feet to the POINT OF BEGINNING and containing 410,104 square feet or 9.415 acres, more or less, according to calculations by Stock and Associates Consulting Engineers, Inc. on August 23, 2006.

January 19, 2007

Page 28 of 68

BB# 376 Sponsor: Aldermen Roddy /Vollmer/ Wessels /Young /Krewson/Ford-Griffin/Shelton/ Flowers/Bosley/Carter

EXHIBIT B
EASEMENT

Space Above Line Reserved For Recorder's Use

1. Title of Document: Easement Agreement
2. Date of Document: January 15, 2007
3. Grantor(s): City of St. Louis, Missouri, a city and political subdivision
4. Grantee(s)/Lessor: Barnes-Jewish Hospital, a Missouri not-for-profit corporation
5. Statutory Mailing Address(es):
Grantor's Mailing Address: City Hall, Tucker and Market Streets, St. Louis, MO 63103
Grantee's Mailing Address: One Barnes-Jewish Hospital Plaza, St. Louis, MO 63110
6. Legal description: See Exhibits A, B, C and D annexed to the document on pages 10 - ??
7. Reference(s) to Book and Page(s): N/A

This cover page is attached solely for the purpose of complying with the requirements stated in §§ 59.310.2; 59.313.2 RSMo. of the Missouri Recording Act.

Return Recorded Document to:

Bryan Cave LLP
One Metropolitan Square
Suite 3600
St. Louis, Missouri 63102
Attention: Linda M. Martínez

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement") is made and entered into as of January 15, 2007 (the "Effective Date"), by and between THE CITY OF ST. LOUIS, a city and political subdivision (for purposes of recordation, "Grantor") (hereinafter referred to as, "City"), and BARNES-JEWISH HOSPITAL, a Missouri not-for-profit corporation (for purposes of recordation, "Grantee") (hereinafter referred to as "BJH").

WITNESSETH:

WHEREAS, the City is the owner of and/or the holder of easement covering certain streets located in the City of St. Louis, Missouri, more particularly described on Exhibit A attached hereto and incorporated herein by reference ("City's Property"); and

WHEREAS, the City is the fee simple owner and BJH is the owner of a long-term leasehold interest in certain real estate located adjacent to City's Property, more particularly described on Exhibit B attached hereto and incorporated herein by reference ("BJH's Property"); and

WHEREAS, roads commonly known as Barnes-Jewish Hospital Plaza, Euclid Avenue, Clayton Avenue and Kingshighway (collectively, "Access Roads") are currently located on City's Property and provide access from BJH's Property to Kingshighway from the east and from the west, as shown on Exhibit C attached hereto and incorporated herein by reference; and

WHEREAS, BJH desires to secure a permanent right of access from BJH's Property to Kingshighway from the east and the west via the Access Roads as depicted in the plan attached hereto as Exhibit D (the "Easement Area"), for vehicular and pedestrian ingress and egress; and

WHEREAS, BJH also desires to secure the permanent nonexclusive right and easement to construct, reconstruct, use, operate and maintain any utilities that are currently located in the Easement Area and any utilities and services BJH deems necessary or desirable to be installed in the Easement Area for the purpose of serving BJH's Property, including any upgrades to said utilities and services which any utility company or affiliate of BJH providing services to BJH's Property deems necessary or desirable, together with all necessary and related fixtures and appurtenances thereto (hereinafter called "Utilities");

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of Easement.

(a) City hereby grants to BJH a non-exclusive perpetual easement over and upon that portion of the Easement Area of the City's Property, which is described on Exhibit D attached hereto, for the purposes of ingress and egress of vehicular and pedestrian traffic.

(b) City hereby further grants to BJH a non-exclusive perpetual easement over and upon that portion of the Access Roads of the City's Property, which is described on Exhibit

C attached hereto, for the purposes of construction, reconstruction, use, operation, maintenance and patrolling of the Utilities.

(c) The rights and privileges granted in this Section 1 shall be exercised and enjoyed by BJH and its tenants and subtenants and their respective employees, representatives, agents, servants, contractors, subcontractors and invitees. The rights and privileges granted in this Section 1 also benefit any utility company or municipality providing utility services to BJH's Property.

2. Maintenance and Repair.

(a) For so long as this Agreement shall remain in effect, the City shall be responsible for promptly performing, at its sole cost and expense, in accordance with all applicable statutes, laws, ordinances, requirements, and directives of any federal, state or local authority, in a good and workmanlike manner and consistent with the service level provided in other areas of the City, any and all maintenance, repair, replacement and reconstruction with respect to the Easement Area and the Access Roads in a good, safe and functional condition, including, without limitation, (i) the cleaning and resurfacing of the Access Roads; (ii) the removal of all debris, ice and snow on the Access Roads, and adjacent sidewalks; (iii) the repair and replacement of all entrance, exit and directional signs, markers and lights; (iv) the cleaning of lighting fixtures and re-lamping and re-ballasting as needed; (v) the mowing of any grassy areas; and (vi) the maintaining and irrigating of landscaping. Notwithstanding the foregoing, BJH shall be responsible for one hundred percent (100%) of the cost of any maintenance, repair, replacement or reconstruction incurred in connection with the Easement Area and Access Roads, to the extent directly caused by the negligent, willful or intentional acts or omissions of BJH (or its respective employees, agents, contractors, subcontractors, lessees and/or licensees).

(b) Notwithstanding anything to the contrary set forth herein, the City shall not be responsible for the maintenance, repair, replacement and reconstruction of any Utilities unless such Utilities are utilized by the City for the purpose of providing utility services to BJH's Property; provided, however, the City shall be responsible for one hundred percent (100%) of the cost of any maintenance, repair, replacement or reconstruction of the Utilities incurred to the extent caused by the negligent, willful or intentional acts or omissions of the City (or its respective employees, agents, contractors, subcontractors, lessees, licensees and/or invitees).

3. Default. In the event that either party shall fail to comply with any of the terms, covenants, agreements, and conditions contained herein and if such failure shall continue for thirty (30) days after written notice of said default from the nondefaulting party to the defaulting party specifying such default in reasonable detail (or, in the case of a default that by its nature cannot be cured within such thirty (30)-day period, if the defaulting party shall not have commenced the curing of the default within such thirty (30)-day period and thereafter shall not diligently prosecute the curing of the default to completion), then the nondefaulting party, at its option, may pursue any remedies available to it at law or in equity (other than termination of this Agreement) or may proceed to take such action as shall be necessary to cure the default, in the name of the defaulting party and for the account of the defaulting party; provided, however, in the event of an emergency and upon making reasonable efforts to contact the defaulting party, the nondefaulting party may take such action to cure the default without notice to the defaulting

party and shall subsequently notify the defaulting party of such action as soon as reasonably practicable. All expenses reasonably incurred by the nondefaulting party in connection with any work performed by the nondefaulting party pursuant to this Section shall be due and payable to the nondefaulting party by the defaulting party within ten (10) days of a detailed, written demand therefor (accompanied by reasonable documentation substantiating the amounts set forth therein) and shall bear interest at the rate of 1.5 percent per month or, if less, the maximum rate permitted by applicable law, from the date of any payment or expense by the nondefaulting party.

4. Miscellaneous.

(a) Final Agreement. This Agreement, together with all the Exhibits attached hereto and incorporated by reference herein and with that separate Lease and Maintenance Trust Agreement between parties as of even date herewith, constitutes the entire undertaking between the parties hereto, and supersedes any and all prior agreements, arrangements and understandings between the parties. Any subsequent amendment to this Agreement shall be valid only if executed in writing by the City and BJH, or their successors or assigns.

(b) No Waiver. No waiver of any condition, covenant, or agreement in this Agreement by either party hereto will imply or constitute a further waiver by said party of the same or any other condition, covenant or agreement. No waiver of any breach or obligation of a party by the other party shall be effective unless such waiver is made in a writing signed by said party.

(c) Notices. Any notice, request, demand, consent, approval, or other communication required or permitted under this Agreement will be written and will be deemed to have been given when delivered by a recognized overnight courier service providing proof of delivery or on the third day after it is deposited in any depository regularly maintained by the United States postal service, postage prepaid, certified or registered mail, return receipt requested, addressed to:

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

and

Department of Parks Recreation and Forestry
Forest Park
5600 Clayton Road
St. Louis, Missouri 63110
Attn: Director

And

City Counselor
Room 314, City Hall
St. Louis, Missouri 63103

If to BJH, delivery shall be to:

Barnes-Jewish Hospital
One Barnes-Jewish Hospital Plaza
St. Louis, Missouri 63110
Attn.: President

with a copy to:

BJC HealthCare
Mailstop 90-66-500
4444 Forest Park Ave., Suite 500
St. Louis, Missouri 63108
Attn.: Senior Vice President and General Counsel

and

Bryan Cave LLP
One Metropolitan Square
211 N. Broadway, Suite 3600
St. Louis, MO 63102-2750
Attn: Linda M. Martínez

Either the City or BJH may change its address or addressee, for purposes of this subsection by giving notice according to this subsection.

(d) Attorney's Fees. If either party brings any action or legal proceeding for damages for an alleged breach of any provision of this Agreement, to recover any sums due, to protect or establish any term, condition or covenant of this Agreement or right of either party, the prevailing party shall be entitled to recover as part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and costs, at trial, on appeal and in bankruptcy, to be fixed and determined by the court in such action or proceeding.

(e) Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

(f) Severability. If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that, in lieu of each clause or provision of this Agreement, to agree to a clause or provision as similar in terms of such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

(g) Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Missouri, without regard to its conflicts of law or choice of law rules.

(h) Authority. Each party hereby represents and warrants to the other that the person or entity signing this Agreement on behalf of such party is duly authorized to execute and deliver this Agreement and to legally bind the party on whose behalf this Agreement is signed to all of the terms, covenants and conditions contained in this Agreement.

(i) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original.

[Signature Page Follows]

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

CITY OF ST. LOUIS

By: _____
Francis G. Slay, Mayor

By: _____
Darlene Green, Comptroller

[SEAL]

Parrie L. May, City Register

APPROVED AS TO FORM:

Patricia A. Hageman, City Counselor

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this ____ day of _____, 2007, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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:

[SEAL]

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this ____ day of _____, 2007, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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:

[SEAL]

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

BARNES-JEWISH HOSPITAL

By: _____
Name: _____
Title: _____

[SEAL]

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this ____ day of _____, 2007, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he/she is the _____ of BARNES-JEWISH HOSPITAL, a Missouri not-for-profit corporation, and that the seal affixed to the foregoing instrument is the seal of said Corporation, and said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors, and said individual acknowledged said instrument to be the free act and deed of said Corporation.

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:

[SEAL]

EXHIBIT A
TO THE AGREEMENT

LEGAL DESCRIPTION OF CITY'S PROPERTY

[insert legal description of Kingshighway, Barnes-Jewish Hospital Plaza, Euclid and Clayton Avenue adjoining the BJH Property]

EXHIBIT B
TO THE AGREEMENT

LEGAL DESCRIPTION OF BJH'S PROPERTY

Existing Hudlin Park

A tract of land being located in Part of Block 2022 of the City of St. Louis, and being more particularly described as follows:

BEGINNING at the point of intersection of the South line of Barnes-Jewish Hospital Plaza, 130 feet wide, with the West line of Euclid Avenue, 130 feet wide, thence along said West line South 04 degrees 27 minutes 35 seconds West 576.98 feet to the North line of Clayton Avenue, 60 feet wide, thence along said North line South 88 degrees 48 minutes 38 seconds West 484.28 feet to the East line of Kingshighway, variable width, thence along said East line the following courses and distances: thence North 50 degrees 43 minutes 46 seconds West 32.29 feet to a point of curvature to the right for which the radius point bears North 39 degrees 16 minutes 16 seconds East 560.69 feet; thence along last said curve with a chord which bears North 23 degrees 58 minutes 45 seconds West 504.73 feet, an arc length of 523.54 feet to a point of non-tangency; thence North 02 degrees 38 minutes 54 seconds East 128.81 feet; thence North 47 degrees 38 minutes 54 seconds East 14.14 feet to the South line of above said Barnes-Jewish Hospital Plaza; thence along last said South line South 87 degrees 20 minutes 24 seconds East 743.56 feet to the POINT OF BEGINNING and containing 410,104 square feet or 9.415 acres, more or less, according to calculations by Stock and Associates Consulting Engineers, Inc. on August 23, 2006.

EXHIBIT C
TO THE AGREEMENT

DEPICTION OF ACCESS ROADS

[insert depiction of Kingshighway, Barnes-Jewish Hospital Plaza, Euclid and Clayton Avenue adjoining the BJH Property]

EXHIBIT D
TO THE AGREEMENT

DESCRIPTION OF ACCESS ROADS EASEMENT AREA

[insert depiction of egress from BJH Property via Euclid Avenue and via Clayton Avenue on Clayton Avenue under Kingshighway and then going north and east to Kingshighway]

EXHIBIT C

MAINTENANCE TRUST AGREEMENT

MAINTENANCE TRUST AGREEMENT

Dated as of January 15, 2007

Among

THE CITY OF ST. LOUIS, MISSOURI,

BARNES-JEWISH HOSPITAL

And

UMB BANK, N.A.

MAINTENANCE TRUST AGREEMENT

THIS MAINTENANCE TRUST AGREEMENT dated as of January 15, 2007 (the “Agreement”), between the **CITY OF ST. LOUIS, MISSOURI**, a city and political subdivision duly organized and existing under its charter and the constitutions and laws of the State of Missouri (the “City”), **BARNES-JEWISH HOSPITAL**, a not-for-profit corporation organized and existing under the laws of the State of Missouri (“BJH”), and **UMB BANK, N.A.**, a national banking association, located in St. Louis, Missouri, and having full trust powers, as Trustee (the “Trustee”).

RECITALS:

1. Pursuant to Ordinance No. _____ adopted on _____, 2007, the City authorized a certain Amended and Restated Lease dated as of January 15, 2007 between the City and BJH covering certain property located in a portion of Forest Park (the “Lease”).

2. Pursuant to Resolution __ adopted on _____, 1995, the City has adopted a Master Plan governing capital improvements to and operations of Forest Park (the “Master Plan”).

3. The City is desirous of establishing a long-term funding mechanism for the maintenance of Forest Park in order to meet the policy guidelines of the Master Plan.

4. The City and BJH have agreed that as part of the consideration for the Lease is the execution and performance under this Maintenance Trust Agreement to establish a long-term funding mechanism for Forest Park.

5. BJH has agreed to make donations in trust under this Maintenance Trust Agreement (the “Donation Amount”).

6. The Trustee has agreed to hold, invest and disburse the Donation Amounts deposited hereunder in accordance with the terms of this Maintenance Trust Agreement.

7. The City has agreed to request and apply the Donation Amounts deposited hereunder in the Park Maintenance Fund (as hereinafter defined), to reimburse the City for expenses incurred in the operation and maintenance of Forest Park in accordance with the Maintenance Cooperation Agreement (the “Maintenance Cooperation Agreement”) between the City and Forest Park Forever, Inc.. (“Forest Park Forever”).

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Definitions.** In addition to the definitions set forth above, the following words and terms used in this Maintenance Trust Agreement shall have the following meanings:

“Business Day” means any day other than a Saturday, Sunday or any other day on which banking institutions in the city in which the principal corporate trust office or payment office of the Trustee is located are required or authorized by law to close.

“City Representative” means the Director of Parks or any other person or persons at the time designated to act on behalf of the City in matters not requiring legislative authorization relating to the Park Maintenance Fund and this Maintenance Trust Agreement as evidenced by a written certificate furnished to the Trustee containing the specimen signature of such person or persons and signed on behalf of the City by its Mayor and its Comptroller. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the City Representative.

“Cost of Maintaining Forest Park” shall mean any expense incurred by or on behalf of the City in operating and maintaining Forest Park in accordance with the Maintenance Cooperation Agreement.

“Donation Payment Date” means the date of the execution of this Agreement (or such later date as provided in the Lease) and July 1st of each year thereafter commencing July 1, 2007 and continuing during the term of the Lease.

“Leased Premises” shall have the same meaning as provided in the Lease.

“Lease Year” shall mean each July 1 to June 30 during the term of the Lease.

“Park Maintenance Fund” means the fund by that name referred to in **Section 2** of this Maintenance Trust Agreement.

“Permitted Investments” means, if and to the extent the same are at the time legal for investment of funds held under this Maintenance Trust Agreement:

(a) cash, certificates of deposit or instruments of deposit (in each case, insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in paragraph (b) below);

(b) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of Treasury of the United States of America;

(c) U.S. dollar denominated deposit accounts, federal funds and banker’s acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of “A-1” or “A-1+” by Standard & Poor’s and “P-1” by Moody’s and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);

(d) commercial paper which is rated at the time of purchase in the single highest classification, “A-1+” by Standard & Poor’s and “P-1” by Moody’s and which matures not more than 270 days after the date of purchase; and/or

(e) investments in a money market fund rated “AAAm” or “AAAm-G” or better by Standard & Poor’s.

2. Creation of Park Maintenance Fund. There is hereby created and established with the Trustee the following special and irrevocable separate trust fund to be held in the custody of the Trustee and designated as the “Park Maintenance Fund” (the “Park Maintenance Fund”).

3. Deposits to the Park Maintenance Fund. On the date of the execution of this Agreement, BJH agrees to deposit \$_____ with the Trustee [Note: calculation is \$166,000 times number of months between the effective date of the Lease and June 30, 2007 less \$500,000]. On each Donation Payment Date thereafter, BJH hereby agrees to deposit with the Trustee the Donation Amount calculated as follows:

(a) the Donation Amount shall be \$2,000,000 per year for the Lease Year commencing July 1, 2007 and ending on June 30, 2008 and for each Lease Year thereafter, and such amount is subject to the adjustments as described in paragraphs (b), (c) and (d) below.

(b) CPI Adjustment. Commencing five years after July 1, 2016, or July 1 of the Lease Year five years after the commencement of construction by BJH on the Leased Premises if earlier, and every fifth anniversary of that date during the term of the Lease (each an “Adjustment Date”), the Donation Amount shall be subject to escalation as follows:

(i) “Index” shall mean the “Consumer Price Index for all Urban Consumers” (CPI-U) specified for All Items, relating to St. Louis, Missouri and issued by the Bureau of Labor Statistics of the United States Department of Labor. In the event the Index shall hereafter be converted to a different standard reference base or otherwise revised, the determination of the Percentage Increase (defined below) shall be made with the use of such conversion factor, formula or table for converting the Index as may be published by the Bureau of Labor Statistics or, if said shall not publish the same, then with the use of such conversion factor, formula or table as may be published by Prentice Hall, Inc., or failing such publication, by any other nationally recognized publisher of similar statistical information as agreed to by the City and BJH. In the event the Index shall cease to be published, then for the purposes of this paragraph, City and BJH shall agree upon the new index to be used.

(ii) “Base Index” shall mean the Index in effect in December of the fifth calendar year prior to each Adjustment Date.

(iii) “Anniversary” shall mean December of the calendar year prior to the each Adjustment Date, i.e. the first Anniversary shall be December, 2020 (or December of the calendar year five years after the commencement of construction by BJH on the Leased Premises if earlier), the second Anniversary shall be December, 2025, etc.

(iv) “Percentage Increase” shall mean the percentage equal to the fraction, the numerator of which shall be the Index at the Anniversary less the Base Index, and the denominator of which shall be the Base Index; provided, however that the Percentage Increase for each one-year period between each Anniversary shall be not less than one

percent (1%) nor shall it exceed two percent (2%); and provided, further that the Percentage Increase for each five-year period between Anniversaries shall not exceed ten percent (10%).

(v) If the Index at an Anniversary shall exceed the Base Index, then the Donation Amount payable for the ensuing five Lease Years, and thereafter until a new index comparative statement is sent to BJH, shall be increased by the Percentage Increase adjusted in accordance with (c) and (d) below due to any decrease in the square footage of the Leased Premises. On or before April 1st of the Lease Year to which the increase in the Donation Amount applies, City shall send BJH and the Trustee an “Index Comparative Statement” setting forth the following:

- (1) The Index at the Anniversary preceding the date of the statement,
- (2) The Base Index,
- (3) The Percentage Increase,
- (4) Any adjustments due to (c) and (d) below due to any decrease in the amount of the Leased Premises; and
- (5) The net increased Donation Amount.

(c) In the event that any portion of the Leased Premises shall be taken due to MoDOT modifications to intersection of I-64/40 and Kingshighway, the Donation Amount hereunder shall be reduced, commencing with the first day of the next Lease Year following the date of such reduction of Leased Premises and for each Lease Year thereafter, by a fraction the numerator of which shall be the total square footage taken and the denominator of which shall be the total square footage of the Leased Premises prior to MoDOT modifications.

(d) In the event that any portion of the Leased Premises shall be taken due to condemnation, the Donation Amount hereunder shall be reduced, commencing with the first day of the next Lease Year following the date of such reduction of Leased Premises and for each Lease Year thereafter, by a fraction the numerator of which shall be the total square footage taken and the denominator of which shall be the total square footage of the Leased Premises prior to condemnation.

(e) Trustee shall provide notice to the City and Forest Park Forever of the failure of BJH to contribute the Donation Amount in accordance with the Terms hereof.

4. Application of Amounts on Deposit in the Park Maintenance Fund.

(a) The Trustee shall disburse moneys on deposit in the Park Maintenance Fund from time to time for the Costs of Maintaining Forest Park within three (3) Business Days after receipt by the Trustee of written disbursement requests of the City in substantially the form of **Exhibit A or Exhibit B** hereto, complete in all respects, and signed by the City Representative.

(b) In making payments pursuant to this Section, the Trustee may rely upon such written requests and accompanying certificates and statements and shall not be required to make any independent inspection or investigation in connection therewith.

(c) Upon termination of the Lease and receipt of notice from the City to the Trustee confirming such termination, all remaining money and securities in the Park Maintenance Fund, together with any interest thereon, shall be transferred to the City to be applied in accordance with law.

5. Investments; Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for the funds and accounts held under this Maintenance Trust Agreement shall be held by the Trustee and shall be applied only in accordance with the provisions of this Maintenance Trust Agreement. The Trustee shall not be under any liability for interest on any moneys received hereunder except as provided in this Maintenance Trust Agreement. Moneys held in the Park Maintenance Fund shall, pursuant to written directions of the City Representative, or in the absence of such direction at the discretion of the Trustee, be invested and reinvested by the Trustee in Permitted Investments which mature or are subject to redemption by the owner thereof prior to the date such funds are expected to be needed. If such written directions are not received, then the Trustee is authorized to invest such moneys in Permitted Investments described in subparagraph (e) of the definition thereof. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees, which may be deducted from income earned on investments. The Trustee may make any investments permitted by the provisions of this Section through its own bond department or short-term investment department or that of any affiliate of the Trustee and may pool moneys for investment purposes. Any such Permitted Investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the Park Maintenance Fund. The interest accruing on such fund and any profit realized from such Permitted Investments shall be credited to such fund, and any loss resulting from such Permitted Investments shall be charged to such fund. The Trustee shall sell or present for redemption and reduce to cash a sufficient amount of such Permitted Investments whenever it shall be necessary to provide moneys hereunder and the Trustee shall not be liable for any loss resulting from such investments.

6. Reports of the Trustee. The Trustee shall keep and maintain adequate records pertaining to the Park Maintenance Fund and all disbursements therefrom, and shall file periodic statements of activity regarding the Project Fund with the City and BJH.

7. Liability of Trustee.

(a) The Trustee shall not be liable for any loss resulting from any investment, sale, transfer or other disposition made pursuant to this Maintenance Trust Agreement in compliance with the provisions hereof. The Trustee shall have no lien whatsoever on any of the money or securities on deposit in the Park Maintenance Fund for the payment of fees and expenses for services rendered by the Trustee under this Maintenance Trust Agreement or otherwise.

(b) So long as the Trustee applies the securities and money as provided herein, the Trustee shall not be liable for any deficiencies in the amounts necessary to pay the cost of

maintaining Forest Park. Notwithstanding the foregoing, the Trustee shall not be relieved of liability arising from and proximate to its failure to comply fully with the terms of this Maintenance Trust Agreement.

(c) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, attorneys, receivers, employees or such other professionals but shall not be answerable for the conduct of the same in accordance with the standard specified above, provided Trustee has exercised reasonable care in making such selection. The Trustee may act and conclusively rely upon the opinion or advice of counsel, who may, without limitation, be counsel to the City, BJH or an employee of the Trustee, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys, receivers, employees and other such professionals as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith and shall be fully protected in reliance upon such opinion or advice of counsel.

(d) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Maintenance Trust Agreement reasonably believed by it to be genuine and correct and to have been signed, presented or sent by the proper person or persons.

(e) The permissive right of the Trustee to do things enumerated in this Maintenance Trust Agreement shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(f) The Trustee shall not be required to give any bond or surety in respect of the execution of its trusts and powers hereunder.

(g) Except as provided in Section 7 of this Maintenance Trust Agreement, the Trustee and its respective successors, assigns, agents, directors, officers, employees and servants shall not be held to any personal liability whatsoever, in tort, contract or otherwise, in connection with the execution and delivery of this Maintenance Trust Agreement, the establishment of the Park Maintenance Fund, the acceptance of the money deposited therein, the purchase of Permitted Investments in accordance with the terms of this Maintenance Trust Agreement, the retention of such Permitted Investments or the proceeds thereof or any payment, transfer or other application of the money or Permitted Investments held by the Trustee in the Park Maintenance Fund in accordance with the provisions of this Maintenance Trust Agreement or by reason of any non-negligent act, omission or error of the Trustee made in good faith in the conduct of its duties. The duties and obligations of the Trustee shall be determined by the express provisions of this Maintenance Trust Agreement.

(h) Anything herein to the contrary notwithstanding, before taking any action under this Maintenance Trust Agreement, other than any action specifically provided for herein or the part of the Trustee, the Trustee may, in its discretion, require that satisfactory indemnity be furnished to it by the other parties hereto for the reimbursement of all reasonable fees, costs

liabilities, losses, claims and expenses to which it or its agents or counsel may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(i) Unless the Trustee is guilty of negligence or willful misconduct with regard to its duties hereunder, the City, to the extent permitted by law and BJH hereby agree, jointly and severally, to indemnify the Trustee and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Trustee under this Maintenance Trust Agreement (and/or any dealings between the City and BJH related to the Lease); and in connection therewith, to indemnify the Trustee against any and all expenses, including reasonable attorneys' fees and expenses and the cost of defending any action, suit or proceeding or resisting any claim. Notwithstanding anything in this Maintenance Trust Agreement to the contrary, the Trustee shall be vested with a lien on the Park Maintenance Fund for indemnification, for reasonable attorneys' fees and expenses, court costs, for any suit, interpleader or otherwise, or any other expenses, fees or charges of any character or nature, which may be incurred by the Trustee by reason of disputes arising between the City and BJH as to the correct interpretation of the Lease or this Maintenance Trust Agreement and instructions given to the Trustee hereunder, or otherwise, with the right of the Trustee, regardless of the instructions aforesaid, to hold the said property until and unless said additional expenses, fees and charges shall be fully paid. The foregoing indemnities shall survive the resignation or substitution of the Trustee or the termination of this Maintenance Trust Agreement.

8. Fees and Costs of the Trustee. The aggregate amount of the costs, fees and expenses of the Trustee in connection with the creation of the escrow described in and created by this Maintenance Trust Agreement and in carrying out any of the duties, terms or provisions of this Maintenance Trust Agreement shall be paid by BJH when due.

Notwithstanding the preceding paragraph, the Trustee shall be entitled to reimbursement from BJH of reasonable out-of-pocket expenses incurred in carrying out the duties, terms or provisions of this Maintenance Trust Agreement. Claims for such reimbursement may be made to BJH and in no event shall such reimbursement be made from funds held by the Trustee pursuant to this Maintenance Trust Agreement.

If the Trustee resigns prior to the expiration of this Maintenance Trust Agreement, the Trustee shall rebate to BJH a ratable portion of any annual fee theretofore paid by BJH to the Trustee for its services under this Maintenance Trust Agreement for the then current fee period.

9. Resignation or Removal of Trustee; Successor Trustee. The Trustee at the time acting hereunder may at any time resign and be discharged from its duties and responsibilities hereby created by giving written notice by registered or certified mail to the City and BJH not less than sixty (60) days prior to the date when the resignation is to take effect. Such resignation shall take effect immediately upon the acceptance of the City and BJH of the resignation, the appointment of a successor Trustee (which may be a temporary Trustee) by the City and BJH, the acceptance of such successor Trustee of the terms, covenants and conditions of this Maintenance Trust Agreement, the transfer of the Park Maintenance Fund, including the money and any investments held therein, to such successor Trustee and the completion of any

other actions required for the securities to be made payable to such successor Trustee rather than the resigning Trustee.

The Trustee may be removed by the City if the Trustee fails to make timely payments of the amounts required to be paid by it by **Section 4** of this Maintenance Trust Agreement. Any removal pursuant to this paragraph shall become effective upon the appointment of a successor Trustee (which may be a temporary successor Trustee) by the City and BJH, the acceptance of such successor Trustee of the terms, covenants and conditions of this Maintenance Trust Agreement, the transfer of the Park Maintenance Fund, including the money and any investments held therein, to such successor Trustee and the completion of any other actions required for the securities to be made payable to such successor Trustee rather than the Trustee being removed.

If the Trustee resigns or is removed, or is dissolved, or is in the course of dissolution or liquidation, or otherwise becomes incapable of acting hereunder, or if the Trustee is taken under the control of any public officer or officers, or of a receiver appointed by a court, the City and BJH shall appoint a temporary Trustee to fill such vacancy until a successor Trustee is appointed by the City and BJH in the manner above provided, and any such temporary Trustee so appointed by the City and BJH shall immediately and without further act be superseded by the successor Trustee so appointed.

If no appointment of a successor Trustee or a temporary successor Trustee has been made by the City and BJH pursuant to the foregoing provisions of this Section within sixty (60) days after written notice of resignation of the Trustee has been given to the City and BJH, the Trustee may apply to any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice, if any, as it shall deem proper, appoint a successor Trustee.

No successor Trustee shall be appointed unless such successor Trustee is a corporation with trust powers authorized to do business in the State of Missouri and organized under the banking laws of the United States or the State of Missouri and has at the time of appointment capital and surplus of not less than \$25,000,000.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, the City and BJH an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee without any further act, deed or conveyance shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, but such predecessor shall, nevertheless, on the written request of such successor Trustee, the City or BJH, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder, and every predecessor Trustee shall deliver all securities and money held by it to its successor. Should any transfer, assignment or instrument in writing from the City or BJH be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor Trustee the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor Trustee, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by the City and BJH.

Any corporation into which the Trustee, or any successor to it of the duties and responsibilities created by this Maintenance Trust Agreement, may be merged or converted or with which it or any successor to it may be consolidated, or any corporation resulting from any merger, conversion, consolidation or reorganization to which the Trustee or any successor to it may be a party, or any entity to which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall, if satisfactory to the City, be the successor Trustee under this Maintenance Trust Agreement without the execution or filing of any paper or any other act on the part of the parties hereto, anything herein to the contrary notwithstanding.

10. Limitation on Liability of BJH. BJH shall not be liable (a) for any loss resulting from any investment made pursuant to this Maintenance Trust Agreement, (b) for the accuracy of the calculations as to the money in the Park Maintenance Fund, or (c) for any acts of the City or the Trustee.

11. Amendments to this Maintenance Trust Agreement. This Maintenance Trust Agreement is made for the benefit of the City, and it shall not be repealed or revoked without the prior written consent of BJH and the City, and may not be altered or amended without the prior written consent of BJH, the Trustee and the City.

12. Termination. This Maintenance Trust Agreement shall terminate upon the expiration of the Lease. Upon such termination, all amounts on deposit in the Maintenance Trust Fund shall be transferred to the City.

13. Notices. Except as otherwise provided herein, it shall be sufficient service of any notice, request, complaint, demand or other paper required by the Lease or this Maintenance Trust Agreement to be given to or filed with the following parties if the same is duly mailed by first class, certified or registered mail addressed, provided, however, that any of the foregoing given to the Trustee shall be effective upon receipt:

(a) To the City at:

City of St. Louis
Office of the Mayor
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103
Attention: Mayor
Facsimile: 314-622-____

And:

City of St. Louis
Office of the Comptroller
City Hall
1200 Market Street, Room 212
St. Louis, Missouri 63103
Attention: Comptroller
Facsimile: 314-588-0550

With a copy to:

City of St. Louis
City Counselor's Office
City Hall
1200 Market Street, Room 314
St. Louis, Missouri 63103
Attention: City Counselor
Facsimile: 314-622-4956

(b) To BJH at:

Barnes-Jewish Hospital
10 Barnes-Jewish Hospital Plaza
St. Louis, Missouri 63110
Attention: President

With a copy to:

BJC HealthCare
Mailstop 90-66-500
4444 Forest Park Avenue
Suite 500
St. Louis, Missouri 63108
Attention: Senior Vice President and General Counsel

And

Bryan Cave LLP
One Metropolitan Square
211 N. Broadway, Suite 3600
St. Louis, Missouri 63102-2750
Attention: Linda M. Martínez

(c) To the Trustee at:

UMB Bank, N.A.
2 South Broadway, Suite 435
St. Louis, Missouri 63102
Attention: Corporate Trust Department

(d) To Forest Park Forever at:

Forest Park Forever
5595 Grand Avenue
St. Louis, Missouri 63112
Attention: President
Facsimile: 314-367-7622

14. Severability. If any one or more of the covenants or agreements provided in this Maintenance Trust Agreement on the part of the City or the Trustee to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Maintenance Trust Agreement.

15. Successors and Assigns. All of the covenants, promises and agreements in this Maintenance Trust Agreement contained by or on behalf of the City, BJH or the Trustee shall be binding upon and inure to the benefit of their respective successors and assigns whether so expressed or not.

16. Governing Law. This Maintenance Trust Agreement shall be governed by the applicable law of the State of Missouri.

17. Dispute Resolution Process.

(a) The City, BJH and the Trustee agree that in the event of a disagreement concerning the matters described herein (including without limitation the calculation of the escalation of the Donation Amount) they shall negotiate, in good faith, in an attempt to resolve such disagreement for a period of at least forty-five(45) days following receipt of notice from either party setting forth the specifics of the disagreement and the relief requested. If such dispute shall involve the payment of Donation Amount, the City and BJH agree that BJH shall pay that portion of the Donation Amount which is undisputed prior to contesting such amount and such payment shall not prejudice either party in the contest of the remaining amount.

(b) Should the City and BJH be unable to resolve such disagreement through good faith negotiation, to the extent permitted by law, the City and BJH agree to attempt in good faith to resolve such disagreement through mediation administered by an organization offering commercial mediation services. Unless otherwise agreed all mediation proceedings shall be conducted in the City of St. Louis, Missouri.

(c) The City and BJH may seek an adjudication of the controversy by the Circuit Court of the City of St. Louis, Missouri, and the prevailing party therein shall be entitled to recover all costs and expenses, including reasonable legal fees and expenses associated therewith.

18. Counterparts. This Maintenance Trust Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

The Trustee, BJH and the City agree that the transactions described herein may be conducted and related documents may be received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Balance of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the parties hereto have each caused this Maintenance Trust Agreement to be executed by their duly authorized officer(s) or elected official(s) and their corporate seals to be hereunder affixed and attested as of the date first above written.

CITY OF ST. LOUIS, MISSOURI

[SEAL]

By: _____

Name: Francis G. Slay

Title: Mayor

ATTEST:

Name: Parrie L. May

Title: Register

By: _____

Name: Darlene Green

Title: Comptroller

APPROVED AS TO FORM:

Name: Patricia A. Hageman

Title: City Counselor

[NOTARY]

IN WITNESS WHEREOF, the parties hereto have each caused this Maintenance Trust Agreement to be executed by their duly authorized officer(s) or elected official(s) and their corporate seals to be hereunder affixed and attested as of the date first above written.

BARNES-JEWISH HOSPITAL

[SEAL]

By: _____

Name: _____

Title: _____

[NOTARY]

IN WITNESS WHEREOF, the parties hereto have each caused this Maintenance Trust Agreement to be executed by their duly authorized officer(s) or elected official(s) and their corporate seals to be hereunder affixed and attested as of the date first above written.

UMB BANK, N.A.

[SEAL]

By: _____

Name: _____

Title: _____

[NOTARY]

EXHIBIT A

TO THE MAINTENANCE TRUST AGREEMENT

Request No: _____

Date: _____

DISBURSEMENT REQUEST

To: UMB, N.A., as Trustee

Corporate Trust Department

St. Louis, Missouri,

Re: Maintenance Trust Agreement among the City of St. Louis, Missouri,
Barnes-Jewish Hospital and the Trustee

You are hereby requested and directed as Trustee under the Maintenance Trust Agreement dated as of January 15, 2007 (the "Maintenance Trust Agreement"), among the City of St. Louis, Missouri, Barnes-Jewish Hospital and you, as Trustee, to pay from moneys in the Park Maintenance Fund, pursuant to **Section 4** of the Maintenance Trust Agreement, to the City to reimburse the City for the following payments incurred in the maintenance of Forest Park which constitute Cost of Maintaining Forest Park (as defined in the Maintenance Trust Agreement):

<u>[Payee/Project]</u>	<u>Amount</u>	<u>Description</u>
------------------------	---------------	--------------------

January 19, 2007

Page 16 of 68

BB# 376CS

Sponsor: Alderman Roddy

The undersigned authorized representative of the City of St. Louis, Missouri (the "City") hereby states and certifies that:

1. Each item listed above is a valid and proper Cost of the Maintaining Forest Park (as defined in the Maintenance Trust Agreement).
2. Each item listed above has not previously been paid or reimbursed from moneys in the Park Maintenance Fund and no part thereof has been included in any other Disbursement Request previously filed with the Trustee under the provisions of the Park Maintenance Agreement or reimbursed to the City from the Park Maintenance Fund.
3. There has not been filed with or served upon the City any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request.
4. All work for which payment is now requested has been performed in a good and workmanlike manner and in accordance with the Maintenance Cooperation Agreement.

CITY OF ST. LOUIS, MISSOURI

By: _____

City Representative

January 19, 2007

Page 17 of 68

BB# 376CS

Sponsor: Alderman Roddy

EXHIBIT B

TO THE MAINTENANCE TRUST AGREEMENT

Request No: _____

Date: _____

DISBURSEMENT REQUEST

To: UMB, N.A., as Trustee

Corporate Trust Department

St. Louis, Missouri,

Re: Maintenance Trust Agreement among the City of St. Louis, Missouri,
Barnes-Jewish Hospital and the Trustee

You are hereby requested and directed as Trustee under the Maintenance Trust Agreement dated as of January 15, 2007 (the "Maintenance Trust Agreement"), among the City of St. Louis, Missouri, Barnes-Jewish Hospital and you, as Trustee, to transfer the moneys in the Park Maintenance Fund, pursuant to **Section 4** of the Maintenance Trust Agreement ("Transferred Funds"), to the Park Maintenance Fund under the Maintenance Cooperation Agreement (as defined in the Maintenance Trust Agreement) for application by the City and Forest Park Forever to the maintenance of Forest Park for expenditures which constitute Cost of Maintaining Forest Park (as defined in the Maintenance Trust Agreement).

The undersigned authorized representative of the City of St. Louis, Missouri (the "City") hereby states and certifies that:

1. The Transferred Funds shall be applied to Cost of the Maintaining Forest Park (as defined in the Maintenance Trust Agreement).
2. There has not been filed with or served upon the City any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request.
3. All work for which the Transferred Funds will be applied will be performed in a good and workmanlike manner and in accordance with the Maintenance Cooperation Agreement.

CITY OF ST. LOUIS, MISSOURI

January 19, 2007

Page 18 of 68

BB# 376CS

Sponsor: Alderman Roddy

By: _____

City Representative

EXHIBIT D

POLICY STATEMENT OF BARNES-JEWISH HOSPITAL REGARDING
DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

It is the policy of Barnes-Jewish Hospital (“BJH”) to ensure the maximum utilization of qualified minority business enterprises (“MBEs”) and qualified women’s business enterprises (“WBEs”) in the proposed permanent improvements upon the Leased Premises, while the same time achieving a competitive contract price for goods and services of high quality.

A MBE is defined as a business which is at least fifty-one percent (51%) owned and controlled by minority group members. Controlled means that the minority ownership must exercise actual day-to-day management of the business. Minority groups covered by this policy include Black-Americans, Hispanic-Americans, Native-Americans, and Asian-Pacific Americans.

A WBE is defined as an independent business concern which is at least fifty-one (51%) owned by a woman or women, who also control and operate it. Determination of whether a business is at least fifty-one percent (51%) owned by a woman or otherwise qualified WBE which is fifty-one percent (50%) owned by a married woman in a community property State will not be disqualified because her husband has a fifty percent (50%) interest in her share.

Maximum utilization means, with respect to the proposed improvement projects, that the general contractor shall take all reasonable steps: (i) to provide MBEs and WBEs (collectively referred to as Disadvantaged Business Enterprises or “DBE”) with the maximum opportunity to compete for all construction contracts and subcontracts, and to furnish supplies and labor (“Subcontracts”); and (ii) to provide, as reference points, that at least twenty-five percent (25%) of all work for the project as a whole will be performed by MBEs and that at least five percent (5%) of all work on the project will be performed by WBEs.

Ordinarily, the main criteria to be used in selection of this successful general contractor for a particular project are: (i) competitive price; (ii) quality of work; (iii) ability to meet or exceed reference points; (iv) favorable contract terms, and (v) qualifications of contractor. In selecting the successful bidder, BJH’s management may give such relative weight to each criterion as it deems appropriate.

The general contractor shall make a good faith effort to replace with another DBE any DBE subcontractor who is unable to perform satisfactorily. Replacement firms must be approved by BJH.

January 19, 2007

Page 19 of 68

BB# 376CS

Sponsor: Alderman Roddy

Each general contract shall make adequate provision to compensate BJH for damages in the event the actual dollar amount paid to DBE falls short of the amount to be paid as set forth in the bid as awarded. The foregoing policy shall be implemented, and DBE utilization shall be evaluated in the context of the dollar value of the following factors:

A contract or subcontract awarded to DBEs.

A subcontractor with a joint venture eligible under the DBE standards equal to the percentage of the ownership and control of the DBE partner in the joint venture.

Expenditures to DBEs who perform a commercially useful function in the contract. A DBE is considered to perform a commercially useful function when responsible for the execution of a distinct element of the work of a contract and the carrying out of the responsibilities by actually performing, managing and supervising the work involved.

Expenditures to a DBE manufacturer.

Expenditures for materials and supplies required under a contract and obtained from a DBE regular dealer.

- a. A regular dealer is a firm that owns, operates, or maintains a store, which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business and in its own name, the purchase and sale of products in question.
- b. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section (i.e. a truck hauler is a regular dealer when the firm owns, operates, maintains, or leases, operates and maintains, the distribution equipment for the delivery of the above products to the public in the usual course of business; ad hoc performance for one contractor or select group of contractors does not qualify as a regular dealer).
- c. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor (i.e. a supplier who produces goods from raw materials or substantially alters them before resale).

The following expenditures to DBE firms that are not regular dealers or manufacturers: The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler or trucker is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by BJH to be reasonable as compared with fees customarily allowed for similar service.

A contractor's good faith efforts to meet the DBE reference point may include, but are not limited to, such items as the following:

Attended a pre-bid meeting, if any, schedules by BJH to inform DBEs of contracting and subcontracting opportunities;

Advertised in general circulation trade association and socially and economically disadvantaged business-directed media concerning the subcontracting opportunities;

Provided written notice to a reasonable number of specific DBEs that their interest in the contract is solicited, in sufficient time to allow the DBEs to participate effectively;

Followed up on initial solicitations of interest by contracting DBEs to determine with certainty whether the DBEs were interested;

Selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);

Provided interested DBEs adequate information about plans, specifications and requirements of the contract;

Negotiated in good faith with interested DBEs not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;

Made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by BJH or by the bidder; and

Made effective use of the services of available disadvantaged business trade organizations, minority contractors' group, local, state and federal disadvantaged business assistance offices and other organizations that provide assistance in the recruitment and placement of DBEs.

The general contractor shall make a good faith effort to replace with another DBE any DBE subcontractor who is unable to perform satisfactorily. Replacement firms must be approved by BJH.

Each general contract for a project shall provide a reasonable retainage to be withheld until the date of substantial completion. Pending completion of the contract, amounts paid to DBEs shall be reported to BJH on a monthly basis. Prior to the release of the retainage, the general contractor shall file a list with BJH showing the DBEs used and the work performed. The list shall show the actual dollar amount paid to each DBE that is applicable to the percentage participation established in the contract. The general contract shall provide that in the event the actual dollar amount paid to DBE falls short of the amount to be paid as set forth in the bid as awarded, BJH may sustain damages, the exact extent of which would be difficult or impossible to ascertain. Therefore, in order to liquidate such damages, the contract shall provide that the monetary difference between the amount to be paid to the DBEs as set forth in the bid as awarded less the amount actually paid to the DBEs for performing a commercially useful function will be deducted from the contractor's payments as liquidated damages. No such deduction will be made when, for reasons beyond the reasonable control of the contractor, the stated DBE participation is not met. Any amount so deducted will be donated to organizations offering scholarship and/or internship programs for disadvantaged or disabled youth, with preference given to scholarships and internships in the fields of health care or used by BJH for such scholarship and/or internship programs as may be sponsored or operated by BJH. BJH shall report to the City's contract compliance officer the occurrence and amount of any such deduction and the organization to which the money is donated or the use made thereof by BJH for scholarship and/or internship programs.

January 19, 2007

Page 22 of 68

BB# 376CS

Sponsor: Alderman Roddy

EXHIBIT 2

[MAINTENANCE TRUST AGREEMENT]

See Exhibit C to Exhibit 1.

January 19, 2007

Page 23 of 68

BB# 376CS

Sponsor: Alderman Roddy