

ORDINANCE #67313
Board Bill No. 243

AN ORDINANCE AFFIRMING ADOPTION OF A REDEVELOPMENT PLAN, REDEVELOPMENT AREA, AND REDEVELOPMENT PROJECT; AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT BETWEEN THE CITY AND 4100 DEVELOPMENT, INC.; PRESCRIBING THE FORM AND DETAILS OF SAID AGREEMENT; DESIGNATING 4100 DEVELOPMENT, INC., AS DEVELOPER OF THE REDEVELOPMENT AREA; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AUTHORIZING OTHER RELATED ACTIONS IN CONNECTION WITH THE REDEVELOPMENT OF CERTAIN PROPERTY WITHIN THE REDEVELOPMENT AREA; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS, the City of St. Louis, Missouri (the "City"), is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, on December 20, 1991, pursuant to Ordinance No. 62477, the Board of Aldermen of the City created the Tax Increment Financing Commission of the City of St. Louis, Missouri (the "TIF Commission"); and

WHEREAS, on April 12, 2006, after all proper notice was given, the TIF Commission held a public hearing in conformance with the TIF Act (hereinafter defined) and received comments from all interested persons and taxing districts affected by the Redevelopment Plan and the redevelopment project described therein; and

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri (2000), as amended (the "Act" or "TIF Act"), and after due consideration of the TIF Commission's recommendations, the Board of Aldermen of the City of St. Louis, Missouri adopted Ordinance No. 67146 effective June 24, 2006, which Ordinance: (i) adopted and approved a redevelopment plan entitled the "4100 Forest Park TIF Redevelopment Plan" dated February 17, 2006, (the "Redevelopment Plan"), (ii) designated the 4100 Forest Park Redevelopment Area (as described in the Redevelopment Plan) as a "redevelopment area" as that term is defined in the TIF Act (the "Redevelopment Area"), (iii) adopted and approved the Redevelopment Project described in the Redevelopment Plan, (iv) adopted tax increment allocation financing within the Redevelopment Area, (v) established the City of St. Louis, Missouri "4100 Forest Park Special Allocation Fund," and (vi) made certain findings with respect thereto, all as set forth in such Ordinance and in accordance with the requirements of the Act; and

WHEREAS, the Redevelopment Plan proposes to redevelop the Redevelopment Area by renovating and rehabilitating the existing structure in the Area into commercial space and residential space with other improvements, as set forth in the Redevelopment Plan (the "Redevelopment Project," or "TIF Project"); and

WHEREAS, pursuant to Ordinance No. 67146, the Board of Aldermen has determined that completion of the Redevelopment Project is of economic significance to the City, will serve to benefit the general welfare, qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a "redevelopment area" as provided in the TIF Act, and further, that redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan is not financially feasible without the adoption of tax increment allocation financing and would not otherwise be completed; and

WHEREAS, the Redevelopment Area qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a "blighted area" as provided in the TIF Act and as set forth herein; and

WHEREAS, it is necessary and desirable and in the best interest of the City to enter into the Redevelopment Agreement with 4100 Development, Inc. (the "Developer"), in order that Developer may complete the Redevelopment Project which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City of St. Louis, preservation of historic structures, providing for a stabilized population and plan for the optimal growth of the City of St. Louis, encouragement of a sense of community identity, safety and civic pride and the elimination of impediments to land disposition and development in the City of St. Louis; and

WHEREAS, pursuant to the provisions of the TIF Act, the City is authorized to enter into a redevelopment agreement with 4100 Development, Inc., as Developer, setting forth the respective rights and obligations of the City and Developer with regard to the redevelopment of the Redevelopment Area (the "Redevelopment Agreement"); and

WHEREAS, the Board of Aldermen hereby determines that the terms of the Redevelopment Agreement attached as **Exhibit A** hereto and incorporated herein by reference are acceptable and that the execution, delivery and performance by the City and the Developer of their respective obligations under the Redevelopment Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the TIF Act and the Redevelopment Plan.

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

SECTION ONE. The Board of Aldermen hereby ratifies and confirms its approval of the Redevelopment Plan,

Redevelopment Area, and Redevelopment Project. The Board of Aldermen further finds and determines that it is necessary and desirable to enter into the Redevelopment Agreement with 4100 Development, Inc., as "Developer" of the Redevelopment Area, in order to implement the Redevelopment Project and to enable the Developer to carry out its proposal for development of the Redevelopment Project.

SECTION TWO. The Board of Aldermen finds and determines that the assistance of tax increment financing is necessary and desirable in order to implement the Redevelopment Project and to enable 4100 Development, Inc., to carry out its proposal for development and completion of the Redevelopment Project.

SECTION THREE. The Board of Aldermen hereby approves, and the Mayor and Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the Redevelopment Agreement by and between the City and the Developer attached hereto as **Exhibit A**, and the City Register is hereby authorized and directed to attest to the Redevelopment Agreement and to affix the seal of the City thereto. The Redevelopment Agreement shall be in substantially the form attached, with such changes therein as shall be approved by said Mayor and Comptroller executing the same and as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized.

SECTION FOUR. The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such action by the Mayor and the Comptroller or their designated representatives.

SECTION FIVE. The Mayor and the Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such changes by the Mayor and the Comptroller or their designated representatives.

SECTION SIX. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

SECTION SEVEN. After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over his veto; provided that if, within ninety (90) days after the effective date of this Ordinance, the Developer has not (i) executed a redevelopment agreement pertaining to the Redevelopment Project and (ii) paid all fees due to the City in accordance with the terms of the redevelopment agreement, the provisions of this Ordinance shall be deemed null and void and of no effect and all rights conferred by this Ordinance on Developer, shall terminate, provided further, however, that prior to any such termination the Developer may seek an extension of time in which to execute the Redevelopment Agreement, which extension may be granted in the sole discretion of the Board of Estimate and Apportionment of the City of St. Louis.

EXHIBIT A

Redevelopment Agreement by and between the City of St. Louis and
the Developer
(Attached hereto.)

**REDEVELOPMENT AGREEMENT
Between the
CITY OF ST. LOUIS, MISSOURI
And
4100 Development, Inc.
Dated as of**

_____, 2006

4100 FOREST PARK REDEVELOPMENT PROJECT

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EXHIBIT G Form of MBE/WBE Subcontractor's List
EXHIBIT H Form of MBE/WBE Utilization Statement

REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of this ___ day of ___, 2006, by and between the CITY OF ST. LOUIS, MISSOURI (the "City"), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and 4100 Development, Inc., (the "Developer"), a corporation duly incorporated and existing under the laws of the State of Missouri. (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in Article I of this Agreement.)

RECITALS

A. Pursuant to Ordinance No. 62477, adopted and approved on December 20, 1991, the Board of Aldermen duly formed the Tax Increment Financing Commission of the City of St. Louis, Missouri (the "TIF Commission"), in accordance with the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri, (2000) (the "TIF Act"), and empowered the TIF Commission to transact business and exercise its powers as authorized by the TIF Act.

B. The City published a notice on January 25, 2006 and February 1, 2006 in the St. Louis Post-Dispatch, a newspaper of general circulation within the City, soliciting proposals for the redevelopment of the Redevelopment Area (as hereinafter defined), and made such requests for proposals available for potential developers of the Redevelopment Area.

C. 4100 Forest Park, LLC, which is a Related Entity with respect to Developer submitted its development proposal dated December 29, 2005, (the "Redevelopment Proposal") to the TIF Commission for redevelopment of the Redevelopment Area.

D. On April 12, 2006, following a public hearing held on April 12, 2006, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Redevelopment Plan titled "4100 Forest Park TIF Redevelopment Plan" dated February 17, 2006 2006, (the "Redevelopment Plan"), the Redevelopment Project described in the Redevelopment Plan (the "Redevelopment Project") and the Redevelopment Area, and recommending that the Board of Aldermen: (1) adopt tax increment financing with respect to the Redevelopment Area by passage of an ordinance complying with the terms of Section 99.845 of the Act; and (2) adopt an ordinance in the form required by the Act (a) approving the Redevelopment Plan, (b) approving and designating the Redevelopment Area as a "redevelopment area" as provided in the Act, (c) approving the Redevelopment Project, and (d) creating the 4100 Forest Park Special Allocation Fund.

E. After due consideration of the TIF Commission's recommendations, the Board of Aldermen adopted Ordinance No. 67146 designating the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, approving the Redevelopment Plan, approving the Redevelopment Project described in the Redevelopment Plan, adopting tax increment allocation financing within the Redevelopment Area and establishing the Special Allocation Fund.

F. On ___, 2006, the Board of Aldermen adopted Ordinance No. ___ [Board Bill No. ___] affirming adoption of the Redevelopment Area, Redevelopment Plan and Redevelopment Project, designating the Developer as developer of the Redevelopment Area, and authorizing the City to enter into this Agreement with Developer.

G. On ___, 2006, the Board of Aldermen adopted Ordinance No. ___ [Board Bill No. ___] authorizing the issuance of TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project and pledging TIF Revenues to the payment of the TIF Notes.

H. The Board of Aldermen hereby determines that the acceptance of the Redevelopment Proposal and the fulfillment generally of this Agreement are in the best interests of the City, and the health, safety and welfare of its residents, and in accord with the public purposes specified in the Redevelopment Plan.

I. Pursuant to provisions of the TIF Act and Ordinance Nos. 67146, ___ and ___ [Board Bill Nos. 74, ___ and ___], the City is authorized to enter into this Agreement, to issue TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project, and

to pledge TIF Revenues to the payment of the TIF Notes.

AGREEMENT

Now, therefore, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

1.1 Definitions. As used in this Agreement, the following words and terms shall have the following meanings:

“*Acquisition Costs*” means the consideration paid by Developer to a third party to acquire fee simple interest in the Property.

“*Act*” or “*TIF Act*” means the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri (2000), as amended.

“*Agreement*” means this Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented in writing by the parties hereto.

“*Approved Investors*” means (a) the Developer or a Related Entity, (b) an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business corporation or enterprise with total assets in excess of \$50,000,000.

“*Approving Ordinance*” means Ordinance No. 67146 effective June 24, 2006, designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, adopting tax increment allocation financing within the Redevelopment Area, and establishing the Special Allocation Fund.

“*Authority*” means The Industrial Development Authority of The City of St. Louis, Missouri, a public corporation duly organized under Chapter 349 of the Revised Statutes of Missouri.

“*Authorizing Ordinance*” means Ordinance No. _____ [Board Bill No. ____] affirming approval and adoption of the Redevelopment Plan, Redevelopment Project, and designation of the Redevelopment Area, designating Developer as the developer of the Redevelopment Area, and authorizing the City to enter into a Redevelopment Agreement with Developer.

“*Available Revenues*” means all monies on deposit from time to time (including investment earnings thereon) in (a) the PILOTS Account, and (b) subject to annual appropriation, the EATS Account that have been appropriated to the repayment of the TIF Notes, excluding (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

“*Board of Aldermen*” means the Board of Aldermen of the City.

“*Bond Counsel*” means Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“*Bond Proceeds*” means the gross cash proceeds from the sale of TIF Bonds before payment of Issuance Costs, together with any interest earned thereon.

“*Certificate of Commencement of Construction*” means a document substantially in the form of **Exhibit C**, attached hereto and incorporated by reference herein, delivered by Developer to the City in accordance with this Agreement and evidencing commencement of construction of the Redevelopment Project.

“*Certificate of Reimbursable Redevelopment Project Costs*” means a document substantially in the form of **Exhibit D**, attached hereto and incorporated herein by reference, provided by the Developer to the City in accordance with this Agreement and evidencing Reimbursable Redevelopment Project Costs incurred by the Developer.

“*Certificate of Substantial Completion*” means a document substantially in the form of **Exhibit E**, attached hereto and incorporated herein by reference, issued by the Developer to the City in accordance with this Agreement and evidencing the Developer’s satisfaction of all obligations and covenants to construct the Redevelopment Project in accordance with the Redevelopment Plan and this Agreement.

“*City*” means the City of St. Louis, Missouri, a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri.

“*Comptroller*” means the Comptroller of the City.

“*Construction Plans*” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections, submitted by the Developer and approved by the City in accordance with applicable law.

“*Developer*” means 4100 Development, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

“*Economic Activity Taxes*” or “*EATs*” shall have the meaning ascribed to such term in Section 99.805(4) of the TIF Act.

“*Governmental Approvals*” means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, or other subdivision, zoning, or similar approvals required for the implementation of the Redevelopment Project related to the Redevelopment Area and consistent with the Redevelopment Plan and this Agreement.

“*Issuance Costs*” means the amount set forth in **Section 2.2(v)** of this Agreement incurred by the City in furtherance of the issuance of TIF Notes plus all costs reasonably incurred by the City in furtherance of the issuance of TIF Bonds, including without limitation the fees and expenses of financial advisors and consultants, the City’s attorneys (including issuer’s counsel and Bond Counsel), the City’s administrative fees and expenses (including fees and costs of its planning consultants and the SLDC), underwriters’ discounts and fees, the costs of printing any TIF Bonds and any official statements relating thereto, the costs of credit enhancement, if any, capitalized interest, debt service reserves and the fees of any rating agency rating any TIF Bonds.

“*MBE/WBE Compliance Officer*” means the City’s Assistant Airport Director, Department of MBE/WBE Certification and Compliance.

“*MBE/WBE Subcontractor’s List*” means the form of City of St. Louis MBE/WBE Subcontractor’s List published by the Board of Public Service of the City, such form being attached hereto as **Exhibit G** and incorporated herein by this reference.

“*MBE/WBE Utilization Statement*” means the form of City of St. Louis MBE/WBE Utilization Statement prepared by the Board of Public Service of the City published by the Board of Public Service of the City, such form being attached hereto as **Exhibit H** and incorporated herein by this reference.

“*Maturity Date*” means the date that is twenty three (23) years after the effective date of the Approving Ordinance.

“*Note Ordinance*” means Ordinance No. _____ [Board Bill No. ____] adopted by the Board of Aldermen and signed by the Mayor authorizing the TIF Notes and TIF Obligations, any trust indenture relating thereto, and all related proceedings.

“*Original Purchaser*” the Developer, a Related Entity, the Project Lender or a Qualified Institutional Buyer; provided, however, that any such Related Entity or Project Lender shall also qualify as an Approved Investor and shall be designated in writing by the developer as the Original Purchaser.

“*Payments in Lieu of Taxes*” or “*PILOTs*” shall have the meaning ascribed to such term in Section 99.805(10) of the TIF Act.

“*Project Fund*” means the Project Fund created in the Note Ordinance.

“*Project Lender*” means a commercial bank, savings bank, savings and loan association, credit union or other financial institution that has loaned funds to the Developer to be used for construction of the Redevelopment Project and has secured such loan with a mortgage or security interest in the Redevelopment Project.

“*Property*” means the real property (including without limitation all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) and existing improvements in the Redevelopment Area as set forth in the Redevelopment Plan.

“*Qualified Institutional Buyer*” means a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933.

“*Redevelopment Area*” means the real property described in **Exhibit A**, attached hereto and incorporated herein by reference.

“*Redevelopment Plan*” means the plan titled “4100 Forest Park TIF Redevelopment Plan” dated February 17, 2006, approved by the City pursuant to the Approving Ordinance; as such plan may from time to time be amended in accordance with the TIF Act.

“*Redevelopment Project*” means the Redevelopment Project identified by the Redevelopment Plan, consisting of: commercial and retail on the first floor which is also anticipated to include a restaurant, retail, office and/or residential uses on the second through the fifth floor; all as further set forth in the Redevelopment Plan, and as approved by the Approving Ordinance.

“*Redevelopment Project Costs*” shall have the meaning ascribed to such term in Section 99.805(14) of the TIF Act.

“*Redevelopment Proposal*” means the document on file with the City and incorporated herein by reference, titled “4100 Forest Park TIF Application” dated December 29, 2005 and submitted by the Developer to the City.

“*Reimbursable Redevelopment Project Costs*” means those Redevelopment Project Costs as described in **Exhibit B**, attached hereto and incorporated herein by reference, for which the Developer is eligible for reimbursement in accordance with this Agreement.

“*Related Entity*” means any party or entity related to the Developer by one of the relationships described in Section 267(b), Section 707(b)(1)(A) or Section 707(b)(1)(B) of the Internal Revenue Code of 1986, as amended.

“*Relocation Plan*” means the relocation plan of the City for the Redevelopment Area as contained in the Redevelopment Plan, which relocation plan was adopted on December 20, 1991, pursuant to Ordinance No. 62481.

“*SLDC*” means the St. Louis Development Corporation, a non-profit corporation organized and existing under the laws of the State of Missouri.

“*Special Allocation Fund*” means the 4100 Forest Park Special Allocation Fund, created by the Approving Ordinance in accordance with the TIF Act, and including the accounts and sub-accounts for the Redevelopment Project into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement.

“*TIF Bonds*” means tax increment revenue bonds, if any, authorized and issued by the Authority in accordance with the TIF Act and this Agreement.

“*TIF Commission*” means the Tax Increment Financing Commission of the City of St. Louis, Missouri.

“*TIF Notes*” means one or more series of tax increment revenue notes issued by the City pursuant to and subject to this Agreement and the Note Ordinance, to evidence the City’s limited obligation to repay Reimbursable Redevelopment Project Costs incurred by the Developer on behalf of the City in accordance with the TIF Act and this Agreement.

“*TIF Obligations*” means TIF Bonds, TIF Notes or other obligations, singly or in series, issued by the City or the Authority, as the case may be, pursuant to the TIF Act and in accordance with this Agreement.

“*TIF Revenues*” means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Redevelopment Area over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, and (2) subject to annual appropriation by the Board of Aldermen, fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2005 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, and licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, all as provided in Section 99.845 of the TIF Act. Notwithstanding the foregoing, TIF Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

“*Trustee*” means the trustee or fiscal agent for any issue of TIF Obligations.

“*Verified Total Project Costs*” means the sum total of all reasonable or necessary costs incurred, and any such costs incidental to the Redevelopment Project or the Work, including, but not limited to, all Acquisition Costs, Issuance Costs, Redevelopment Project Costs and Reimbursable Redevelopment Project Costs, as limited by other paragraphs in this **Section 1.1**.

“*Work*” means all work necessary to prepare the Redevelopment Area and to construct or cause the construction and completion of the Redevelopment Project described in the Redevelopment Plan and this Agreement, including but not limited to: (1) property acquisition; (2) site preparation and environmental remediation; (3) construction, reconstruction, renovation and/or rehabilitation of the building within the Redevelopment Area into residential units and commercial space; (4) construction, reconstruction, renovation and/or rehabilitation of the building’s exterior, (5) construction, reconstruction, renovation and/or rehabilitation of related infrastructure and/or public improvements, including without limitation surrounding roads, sidewalks, sewer, water, electrical, parking and other utilities; (6) professional services, including, but not limited to, architecture, engineering, surveying, financing, legal, planning and consulting; (7) and all other work described in the Redevelopment Proposal, Redevelopment Plan and this Agreement, or reasonably necessary to effectuate the intent of this Agreement.

ARTICLE II ACCEPTANCE OF PROPOSAL

2.1 Developer Designation. The City hereby selects the Developer to perform or cause the performance of the Work in accordance with the Redevelopment Plan and this Agreement and all Governmental Approvals. To the extent of any inconsistency among the foregoing, the parties agree that the Redevelopment Plan shall govern.

2.2 Developer to Advance Costs. The Developer agrees to advance all Redevelopment Project Costs as necessary to acquire the Property and to complete the Work, all subject to the Developer's right to abandon the Redevelopment Project and to terminate this Agreement as set forth in **Section 7.1** of this Agreement. Additionally, and not by way of limitation:

(i) the City acknowledges payment by the Developer of a Five Thousand Dollar and no/100 (\$5,000.00) TIF Application Fee;

(ii) the City acknowledges that, prior to the execution of this Agreement, the Developer paid the sum of Eighteen Thousand One Hundred Eight and no/100 (\$18,108.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies have been paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(iii) the Developer shall, within ten (10) days after the date of execution of this Agreement, pay the sum of Eighteen Thousand One Hundred Eight and no/100 (\$18,108.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies shall be paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(iv) the Developer shall pay to the Comptroller an additional amount to reimburse the Comptroller for its actual legal expenses incurred in connection with the review of the Redevelopment Proposal, the review and adoption of the Redevelopment Plan and the negotiation, execution and implementation of the Redevelopment Agreement, which amount shall be paid as follows: (i) all such costs incurred through the date of execution of the Redevelopment Agreement shall be paid within ten (10) days after the execution of the Redevelopment Agreement, and (ii) all such costs incurred after the date of execution of the Redevelopment Agreement and prior to the date upon which the City receives from Developer a Certificate of Reimbursable Redevelopment Project Costs shall be paid concurrently with the initial issuance of the TIF Notes; and

(v) the Developer shall, concurrently with the issuance of any TIF Notes, pay to the City a flat fee to be reasonably determined by the City in its sole discretion at the time of issuance to pay for the City's Issuance Costs of such TIF Notes; and

(vi) any amounts advanced to the City shall represent Reimbursable Redevelopment Project Costs to be reimbursed exclusively from the proceeds of TIF Obligations as provided in and subject to **Articles IV and V** of this Agreement.

ARTICLE III CONSTRUCTION OF REDEVELOPMENT PROJECT

3.1 Acquisition of Property. Developer represents that, as of the date of this Agreement, Developer or a Related Entity is the fee owner of the Property. Any additional properties acquired by the Developer for completion of the Work shall be held in the name of the Developer or a Related Entity and shall be subject to the terms, conditions and covenants contained herein and in the Redevelopment Plan immediately upon acquisition.

3.2 Condemnation. As of the date of this Agreement, it is not anticipated that the exercise of the power of eminent domain will be necessary to acquire any portion of the Property in the Redevelopment Area. Further, the City hereby agrees that during the term of this Agreement, it shall not authorize or initiate the exercise of eminent domain to acquire all or any portion of the Property.

3.3 Relocation. The Developer shall identify any Displaced Person (as defined in Ordinance No. 62481 of the City) that is entitled to relocation payments or relocation assistance under the Relocation Plan. The City shall, at the Developer's sole cost and expense, subject to reimbursement as a Reimbursable Redevelopment Project Cost in accordance with **Article IV** of this Agreement, coordinate such relocation payments and relocation assistance in accordance with the Relocation Plan.

3.4 Developer to Construct the Work. The Developer shall commence or cause the commencement of the construction of the Work within one hundred twenty (120) days of the date of this Agreement, which Work shall be constructed in a good and workmanlike manner in accordance with the terms of this Agreement and the Redevelopment Plan. The Developer shall substantially complete or cause the Work to be substantially complete not later than December 1, 2009 absent an event of Force Majeure. In the event of any delay caused by an event of Force Majeure as defined in **Section 7.5** of this Agreement, Developer shall be granted additional time to complete the Work, but under no circumstance shall such time to complete the Work extend beyond December 1, 2010.

The Developer may enter into or cause to be entered into one or more construction contracts to complete the Work. Prior to the commencement of construction of any portion of the Work, the Developer shall obtain or shall require that any of its contractors obtain workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts customary in the industry for similar type projects. The Developer shall require that such insurance be maintained by any of its contractors for the duration of the construction of such portion of the Work. To the extent that laws pertaining to prevailing wage and hour apply to any portion of the Work the Developer agrees to take all actions necessary to apply for the wage and hour determinations and otherwise comply with such laws.

3.5 Governmental Approvals. The City and, at its direction, the SLDC agree to employ reasonable and good faith efforts to cooperate with the Developer and to process and timely consider and respond to all applications for the Governmental Approvals as received, all in accordance with the applicable City ordinances and laws of the State of Missouri.

3.6 Construction Plans; Changes. The Construction Plans shall be prepared by a professional engineer or architect licensed to practice in the State of Missouri and the Construction Plans and all construction practices and procedures with respect to the Work shall be in conformity with all applicable state and local laws, ordinances and regulations. During the progress of the Work, the Developer may make such reasonable changes, including without limitation modification of the construction schedule, subject to the provisions of **Section 3.4**, including but not limited to, dates of commencement and completion (subject to the time limitations set forth in this Agreement), modification of the areas in which the Work is to be performed, relocation, expansion or deletion of items, revisions to the areas and scope of Work, and any and all such other changes as site conditions or orderly development may dictate or as may be necessary or desirable, in the sole determination of the Developer, to enhance the economic viability or eligibility for State and/or Federal historic tax credits of the Redevelopment Project and as may be in furtherance of the general objectives of the Redevelopment Plan; provided that (a) the Developer shall comply with all laws, regulations and ordinances of the City and (b) prior to any material changes, the Developer shall obtain the advance written consent of the SLDC, which consent shall not be unreasonably withheld or delayed provided that the SLDC shall approve any such change that is required by a governmental authority to obtain historic tax credits for the Redevelopment Project and to comply with the Federal and State Historic Tax Credit programs. For purposes of this **Section 3.6**, "material changes" shall mean (i) any change that could reasonably be expected to result in a decrease in the aggregate amount of TIF Revenues generated within the Redevelopment Area to an amount less than 90% of the aggregate amount of TIF Revenues as projected in the Proposal; or (ii) any change that would reduce or increase the final square footage of residential uses or reduce the final total square footage of commercial space by more than ten percent (10%) of the estimated square footage of residential or commercial uses as set forth in this Agreement, the Redevelopment Proposal, the Redevelopment Plan and the Construction Plans.

3.7 Certificate of Commencement of Construction. The Developer shall furnish to the SLDC, with a copy to the Comptroller, a Certificate of Commencement of Construction, which certificate shall be submitted for the Redevelopment Project in accordance with the schedule set forth in **Section 3.4** of this Agreement and in the form of **Exhibit C** attached hereto and incorporated herein by reference. The Certificate of Commencement of Construction shall be deemed accepted by the SLDC upon receipt of the same.

3.8 Certificate of Substantial Completion. Promptly after substantial completion of the Work, the Developer shall furnish to the City and the SLDC a Certificate of Substantial Completion. The Mayor or his designee and the SLDC shall, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City and the SLDC unless, within thirty (30) days following delivery of the Certificate of Substantial Completion, the Mayor or his designee or SLDC furnishes the Developer with specific written objections to the status of the Work, describing such objections and the measures required to correct such objections in reasonable detail. In the case where the Mayor or his designee or SLDC, within thirty (30) days following delivery of the Certificate of Substantial Completion provides the Developer with specific written objections to the status of the Work, the Developer shall have such amount of time as is reasonably necessary to address such objections and when addressed shall re-submit the Certificate of Substantial Completion to the Mayor or his designee or the SLDC in accordance with this Section and the thirty (30) day period shall begin anew. Upon acceptance of the Certificate of Substantial Completion by the Mayor or his designee and the SLDC for the Redevelopment Project, or upon the lapse of thirty (30) days after delivery thereof to the Mayor or his designee and the SLDC without any written objections thereto, the Developer may record the Certificate of Substantial Completion with the City's Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to perform all the Work. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit E**, attached hereto and incorporated by referenced herein.

ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS

4.1 City's Obligation to Reimburse Developer. Subject to the terms of the Note Ordinance and this Agreement, the City agrees to reimburse Developer for the verified Reimbursable Redevelopment Project Costs in a total amount not to exceed Six Million Thirty-Six Thousand Dollars (\$6,036,000) plus Issuance Costs to be allocated to the Redevelopment Project.

Subject to the terms of the Note Ordinance and this Agreement, the City agrees to issue TIF Notes to Developer to evidence the City's obligation to reimburse Developer for verified Reimbursable Redevelopment Project Costs in an amount not to exceed Six Million Thirty-Six Thousand Dollars (\$6,036,000), plus Issuance Costs and interest as provided in **Section 5.2** of this Agreement, subject to the limitations of **Article IV** of this Agreement.

4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer's Right to Substitute.

Nothing in this Agreement shall obligate the City to issue TIF Notes or to reimburse the Developer for any cost that is not incurred pursuant to Section 99.820.1 of the TIF Act or that does not qualify as a "redevelopment project cost" under Section 99.805(14) of the TIF Act. The Developer shall provide to the City (a) itemized invoices, receipts or other information evidencing such costs; and (b) a Certificate of Reimbursable Redevelopment Project Costs constituting certification by the Developer that such cost is eligible for reimbursement under the TIF Act. Within thirty (30) days of the City's receipt from the Developer of a Certificate of Reimbursable Redevelopment Project Costs, the City shall review and act upon such Certificate of Reimbursable Redevelopment Project Costs. The parties agree that each of the categories of costs set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, shall constitute Reimbursable Redevelopment Project Costs which are eligible for reimbursement in accordance with the TIF Act and this Agreement. The Developer shall be entitled to reimbursement for Redevelopment Project Costs from any of the categories set forth in **Exhibit B** up to the maximum aggregate amount established in **Section 4.1** of this Agreement; provided, that the Developer shall be obligated to advance to the City the full amounts identified in **Section 2.2, clauses (i)-(v)**, of this Agreement. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a "redevelopment project cost" under Section 99.805(14) of the TIF Act, the City shall so notify the Developer in writing within the thirty (30) day period referenced in this **Section 4.2**, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other Redevelopment Project Costs as Reimbursable Redevelopment Project Costs with a supplemental application for payment and the thirty (30) day period shall begin anew. If the City fails to approve or disapprove any Certificate of Reimbursable Redevelopment Project Costs within thirty (30) days after receipt thereof, the Certificate of Reimbursable Redevelopment Project Costs shall be deemed approved.

4.3 Cost Savings and Excess Profits. Within one hundred eighty (180) days after the submission of the Certificate of Substantial Completion by Developer in accordance with **Section 3.8** of this Agreement, Developer also shall furnish to the City for the City's review and approval, (a) a statement of Verified Total Project Costs, with evidence of billings and payments for each expenditure, including itemized invoices, receipts, and pay applications or other evidence of payment as appropriate for the type of cost; and (b) a statement of each and every post completion funding source for the Redevelopment Project, which shall include Redevelopment Project sources actually received by the Redevelopment Project as of the date of the statement and the net present value of any future Redevelopment Project source, including (i) documentation from accountants, tax credit authorities and tax credit purchasers evidencing the total amount of tax credits approved for the Redevelopment Project and the net present value of proceeds available to the Developer from the sale of such tax credits; (ii) Zero Dollars (\$0) (the amount of Developer equity in the Redevelopment Project as identified in the Redevelopment Proposal); (iii) statements from each and every Project Lender as to the amount of amortizing debt financing secured by the Property that will be available to the Redevelopment Project upon commencement of operations; and (iv) a statement of all net sales proceeds derived from the sale of any portion of the Redevelopment Project, which net sales proceeds shall be documented by copies of the seller's closing statements for such sales.

Provided, however, if the Redevelopment Project includes a condominium component, the statements required by this **Section 4.3** shall not be submitted until a minimum of 95% of the condominium units included in the Redevelopment Project have been sold, and such statements shall be submitted within sixty (60) days following such sale of 95% of such condominium units. If less than 100% of the condominiums have been sold at the time the statements required by this **Section 4.3** are submitted, the condominium units not sold shall be valued for purposes of the statements at the listing prices for such units, less the amount of the average sales commission on the units which have been sold.

Further provided, however, if the Redevelopment Project includes a rental component, the statements required by this **Section 4.3** shall not be submitted until any construction debt on such component has been converted to permanent or semi-permanent mortgage debt.

The Developer shall document the anticipated date of receipt of any post completion funding source which has not been received by the Redevelopment Project as of the date of the statements required by this **Section 4.3** and the present value of such source shall be determined using a 7% present value rate for the period of time between the date of the submission of the statements and the date of anticipated receipt of such source; but anticipated sales proceeds of condominiums not sold as of the date of such statements shall not be subject to a present value calculation and shall be included in the calculation below as a post completion funding source at the listing price as of the date of the statements less the sales commission described above.

Developer shall not include developer fees or consultant fees for any service typically performed by the developer in the Verified Total Project Costs. With respect to any other costs for any services provided by the Developer or any entity related to Developer, the amount of such costs shall not exceed the amount set forth in the Redevelopment Plan for such services. Moreover, if any of the owners, officers, principals or members of the construction contractor for the Redevelopment Project are the same as any owner, officer, principal or member of Developer or general partner in the owner of the development, amounts allowed for aggregate contractor fees shall not exceed eighteen percent (18%) of construction costs as provided for in the Missouri Housing Development Commission's 2005 Qualified Allocation Plan for the Low Income Housing Tax Credit Program, and Developer shall include documentation, including detailed invoices and receipts for payment, for each and every item of costs traceable to third parties with no relationship to Developer, in addition to summary pay applications submitted to Developer by the construction contractor.

To the extent that the sum of post completion funding sources exceeds the sum of (x) Verified Total Project Costs, (y) four percent (4%) of the Acquisition Costs; and (z) fifteen percent (15%) of all Verified Total Project Costs other than Acquisition Costs, Developer hereby agrees that the maximum amount of Reimbursable Redevelopment Project Costs for which the Developer shall be reimbursed by the City as provided for in **Section 4.1** of this Agreement and the maximum amount of any TIF Notes which shall be issued by the City in accordance with **Section 5.2** of this Agreement shall be reduced by an amount in the aggregate equal to seventy-five percent (75%) of the total amount of such excess, as calculated by the City in accordance herewith. Developer agrees

that the City may discharge any TIF Note already issued at the time of such calculation in an amount equal to seventy-five percent (75%) of the total excess.

4.4 City's Obligations Limited to Special Allocation Fund and Bond Proceeds. Notwithstanding any other term or provision of this Agreement, TIF Notes issued by the City to the Developer for Reimbursable Redevelopment Project Costs are payable only from the Special Allocation Fund and from Bond Proceeds, if any, and from no other source. The City has not pledged its full faith and credit relative to the City's obligation to issue the TIF Obligations or to pay any Reimbursable Redevelopment Project Costs. The TIF Obligations shall be special, limited obligations of the City, and shall not constitute debt to the City within any constitutional or statutory meaning of the word "debt."

ARTICLE V. TIF OBLIGATIONS

5.1 Conditions Precedent to the Issuance of TIF Notes. No TIF Notes shall be issued until such time as the City has (i) accepted a Certificate of Substantial Completion in accordance with the procedures set forth in **Section 3.8** of this Agreement; (ii) approved a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit D**, attached hereto and incorporated herein by reference, in accordance with the procedures set forth in **Section 4.2** of this Agreement; (iii) obtained an opinion of Bond Counsel regarding the taxable nature of the TIF Notes; (iv) received the full payment of all advances required to be paid under **Section 2.2** of this Agreement; and (v) received such other documentation as the City shall reasonably require of Developer in order for the City to obtain an opinion of Bond Counsel as required by this **Section 5.1**.

5.2 Issuance of TIF Notes. The City agrees to issue one or more TIF Notes as provided in this Agreement and the Note Ordinance to reimburse the Developer for Reimbursable Redevelopment Project Costs up to the maximum amount established in **Section 4.1** of this Agreement, subject to the limitations of **Article IV** of this Agreement.

5.2.1 Terms. Each TIF Note shall bear interest at a fixed rate per annum determined on the date that is not less than ten (10) business days and not more than sixty (60) days prior to the scheduled closing date for the issuance of the TIF Notes (the "Pricing Date") based on the municipal yield curve for general obligation bonds (the "MMD") compiled by Municipal Market Data Line ® (or its successors) and published by Thomson Financial, an operating unit of The Thomson Corporation (or its successors), using the MMD yield published as of the Issuance Date for general obligation bonds rated "AAA" that mature in the same year as the TIF Notes, (i) plus up to four percent (4%) as determined by the City's financial advisor if the interest on the TIF Notes (in the opinion of Bond Counsel) is not exempt from federal income taxation (the "Taxable Rate"), or (ii) plus up to two percent (2.0%) as determined by the City's financial advisor if the interest on the TIF Notes (in the opinion of Bond Counsel) is exempt from federal income taxation (the "Tax Exempt Rate"); provided, in no event shall the interest rate on the TIF Notes exceed ten percent (10%) per annum. All TIF Notes shall have a stated maturity of the Maturity Date.

5.2.2 Procedures for Issuance of TIF Notes. Within a reasonable period of time but not to exceed sixty (60) days of Developer's satisfaction of the conditions of **Section 5.1** of this Agreement, the City shall issue a TIF Note to an Original Purchaser evidencing reimbursement of Reimbursable Redevelopment Project Costs. Notwithstanding anything contained in this Agreement to the contrary, upon the acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs and the issuance by the City of a TIF Note as provided in this **Section 5.2.2**, the Developer shall be deemed to have advanced funds necessary to purchase such TIF Notes and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Developer in full for such costs from the amounts deemed to be on deposit in the Project Fund from time to time.

5.2.3 Special Mandatory Redemption of TIF Notes. All TIF Notes are subject to special mandatory redemption by the City, in whole at any time or in part on each May 1 and November 1 (each, a "Payment Date") occurring after the acceptance by the City of the Certificate of Substantial Completion at a redemption price equal to 100% of the principal amount being redeemed, together with the accrued interest thereon to the date fixed for redemption.

5.3 Issuance of TIF Bonds.

5.3.1 The City may, in its sole and absolute discretion, issue, or cause to be issued, TIF Bonds at any time in an amount sufficient to refund all or a portion of the outstanding TIF Notes.

5.3.2 Upon receipt of a written request by Developer and upon the City's underwriter's recommendation in favor of issuing TIF Bonds and recommendation of the principal amount thereof based on the criteria set forth below, the City shall use its best efforts to cause the Authority to issue TIF Bonds as described in this Section. The aggregate gross cash proceeds from the sale of the TIF Bonds before payment of Issuance Costs, together with any interest accrued thereon ("Bond Proceeds") of such TIF Bonds will be finally determined by the City after receiving the underwriter's recommendation based on the criteria set forth below. The City shall not be obligated to cause the Authority to issue such TIF Bonds unless the underwriter determines that all of the following criteria are satisfied as of the date of issuance of such bonds, unless such criteria are waived by the City's underwriter. Developer shall not have any liability for any costs associated with the issuance of TIF Bonds but shall bear its own costs and expenses, including any attorneys' fees and expenses, that Developer may incur in complying with this Section. Notwithstanding anything in this Section to the contrary, Developer shall be liable for all costs incurred by the City or the Authority in the event the Developer has requested the issuance of bonds and the City's underwriter has determined that such bonds cannot be issued at such time.

5.3.2.1 **Criteria for Issuance.** The underwriter's recommendation for issuance of TIF Bonds and the principal amount thereof shall be based on the following criteria:

- (i) Acceptance by the City of the Certificate of Substantial Completion;
- (ii) Review of projections of TIF Revenues available for debt service as proposed by an independent qualified consultant. Such projections must show that (A) if all available TIF Revenues were to be applied to the immediate repayment of the TIF Bonds, the TIF Bonds would reasonably be anticipated to be retired within twenty-three (23) years from the effective date of the Approving Ordinance, and (B) based on a maturity date twenty-three (23) years from the effective date of the Approving Ordinance, the TIF Bonds are reasonably likely to achieve debt service coverage ratio reasonably acceptable to the City's underwriter;
- (iii) Developer's documentation of stabilization of the Redevelopment Project for a minimum period of two (2) years after substantial completion as evidenced in a report to the City prepared by a qualified independent consultant to be paid for by the City, which report also sets forth TIF revenue projections for the Redevelopment Project in connection with the issuance of the TIF Bonds;
- (iv) The aggregate net projected debt service on the TIF Bonds (taking into account the principal portion of the TIF Bonds that are issued to establish a reserve fund and to pay Issuance Costs, and including any reserve fund earnings) will be lower than the net average annual debt service on the outstanding TIF Notes, unless the Developer voluntarily elects to defer or forgive principal of and/or interest on the TIF Notes in an amount necessary to make the aggregate net projected debt service on the TIF Bonds lower than the net average annual debt service on the outstanding TIF Notes; and
- (v) The TIF Bonds can be sold at an aggregate net interest cost which is less than the aggregate net interest cost of the TIF Notes to be redeemed.

5.4 Application of TIF Bond Proceeds. Proceeds of any TIF Bonds shall be applied:

5.4.1 To the payment of costs relating to the issuance of the TIF Bonds;

5.4.2 To the payment of outstanding principal of and interest on the TIF Notes to be refunded;

5.4.3 To the payment of capitalized interest on the TIF Bonds; and

5.4.4 To the establishment of a debt service reserve fund for the TIF Bonds in a reasonable amount of the principal amount of TIF Bonds to be issued, as to be determined by the City's underwriter.

5.5 Cooperation in the Issuance of TIF Obligations. Developer covenants to cooperate and take all reasonable actions necessary to assist the City and its Bond Counsel, the Authority, underwriters and financial advisors in the preparation of offering statements, private placement memorandum or other disclosure documents and all other documents necessary to market and sell the TIF Obligations, including disclosure of tenants of the Redevelopment Area and the non-financial terms of the leases between Developer and such tenants. Developer will not be required to disclose to the general public or any investor any proprietary or confidential information, including financial information, pertaining to Developer, but upon the execution of a confidentiality agreement acceptable to Developer, Developer will provide such information to the City's financial advisors, underwriters and their counsel to enable such parties to satisfy their due diligence obligations. Developer shall make such compliance obligation a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement.

5.6 Subordinate Notes. If the amount of TIF Bonds issued pursuant to this Agreement is insufficient to refund all of the outstanding TIF Notes, the TIF Notes remaining outstanding shall be redeemed by the issuance of notes subordinate to the TIF Bonds (the "Subordinate Notes"). Each Subordinate Note shall have the same maturity and have the same outstanding principal amount and the same interest rate as the TIF Note it redeems. All such Subordinate Notes shall be payable as to principal and interest according to the terms set forth in **Sections 5.4 and 6.3** of this Agreement.

5.7 City to Select Underwriter and Financial Advisor; Term and Interest Rate. The City shall have the right to select the designated underwriter (and such financial advisors and consultants as the underwriter and the City deem necessary for the issuance of the TIF Bonds) and underwriter's counsel. The final maturity of the TIF Bonds shall not exceed the maximum term permissible under the TIF Act. The TIF Bonds shall bear interest at such rates, shall be subject to redemption and shall have such terms as the City shall determine in its sole discretion.

ARTICLE VI. SPECIAL ALLOCATION FUND; COLLECTION AND USE OF TIF REVENUES

6.1 Creation of Special Allocation Fund. The City agrees to cause its Comptroller or other financial officer to

maintain the Special Allocation Fund, including a "PILOTs Account," an "EATs Account," and such further accounts or sub-accounts as are required by this Agreement or as the Comptroller may deem appropriate in connection with the administration of the Special Allocation Fund pursuant to this Agreement. Subject to the requirements of the TIF Act and, with respect to Economic Activity Taxes, subject to annual appropriation by the Board of Aldermen, the City will promptly upon receipt thereof deposit all Payments in Lieu of Taxes into the PILOTs Account and all Economic Activity Taxes into the EATs Account.

6.2 Certification of Base for PILOTS and EATS.

6.2.1 Upon the reasonable written request of the City, Developer shall use its best efforts to provide or cause to be provided to the Comptroller or its authorized representative any documents necessary for the City to calculate the base for PILOTs and EATs including, but not limited to: (i) the address and locator number of all parcels of real property located within the Redevelopment Area; and (ii) information related to payment of utility taxes by any businesses, owners or other occupants of the Redevelopment Area in the calendar year ending December 31, 2005.

6.2.2 Within ninety (90) days after execution of the Redevelopment Agreement, the City shall provide to the Developer (i) a certificate of the City Assessor's calculation of the total initial equalized assessed valuation of the taxable real property within the Redevelopment Area based upon the most recently ascertained equalized assessed valuation of each taxable lot, block, tract, or parcel of real property within the Redevelopment Area; and (ii) a certification of the amount of revenue from taxes, penalties and interest which are imposed by the City and other taxing districts and which are generated by economic activities within the Redevelopment Area for the calendar year ending December 31, 2005, but excluding those personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, taxes levied for the purpose of public transportation, or licenses, fees or special assessments identified as excluded in Section 99.845.3 of the TIF Act.

6.3 Application of Available Revenues.

The City hereby agrees for the term of this Agreement to apply the Available Revenues and any taxes, fees or assessments subsequently enacted and imposed in substitution therefor and allocable to the Special Allocation Fund under the TIF Act or this Agreement to the repayment of TIF Notes issued under Article V of this Agreement as provided in the Note Ordinance and this Agreement.

Upon the payment in full of the principal of and interest on all TIF Notes (or provision has been made for the payment thereof as specified in the Note Ordinance), payment in full of the fees and expenses of the Comptroller and the SLDC, and payment in full of any other amounts required to be paid under the Note Ordinance, all amounts remaining on deposit in the Revenue Fund shall be declared as surplus and distributed in the manner provided in the Act.

If monies available in Special Allocation Fund are insufficient to reimburse the City or the Developer as provided above on any Payment Date, then the unpaid portion shall be carried forward to the next Payment Date, with interest thereon.

The City agrees that it will comply with the Charter of The City of St. Louis, Article XVI, Section 3 for each fiscal year that TIF Obligations are outstanding and the City will request an appropriation of all Available Revenues on deposit in the Special Allocation Fund for application to the payment of the principal of (including, but not limited to, payment of a premium, if any) and interest on the TIF Obligations.

6.4 Cooperation in Determining TIF Revenues. The City and the Developer agree to cooperate and take all reasonable actions necessary to cause the TIF Revenues to be paid into the Special Allocation Fund, including, but not limited to, the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement.

6.5 Obligation to Report TIF Revenues. The Developer shall cause any purchaser or transferee of real property located within the Property, and any lessee or other user of real property located within the Property required to pay TIF Revenues, shall use all reasonable efforts to timely fulfill such obligations as are required by **Section 6.4** of this Agreement. So long as any of the TIF Obligations are outstanding, the Developer shall cause such obligations to be covenants running with the land, which covenants shall be enforceable as if such purchaser, transferee, lessee or other user of such real property were originally a party to and bound by this Agreement.

6.6 Notice to City of Transfer. The Developer agrees to notify the City in writing of any sale, transfer or other disposition of the Property or any interest therein as permitted by **Section 7.3.2** of this Agreement at least fifteen (15) days prior to such sale, transfer or other disposition. Said notice shall specify the name and address of the person so acquiring any or all of the Property or any interest therein and shall identify the Property to be sold, transferred or otherwise disposed, whether by voluntary transfer or otherwise. Notwithstanding the foregoing, Developer shall not be required to notify the City of the lease or transfer of a residential unit, commercial unit or parking space in the ordinary course of business except as may be required by **Section 4.3**.

ARTICLE VII. GENERAL PROVISIONS

7.1 Developer's Right of Termination. At any time prior to the delivery of a Certificate of Substantial Completion, the Developer may, by giving written notice to the City, abandon the Redevelopment Project and terminate this Agreement and the Developer's obligations hereunder if the Developer determines, in its sole discretion, that the Redevelopment Project is no longer

economically feasible. Upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

7.2 City's Right of Termination. The City may terminate this Agreement if (i) the Developer fails to submit to the MBE/WBE Compliance Officer a copy of Developer's MBE/WBE Subcontractor's List and its MBE/WBE Utilization Statement within one hundred twenty (120) days of the date of this Agreement; provided, however, that termination under this Section 7.2(i) may be waived in the sole discretion of the MBE/WBE Compliance Officer; or (ii) the Developer fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with **Section 3.8** of this Agreement and the schedule set forth in **Section 3.4** of this Agreement. Upon such termination, the City shall have no obligation to issue a TIF Note or to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

7.3 Successors and Assigns.

7.3.1 Binding Effect. This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective heirs, administrators, executors, personal representatives, successors and assigns.

7.3.2 Assignment or Sale. Without limiting the generality of the foregoing, all or any part of the Property or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after redevelopment of the Redevelopment Project, whereupon the party disposing of its interest in the Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such Property so disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement), provided, however, that until substantial completion of the Redevelopment Project, the fee title to the Property shall not be sold, transferred or otherwise disposed of and the rights, duties and obligations of the Developer under this Agreement shall not be assigned in whole or in part without the prior written approval of the City, which approval shall not be unreasonably withheld or delayed upon a reasonable demonstration by the Developer of the proposed transferee's or assignee's experience and financial capability to undertake and complete such portions of the Work and perform the Developer's obligations under this Agreement, all in accordance with this Agreement. Notwithstanding anything herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with: (a) the right of the Developer to encumber or collaterally assign its interest in the Property or any portion thereof or its rights, duties and obligations under this Agreement to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Redevelopment Project Costs, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; and (b) the right of Developer to transfer the Property or to assign the Developer's rights, duties and obligations under this Agreement to any Related Entity; (c) the right of the Developer to sell, lease or transfer a residential unit, commercial unit or parking space in the ordinary course of business; provided that in each such event (i) the Developer named herein (4100 Development, Inc.) shall remain liable hereunder for the substantial completion of the Redevelopment Project, subject, however, to Developer's right of termination pursuant to **Section 7.1** of this Agreement, and shall be released from such liability hereunder only upon substantial completion of the Redevelopment Project and (ii) the Developer provides to the City fifteen (15) days' advance written notice of the proposed assignment or transfer other than of the sale or lease of a residential unit, commercial unit or parking space in the ordinary course of business which shall require no notice except as required by **Section 4.3**.

7.3.3 Assignment or Sale to Exempt Organization. Prior to any sale, transfer or other disposition of all or any portion of the Property or any interest therein to an organization exempt from payment of ad valorem property taxes, such organization shall be required to agree not to apply for an exemption from payment of such property taxes for a period ending on the earlier of the date that all TIF Obligations are paid in full or twenty-three (23) years from the effective date of the Approving Ordinance. The Developer shall make this requirement a covenant running with the land, enforceable for such period as if such purchaser or other transferee or possessor thereof were originally a party to and bound by this Agreement.

7.4 Remedies. Except as otherwise provided in this Agreement and subject to the Developer's and the City's respective rights of termination, in the event of any default in or breach of any term or conditions of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of notice, cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional thirty (30) days to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the end of the additional thirty (30) day period, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

7.5 Force Majeure. Neither the City nor the Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended

in the event of any delay caused by force majeure (except as expressly limited in **Section 3.4**), including without limitation damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Developer to proceed with construction of the Work or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other like causes beyond the parties' reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of the Redevelopment Plan, the Redevelopment Project or the TIF Obligations or this Agreement; provided that (i) such event of force majeure shall not be deemed to exist as to any matter initiated or sustained by the Developer in bad faith, and (ii) the Developer notifies the City in writing within thirty (30) days of the commencement of such claimed event of force majeure.

7.6 Notices. All notices, demands, consents, approvals, certificates and other communications required by this Agreement to be given by either party hereunder shall be in writing and shall be hand delivered or sent by United States first class mail, postage prepaid, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, certificates and other communications shall be deemed given when delivered or three days after mailing; provided, however, that if any such notice or other communication shall also be sent by telecopy or fax machine, such notice shall be deemed given at the time and on the date of machine transmittal if the sending party receives a written send verification on its machines and forwards a copy thereof with its mailed or courier delivered notice or communication.

- (i) In the case of the Developer, to:

4100 Development, Inc.
1227 Fern Ridge Parkway
Suite 202
St. Louis, MO 63141
Attention: Bill Bruce

AND:

Rick Yackey
c/o Jimmy's Café on the Park
706 DeMun
Clayton, MO 63105

With a copy to:

Husch & Eppenberger, LLC
190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105
Attention: David Richardson
Facsimile: (314) 480-1505

- (ii) In the case of the City, to:

City of St. Louis
Office of the Mayor
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103
Attention: Barbara Geisman, Executive Director for Development
Facsimile: 314-622-3440

and

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

With a copy to:

City of St. Louis
City Counselor
City Hall
1200 Market Street, Room 314

St. Louis, Missouri 63102
Attention: Will Zorn, Associate City Counselor
Facsimile: 314-622-4956

and

Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102
Attention: Thomas J. Ray
Facsimile: 314-621-5065

(iii) In the case of the SLDC, to:

SLDC
1015 Locust Street, Suite 1200
St. Louis, Missouri 63101
Attention: Dale Ruthsatz
Facsimile: 314-231-2341

7.7 Conflict of Interest. No member of the Board of Aldermen, the TIF Commission, or any branch of the City's government who has any power of review or approval of any of the Developer's undertakings, or of the City's contracting for goods or services for the Redevelopment Area, shall participate in any decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the Board of Aldermen the nature of such interest and seek a determination by the Board of Aldermen with respect to such interest and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

7.8 Damage or Destruction of Redevelopment Project. In the event of total destruction or damage to the Redevelopment Project by fire or other casualty, during construction or thereafter during the term of this Agreement so long as any TIF Notes are outstanding and the Developer or a Related Entity owns the Property, the Developer shall determine and advise the City in writing within one year of such destruction or damage whether to restore, reconstruct and repair any such destruction or damage so that the Redevelopment Project will be completed or rebuilt in accordance with the Redevelopment Plan and this Agreement. Should the Developer determine not to restore, reconstruct and repair, all unaccrued liability of the City for any payments of principal or interest on the TIF Notes shall immediately terminate and the Developer shall promptly surrender the TIF Notes to the City for cancellation. In the event of such total destruction or damage during the term of this Agreement and after any TIF Bonds are issued or the issuance of a TIF Note to a purchaser other than the Developer or a Related Entity, the Developer shall, at the City's option after consultation with the Developer, tender to the City that portion of the insurance proceeds, if any, to which Developer is entitled, after satisfaction of any terms or obligations of any deed of trust, promissory note or financing agreement entered into by the Developer for the financing of all or any part of the Redevelopment Project, from any fire or casualty insurance policy in an amount equal to the outstanding principal amount of the TIF Bonds or TIF Notes, plus accrued interest thereon to be deposited into the Special Allocation Fund.

7.9 Inspection. The City may conduct such periodic inspections of the Work as may be generally provided in the building code of the City. In addition, the Developer shall allow other authorized representatives of the City reasonable access to the Work site from time to time upon advance notice prior to the completion of the Work for inspection thereof. The Developer shall not unreasonably deny the City and its officers, employees, agents and independent contractors the right to inspect, upon request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of the Work as the City determines is reasonable and necessary to verify the Developer's compliance with the terms of this Agreement.

7.10 Choice of Law. This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by the laws of State of Missouri for all purposes and intents.

7.11 Entire Agreement; Amendment. The parties agree that this Agreement constitutes the entire agreement between the parties and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the parties.

7.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

7.13 Severability. In the event any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

7.14 Representatives Not Personally Liable. No elected or appointed official, agent, employee or representative of the City shall be personally liable to the Developer in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

7.15 Attorney's Fees. In any dispute arising out of or relating to this Agreement, including any action to enforce this Agreement against a defaulting or breaching party pursuant to **Section 7.4**, the prevailing party shall recover from the non-prevailing party the prevailing party's attorney's fees, in addition to any other damages to which it is entitled.

7.16 Actions Contesting the Validity and Enforceability of the Redevelopment Plan. In the event a third party brings an action against the City or the City's officials, agents, attorneys, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Plan, the TIF Obligations, or the ordinance approving this Agreement, Developer may, at its option, join the City in defense of such claim or action. The parties expressly agree that, so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding. The Developer shall be responsible for all reasonable and necessary costs and expenses incurred by the City and by the Developer in connection with the defense of such claim or action, provided that if the City does not approve a settlement or compromise which the Developer would agree to, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action. All cost of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Redevelopment Project Costs and reimbursable from any amounts in the Special Allocation Fund, subject to **Article IV** of this Agreement.

7.17 Release and Indemnification. The indemnifications and covenants contained in this Section shall survive termination or expiration of this Agreement.

7.17.1 The City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable to the Developer for damages or otherwise in the event that all or any part of the TIF Act, or any ordinance adopted in connection with either the TIF Act, this Agreement or the Redevelopment Plan, is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof.

7.17.2 The Developer releases from and covenants and agrees that the City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold harmless the City, its governing body members, officers, agents, attorneys, employees and independent contractors against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed (excluding consequential and punitive damages), to persons or property occurring or allegedly occurring as a result of any negligent or malicious acts or omissions of the Developer, its governing body members, officers, agents, attorneys, employees and independent contractors, in connection with its or their activities conducted pursuant to this Agreement.

7.17.3 The City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, employees, independent contractors or any other persons who may be about the Property or the Work except for matters arising out of the gross negligence or willful misconduct of the City and its governing body members, officers, agents, attorneys, employees and independent contractors.

7.17.4 All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of its governing body members, officers, agents, attorneys, employees or independent contractors in their individual capacities.

7.17.5 No governing body members, officers, agents, attorneys, employees or independent contractors of the City shall be personally liable to the Developer (i) in the event of a default or breach by any party under this Agreement or (ii) for any amount or any TIF Notes which may become due to any party under the terms of this Agreement.

7.17.6 The Developer releases from and covenants and agrees that the City, its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold the City, its governing body members, officers, agents, attorneys, employees and independent contractors, harmless from and against any and all third party suits, interest, claims and cost of reasonable attorneys fees incurred by any of them, resulting from, arising out of, or in any way connected with: (i) the enforcement of this Agreement, the validity of the TIF Obligations or the enforcement or validity of any other agreement or obligation made in connection therewith and their approvals (excluding opinions of counsel and of the City's financial advisors whenever such claim is based on such party's own negligence); (ii) the negligence or willful misconduct of the Developer or its officers, agents, employees or independent contractors in connection with the design, management, development, redevelopment and construction of the Work, or (iii) the compliance by the Developer with all applicable state, federal and local environmental laws, regulations and ordinances as applicable to the Property, to the extent such condition existed prior to the acquisition thereof by the Developer. The foregoing release and indemnification shall not apply in the case of such liability arising directly out of the negligence or malicious acts or omissions of the City or its governing body members, officers, agents, attorneys, employees and independent contractors in connection with its or their activities conducted pursuant to this Agreement or which arises out of matters undertaken by the City following termination of this Agreement as to the Redevelopment Project or any particular portion thereof.

7.18 Survival. Notwithstanding the expiration or termination or breach of this Agreement by either party, the

agreements contained in **Section 2.2, clauses (iii)-(v), Article VI, Sections 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17 and Article VIII** of this Agreement shall, except as otherwise expressly set forth herein, survive such early expiration or early termination of this Agreement by either party.

7.19 Maintenance of the Property. The Developer shall remain in compliance with all provisions of the City’s ordinances relating to maintenance and appearance of the Property during the construction of the Redevelopment Project or any portion thereof. Upon substantial completion of the Redevelopment Project and so long as any TIF Obligations are outstanding, the Developer or its successor(s) in interest, as owner or owners of the affected portion(s) of the Property, shall, during the remainder of the term of this Agreement (but subject to any delay caused by an event of force majeure as provided in **Section 7.5** of this Agreement), maintain or cause to be maintained the buildings and improvements within the Redevelopment Area which it owns in a good state of repair and attractiveness and in conformity with applicable state and local laws, ordinances and regulations. If there are separately-owned or ground leased parcels of real estate on the Property during the term of this Agreement, each owner or lessee as a successor in interest to the Developer shall maintain or cause to be maintained the buildings and improvements on its parcel in a good state of repair and attractiveness and in conformity with applicable state and local laws, ordinances and regulations.

7.20 Non-Discrimination. The Developer agrees that, during the term of this Agreement and as an independent covenant running with the land, there shall be no discrimination upon the basis of race, creed, color, national origin, sex, age, marital status or physical handicap in the sale, lease, rental, occupancy or use of any of the facilities under its control within the Redevelopment Area or any portion thereof and said covenant may be enforced by the City or the United States of America or any of their respective agencies. The Developer further agrees that a provision containing the covenants of this paragraph shall be included in all agreements pertaining to the lease or conveyance or transfer (by any means) of all or a portion of the Redevelopment Project and any of the facilities under its control in the Redevelopment Area. Except as provided in this Section, the Developer shall have no obligation to enforce the covenants made by any transferee or lessee, tenant, occupant or user of any of the facilities within the Redevelopment Area.

7.21 Fair Employment. Without limiting any of the foregoing, the Developer voluntarily agrees to observe the Equal Opportunity and Nondiscrimination Guidelines set forth as **Exhibit F**, attached hereto and incorporated herein by reference. By execution of this Agreement, the Developer certifies and agrees that it is under no contractual or other disability that would materially impair its ability to observe the Guidelines set forth as **Exhibit F**, attached hereto and incorporated herein by reference.

7.22 MBE/WBE Compliance

The Developer shall comply with the Mayor’s Executive Order #28, as amended, during the design and construction of the Redevelopment Project and with respect to ongoing services provided by third parties to the Developer in connection with the Redevelopment Project.

**ARTICLE VIII.
REPRESENTATIONS OF THE PARTIES**

8.1 Representations of the City. The City hereby represents and warrants that it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, including without limitation the right, power and authority to issue and sell the TIF Notes, and all of the foregoing have been or will be, upon adoption of ordinances authorizing the issuance of the TIF Notes, duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

8.2 Representations of the Developer. The Developer hereby represents and warrants it has full power to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing has been duly and validly authorized by all necessary corporate proceedings. This Agreement constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed thereto, and attested as to the date first above written.

“CITY”

CITY OF ST. LOUIS, MISSOURI

By: _____

By: _____
Francis G. Slay, Mayor

By: _____
Darlene Green, Comptroller

(SEAL)

Attest:

Parrie May, City Register

Approved as to Form:

Patricia Hageman, City Counselor

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

On this _____ day of _____, 2006, 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 County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

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

On this _____ day of _____, 2006, 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 County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed thereto, and attested as to the date first above written.

“DEVELOPER”

4100 Development, Inc., a Missouri corporation

By: _____
Name: _____
Title: _____

STATE OF MISSOURI)
) SS.
_____ OF _____)

On this _____ day of _____, 2006, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the President of 4100 Development, Inc., a Missouri corporation, and that he is authorized to sign the foregoing agreement on behalf of said corporation by authority of its Board of Directors, and acknowledged to me that he executed the within instrument as said corporation’s free act and deed.

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

Notary Public

My Commission Expires:

EXHIBIT A
Legal Description of the Redevelopment Area

All of the following parcels, which parcels are contiguous to each OTHER, together with any and all appurtenant easements, rights of way, and access:

PARCEL No. 1:

A Parcel of land in Block 3917 of the City of St. Louis, Missouri; said Parcel being more particularly described as follows:

Beginning at the point of intersection of the Southern line of Forest Park Avenue, 150 feet wide, and the Western line of Sarah Street, 60 feet wide; thence along the Western line of said Sarah Street South 15 degrees 20 minutes 00 seconds West, 344.35 feet to the Northwestern line of a diagonal cut-off in the Western line of said Sarah Street, as recorded in Plat Book 19 Page 39 in the City of St. Louis Recorder's Office; thence South 55 degrees 26 minutes 10 seconds West, 57.75 feet along said Northwestern line of the diagonal cut-off to the Western line of said Sarah Street to a point of intersection with the Northern line of former Railroad Right-of-Way, 16 feet wide; thence along the Northern line of said former Railroad Right-of-Way North 02 degrees 16 minutes 03 seconds West, 21.68 feet to a point on a tangent curve; thence along said curve in a Northwestwardly direction, said curve having a radius of 248.49 feet, a central angle of 72 degrees 16 minutes 01 second, and a distance of 313.42 to a point of tangency; thence along a line tangent to said curve North 74 degrees 32 minutes 04 second West, 32.46 feet; thence leaving said former Railroad Right-of-Way North 15 degrees 20 minutes 00 seconds East, 194.39 feet along a line parallel with the Western line of said Sarah Street to the Southern line of said Forest Park Avenue South 74 degrees 40 minutes 30 seconds East, 312.50 feet and the point of beginning.

PARCEL No. 2:

A Parcel of land in Block 3917 of the City of St. Louis, Missouri; said Parcel being more particularly described as follows:

Beginning at the point of intersection of the Northern line of Duncan Avenue, 60 feet wide, with the Northwestern line of a diagonal cut-off of the Western line of Sarah Street, as recorded in Plat Book 19 Page 39 in the City of St. Louis Recorder's Office; thence North 74 degrees 23 minutes 15 seconds West, 355.17 feet along the Northern line of said Duncan Street; thence North 15 degrees 21 minutes 00 seconds West, 148.15 feet; thence South 74 degrees 31 minutes 53 seconds East 94.62 feet to a point on a line 312.50 feet West of and parallel with the Western line of Sarah Street; thence North 15 degrees 20 minutes 00 seconds East 46.00 feet to a point on the Southern line of a former Railroad Right-of-Way; along said line parallel with the Western line of said Sarah Street to the Southern line of said Railroad former Right-of-Way; thence South 74 degrees 32 minutes 04 seconds East, 32.42 feet along said former Railroad Right-of-Way to a point on a tangent curve; thence along said curve in a Southeastwardly direction, said curve having a radius of 232.49 feet, a central angle of 72 degrees 16 minutes 01 second, and a distance of 293.24 feet to a point of tangency; thence along a line tangent to said curve South 02 degrees 16 minutes 03 seconds East 31.79 feet to the point of intersection of the former Railroad Right-of-Way and the Northwestern line of a diagonal cut-off in the Western line of said Sarah Street, as recorded in Plat Book 19 Page 39 in the City of St. Louis Recorder's Office; thence South 55 degrees 26 minutes 10 seconds West, 4.04 feet along the said Northwestern line of the diagonal cut-off of said Sarah Street to the Northern line of Duncan Avenue and the point of beginning.

PARCEL No. 3:

A Parcel of land in Block 3917 of the City of St. Louis, Missouri; said Parcel being more particularly described as follows:

Commencing at the point of intersection of the Southern line of Forest Park Avenue, 150 feet wide, with the Western line of Sarah Street, 60 feet wide; thence North 74 degrees 40 minutes 30 seconds West, 312.50 feet along the Southern line of said Forest Park Avenue; thence South 15 degrees 20 minutes 00 seconds West, 194.39 feet along a line parallel with the Western line of said Sarah Street to a point in the Northern line of a former Railroad Right-of-Way, 16 feet wide, being the point of beginning for Parcel 3; thence from the point of beginning, South 74 degrees 32 minutes 04 seconds East 32.46 feet to a point on a tangent curve; thence along said curve in a Southeastwardly direction, said curve having a radius of 248.49 feet, a central angle of 72 degrees 16 minutes 01 seconds, and a distance of 313.42 feet to a point of tangency; thence along a line tangent to said curve South 02 degrees 16 minutes 03 seconds East 21.68 feet to a point of intersection of the said former Railroad Right-of-Way and the Northwestern line of a diagonal cut-off in the Western line of said Sarah Street, as recorded in Plat Book 19 Page 39 in the City of St. Louis Recorder's Office; thence South 55 degrees 26 minutes 10 seconds West, 18.93 feet along the said Northwestern line of the diagonal cut-off of the Western line

of Sarah Street to a point on the Southern line of the former railroad Right-of-Way, 16 feet wide; thence North 02 degrees 16 minutes 03 seconds West, 31.79 feet along the Southern line of said former Railroad Right-of-Way to a point on a tangent curve; thence along the said curve in a Northwestwardly direction, said curve having a radius of 232.49 feet, a central angle of 72 degrees 16 minutes 01 second, and a distance of 293.24 feet to a point of tangency; thence along a line tangent to said curve North 74 degrees 32 minutes 04 seconds West 32.42 feet to a point; thence North 15 degrees 20 minutes 00 seconds East, 16.00 feet to the point of beginning.

**EXHIBIT B
TIF Reimbursable Redevelopment Project Costs**

CATEGORY	
(a)	Acquisition Costs (as defined in Section 1.1 of this Agreement).
(b)	Demolition Costs (includes, but is not limited to, demolition of existing buildings and structures or parts thereof).
(c)	Site Preparation and Public Improvements Costs (includes, but is not limited to, street and sidewalk improvements, parking facilities, utility work and resetting of curbs and landscaping and lighting in the public right of way areas)
(d)	Rehabilitation, Renovation or Reconstruction of existing structures.
(e)	Financing Costs (includes, but is not limited to, loan fees, disbursing fees, lender’s legal fees, loan appraisals, flood certificates, tax credit investor fees and any and all other costs incurred by the Developer in connection with obtaining financing for and a tax credit investor in the Redevelopment Project).
(f)	Environmental Testing, Remediation and/or Abatement Costs (includes, but is not limited to, the testing for and removal and disposal of toxic or hazardous substances or materials).
(g)	Professional Service Costs (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, or special services).
(h)	TIF Costs & Issuance Costs incurred by the Developer pursuant to Section 2.2(i) – 2.2.(v) of this Agreement.

[†] Subject to the limitations set forth in **Section 4.2** of this Agreement, provided that such costs shall not exceed the aggregate amount of \$6,036,000 plus Issuance Costs as provided in the Agreement.

**EXHIBIT C
Form of Certificate of Commencement of Construction**

DELIVERED BY

4100 Development, Inc.

The undersigned, 4100 Development, Inc. (the “Developer”), pursuant to that certain Redevelopment Agreement dated as of _____, 2006, between the City of St. Louis, Missouri (the “City”) and Developer (the “Agreement”) hereby certifies to the City as follows:

1. All property within the Redevelopment Area necessary for the Redevelopment Project (as legally described on Appendix A attached hereto and by this reference incorporated herein and made a part hereof), has been acquired by a Related Entity with respect to Developer in accordance with the Agreement.
2. Developer has entered into an agreement with a contractor or contractors to construct the Redevelopment Project.
3. Developer has submitted to the MBE/WBE Compliance Officer a copy of Developer’s MBE/WBE Subcontractor’s List and MBE/WBE Utilization Statement, which are attached hereto as Appendix B.
4. Developer has obtained all necessary financing to complete the Redevelopment Project.
5. This Certificate of Commencement of Construction is being issued by Developer to the City in accordance with the Agreement to evidence Developer’s satisfaction of all obligations and covenants with respect to commencement of construction of the Redevelopment Project.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this day of _____, 20__.

4100 Development, Inc.

By: _____
Name: _____
Title: _____

**EXHIBIT D
Form of Certificate of
Reimbursable Redevelopment Project Costs**

TO:
City of St. Louis
Office of Comptroller
1200 Market Street, Room 212
St. Louis, Missouri 63103
Attention: Ivy Neyland-Pinkston, Deputy Comptroller

Re: City of St. Louis, Missouri, 4100 Forest Park Redevelopment Project

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement dated as of _____, 2006 (the "Agreement"), between the City and 4100 Development, Inc., a Missouri corporation (the "Developer"). In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on **Schedule 1** hereto is a Reimbursable Redevelopment Project Cost and was incurred in connection with the construction of the Redevelopment Project.
2. These Reimbursable Redevelopment Project Costs have been have been paid by the Developer and are reimbursable under the Note Ordinance and the Agreement.
3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived from the Special Allocation Fund or any money derived from any project fund established pursuant to the Note Ordinance, and no part thereof has been included in any other certificate previously filed with the City.
4. There has not been filed with or served upon the Developer any notice of any lien, right of 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, except to the extent any such lien is being contested in good faith.
5. All necessary permits and approvals required for the portion of the Work for which this certificate relates have been issued and are in full force and effect.
6. All Work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Redevelopment Plan and the Agreement.
7. If any cost item to be reimbursed under this Certificate is deemed not to constitute a "redevelopment project cost" within the meaning of the TIF Act and the Agreement, the Developer shall have the right to substitute other eligible Reimbursable Redevelopment Project Costs for payment hereunder.
8. The costs to be reimbursed under this Certificate constitute advances qualified for Tax-Exempt TIF Notes:
Yes: _____ No: _____
9. The Developer is not in default or breach of any material term or condition of the Agreement beyond the applicable cure period, if any.

Dated this ____ day of _____, _____.

4100 Development, Inc.

By: _____
Name: _____
Title: _____

Approved for payment this ____ day of _____, 20__.

SLDC

By: _____
Name: _____

Title: _____

Schedule 1

The Developer has incurred the following Reimbursable Redevelopment Project Costs:

Payee:	Amount:	Description of Reimbursable Redevelopment Project Costs:
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EXHIBIT E
Form of Certificate of Substantial Completion
CERTIFICATE OF SUBSTANTIAL COMPLETION

The undersigned, 4100 Development, Inc., a Missouri corporation (the "Developer"), pursuant to that certain Redevelopment Agreement dated as of _____, 2006, between the City of St. Louis, Missouri (the "City"), and the Developer (the "Agreement"), hereby certifies to the City as follows:

1. That as of _____, _____, the construction of the Redevelopment Project (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.
2. That the Work has been substantially completed or funded pursuant to Exhibit B to the Agreement.
3. The Work has been performed in a workmanlike manner and substantially in accordance with the Construction Plans (as those terms are defined in the Agreement).
4. This Certificate of Substantial Completion is accompanied by the project architect's or owner representative's certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as Appendix A and incorporated herein by reference, certifying that the Redevelopment Project has been substantially completed in accordance with the Agreement.
5. Lien waivers for applicable portions of the Work in excess of Five Thousand Dollars (\$5,000) have been obtained.
6. This Certificate of Substantial Completion is being issued by the Developer to the SLDC and the City in accordance with the Agreement to evidence the Developer's satisfaction of all material obligations and covenants with respect to the Redevelopment Project.
7. The acceptance (below) or the failure of the SLDC and the Mayor or his designee to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the SLDC and the City (which written objection, if any, must be delivered to the Developer prior to the end of such thirty (30) days) shall evidence the satisfaction of the Developer's agreements and covenants to perform the Work.

Upon such acceptance by the SLDC and the Mayor or his designee, the Developer may record this Certificate in the office of the City's Recorder of Deeds. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this _____ day of _____, 20__.

4100 Development, Inc.

By: _____
Name: _____
Title: _____

ACCEPTED:

SLDC

By: _____
Name: _____
Title: _____

CITY OF ST. LOUIS, MISSOURI

By: _____
Name: _____
Title: _____

(Insert Notary Form(s) and Legal Description)

**EXHIBIT F
Equal Opportunity and Nondiscrimination Guidelines**

In any contract for Work in connection with the Redevelopment Project related to any of the Property in the Redevelopment Area, the Developer (which term shall include the Developer, any transferees, lessees, designees, successors and assigns thereof, including without limitation any entity related to the Developer by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended), its contractors and subcontractors shall comply with all federal, state and local laws, ordinances or regulations governing equal opportunity and nondiscrimination (the "Laws"). Moreover, the Developer shall contractually require its contractors and subcontractors to comply with the Laws.

The Developer and its contractors or subcontractors shall not contract with any party known to have been found in violation of the Laws.

The Developer agrees for itself and its contractors and subcontractors that there shall be covenants to ensure that there shall be no discrimination on the part of the Developer or its contractors and subcontractors upon the basis of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap in the sale, lease, rental, use or occupancy of any of the Property or any improvements constructed or to be constructed on the Property or any part thereof. Such covenants shall run with the land and shall be enforceable by the SLDC, the City and the United States of America, as their interest may appear in the Redevelopment Project.

The Developer shall make good faith efforts to observe Executive Order #28 dated July 24, 1997, relating to minority and women-owned business participation in City contracts.

The parties agree that the provisions of City Ordinance #60275, codified at Chapter 3.90 of the Revised Ordinances of the City of St. Louis, Missouri (the "First Source Jobs Policy"), do not specifically apply to the Developer as a potential recipient of TIF Notes, TIF Bonds and/or TIF Revenues. Nonetheless, the Developer voluntarily agrees to make good faith efforts to observe the provisions of the First Source Jobs Policy related to the negotiation of an employment agreement with the St. Louis Agency on Training and Employment.

**EXHIBIT G
MBE/WBE Subcontractors List**

On the spaces provided below please list all subcontractors and suppliers, including M/WBEs, proposed for utilization on this project. Work to be self-performed by the bidder is to be included.

FIRM NAME	MBE or WBE	BID ITEM(S) OF WORK TO BE PERFORMED	SUBCONTRACT OR SUPPLY CONTRACT AMOUNT

**EXHIBIT H
MBE/WBE Utilization Statement**

Policy: It is the policy of the City of St. Louis that minority and women-owned businesses, as defined in the Mayor's Executive Order of July 24, 1997, as amended, shall have an opportunity to participate in the performance of contracts utilizing City funds, in whole or in part. Consequently, the requirements of the aforementioned Executive Order apply to this contract.

Project and Bid Identification:

Contracting Agency: _____
 Project Name: _____
 Letting Number: _____ Date: _____
 Contract MBE/WBE Goal: 25% MBE and 5% WBE Participation
 Total Dollar Amount of Prime Contract: \$ _____

Total Dollar Amount of Proposed MBE: \$ _____ Percent MBE _____
 Total Dollar Amount of Proposed WBE: \$ _____ Percent WBE _____

Obligation: The undersigned certifies that (s)he has read, understands and agrees to be bound by the bid specifications, including the accompanying exhibits and other items and conditions of the request for proposals regarding minority and women business enterprise utilization. The undersigned further certifies that (s)he is legally authorized by the respondent to make the statements and representations in the M/WBE Forms and Exhibits and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned will enter into formal agreements with the minority/women business enterprises listed in the Subcontractor List, which are deemed by the City to be legitimate and responsible. The undersigned understands that if any of the statements and representations are made by the respondent knowing them to be false, or if there is a failure of the successful respondent to implement any of the stated agreements, intentions, objectives, goals and commitments set forth herein without prior approval of the City, then in any such events, the contractor's act or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the City to terminate the contract for default. The right to so terminate shall be in addition to, and not in lieu of, any other rights and remedies the City may have for other defaults under the contract. Additionally, the contractor may be subject to the penalties cited in Section Twelve of the Mayor's Executive Order #28, as amended.

Assurance: I, acting as an officer of the undersigned bidder or joint venture bidders, hereby assure the City that on this project my company will (check one):

- _____ Meet or exceed contract award goals and provide participation as shown above.
- _____ Fail to meet contract award goals but will demonstrate that good faith efforts were made to meet the goals and my company will provide participation as shown above.

Name of Prime Contractor(s): _____

Prime Contractor Authorized Signature
 Title: _____
 Date: _____

Approved: November 27, 2006

**ORDINANCE #67314
 Board Bill No. 244**

AN ORDINANCE RECOMMENDED BY THE BOARD OF ESTIMATE AND APPOINTMENT AUTHORIZING AND DIRECTING THE ISSUANCE AND DELIVERY OF NOT TO EXCEED \$6,036,000 PLUS ISSUANCE COSTS PRINCIPAL AMOUNT OF TAX INCREMENT REVENUE NOTES (4100 FOREST PARK Redevelopment Project), OF THE CITY OF ST. LOUIS, MISSOURI; PRESCRIBING THE FORM AND DETAILS OF SUCH NOTES AND THE COVENANTS AND AGREEMENTS MADE BY THE CITY TO FACILITATE AND PROTECT THE PAYMENT THEREOF; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of St. Louis, Missouri (the "City"), is a body corporate and political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865, Revised Statutes of Missouri, (the "TIF Act" or "Act"), authorizes the City to undertake redevelopment projects within designated areas of the City; and

WHEREAS, staff and consultants of the City and 4100 Forest Park, LLC, a Missouri limited liability company and Related Entity of 4100 Development, Inc. (the "Developer"), prepared a plan for redevelopment titled "4100 Forest Park Redevelopment Plan" dated February 17, 2006, with amendments, if any, (the "Redevelopment Plan"), for an area located at 4100 Forest Park in St. Louis (the "Redevelopment Area" or "Area"), which Redevelopment Area is more fully described in the Redevelopment Plan, such legal description being attached hereto and incorporated herein as **Exhibit A**; and

WHEREAS, on April 12, 2006, the TIF Commission found that completion of the Redevelopment Project would provide a substantial and significant public benefit through the elimination of blight, strengthening of the employment and economic base of the City, increased property values and tax revenues, stabilization of the Redevelopment Area, and facilitation of economic stability for the City as a whole, and further found that without the assistance of tax increment financing in accordance with the TIF Act, the Redevelopment Project is not financially feasible and would not otherwise be completed; and

WHEREAS, on June 23, 2006, after due consideration of the TIF Commission's recommendations, the City adopted: (1) Ordinance No. 67146 designating the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, approving the Redevelopment Plan, and approving the redevelopment project described in the Redevelopment Plan, adopting tax increment

allocation financing within the Redevelopment Area, and establishing the Special Allocation Fund; and (2) Ordinance No. _____ [Board Bill No. ____] authorizing the City to enter into a redevelopment agreement with Developer; and

WHEREAS, pursuant to the Redevelopment Plan and Redevelopment Agreement, the City proposes to finance a portion of the costs of the Redevelopment Project by utilizing tax increment allocation financing in accordance with the TIF Act; and

WHEREAS, the City desires to issue, from time to time, its Tax Increment Revenue Notes (4100 Forest Park Redevelopment Project), (the "TIF Notes" or "Notes"), to provide funds for the aforesaid purpose, said Notes being payable solely from certain proceeds deposited into the Special Allocation Fund; and

WHEREAS, the City has determined that it is in the best interest of the City to sell the Notes from time to time at a private sale, without advertisement, to the Original Purchaser at a price equal to 100% of their face value; and

WHEREAS, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants that the Notes be issued and secured in the form and manner as hereinafter provided to carry out the Redevelopment Project.

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

**ARTICLE I.
DEFINITIONS**

Section 101 Definitions of Words and Terms. In addition to the words and terms defined elsewhere in this ordinance (the "Ordinance"), the following capitalized words and terms, as used in this Ordinance, shall have the following meanings:

"Act" or "TIF Act" means the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri.

"Approved Investors" means (a) the Developer or a Related Entity, (b) an "accredited investor" under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business company or enterprise with total assets in excess of \$50,000,000.

"Approving Ordinance" means Ordinance No. 67146 effective as of 6/24/06, designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, making certain findings with respect thereto, adopting tax increment allocation financing within the Redevelopment Area, establishing the Special Allocation Fund, and authorizing certain related actions by City officials.

"Authorized Denominations" means an initial amount of \$100,000 or any integral multiple of \$1,000 in excess thereof, except with respect to the TIF Note issued upon acceptance by the City of the final Certificate of Reimbursable Redevelopment Project Costs, which TIF Note may be issued in any denomination, subject to the limitation on the aggregate Principal Amount, subject to the limitation provided in **Section 201** of this Ordinance.

"Authorizing Ordinance" means Ordinance No. _____ [Board Bill No. ____], adopted on _____, 2006, affirming adoption of the Redevelopment Plan, Redevelopment Area, and Redevelopment Project, authorizing execution of a Redevelopment Agreement for the construction of the Redevelopment Project and making certain findings related thereto.

"Available Revenues" means all monies on deposit from time to time (including investment earnings thereon) in (a) the PILOTS Account; and (b) subject to annual appropriation, the EATS Account that have been appropriated to the repayment of TIF Notes, excluding (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

"Bond Counsel" means Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

"Certificate of Commencement of Construction" means a document substantially in the form of Exhibit C to the Redevelopment Agreement, delivered by the Developer to the City in accordance with the Redevelopment Agreement and evidencing commencement of construction of the Redevelopment Project.

"Certificate of Reimbursable Redevelopment Project Costs" means a document substantially in the form of Exhibit D to the Redevelopment Agreement provided by the Developer to the City in accordance with Redevelopment Agreement evidencing Reimbursable Redevelopment Project Costs incurred by the Developer.

"Certificate of Substantial Completion" means a document substantially in the form of Exhibit E, to the Redevelopment Agreement, issued by the Developer to the City in accordance with the Redevelopment Agreement and evidencing the Developer's satisfaction of all obligations and covenants to construct the Redevelopment Project in accordance with the Redevelopment Plan and

the Redevelopment Agreement.

“City” means the City of St. Louis, Missouri, a body corporate and political subdivision duly authorized and existing under its charter and the Constitution and laws of the State of Missouri.

“Debt Service Fund” means the fund by that name created in **Section 401** of this Ordinance.

“Developer” means 4100 Development, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

“Economic Activity Taxes” or “EATs” shall have the meaning ascribed to such term in Section 99.805(4) of the TIF Act.

“EATs Account” means the Economic Activity Tax. Account of the Revenue Fund of the Special Allocation Fund.

“Finance Officer” means the Comptroller of the City or her authorized agent.

“Government Obligations” means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America.

“Issuance Costs” means all costs reasonably incurred by the City in furtherance of the issuance of TIF Notes, including without limitation, the fees and expenses of financial advisors and consultants, the City’s attorneys (including issuer’s Counsel and Bond Counsel), the City’s administrative fees and expenses (including fees and costs of its planning consultants and the St. Louis Development Corporation), underwriters’ discounts and fees, if any, the costs of printing any TIF Notes and any official statements relating thereto, the costs of credit enhancement, if any, capitalized interest, debt service reserves and the fees of any rating agency rating any TIF Notes.

“Maturity Date” means the date that is twenty-three (23) years after the date of adoption of the Approving Ordinance.

“Ordinance” or “Note Ordinance” means this Ordinance as from time to time amended in accordance with the terms hereof.

“Original Purchaser” means the Developer, a Related Entity, a Qualified Institutional Buyer or a Project Lender; provided, however, that any such Related Entity or Project Lender shall also qualify as an Approved Investor and shall be designated in writing by the Developer as the Original Purchaser.

“Owner” means, when used with respect to any TIF Note, the present holder of any of the TIF Notes.

“Payment Date” means, with respect to any TIF Note, each May 1 and November 1, commencing on the first May 1 or November 1 that immediately succeeds the City’s acceptance of a Certificate of Substantial Completion for the Redevelopment Project.

“Payments in Lieu of Taxes” or “PILOTs” shall have the meaning ascribed to such term in Section 99.805(10) of the TIF Act.

“PILOTs Account” means the Payments in Lieu of Taxes Account of the Special Allocation Fund.

“Project Lender” means a commercial bank, savings bank, savings and loan association, credit union or other financial institution that has loaned funds to the Developer to be used for construction of the Redevelopment Project and has secured such loan with a mortgage or security interest in the Redevelopment Project.

“Qualified Institutional Buyer” means a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933.

“Redevelopment Agreement” or “Agreement” means that certain Redevelopment Agreement dated as of _____, 2006, between the City and the Developer, as may be amended from time to time.

“Redevelopment Area” means the real property legally described and set forth on **Exhibit A**, attached hereto and incorporated herein by reference.

“Redevelopment Plan” means the plan titled “4100 Forest Park TIF Redevelopment Plan” dated February 17, 2006, with amendments, if any, and as approved by the City pursuant to the Approving Ordinance, as such plan may from time to time be amended in accordance with the TIF Act.

“Redevelopment Project” or “4100 Forest Park Redevelopment Project” means the Redevelopment Project identified by the Redevelopment Plan, consisting of: the acquisition, rehabilitation and renovation of the existing structure within the Redevelopment Area into a mix of residential units and commercial space together with other improvements to the Redevelopment Area, as further set forth in the Redevelopment Plan, and as approved by the Approving Ordinance.

“Register” means the books for registration, transfer and exchange of the TIF Notes kept at the office of the Finance

Officer.

“Reimbursable Redevelopment Project Costs” means those Redevelopment Project Costs for which the Developer is eligible for reimbursement in accordance with the TIF Act and, in any event, in accordance with the Redevelopment Agreement.

“Related Entity” means any party or entity related to the Developer by one of the relationships described in Section 267(b), Section 707(b)(1)(A) or Section 707(b)(1)(B) of the Internal Revenue Code of 1986, as amended.

“Special Allocation Fund” means the City of St. Louis, Missouri, 4100 Forest Park Special Allocation Fund created by Ordinance No. 67146 and including the accounts and sub-accounts for the 4100 Forest Park Redevelopment Project into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement, including a PILOTS Account and an EATS Account.

“Taxable TIF Notes” means the City’s Taxable Tax Increment Revenue Notes (4100 Forest Park Redevelopment Project), Series 200_, as further described in **Article II** hereof.

“Tax-Exempt TIF Notes” means the City’s Tax-Exempt Tax Increment Revenue Notes (4100 Forest Park Redevelopment Project), Series 200_, as further described in **Article II** hereof.

“TIF Notes” means the not to exceed \$6,036,000 plus Issuance Costs Tax Increment Revenue Notes (4100 Forest Park Redevelopment Project), Series 200_ issued (in one or more series) by the City pursuant to and subject to the Redevelopment Agreement and this Ordinance in substantially the form set forth in **Exhibit B**, attached hereto and incorporated herein by reference.

“TIF Revenues” means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Redevelopment Area over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, and (2) subject to annual appropriation by the Board of Aldermen, fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2005 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, and licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, all as provided in Section 99.845 of the TIF Act. Notwithstanding the foregoing, TIF Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

Section 102 Rules of Construction. For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires:

- (a) Words of masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.
- (b) Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, associations and limited liability companies, including public bodies. The headings and captions herein are not a part of this document.
- (c) Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by generally accepted principles of accounting.
- (d) Whenever an item or items are listed after the word “including,” such listing is not intended to be an exhaustive listing that excludes items not listed.

ARTICLE II. AUTHORIZATION OF TIF NOTES

Section 201 Authorization of TIF Notes. There are hereby authorized and directed to be issued by the City to the Original Purchaser one or more series of the TIF Notes in an aggregate principal amount not to exceed **Six Million Thirty-Six Thousand Dollars and NO/100 (\$6,036,000) plus Issuance Costs**. The TIF Notes shall be in substantially the form of **Exhibit B**, attached hereto and incorporated herein by reference.

Section 202 Description of TIF Notes.

- (a) **Title of TIF Notes.** There shall be issued one series of one or more Taxable TIF Notes in an aggregate principal amount not to exceed **Six Million Thirty-Six Thousand Dollars and NO/100 (\$6,036,000) plus Issuance Costs** authorized hereunder and one series of one or more Tax-Exempt TIF Notes in an aggregate principal amount not to exceed **Six Million**

Thirty-Six Thousand Dollars and NO/100 (\$6,036,000) plus Issuance Costs less the aggregate principal amount of Taxable TIF Notes. The Taxable TIF Notes shall be designated "Taxable Tax Increment Revenue Notes (4100 Forest Park Redevelopment Project), Series 200_". The Tax-Exempt TIF Notes shall be designated "Tax-Exempt Tax Increment Revenue Notes (4100 Forest Park Redevelopment Project), Series 200_". The TIF Notes may have such further appropriate particular designation added to or incorporated in such title for the TIF Notes of any particular series as the City may determine.

(b) Form of TIF Notes. The TIF Notes shall be substantially in the form set forth in **Exhibit B**, attached hereto and incorporated herein by reference, with such appropriate variations, omissions and insertions as are permitted or required by this Ordinance, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

(c) Terms of TIF Notes. The TIF Notes shall mature (subject to redemption and payment prior to maturity as provided in **Article III** hereof), on the date that is twenty-three (23) years after the date of adoption of the Approving Ordinance. Each TIF Note shall bear interest at a fixed rate per annum determined on the date that is not less than ten (10) and not more than sixty (60) business days prior to the scheduled closing date for issuance of the TIF Notes (the "Pricing Date") based on the municipal yield curve for general obligation bonds (the "MMD") compiled by Municipal Market Data Line ® (or its successors) and published by Thompson Financial, an operating unit of The Thompson Corporation (or its successors) using the MMD yield published as of the Issuance Date for general obligation bonds rated "AAA" that mature in the same year as the TIF Notes, (i) plus four percent (4%) if the interest on such TIF Note, in the opinion of Bond Counsel, is not exempt from Federal income taxation (the "Taxable Rate"), or (ii) plus two percent (2%) if the interest on such TIF Note, in the opinion of Bond Counsel, is exempt from Federal income taxation (the "Tax Exempt Rate"); provided, in no event shall the interest rate on the TIF Notes exceed ten percent (10%) per annum. All TIF Notes shall have a stated maturity of the Maturity Date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The TIF Notes shall bear interest from their registration date or from the most recent Payment Date to which interest has been paid or duly provided for.

(d) Denominations. The TIF Notes shall be issuable as fully registered TIF Notes in Authorized Denominations.

(e) Numbering. Unless the City directs otherwise, each series of TIF Notes shall be numbered from R-1 upward.

(f) Dating. The TIF Notes shall be dated as provided in **Section 207**, as evidenced by the Finance Officer's signature on **Schedule A** to each TIF Note.

(g) Evidence of Principal Payments. The payment of principal of the TIF Notes on each Payment Date shall be noted on the TIF Notes on **Schedule A** thereto. The original **Schedule A** to the TIF Note shall be held by the Finance Officer in trust, unless otherwise directed in writing by the Owners thereof. If such **Schedule A** is held by the Finance Officer, the Finance Officer shall, on each Payment Date, send a revised copy of **Schedule A** via facsimile to the Owner. Absent manifest error, the amounts shown on **Schedule A** held by the Finance Officer shall be conclusive evidence of the principal amount paid on the TIF Notes.

(h) Sale of TIF Notes. When TIF Notes have been executed and authenticated as required by this Ordinance, the Finance Officer shall hold the TIF Notes in trust or, if directed in writing by the Owners thereof, deliver the TIF Notes to or upon the order of the Owners thereof, as provided in paragraph (g) above, but only upon payment to the City of a purchase price equal to one hundred percent (100%) of the face amount of the TIF Notes, which payment shall be deemed to have occurred under the circumstances described in **Section 405** of this Ordinance.

Section 203 Finance Officer to Serve as Paying Agent and Registrar. The Finance Officer or the authorized representative thereof is hereby designated as the paying agent for the payment of principal of and interest on the TIF Notes and the bond registrar with respect to the registration, transfer and exchange of the TIF Notes and for allocating and holding funds as provided herein.

Section 204 Security for TIF Notes. All TIF Notes shall be equally and ratably secured by Available Revenues. The TIF Notes shall be special, limited obligations of the City payable solely from and secured as to the payment of principal and interest by a pledge of the Available Revenues. The taxing power of the City is not pledged to the payment of the TIF Notes either as to principal or interest. The TIF Notes shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. **THE OBLIGATIONS OF THE CITY WITH RESPECT TO THE TIF NOTES SHALL TERMINATE ON THE FIRST TO OCCUR OF THE FULL PAYMENT AND DISCHARGE OF THE TIF NOTES OR THE MATURITY DATE (WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HAS BEEN PAID IN FULL).**

Section 205 Method and Place of Payment of TIF Notes. The principal of and interest on the TIF Notes shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America. Payment shall be made by the Finance Officer as provided in this Note Ordinance and as set forth in **Exhibit B**. Principal and interest shall be payable by check or draft at the office of the Finance Officer or by wire transfer to the person in whose name such TIF Note is registered on the Register on each Payment Date.

Section 206 Registration, Transfer and Assignment. So long as the TIF Notes remain outstanding, the City shall cause to be kept at the office of the Finance Officer books for the registration, transfer and exchange of the TIF Notes as herein provided. The TIF Notes when issued shall be registered in the name of the Original Purchaser thereof on the Register.

The TIF Notes and beneficial interest therein may only be purchased by an Original Purchaser and transferred or assigned to the Developer, a Related Entity, a Qualified Institutional Buyer or Project Lender upon the execution by each proposed purchaser, transferee or assignee of a letter in substantially the form of **Exhibit C**, attached hereto and incorporated herein by reference, stating that such Original Purchaser, transferee or assignee (i) is an Approved Investor and (ii) has sufficient knowledge and experience in business and financial matters in general, and investments such as the TIF Notes in particular, to enable the purchaser, transferee or assignee to evaluate the risks involved in an investment in the TIF Notes. The TIF Notes may be transferred and exchanged only upon the records of the City. Upon surrender of a TIF Note to the Finance Officer, the Finance Officer shall transfer or exchange the TIF Notes for a new TIF Note or TIF Notes, which shall be (i) in the form of fully registered Notes without coupons in minimum denominations of One Thousand Dollars (\$1,000), except with respect to the TIF Notes issued upon acceptance by the City of the final Certificate of Reimbursable Redevelopment Project Costs, which TIF Notes may be issued in any denomination, subject to the limitation on the aggregate principal amount, and (ii) of the same Maturity Date and in the same aggregate principal amount outstanding as the TIF Note which was presented for transfer or exchange. The TIF Notes presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Finance Officer, duly executed by the Owner thereof or by the Owner's duly authorized agent. Upon any transfer, exchange or assignment as provided in this Section, the transferor shall reimburse the City for all of the reasonable out-of-pocket costs incurred by the City in connection with the administration of such transfer, exchange or assignment.

Section 207 Execution, Authentication and Delivery of the TIF Notes. Each of the TIF Notes, including any TIF Notes issued in exchange or as substitution for the TIF Notes initially delivered, shall be signed by the manual or facsimile signature of the Mayor and the Finance Officer of the City, attested by the manual or facsimile signature of the City Register, and shall have the official seal of the City affixed thereto or imprinted thereon. If any officer whose signature appears on any TIF Note ceases to be such officer before the delivery of such TIF Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any TIF Note may be signed by such persons who at the actual time of the execution of such TIF Note are the proper officers to sign such TIF Note although at the date of such TIF Note such persons may not have been such officers.

The Mayor, Finance Officer and City Register are hereby authorized and directed to prepare and execute the TIF Notes as hereinbefore specified, and when duly executed, to deliver the TIF Notes to the Finance Officer for authentication.

The TIF Notes shall have endorsed thereon a certificate of authentication substantially in the form set forth in **Schedule A of Exhibit B** hereto, which shall be manually executed by an authorized signatory of the Finance Officer, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the TIF Notes that may be issued hereunder at any one time. No TIF Note shall be entitled to any security or benefit under this Ordinance or be valid or obligatory for any purpose until the certificate of authentication has been duly executed by the Finance Officer. Such executed certificate of authentication upon any TIF Note shall be conclusive evidence that such TIF Note has been duly authenticated and delivered under this Ordinance.

The TIF Notes shall be initially executed and authenticated by the City upon the last to occur of the following: (i) acceptance or deemed acceptance of the Certificate of Substantial Completion; (ii) approval of a Certificate of Reimbursable Redevelopment Project Costs; (iii) receipt of an opinion of Bond Counsel regarding the taxable nature of the TIF Notes; (iv) the full payment of all advances required to be paid under Section 2.2 of the Redevelopment Agreement; and (v) receipt of such other documentation as the City shall reasonably require of Developer in order for the City to obtain an opinion of Bond Counsel as required by this Section 5.1 of the Redevelopment Agreement.

Upon the Developer's satisfaction of the foregoing conditions and upon approval of each Certificate of Reimbursable Redevelopment Project Costs, the Finance Officer shall either: (i) at the request of the City upon instructions of the Developer, endorse an outstanding TIF Note on **Schedule A** thereto to evidence an increase in the aggregate principal amount equal to such Reimbursable Redevelopment Project Costs, or (ii) at the request of the City upon instructions of the Developer issue a new TIF Note in a principal amount equal to such Reimbursable Redevelopment Project Costs, or any combination thereof. Each date of endorsement of each such TIF Note shall be the date of acceptance by the City of each Certificate of Reimbursable Redevelopment Project Costs except that the initial endorsement of each TIF Note shall be dated the date of issuance of such TIF Note. Thereupon, pursuant to **Section 202(h)**, the TIF Notes shall either be held or delivered to or upon the order of the party submitting the Certificate of Reimbursable Redevelopment Project Costs relating to such Notes. Upon acceptance by the City of such a Certificate of Reimbursable Redevelopment Project Costs in accordance with the Redevelopment Agreement and upon execution and authentication of the TIF Notes as required by this ordinance, the Developer shall be deemed to have advanced funds to the City in an amount equal to the purchase price of the TIF Notes, which shall be one hundred percent (100%) of the face amount of the TIF Notes, and, upon the issuance of an endorsement of the TIF Notes as provided in the preceding paragraph, the City shall be deemed to have reimbursed the Developer in full for such Reimbursable Redevelopment Project Costs.

Section 208 Mutilated, Lost and Stolen TIF Notes. If any mutilated TIF Note is surrendered to the Finance Officer or the Finance Officer receives evidence to his/her satisfaction of the destruction, loss or theft of any TIF Note and there is delivered to the Finance Officer such security or indemnity as may be required by it to save the City and the Finance Officer harmless, then, in the absence of notice to the Finance Officer that such TIF Note has been acquired by a bona fide purchaser, the City shall execute and the Finance Officer shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen TIF Note, a new TIF Note with the same Maturity Date and of like tenor and principal amount. Upon the issuance of any new TIF Note under this Section, the City and the Finance Officer may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith. If any such mutilated, destroyed, lost or stolen TIF Note has become or is about to become due and payable, the Finance Officer may, in its discretion, pay such TIF Note instead of issuing a new TIF Note.

Section 209 Cancellation, Discharge and Abatement of TIF Notes. All TIF Notes that have been paid or redeemed or that otherwise have been surrendered to the Finance Officer, either at or before the Maturity Date, shall be canceled and destroyed by the Finance Officer in accordance with existing security regulations upon the payment or redemption of such TIF Note and the surrender thereof to the Finance Officer. The Finance Officer shall execute a certificate in duplicate describing the TIF Notes so cancelled and destroyed, and shall file an executed counterpart of such certificate with the City.

NOTWITHSTANDING ANY PROVISION HEREIN TO THE CONTRARY, THE TIF NOTES ARE SUBJECT TO CANCELLATION AND DISCHARGE BY THE CITY IN WHOLE OR IN PART WITHOUT PENALTY UNDER THE CONDITIONS SET FORTH IN THE REDEVELOPMENT AGREEMENT.

**ARTICLE III.
REDEMPTION AND PAYMENT OF PRINCIPAL AND INTEREST**

Section 301 Optional Redemption. The TIF Notes are subject to optional redemption by the City in whole at any time or in part on any Payment Date at a redemption price of 100% of the principal amount of the TIF Note to be redeemed, plus accrued interest thereon to the date fixed for redemption. The TIF Notes shall be called by the City for optional redemption pursuant to this Section without the necessity of any action by the City other than as provided in **Section 403** of this Ordinance. If only a partial redemption is to occur, then each TIF Note shall be redeemed in the order of maturity as set forth in **Section 403** of this Note Ordinance, and within any maturity the TIF Notes shall be redeemed in Authorized Denominations by the City as set forth in **Section 403** of this Note Ordinance or if not feasible, in such manner as the City may determine. In the event of an optional redemption of the Notes, unless waived by any Registered Owner of Notes to be redeemed, official notice of any redemption shall be given by the Finance Officer on behalf of the City by mailing a copy of an official redemption notice by first class mail, postage prepaid, at least thirty (30) days (five days if all of the Notes are owned by the Developer) and not more than sixty (60) days prior to the date fixed for redemption, to each Registered Owner of the Notes to be redeemed at the address shown on the Note Register.

All official notices of optional redemption shall be dated and shall contain the following information: (a) the redemption date; (b) the redemption price; (c) if less than all outstanding Notes are to be redeemed, the identification number and maturity date(s) (and, in the case of partial redemption of any Notes, the respective principal amounts) of the Notes to be redeemed; (d) a statement that on the redemption date the redemption price will become due and payable upon each Note or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the redemption date; and (e) the place where such Notes are to be surrendered for payment of the redemption price, which shall be the office of the Finance Officer. The failure of any Registered Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Section 302 Special Mandatory Redemption. All TIF Notes are subject to special mandatory redemption by the City on each Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, which amount of principal being redeemed shall be an amount equal to Available Revenues then on deposit in the applicable account of the Special Allocation Fund and which will not be required for the payment of interest on such Payment Date. The TIF Notes shall be called by the City for special mandatory redemption pursuant to this Section without the necessity of any further action by the City.

In the event of a special mandatory redemption of any Notes with a Registered Owner other than Developer or a Related Entity, unless waived by such Registered Owner of Notes to be redeemed, official notice of any redemption shall be given by the Finance Officer on behalf of the City by mailing a copy of an official redemption notice by first class mail, postage prepaid, at least thirty (30) days and not more than sixty (60) days prior to the date fixed for redemption, to each Registered Owner other than Developer or a Related Entity of the Notes to be redeemed at the address shown on the Note Register.

Section 303 Selection of Notes to be Redeemed. TIF Notes shall be redeemed only in Authorized Denominations. When less than all of the outstanding TIF Notes are to be redeemed and paid prior to maturity, such TIF Notes or portions of TIF Notes to be redeemed shall be selected in Authorized Denominations by the Fiscal Agent in accordance with the order specified in **Section 403** of this Note Ordinance. In the case of a partial redemption of TIF Notes when TIF Notes of denominations greater than the minimum Authorized Denomination are then outstanding, then for all purposes in connection with such redemption each Authorized Denomination unit of face value shall be treated as though it was a separate TIF Note of the denomination of the minimum Authorized Denomination.

Section 304 Notice and Effect of Call for Redemption. In the event of any optional or special mandatory redemption of the Notes, unless waived by any Registered Owner of Notes to be redeemed, official notice of any redemption shall be given by the Finance Officer on behalf of the City by mailing a copy of an official redemption notice by first class mail to each Registered Owner of the Notes to be redeemed at the address shown on the Note Register.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the redemption date;
- (b) the redemption price;
- (c) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption of any Notes, the respective principal amounts) of the Notes to be redeemed;

(d) a statement that on the redemption date the redemption price will become due and payable upon each Note or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the redemption date; and

(e) the place where such Notes are to be surrendered for payment of the redemption price, which shall be the office of the Finance Officer.

The failure of any Registered Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption. All Notes that have been redeemed shall be cancelled and destroyed by the Finance Officer as provided herein and shall not be reissued.

ARTICLE IV. FUNDS AND REVENUES

Section 401 Creation of Funds and Accounts. There are hereby created or ratified and ordered to be established in the treasury of the City the Special Allocation Fund into which all TIF Revenues shall be deposited, and within it the following separate funds and accounts:

(a) a PILOTS Account

(b) an EATS Account

(c) a Revenue Fund and, within it, (i) a PILOTs Account; and (ii) an EATS Account, into which all Available Revenues shall be deposited;

(d) a Debt Service Fund; and

(e) a Project Fund.

Section 402 Administration of Funds and Accounts. The Special Allocation Fund and the funds and accounts established therein shall be maintained in the treasury of the City and administered by the City solely for the purposes and in the manner as provided in the Act, this Ordinance, the Approving Ordinance, and the Authorizing Ordinance so long as any TIF Notes remain outstanding hereunder.

Section 403 Revenue Fund.

(a) On or before the date that is five (5) days prior to each Payment Date while the TIF Notes remain outstanding, the City shall transfer and deposit:

(i) Those Available Revenues attributable to PILOTs into the PILOTs Account of the Revenue Fund; and

(ii) Those Available Revenues attributable to EATs into the EATs Account of the Revenue Fund.

(b) Available Revenues in the Revenue Fund shall be disbursed by the Finance Officer on each Payment Date, first from the EATs Account and second from the PILOTs Account for the purposes and in the amounts as follows:

First, to payment of arbitrage rebate, if any, owed with respect to the TIF Notes under Section 148 of the Internal Revenue Code of 1986, as amended, including any costs of calculating arbitrage rebate

Second, to the Comptroller of the City and the St. Louis Development Corporation (which monies shall be paid one half to the Comptroller and one half to the St. Louis Development Corporation), 0.2% of the Notes outstanding on each Payment Date, plus any accumulated deficiency from previous years, plus an amount sufficient to pay all or any portion of the fees and expenses incurred by the City pursuant to Section 7.15 of the Agreement that have not otherwise been reimbursed to the City through the issuance of TIF Notes;

Third, to the Debt Service Fund, an amount sufficient to pay all or any portion of the past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TIF Notes on each Payment Date;

Fourth, to the Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TIF Notes on each Payment Date;

Fifth, to the Debt Service Fund, an amount sufficient to pay the principal of any TIF Notes that are subject to redemption pursuant to the Note Ordinance on each Payment Date;

Sixth, all other remaining money in the PILOTs Account and the EATs Account of the Special Allocation Fund shall annually be declared as surplus and distributed in the manner provided in the TIF Act.

If monies available in the Special Allocation Fund are insufficient to reimburse the City as provided above on any Payment

Date, then the unpaid portion shall be carried forward to the next Payment Date, with interest thereon at the same rate as the tax-exempt TIF Obligations.

(b) Upon the payment in full of the principal of and interest on all TIF Notes (or provision has been made for the payment thereof as specified in the Note Ordinance), payment in full of the fees and expenses of the Comptroller and the St. Louis Development Corporation, and payment in full of any other amounts required to be paid under this Ordinance, all amounts remaining on deposit in the Revenue Fund shall be declared as surplus and distributed in the manner provided in the Act.

Section 404 Debt Service Fund.

(a) All amounts paid and credited to the Debt Service Fund shall be expended solely for (i) the payment of the principal of and interest on the TIF Notes as the same mature and become due or upon the redemption thereof, said TIF Notes all being subject to special mandatory redemption thereof, or (ii) to purchase Notes for cancellation prior to maturity.

(b) The City hereby authorizes and directs the Finance Officer to withdraw sufficient moneys from the Debt Service Fund to pay the principal of and interest on the TIF Notes as the same become due and payable, and to make said moneys so withdrawn available for the purpose of paying said principal of and interest on the TIF Notes.

(c) After payment in full of the principal of and interest on the TIF Notes (or provision has been made for the payment thereof as specified in this Ordinance), payment of the fees and expenses of the Finance Officer, and payment of any other amounts required to be paid under this Ordinance, all amounts remaining in the Debt Service Fund shall be declared as surplus and distributed in the manner provided in the Act.

Section 405 Project Fund. Upon acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs and the issuance or endorsement of a TIF Note pursuant to **Section 207** of this Ordinance, the Developer shall be deemed to have advanced funds necessary to purchase such TIF Note and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Developer or paid for in full for such costs from the amounts deemed to be on deposit in the Project Fund.

Section 406 Nonpresentment of Notes. If any TIF Note is not presented for payment when the principal thereof becomes due at stated maturity or prior redemption date, if funds sufficient to pay such TIF Note have been made available to the Finance Officer, all liability of the City to the Registered Owner thereof for the payment of such TIF Note shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Finance Officer to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such TIF Note, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, said TIF Note. If any TIF Note is not presented for payment within five (5) years following the date when such TIF Note becomes due at maturity, the Finance Officer shall repay to the City the funds theretofore held by it for payment of such TIF Note, and such TIF Note shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Registered Owner thereof shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid to it by the Finance Officer, and the City shall not be liable for any interest thereon and shall not be regarded as a Finance Officer of such money.

**ARTICLE V.
REMEDIES**

Section 501 Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owner. The Owner shall have the right:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of the Owner against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Ordinance or by the constitution and laws of the State of Missouri;

(b) by suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owner.

Section 502 Limitation on Rights of Owner. The Owner secured hereby shall not have any right in any manner whatever by its action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided.

Section 503 Remedies Cumulative. No remedy conferred herein upon the Owner is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of the Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owner by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If

any suit, action or proceedings taken by the Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to the Owner, then, and in every such case, the City and the Owner shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owner shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VI. DEPOSIT AND INVESTMENT OF MONEYS

Section 601 Deposits of Moneys. All moneys deposited with or paid to the Finance Officer for the account of the various funds established under this Ordinance shall be held by the Finance Officer in trust and shall be applied only in accordance with this Ordinance. The Finance Officer shall not be under any liability for interest on any moneys received hereunder except as otherwise provided herein.

Section 602 Investment of Moneys. Moneys held in any fund or account referred to in this Ordinance shall be invested by the City in Government Obligations or in time or demand deposits or in certificates of deposit issued by any bank having combined capital, surplus and undivided profits of at least Fifty Million Dollars (\$50,000,000) but only to the extent such time or demand deposits or certificates of deposit are fully insured by the Federal Deposit Insurance Corporation; provided, however, that no such investment shall be made for a period extending longer than the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any fund shall accrue to and become a part of such fund or account.

ARTICLE VII. MISCELLANEOUS PROVISIONS

Section 701 Covenant to Request Appropriations. The City agrees that the officer of the City at any time charged with the responsibility of formulating budget proposals will be directed to include in the budget proposal submitted to the Board of Aldermen for each fiscal year that the TIF Notes are outstanding a request for an appropriation of all moneys on deposit in the Special Allocation Fund for transfer to the Finance Officer for deposit at the times and in the manner provided in **Section 403** of this Ordinance.

Section 702 Tax Matters. Neither the City nor the Developer shall use or permit the use of any proceeds of the Tax Exempt TIF Note to acquire any securities or obligations, and shall not take or permit to be taken any other action or actions, which would cause the Tax Exempt TIF Note to be an "arbitrage bond" within the meaning of Section 148(a) of the Code, or "federally guaranteed" within the meaning of Section 149(b) of the Code. The City (to the extent within its power or discretion) and the Developer shall not use or permit the use of any proceeds of the Tax Exempt TIF Note, and shall not take or permit to be taken any other action or actions, which would result in the Tax Exempt TIF Note being treated as other than an obligation described in Section 103(a) of the Code. The City (to the extent within its power or discretion) and the Developer shall not use any portion of the proceeds of the Tax Exempt TIF Note, including any investment income earned on such proceeds, in any manner that would cause the Tax Exempt TIF Note to be a "private activity bond" within the meaning of Section 141(a) of the Code. The officers of the City, including the Mayor, the Finance Officer and the City Register, shall be, and they hereby are, authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Section.

Section 703 Payments Due on Saturdays, Sundays and Holidays. In any case where the Payment Date is a Saturday, a Sunday or a legal holiday or other day that is not a business day, then payment of principal or interest need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the Payment Date, and no interest shall accrue for the period after such date.

Section 704 Notices, Consents and Other Instruments. Any notice, consent, request, direction, approval, objection or other instrument required by this Ordinance to be signed and executed by the Owner of the TIF Notes may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owner in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of the TIF Note, if made in the following manner, shall be sufficient for any of the purposes of the Ordinance, and shall be conclusive in favor of the City with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of the TIF Note, the amount or amounts and other identification of the TIF Note, and the date of holding the same shall be proved by the registration books of the City.

Section 705 Execution of Documents; Further Authority. The City is hereby authorized to enter into and the Mayor and the Finance Officer of the City are hereby authorized and directed to execute and deliver, for and on behalf of and as the act and deed of the City, the TIF Notes and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance. The officers of the City, including without limitation the Mayor, the Finance Officer and the Register, are hereby authorized and directed to execute, and the City Register is hereby authorized and directed where appropriate to attest, all certificates, documents or other instruments, and take such actions as they may deem necessary or advisable

in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instrument and other documents herein approved, authorized and confirmed which they determine to be in the City's best interest, and the execution or taking of such action shall be conclusive evidence of such determination.

Section 706 Severability. If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

Section 707 Governing Law. This Ordinance shall be governed exclusively by and constructed in accordance with the applicable internal laws of the State of Missouri.

Section 708 Private Sale. The Board of Aldermen of the City hereby declares that it is in the City's best interest to sell the TIF Notes at private sale because a public sale of the TIF Notes would cause additional expense to the City and because the condition of the current financial markets makes such a public sale not feasible or the best course of action for the City.

Section 709 Termination. After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over his veto; provided that if, within ninety (90) days after the effective date of this Ordinance, the Developer has not (i) executed a redevelopment agreement pertaining to the Redevelopment Project and (ii) paid all fees due to the City in accordance with the terms of the redevelopment agreement, the provisions of this Ordinance shall be deemed null and void and of no effect and all rights conferred by this Ordinance on Developer, shall terminate, provided further, however, that prior to any such termination the Developer may seek an extension of time in which to execute the Redevelopment Agreement, which extension may be granted in the sole discretion of the Board of Estimate and Apportionment of the City of St. Louis.

EXHIBIT A **Legal Description of 4100 Forest Park Redevelopment Area**

All of the following parcels, which parcels are contiguous to each OTHER, together with any and all appurtenant easements, rights of way, and access:

PARCEL No. 1:

A Parcel of land in Block 3917 of the City of St. Louis, Missouri; said Parcel being more particularly described as follows:

Beginning at the point of intersection of the Southern line of Forest Park Avenue, 150 feet wide, and the Western line of Sarah Street, 60 feet wide; thence along the Western line of said Sarah Street South 15 degrees 20 minutes 00 seconds West, 344.35 feet to the Northwestern line of a diagonal cut-off in the Western line of said Sarah Street, as recorded in Plat Book 19 Page 39 in the City of St. Louis Recorder's Office; thence South 55 degrees 26 minutes 10 seconds West, 57.75 feet along said Northwestern line of the diagonal cut-off to the Western line of said Sarah Street to a point of intersection with the Northern line of former Railroad Right-of-Way, 16 feet wide; thence along the Northern line of said former Railroad Right-of-Way North 02 degrees 16 minutes 03 seconds West, 21.68 feet to a point on a tangent curve; thence along said curve in a Northwestwardly direction, said curve having a radius of 248.49 feet, a central angle of 72 degrees 16 minutes 01 second, and a distance of 313.42 to a point of tangency; thence along a line tangent to said curve North 74 degrees 32 minutes 04 second West, 32.46 feet; thence leaving said former Railroad Right-of-Way North 15 degrees 20 minutes 00 seconds East, 194.39 feet along a line parallel with the Western line of said Sarah Street to the Southern line of said Forest Park Avenue South 74 degrees 40 minutes 30 seconds East, 312.50 feet and the point of beginning.

PARCEL No. 2:

A Parcel of land in Block 3917 of the City of St. Louis, Missouri; said Parcel being more particularly described as follows:

Beginning at the point of intersection of the Northern line of Duncan Avenue, 60 feet wide, with the Northwestern line of a diagonal cut-off of the Western line of Sarah Street, as recorded in Plat Book 19 Page 39 in the City of St. Louis Recorder's Office; thence North 74 degrees 23 minutes 15 seconds West, 355.17 feet along the Northern line of said Duncan Street; thence North 15 degrees 21 minutes 00 seconds West, 148.15 feet; thence South 74 degrees 31 minutes 53 seconds East 94.62 feet to a point on a line 312.50 feet West of and parallel with the Western line of Sarah Street; thence North 15 degrees 20 minutes 00 seconds East 46.00 feet to a point on the Southern line of a former Railroad Right-of-Way; along said line parallel with the Western line of said Sarah Street to the Southern line of said Railroad former Right-of-Way; thence South 74 degrees 32 minutes 04 seconds East, 32.42 feet along said former Railroad Right-of-Way to a point on a tangent curve; thence along said curve in a Southeastwardly direction, said curve having a radius of 232.49 feet, a central angle of 72 degrees 16 minutes 01 second, and a distance of 293.24 feet to a point of tangency; thence along a line tangent to said curve South 02 degrees 16 minutes 03 seconds East 31.79 feet to the point of intersection of the former Railroad Right-of-Way and the Northwestern line of a diagonal cut-off in the Western line of said Sarah Street, as recorded in Plat Book 19 Page 39 in the City of St. Louis Recorder's Office; thence South 55 degrees 26 minutes 10 seconds West, 4.04 feet along the said Northwestern line of the diagonal cut-off of said Sarah Street to the Northern line of Duncan Avenue and the point of beginning.

PARCEL No. 3:

A Parcel of land in Block 3917 of the City of St. Louis, Missouri; said Parcel being more particularly described as follows:

Commencing at the point of intersection of the Southern line of Forest Park Avenue, 150 feet wide, with the Western line of Sarah Street, 60 feet wide; thence North 74 degrees 40 minutes 30 seconds West, 312.50 feet along the Southern line of said Forest Park Avenue; thence South 15 degrees 20 minutes 00 seconds West, 194.39 feet along a line parallel with the Western line of said Sarah Street to a point in the Northern line of a former Railroad Right-of-Way, 16 feet wide, being the point of beginning for Parcel 3; thence from the point of beginning, South 74 degrees 32 minutes 04 seconds East 32.46 feet to a point on a tangent curve; thence along said curve in a Southeastwardly direction, said curve having a radius of 248.49 feet, a central angle of 72 degrees 16 minutes 01 seconds, and a distance of 313.42 feet to a point of tangency; thence along a line tangent to said curve South 02 degrees 16 minutes 03 seconds East 21.68 feet to a point of intersection of the said former Railroad Right-of-Way and the Northwestern line of a diagonal cut-off in the Western line of said Sarah Street, as recorded in Plat Book 19 Page 39 in the City of St. Louis Recorder's Office; thence South 55 degrees 26 minutes 10 seconds West, 18.93 feet along the said Northwestern line of the diagonal cut-off of the Western line of Sarah Street to a point on the Southern line of the former railroad Right-of-Way, 16 feet wide; thence North 02 degrees 16 minutes 03 seconds West, 31.79 feet along the Southern line of said former Railroad Right-of-Way to a point on a tangent curve; thence along the said curve in a Northwestwardly direction, said curve having a radius of 232.49 feet, a central angle of 72 degrees 16 minutes 01 second, and a distance of 293.24 feet to a point of tangency; thence along a line tangent to said curve North 74 degrees 32 minutes 04 seconds West 32.42 feet to a point; thence North 15 degrees 20 minutes 00 seconds East, 16.00 feet to the point of beginning.

**EXHIBIT B
Form of Note**

THIS TIF NOTE OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR NEGOTIATED ONLY TO THE "DEVELOPER," A "RELATED ENTITY" A "QUALIFIED INSTITUTIONAL BUYER" OR "PROJECT LENDER," AS DEFINED IN THE NOTE ORDINANCE, AND IN ACCORDANCE WITH THE PROVISIONS HEREOF.

**UNITED STATES OF AMERICA
STATE OF MISSOURI**

**Registered
No. R-__**

**Registered
Not to Exceed \$6,036,000
plus Issuance Costs
(See Schedule A attached)**

**CITY OF ST. LOUIS, MISSOURI
[TAXABLE][TAX-EXEMPT] TAX INCREMENT REVENUE NOTE
(4100 Forest Park Redevelopment Project)
SERIES 200__**

Rate of Interest: Maturity Date: Dated Date: CUSIP Number:
[__%][__%] _____, 2029 _____, None

REGISTERED OWNER:

PRINCIPAL AMOUNT: See **SCHEDULE A** attached hereto.

The CITY OF ST. LOUIS, MISSOURI, a body corporate and a political subdivision duly organized and validly existing under its charter and the Constitution and laws of the State of Missouri (the "City"), for value received, hereby promises to pay to the Registered Owner shown above, or registered assigns, the Principal Amount shown from time to time on Schedule A attached hereto on the Maturity Date shown above unless called for redemption prior to the Maturity Date, and to pay interest thereon from the effective date of registration shown from time to time on Schedule A attached hereto or from the most recent Payment Date to which interest has been paid or duly provided for, at the Rate of Interest shown above computed on the basis of a 360-day year of twelve 30-day months. Interest and principal shall be payable each May 1 and November 1 (each, a "Payment Date"), commencing on the first May 1 or November 1 following the City's acceptance or deemed acceptance of the Certificate of Substantial Completion in accordance with the Redevelopment Agreement between the City and 4100 Development, Inc. (the "Developer"), dated as of _____, 2006 (the "Redevelopment Agreement"), until all principal and interest accruing pursuant to this TIF Note the TIF Notes are paid in full except as otherwise provided herein. The TIF Notes shall bear interest from their registration date or from the most recent Payment Date to which interest has been paid or duly provided for.

Except as otherwise provided herein, the capitalized terms herein shall have the meanings as provided in Ordinance No. _____ adopted by the Board of Aldermen on _____, 2006 (the "Note Ordinance") or the Redevelopment Agreement.

THE OBLIGATIONS OF THE CITY WITH RESPECT TO THIS TIF NOTE TERMINATE TWENTY-THREE YEARS FROM THE DATE OF ADOPTION OF THE APPROVING ORDINANCE APPROVING THE REDEVELOPMENT PROJECT, WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HEREON HAS BEEN PAID IN FULL. REFERENCE IS MADE TO THE NOTE ORDINANCE FOR A COMPLETE DESCRIPTION OF THE CITY'S OBLIGATIONS HEREUNDER.

Subject to the preceding paragraph, the principal of and interest on this TIF Note shall be paid at maturity or upon earlier redemption as provided in Article III of the Note Ordinance to the person in whose name this TIF Note is registered at the maturity or redemption date hereof (the "Registered Owner:"), upon presentation and surrender of this TIF Note at the payment office of the Finance Officer of the City or her authorized agent (the "Finance Officer"). The principal of and interest on the TIF Notes shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America. The principal of or interest on this TIF Note shall be payable by check or draft at the office of the Finance Officer to the Registered Owner on the Register on each Payment Date. Except as otherwise provided in Section 208 of the Note Ordinance with respect to mutilated, destroyed, lost or stolen TIF Notes, no principal on the TIF Notes is payable unless the Registered Owner thereof has surrendered such TIF Notes at the office of the Finance Officer.

This TIF Note is one of an authorized series of fully registered Notes of the City designated "City of St. Louis, Missouri, [Taxable][Tax-Exempt] Tax Increment Revenue Notes (4100 Forest Park Redevelopment Project), Series 200__," issued in an aggregate principal amount of not to exceed \$6,036,000 plus Issuance Costs (the "TIF Notes" or "Notes"). The TIF Notes are being issued for the purpose of paying a portion of the Redevelopment Project Costs in connection with the Redevelopment Plan, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, of the Revised Statutes of Missouri (2000) (the "Act"), and pursuant to the Note Ordinance.

The TIF Notes and the interest thereon are and shall be special, limited obligations of the City payable solely from and secured as to the payment of principal and interest, by the Available Revenues and other moneys pledged thereto and held by the Finance Officer as provided herein. "Available Revenues" means all monies on deposit from time to time (including investment earnings thereon) in (a) the PILOTS Account; and (b) subject to annual appropriation, the EATS Account that have been appropriated to the repayment of TIF Notes, excluding (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

The monies on deposit in the PILOTS Account of the Special Allocation Fund are those payments in lieu of taxes ("PILOTS"), as defined in Sections 99.805(10) and 99.845 of the Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract or parcel of real property in the Redevelopment Area (as described in Exhibit A to the Note Ordinance) and any applicable penalty and interest over and above the initial equalized assessed value (as provided for by Section 99.855 of the Act) of such unit of property in the Redevelopment Area, as allocated and paid to the City's Treasurer by the City's Collector of Revenue who shall deposit such PILOTS into the Special Allocation Fund while tax increment financing remains in effect.

The monies on deposit in the EATs Account of the Special Allocation Fund are those amounts subject to annual appropriation by the Board of Aldermen, equal to fifty percent (50%) of the total additional revenues from taxes, penalties and interest which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2005 (subject to annual appropriation by the City as provided in the Act), while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri (2000), and taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri (2000) all in accordance with Section 99.845.3 of the Act, as may be amended from time to time. Notwithstanding the foregoing, EATs shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

All TIF Notes shall be equally and ratably secured by Available Revenues. The TIF Notes shall be special, limited obligations of the City payable solely from and secured as to the payment of principal and interest by a pledge of the Available Revenues. The taxing power of the City is not pledged to the payment of the TIF Notes either as to principal or interest. The TIF Notes shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. THE OBLIGATIONS OF THE CITY WITH RESPECT TO THE TIF NOTES SHALL TERMINATE ON THE FIRST TO OCCUR OF THE FULL PAYMENT AND DISCHARGE OF THE TIF NOTES OR THE MATURITY DATE (WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HAS BEEN PAID IN FULL).

Available Revenues shall be applied, first from the EATS Account and then from the PILOTS Account to payments on this TIF Note as follows:

First, to payment of arbitrage rebate, if any, owed with respect to the TIF Notes under Section 148 of the Internal Revenue Code of 1986, as amended, including any costs of calculating arbitrage rebate;

Second, to the Comptroller of the City and the St. Louis Development Corporation (which monies shall be paid one half to the Comptroller and one half to the St. Louis Development Corporation), an amount equal to 0.2% of the Notes outstanding on each Payment Date, plus any accumulated deficiency from previous years, plus an amount sufficient to pay all or any portion of the fees and expenses incurred by the City pursuant to Section 7.15 of the Agreement that have not otherwise been reimbursed to the City through the issuance of TIF Notes;

Third, to the Debt Service Fund, an amount sufficient to pay all or any portion of the past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TIF Notes on each Payment Date;

Fourth, to the Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TIF Notes on each Payment Date;

Fifth, to the Debt Service Fund, an amount sufficient to pay the principal of any TIF Notes that are subject to redemption pursuant to the Note Ordinance on each Payment Date;

Sixth, all other remaining money in the Special Allocation Fund shall annually be declared as surplus and distributed in the manner provided in the TIF Act.

Upon the payment in full of the principal of and interest on the TIF Notes (or provision has been made for the payment thereof as specified in the Note Ordinance), payment in full of the fees and expenses of the Finance Officer and the St. Louis Development Corporation, and payment in full of any other amounts required to be paid under the Note Ordinance, all amounts remaining on deposit in the Revenue Fund and the Debt Service Fund shall be declared as surplus and distributed in the manner provided in the Act.

The City covenants that the officer of the City at any time charged with the responsibility of formulating budget proposals will be directed to include in the budget proposal submitted to the Board of Aldermen of the City for each fiscal year that the TIF Notes are outstanding a request for an appropriation of all moneys on deposit in the Special Allocation Fund for transfer to the Finance Officer for deposit at the times and in the manner provided in Section 403 of the Note Ordinance.

NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE NOTE ORDINANCE TO THE CONTRARY, THE TIF NOTES ARE SUBJECT TO CANCELLATION AND DISCHARGE BY THE CITY IN WHOLE OR IN PART WITHOUT PENALTY UNDER THE CONDITIONS SET FORTH IN SECTION 7.8 OF THE REDEVELOPMENT AGREEMENT.

The TIF Notes are subject to optional redemption by the City in whole at any time or in part on any Payment Date at a redemption price of 100% of the principal amount of the TIF Note to be redeemed, plus accrued interest thereon to the date fixed for redemption.

The TIF Notes are subject to special mandatory redemption by the City on each Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount equal to Available Revenues on deposit in the applicable accounts of the Special Allocation Fund and which are not required for the payment of accrued interest on such Payment Date.

The TIF Notes or portions of Notes to be redeemed shall become due and payable on the redemption date, at the redemption price therein specified, and from and after the redemption date (unless the City defaults in the payment of the redemption price) such TIF Notes or portion of TIF Notes shall cease to bear interest. Upon surrender of such TIF Notes for redemption in accordance with such notice, the redemption price of such TIF Notes shall be paid by the Finance Officer. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any TIF Note, there shall be prepared for the Registered Owner a new TIF Note or Notes of the same maturity in the amount of the unpaid principal as provided herein. All TIF Notes that have been redeemed shall be cancelled and destroyed by the Finance Officer as provided herein and shall not be reissued.

TIF Notes shall be redeemed only in the principal amount of One Thousand Dollars (\$1,000) or any integral multiple thereof. When less than all of the outstanding TIF Notes are to be redeemed and paid prior to maturity, such TIF Notes shall be selected by the Finance Officer in One Thousand Dollar (\$1,000) units of face value in such equitable manner as the Finance Officer may determine.

The TIF Notes are issuable in the form of fully registered Notes without coupons in minimum denominations of One Hundred Thousand Dollars (\$100,000) or any integral multiple \$1,000 in excess thereof, except with respect to the Notes issued upon acceptance by the City of the final Certificate of Reimbursable Redevelopment Project Costs, which Notes may be issued in any denomination, subject to the limitation on the aggregate Principal Amount.

This TIF Note may be transferred or exchanged as provided in the Note Ordinance only upon the Register, upon surrender of this TIF Note together with a written instrument of transfer satisfactory to the Finance Officer duly executed by the Registered Owner or the Registered Owner's duly authorized agent.

THE OWNER HEREOF EXPRESSLY AGREES, BY SUCH OWNER'S ACCEPTANCE HEREOF, THAT THE RIGHT TO PURCHASE, TRANSFER, ASSIGN OR NEGOTIATE THIS TIF NOTE SHALL BE LIMITED TO

PURCHASE, TRANSFER, ASSIGNMENT OR NEGOTIATION TO THE DEVELOPER, A RELATED ENTITY A QUALIFIED INSTITUTIONAL BUYER OR PROJECT LENDER, AS SUCH TERMS ARE DEFINED IN THE NOTE ORDINANCE, AND UPON THE EXECUTION BY THE PROPOSED PURCHASER OR TRANSFEREE OF AN INVESTMENT LETTER IN SUBSTANTIALLY THE FORM OF EXHIBIT C TO THE NOTE ORDINANCE, SIGNED BY THE PROPOSED PURCHASER OR TRANSFEREE, SHOWING THAT THE PROPOSED PURCHASER OR TRANSFEREE IS AN APPROVED INVESTOR. "Approved Investor" is defined in the Note Ordinance, and includes, among others, (a) the Developer or a Related Entity, (b) an "accredited investor" under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business company or enterprise with total assets in excess of \$50,000,000.

Subject to the limitations of the preceding paragraph, upon surrender thereof at the office of the Finance Officer, the Finance Officer shall transfer or exchange any TIF Note for a new TIF Note of the same maturity and in the same principal amount as the outstanding principal amount of the TIF Note that was presented for transfer or exchange. Any TIF Note presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Finance Officer, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

This TIF Note shall not be valid or binding on the City or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon has been executed by the Finance Officer.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the TIF Notes have existed, happened and been performed in due time, form and manner as required by law.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, THE CITY OF ST. LOUIS, MISSOURI has executed this TIF Note by causing it to be signed by the manual or facsimile signature of its Mayor and Finance Officer and attested by the manual or facsimile signature of its City Register, and its official seal to be affixed or imprinted hereon, and this TIF Note to be dated as of the effective date of registration as shown on Schedule A attached hereto.

CITY OF ST. LOUIS, MISSOURI

By: _____
Mayor

By: _____
Finance Officer

Attest:

(Seal)

City Register

Approved as to Form:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Print or Type Name, Address and Social Security Number or other Taxpayer Identification Number of Transferee)

the within TIF Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Note on the books kept by the Finance Officer for the registration thereof, with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears on the face of the within Note in every particular.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution)

By: _____
Title: _____

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution as defined by SEC Rule 17Ad-15 (17 CFR 240.17Ad-15).

SCHEDULE A

CERTIFICATE OF AUTHENTICATION

This TIF Note is one of the Series 200_ TIF Notes described in the within-mentioned Note Ordinance.

<u>Date</u> ⁽¹⁾	<u>Additions to Principal Amount</u> ⁽²⁾	<u>Principal Amount Paid</u>	<u>Outstanding Principal Amount</u>	<u>Authorized Signatory of Finance Officer</u>
_____ , _____	\$ _____	\$ _____	\$ _____	\$ _____
_____ , _____				
_____ , _____				
_____ , _____				
_____ , _____				
_____ , _____				
_____ , _____				
_____ , _____				
_____ , _____				
_____ , _____				

- (1) Date of approval of each Certificate of Reimbursable Redevelopment Project Costs, as provided in Section 5.2 of the Redevelopment Agreement (which constitutes Date of Authentication with respect to such portion of the Note) or Payment Date.
- (2) Limited to denominations of \$100,000 or any \$1,000 increment in excess thereof, except with respect to an advance pursuant to the final Certificate of Reimbursable Redevelopment Project Costs, which may be in any denomination, subject to the limitation on the aggregate principal amount provided for in the Note Ordinance.

EXHIBIT C

Form of Letter of Representations

_____, 20__

City of St. Louis
City Hall
Tucker and Market Streets
St. Louis, Missouri 63103
Attention: Mayor, Room 200
Attention: Comptroller, Room 311

Re: Not to Exceed \$6,036,000 (plus Issuance Costs) City of St. Louis, Missouri, Tax Increment Revenue Notes, (4100 Forest Park Redevelopment Project), Series 200_

Ladies and Gentlemen:

This letter is to provide you with certain representations and agreements with respect to the purchase by the undersigned

of not to exceed \$6,036,000 (plus Issuance Costs) aggregate principal amount of Tax Increment Revenue Notes, (4100 Forest Park Redevelopment Project), Series 2006 (the "TIF Notes"), issued by the City of St. Louis, Missouri (the "City"). The TIF Notes are secured in the manner set forth in Ordinance No. _____ [Board Bill No. ____] of the City adopted on _____, 200__ (the "Note Ordinance"). The undersigned hereby represents to each of you and agrees with each of you, as follows:

1. The undersigned is an Approved Investor (as defined in the Note Ordinance).
2. The undersigned acknowledges that the City has not made any representation or warranty concerning the accuracy or completeness of any information furnished in connection with the purchase by the undersigned of the TIF Notes. Accordingly, the undersigned has not relied upon the City as to the accuracy or completeness of such information. As a sophisticated investor, the undersigned has made its own decision to purchase the TIF Notes based solely upon its own inquiry and analysis.
3. The undersigned understands that the TIF Notes do not constitute an indebtedness of the City or a loan or credit thereof within the meaning of any constitutional or statutory debt limitation or restriction.
4. The undersigned is familiar with and has counsel who are familiar with the federal and state legislation, rules, regulations and case law pertaining to the transfer and distribution of securities, including, but not limited to, disclosure obligations of the seller incident to any such transfer or distribution. The undersigned hereby covenants and agrees that the undersigned will not sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage or dispose of the TIF Notes or any interest therein in violation of applicable federal or state law or in violation of restrictions on sale, assignment, negotiation or transfer of the TIF Notes as set forth in paragraph 6 below.
5. The undersigned is purchasing the TIF Notes for its own account for investment (and not on behalf of another) and, other than a contemplated pledge of the TIF Notes, has no present intention of reselling the TIF Notes or dividing its interest therein. Notwithstanding the foregoing, the undersigned has the right to sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage or dispose of the TIF Notes at some future date determined by it, provided that such disposition is not in violation of restrictions on sale, assignment, negotiation or transfer of the TIF Notes as set forth in paragraph 6 below.
6. The undersigned acknowledges that the right to sell, assign, negotiate or otherwise transfer the TIF Notes shall be limited to Approved Investors (as defined in the Note Ordinance).
7. The undersigned agrees to indemnify and hold you harmless from any and all claims, judgments, attorneys' fees and expenses of whatsoever nature, whether relating to litigation or otherwise, resulting from any attempted or affected sale, offer for sale, pledge, transfer, conveyance, hypothecation, mortgage or disposition of the TIF Notes in violation of this letter.
8. The undersigned has satisfied itself that the TIF Notes may be legally purchased by the undersigned.

Sincerely,

as Purchaser

By: _____

Title: _____

Approved: November 27, 2006

**ORDINANCE #67315
Board Bill No. 245**

An ordinance recommended and approved by the Airport Commission and the Board of Estimate and Apportionment, ratifying and adopting the actions of the Mayor and the Comptroller of the City of St. Louis (the "City"), the owner and operator of Lambert-St. Louis International Airport® (the "Airport"), in accepting and executing on behalf of the City a certain grant agreement offered by the United States of America (the "Grant Agreement"), acting through the Federal Aviation Administration of the United States Department of Transportation, the Grant Agreement being for Project Number 3-29-0085-100-2006, dated September 5, 2006, for a maximum federal obligation of Nine Million Eight Hundred Nine Thousand One Hundred Twenty Eight Dollars (\$9,809,128), which is filed in the Office of the City Register [Comptroller Document No. 53820], for the reimbursement of direct costs associated with rehabilitating Taxiway F, Phase 1; and containing an emergency clause.

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

SECTION ONE. The actions of the Mayor and the Comptroller of the City of St. Louis (the "City"), the owner and operator of Lambert-St. Louis International Airport® (the "Airport"), in accepting and executing on behalf of the City a grant agreement offered by the United States of America (the "Grant Agreement"), acting through the Federal Aviation Administration of the United States Department of Transportation, the Grant Agreement being for Project Number 3-29-0085-100-2006, dated September 5, 2006, for a maximum federal obligation of Nine Million Eight Hundred Nine Thousand One Hundred Twenty Eight Dollars (\$9,809,128), which is filed in the Office of the City Register [Comptroller Document No. 53820], for the reimbursement

of direct costs associated with rehabilitating Taxiway F, Phase 1 is hereby ratified and approved.

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

SECTION THREE. This being an ordinance providing for a Pubic Work and Improvement Program, it is hereby declared to be an emergency measure as defined in Article IV, Section 20 of the City Charter, and shall become effective immediately upon approval of the Mayor of the City.

Approved: November 27, 2006

**ORDINANCE #67316
Board Bill No. 246**

An Ordinance recommended and approved by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City the Lambert-St. Louis International Airport® (the "Airport") Equipment Operating Lease Agreement AL-390 (the "Agreement") between the City and American Airlines, Inc.; the Agreement, which was recommended and approved by the Airport Commission, is attached hereto as **ATTACHMENT "1"** and is made a part hereof; containing a severability clause; and an emergency clause.

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

SECTION ONE. The Director of Airports and the Comptroller of the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City the Lambert-St. Louis International Airport® (the "Airport") Equipment Operating Lease Agreement AL-390 (the "Agreement") between the City and American Airlines, Inc.; the Agreement is to read in words and figures as set out in ATTACHMENT "1" and is attached hereto and made a part hereof.

SECTION TWO. The sections, conditions, and provisions of this Ordinance or portions thereof shall be severable. If any section, condition, or provision of this Ordinance or portion thereof contained herein is held invalid by the court of competent jurisdiction, such holding shall not invalidate the remaining sections, conditions, or provisions of this Ordinance.

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

ATTACHMENT "1"

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®



AMERICAN AIRLINES, INC.

EQUIPMENT OPERATING LEASE AGREEMENT

NO. AL-390

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AIRPORT NUMBER AL-390

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
EQUIPMENT OPERATING LEASE AGREEMENT

THIS EQUIPMENT OPERATING LEASE AGREEMENT, made and entered into as of the _____ day of _____, 2006, by and between The City of St. Louis, a municipal corporation of the State of Missouri, as "Lessor", and American Airlines Inc., a corporation organized and existing under the laws of the State of Delaware as "Lessee".

RECITALS

The City owns and operates the Lambert-St. Louis International Airport®, located in the County of St. Louis, State of Missouri.

Lessee desires to lease from the City certain outbound baggage conveyor systems owned by the City, as more fully described herein.

The City is willing to lease said outbound baggage conveyor systems to Lessee.

The parties, therefore, agree as follows:

ARTICLE I
MEANINGS AND CONSTRUCTION

Section 101. Meanings and Construction. Except as otherwise clearly indicated by the context, the words and phrases defined in this Section shall have the following meanings when used elsewhere in this Agreement.

"Agreement" means this Equipment Operating Lease Agreement.

"Aircraft Operations Area" or "AOA" means those areas of the Airport used for the landing, taking-off, movement, and parking of aircraft, as the same now exist or as the same hereafter may be added to, modified, changed, or developed.

"Airport" means the Lambert-St. Louis International Airport®, together with any additions, improvements, or enlargements made from time to time.

"Airport Director" means the Airport Director of the City or the person performing the functions of that office, as authorized by the City's Mayor, or that person authorized by the Airport Director to act for or on behalf of the Airport Director with respect to any particular matter under this Agreement.

"City" or "Lessor" means The City of St. Louis, Missouri.

"Environmental Laws" means all applicable federal, state, and local statutes, ordinances, regulations, rules, laws, permits, permit conditions, and orders relating to the generation, use, storage, transportation, or disposal of Hazardous Materials, including, without limitation, the Clean Air Act, 42 U.S.C. §7401 *et seq.*; the Clean Water Act, 33 U.S.C. §1251 *et seq.*, and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.*; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §1401 *et seq.*; the Noise Control Act, 42 U.S.C. §4901 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §651 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, as amended by the Hazardous and Solid Waste, Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right to Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Hazardous Material Transportation Act, 49 U.S.C. §9601 *et seq.*; the Toxic Substance Control Act, 15 U.S.C. §2601 *et seq.*; the Atomic Energy Act, 42 U.S.C. §2011 *et seq.*; and the Nuclear Waste Policy Act of 1982, U.S.C. §1010 *et seq.*

"Environmental Permits" means any and all permits, licenses, approvals, authorizations, consents, or registrations required by

Environmental Laws, whether federal, state or local, which pertain to the production, use, treatment, generation, transportation, processing, handling, disposal, or storage of Hazardous Materials.

“Event of Default” means an Event of Default as defined in Section 901.

“Federal Aviation Administration” or “FAA” means the Federal Aviation Administration created under the Federal Aviation Act of 1958, as amended, or any successor agency thereto.

“Fiscal Year” or “FY” shall mean any twelve month period beginning on July 1 and ending the June 30, of the ensuing year.

“Hazardous Materials” means friable asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), petroleum, or crude oil or any fraction thereof, natural gas, source material, special nuclear material, and byproduct materials regulated under Environmental Laws, pesticides regulated under Environmental Laws, and any hazardous waste, toxic, or dangerous substance or related material, including any material defined or treated as a hazardous substance, hazardous waste, toxic substance, or contaminant (or comparable term) under any of the Environmental Laws.

“Leased Equipment” means that certain City owned outbound baggage system and all appurtenant equipment and improvements attached thereto as shown on **EXHIBIT “A”**, attached hereto and made part hereof.

“Lessee” means American Airlines Inc.

“Notice” means a communication between the parties to this Agreement performed in accordance with the requirements of Subsection 1113(B).

“Remediation Costs” means any reasonable losses, expenses, or costs incurred by the City in connection with environmental remediation: (i) required by the appropriate governmental agency responsible for enforcing Environmental Laws or Environmental Permits, and (ii) attributable to Hazardous Materials left on City property in violation of Environmental Laws or Environmental Permits, and caused by, or arising out of, Lessee’s operations at the Airport or Lessee’s use or lease of the City’s property. Remediation Costs include investigation and evaluation costs, costs to implement institutional controls or restrictive covenants, sampling and analysis costs, reporting costs, planning and design costs, consultant and contractor costs, labor costs, equipment costs, construction costs, access costs, disposal costs, transportation costs, reasonable administrative costs, reasonable attorneys’ fees and other legal fees and litigation expenses, permit fees and costs, monitoring costs, oversight and inspection costs, claims, demands, causes of action, suits, judgments, damages, compensation, debts, costs, expenses, losses, penalties, fines, stipulated penalties, punitive damages, and other similar liabilities arising out of Lessee’s violation of Environmental Laws or Environmental Permits.

“Rents” means for any Fiscal Year, the rents payable by Lessee pursuant to Article V.

“Rules and Regulations” means those lawful, reasonable, and not unjustly discriminatory rules and regulations, including ordinances and operating directives, promulgated by the Airport Director, the Airport Commission, or the City from time to time for the orderly operation of the Airport.

“Transportation Security Administration” or “TSA” means the Transportation Security Administration created under the Aviation and Transportation Security Act of 2001, as amended, or any successor agency thereto.

Section 102. Interpretation. References in the text of this Agreement to articles, sections, paragraphs, or exhibits pertain to articles, sections, paragraphs, or exhibits of this Agreement, unless otherwise specified.

The terms “hereby,” “herein,” “hereof,” “hereto,” “hereunder,” and any similar terms used in this Agreement refer to this Agreement.

Words importing persons shall include firms, associations, partnerships, trusts, corporations, and other legal entities, including public bodies, as well as natural persons.

Any headings preceding the text of the articles and sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

Words importing the singular shall include the plural and vice versa. Words of any gender shall be deemed to include correlative words of the other gender.

The term “including” shall be construed to mean “including without limitation,” unless otherwise expressly indicated.

All references to number of days shall mean calendar consecutive days.

Words used in the present tense include the future.

ARTICLE II
LEASED EQUIPMENT

Section 201. Leased Equipment. The City hereby leases to Lessee, and Lessee hereby takes possession from the City, the Leased Equipment for Lessee's use and occupancy, subject to and in accordance with the terms, covenants, warranties, representations, and conditions of this Agreement.

Lessee accepts and receives the Leased Equipment "**AS IS**", with no warranties or representations of any kind, expressed or implied, either oral or written, made by the City or any of its agents or representatives with respect to the physical, environmental or structural conditions of the Leased Equipment or any portion thereof or otherwise including but not limited to, structural conditions of any Airport buildings, supporting structures, equipment, or facilities or the presence or absence of any Hazardous Materials, water or utilities serving the Leased Equipment or the Airport, or any other matter or thing affecting or relating to the Leased Equipment, except as expressly set forth in this Agreement. The City without limitation expressly disclaims any expressed or implied warranty with respect to the condition merchantability, or fitness for a particular purpose of the Leased Equipment, its compliance with any zoning or other laws, statutes, rules, ordinances or regulations applicable to the Leased Equipment including but not limited to the Americans with Disabilities Act, the uses permitted on and in the Leased Equipment, or any other matter or thing relating to the Leased Equipment or any portion thereof.

Section 202. Reservations. The grant of lease hereunder is subject to the following reservations and conditions:

- A. The City reserves the right (but shall not be obligated pursuant to this Agreement) to develop, maintain, and keep in repair the Airport, including the Aircraft Operating Area and all publicly-owned facilities.
- B. Lessee shall not exercise the rights granted by this Agreement to Lessee in such a way as to interfere with or adversely affect the use, operation, maintenance, expansion or development of the Airport, or with the operations of other tenants or users of the Airport.
- C. The City reserves the right to, from time to time, temporarily or permanently close or restrict specific roadways, taxiways, taxi lanes, runways, apron areas, doorways, and any other area at the Airport. The City also reserves the right at any time or times to relocate, reconstruct, change, alter, or modify any such means of access provided for pursuant to this Agreement or otherwise, either temporarily or permanently; provided that a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. The City shall reasonably notify Lessee of any such action affecting Lessee.
- D. The City reserves for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Leased Equipment, together with the right to cause or allow in said airspace such noise, vibration, fumes, dust, fuel particles, illuminations, interference with television, radio or any other type of transmission and other effects as may be caused in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.
- E. The City reserves the right to grant utility and maintenance rights-of-way to itself and others over and/or under the Leased Equipment provided that such use will not substantially or materially interfere with Lessee's use of the Leased Equipment, and provided further that such reservation or grant of rights shall not directly result in additional cost or expense to Lessee.

Section 203. Access. Subject to all of the terms, covenants, warranties, representations, and conditions of this Agreement, Lessee has the right of free access, ingress to and egress from the Leased Equipment, for Lessee's employees, contractors, subcontractors, agents, and invitees.

Section 204. Security. Lessee hereby acknowledges that Transportation Security Administration regulations require the City to adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to the Aircraft Operating Area. Lessee understands that the City has met said requirements by developing an Airport Security Program ("ASP") for the Airport, and Lessee warrants, covenants and agrees to be fully bound by, and immediately responsive to, the requirements of the ASP, as it may be amended from time to time. Lessee further warrants, covenants and agrees, throughout the term of this Agreement, at its own cost, to prepare facilities and procedures, satisfactory to the City, designed to prevent and deter persons and vehicles from unauthorized access to the AOA from and through any Leased Equipment controlled or used by Lessee in accordance with the provisions of the applicable Transportation Security Administration regulations and the ASP.

Lessee's security procedures and facilities in regards to the Leased Equipment shall meet the requirements of the applicable Transportation Security Administration regulations and the ASP, including the following:

- A. Airport-approved badging, badge display, escort and challenge procedures applicable to persons authorized to enter the AOA;
- B. an electronic entry control system or a manned guard system where gates or doorways cannot reasonably be controlled by locks; and
- C. other facilities and procedures as may be required to establish positive control for preventing the entrance of unauthorized persons and vehicles onto the AOA.

ARTICLE III
AGREEMENT TERM

Section 301. Term. The term of this Agreement shall commence on January 1, 2006 and shall end on June 30, 2011, unless sooner terminated in accordance with other provisions of this Agreement.

Section 302. Holding Over. If Lessee holds over after the expiration or early termination of this Agreement, the resulting tenancy shall be for an indefinite period of time on a month-to-month basis, during which tenancy the parties to this Agreement shall continue to adhere to all covenants, conditions and provisions of this Agreement. Notwithstanding the foregoing, Lessee shall pay the prevailing Rent then in effect during any holdover period. Acceptance by the City of payment of Rents, Fees, and Charges after expiration or early termination of this Agreement shall be deemed to be payment on account, and shall not operate to waive or modify any provision of this Section.

ARTICLE IV
USE OF LEASED EQUIPMENT

Section 401. Use. The City hereby grants to Lessee, subject to all the terms, covenants, warranties, representations, and conditions of this Agreement, the preferential use of the Leased Equipment, subject to the preferential use terms and conditions of Lessee's Airport Use and Lease Agreement AL-604, for receiving, sorting, delivering, dispatching, processing, and handling passengers' checked luggage and other permitted cargo, mail and packages and for no other purpose, unless expressly authorized by the City.

Section 402. Repairs and Maintenance.

- A. The City shall maintain and keep in good repair the structures associated with the terminal.
- B. Lessee shall, throughout the term of this Agreement or earlier termination thereof, at its own cost and without any expense to the City, maintain and keep in good repair, excepting only acts of God, fire and other casualties, and normal wear and tear (taking into account repair and maintenance to be done by Lessee,) the interior and exterior, structural and non-structural portions of the Leased Equipment, including all tenant improvements, utility systems (up to the common distribution points for each utility system), mechanical systems and equipment, electrical systems and equipment, hydraulic equipment and systems, conveyor belts, motors and any other modifications or improvements constructed within or on the Leased Equipment. Lessee shall, at its sole cost and expense, take such measures as may be necessary to keep the Leased Equipment secure; the City shall have no obligation or responsibility to keep the Leased Equipment secure.
- C. Lessee warrants, covenants and agrees, without cost or expense to the City during the term hereof, to perform the following:
1. Housekeeping of Leased Equipment. Remove from the Leased Equipment all trash and refuse, and dispose of it in a manner approved by the City.
 2. Maintenance Standards. Maintenance and repairs shall be in quality and class equal to or better than normal industry standards and practices to preserve the Leased Equipment in good repair and condition, normal wear and tear excepted. Lessee shall repair all damage to the Leased Equipment caused by Lessee or its employees, contractors, subcontractors, agents, and invitees; this requirement includes, but is not necessarily limited to, immediate replacement of broken mechanical/electrical systems or equipment, hydraulic equipment and systems, conveyor belts, and any other components of the Leased Equipment with like materials.
 3. Maintenance Reports. On or about July 1 of each year, Lessee shall submit to the City for City's approval, which shall not be unreasonably withheld or denied, a 12-month maintenance schedule for the Leased Equipment. Lessee shall report at the close of each fiscal year any repair and maintenance completed on each such Leased Equipment, and the cost expended for all such repairs and maintenance. Lessee shall pay all costs of operating, repairing and maintaining the Leased Equipment.

Section 403. Utilities. Lessee shall provide for and pay for all utilities with respect to the use and operation of the Leased Equipment.

Section 404. Interference to Air Navigation. Lessee warrants, represents and agrees that no obstruction to air navigation, as such are defined from time to time by application of the criteria of FAR Part 77 or subsequent and additional regulations of the Federal Aviation Administration ("FAA"), will be constructed or permitted to remain on the Leased Equipment. Lessee warrants, represents and agrees that, upon notification by the City, it will immediately remove any obstructions at its expense. Lessee warrants, represents and agrees not to increase the height of any structure or objects of any kind or nature whatsoever that may interfere with the line of sight of the control tower and its operations. Lessee further warrants, represents and agrees not to install any structures, objects, machinery or equipment that would interfere with the operation of navigation aides or that would interfere with the safe and efficient operations of the Airport.

Section 405. Observance and Compliance with Laws.

- A. Lessee, its officers, directors, employees, agents, and its contractors and suppliers, while such contractors and suppliers are providing services to Lessee, shall comply with:

1. all applicable federal, state and local laws and ordinances, including directives of the FAA applicable to the Lessee's operation at the Airport;
2. the Rules and Regulations governing the Airport; and
3. the provisions of the Airport certification manual, as it may be amended from time to time.

Lessee shall make reasonable efforts to cause its guests and invitees to comply as well.

- B. Notwithstanding anything to the contrary, references herein to a statute or law shall be deemed to be a reference to (i) such statute or law as it may be amended from time to time, (ii) all ordinances, regulations, rules, executive orders, policies and instructions pertaining to or lawfully promulgated pursuant to such statute or law as they now exist or may be amended from time to time, and (iii) all future statutes, laws, ordinances, regulations, rules, executive orders, policies, and instructions pertaining to the same or similar subject matter as they now exist or may be amended from time to time.

Section 406. Compliance with Environmental Laws. Lessee warrants and covenants that in conducting any activities or business at the Airport, including any activities directly related or incidental to its use and operation of the Leased Equipment, Lessee shall comply with any and all applicable Environmental Laws. Lessee further covenants and warrants as follows:

A. Environmental Permits.

1. Lessee shall obtain and maintain any and all Environmental Permits required by applicable Environmental Laws to conduct the activities in which Lessee engages with respect to the use and operation of the Leased Equipment.
2. Lessee shall comply with any requirement imposed by an Environmental Permit obtained by the City that is applicable to Lessee or Lessee's use and operation of the Leased Equipment; provided, however that the City shall adequately notify Lessee of such Environmental Permit and associated requirements, including all applicable deadlines for compliance.
3. The City and Lessee shall cooperate to ensure compliance with the terms and conditions of any Environmental Permit to insure safety and to minimize cost of compliance.

- B. Duty to Notify City. In the event of any release or threatened release of Hazardous Materials caused by Lessee, its employees, agents, contractors, suppliers, guests, or invitees, and which is required by applicable Environmental Laws or Rules and Regulations to be reported by Lessee, whether as a result of negligent conduct or otherwise pertaining to, or resulting from the operation of, the Leased Equipment, or in the event any written claim, demand, complaint or action is made or taken against Lessee that pertains to Lessee's failure or alleged failure to comply with any Environmental Laws or Environmental Permits pertaining to, or resulting from the operation of, the Leased Equipment, Lessee shall notify the City as soon as reasonably practical of all known facts pertinent to such release, threatened release, claim, demand, complaint, action, or notice, and shall provide the City with copies of any and all such claims, demands, complaints, notices, or actions so made. If Lessee is required, by any Environmental Laws, Environmental Permits, or governmental agency, to file any written notice or report of a release or threatened release of Hazardous Materials pertaining to, or resulting from the operation of, the Leased Equipment, Lessee shall simultaneously provide a copy of such notice or report to the City.

- C. Environmental Remediation. Lessee shall undertake all necessary steps required under applicable Environmental Laws and Environmental Permits to remedy and remove at its cost any Hazardous Material, or environmental condition or damage to the extent caused by, or resulting from, the activities, conduct or presence of Lessee or its agents, employees, contractors, or suppliers pertaining to, or resulting from the operation of, the Leased Equipment, whether resulting from negligent conduct or otherwise ("Remediation Work"). Such Remediation Work shall be performed at Lessee's expense. Except in the event of an emergency, such Remediation Work shall be performed after Lessee submits to the City a written plan for completing such Remediation Work and receives the prior approval of the City through Notice; provided, however, that the City's approval shall not be unreasonably withheld or delayed. The City expressly reserves the right to review and approve any proposed: remedial investigations, remedial work plans, interim and final remedies, institutional controls or other associated documents prior to submittal to the relevant governmental agencies responsible for enforcing Environmental Laws or Environmental Permits. Specific cleanup levels for any Remediation Work by Lessee shall be designed to meet and satisfy the requirements of all applicable Environmental Laws and Environmental Permits, as determined by the governmental agency responsible for enforcing Environmental Laws or Environmental Permits. Neither an ongoing remediation, including any testing or monitoring, nor the use of institutional controls, shall either unreasonably or materially impair or interfere with the City's use and enjoyment of its property or that of current and future tenants. The City shall have the right to conduct a reasonable review and inspect all such Remediation Work at any time using consultants and representatives of its choice.

- D. Access for Environmental Inspection. Upon reasonable notification to Lessee, the City shall have reasonable access to the Leased Equipment to inspect the same in order to confirm that Lessee is using the Leased Equipment in accordance with all applicable Environmental Laws and Environmental Permits. Lessee shall cooperate fully with any such inspections provided that such inspections shall not unreasonably interfere with Lessee's operations. If the City's inspection results in any type of written report, the City shall provide Lessee a reasonable opportunity to timely review and comment on a

draft of the report. Lessee shall provide to City for its review and comment copies of: any and all notices of alleged non-compliance issued by governmental agencies responsible for enforcing Environmental Laws or Environmental Permits; draft official submittals (proposed final drafts) prepared by, or on behalf of, Lessee responding to such alleged non-compliance; and any and all consent orders or administrative determinations, whether preliminary or final, issued by such governmental agencies. The City agrees to maintain the confidentiality of the documents produced in accordance with this Subsection to the extent consistent with the City's legal obligations.

- E. Corrective Action by City. If Lessee fails to comply with any applicable Environmental Laws or Environmental Permits governing its activities pertaining to the Leased Equipment, or if Lessee fails to conduct necessary Remediation Work in a timely manner as required under this Section, the City, as required by applicable Environmental Laws and Environmental Permits, in addition to the rights and remedies described elsewhere herein and any other rights and remedies otherwise available to the City, may access the Leased Equipment and take all reasonable and necessary actions to conduct Remediation Work to remove Hazardous Materials or other contaminants and insure such compliance with such Environmental Laws and Environmental Permits. All Remediation Costs incurred by the City shall be paid or reimbursed by Lessee. Remediation Work, if necessary, shall be performed in accordance with the provisions of Subsection 406(C), but only after first having provided Notice to Lessee of such failure to comply, and 30 days within which Lessee may demonstrate why no such alleged failure is present, or to timely remedy such alleged failure that may be present. If Lessee's compliance reasonably requires more than 30 days to complete, the City may access the Leased Equipment and take such reasonable and necessary measures to achieve compliance only upon Lessee's failing to timely begin curing such noncompliance within such 30 day period and to continue diligently working to achieve compliance thereafter.
- F. Review of Environmental Documents. At the reasonable request of the City, Lessee shall make available for inspection and copying, at reasonable times, any and all non-privileged documents and materials Lessee has prepared pursuant to any applicable Environmental Laws or Environmental Permits, or submitted to any governmental agency, which documents and materials relate to environmental issues, Environmental Laws or Environmental Permits and which pertain to the Leased Equipment, and which would be discoverable in litigation.
- G. Cumulative Remedies. All remedies of the City as provided herein with regard to environmental pollution, contamination, damage, or any actual or threatened violations of any Environmental Laws or Environmental Permits are deemed to be cumulative in nature. The City's right to indemnification as provided under this Section shall survive the expiration or early termination of this Agreement.

Section 407. Nondiscrimination.

- A. Lessee for itself, its personal representatives, successors in interest, and assigns, agrees that no person on the grounds of race, creed, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in (i) the use of the Leased Equipment; or (ii) the construction of any improvements to the Leased Equipment, and the furnishing of services thereon.
- B. Lessee shall comply with all applicable nondiscriminatory requirements that may be imposed pursuant to the Federal Aviation Act of 1958, as amended; the Civil Rights Act of 1964, as amended; 49 C.F.R. Parts 21, 23, and 26, as said regulations may be amended; and state and local laws.

Section 408. Prevailing Wage. Lessee shall include in all service contracts pertaining to the Leased Equipment language specifying the minimum prevailing wages to be paid and fringe benefits to be provided by the service contractor to employees of said service contractor in accordance with the provisions of the Revised Code of The City of St. Louis, Chapter 6.20.

Section 409. City Right to Enter, Inspect, and Require Corrective Action.

- A. The City shall have the right at reasonable times to enter upon the Leased Equipment for any of the purposes listed below:
1. to inspect the Leased Equipment for any purpose necessary for or incidental to or connected with the City's obligations hereunder, or in the exercise of the City's capacity as Airport owner, and as the owner of the Leased Equipment;
 2. to identify those actions required of the Lessee or the City, pursuant to this Agreement;
 3. for fire protection, safety, or security purposes;
 4. to make structural additions and alterations to the Airport;
 5. as provided in Section 411; and
 6. upon the expiration or early termination of this Agreement.
- B. The City shall provide reasonable notification and such right of entry shall not unreasonably interfere with Lessee's use or operation of its Leased Equipment, except if the situation endangers the health or safety of persons or the safety with respect to the use and operation of the Leased Equipment. The right of inspection reserved to the City shall impose no

obligation on the City to make inspections to ascertain the condition of the Leased Equipment and shall impart no liability upon the City for failure to make such inspections. The failure of the City to inspect or monitor or notify Lessee of a default or of a hazardous or unsafe condition with respect to Lessee operations hereunder shall not release Lessee from its liability to perform its obligations hereunder or impose any liability on the City, and in any other event where the City determines that it is necessary or desirable to do so to preserve the Airport or any portion thereof or to correct any conditions likely to cause injury or damage.

- C. Unless otherwise provided herein, Lessee shall perform all corrective work required of it that is identified in such inspection(s) within 30 days of receipt of a notification from the City. If correction cannot reasonably be completed within such 30 day period, this period may be extended at the sole discretion of the City. Matters affecting public health, safety, and welfare, including trash and debris problems, shall be corrected promptly after the City notifies the Lessee's manager or the manager's designee either orally or in writing via hand-delivery.

Section 410. Failure to Maintain by Lessee. If City determines that Lessee has failed to properly clean, remove trash and refuse, maintain, or repair the Leased Equipment as required in Section 402, the City shall provide to Lessee a list of deficiencies, reflecting the amount of time to be reasonably allowed for Lessee to correct same. If Lessee fails to correct such deficiencies within the time allowed and has not registered an objection as to its obligation to do so, the City, following 5 days further notification by the City to Lessee, may access the Leased Equipment and correct the listed deficiencies. The City shall add the cost of such work, plus actual administrative costs, to the Rents due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the Rents. Subsequent to receipt of the further notification of intent to perform repairs, maintenance, or cleaning from the City, Lessee shall not undertake performance of such repairs, maintenance, or cleaning without specific prior authorization from the City.

Section 411. City Obligations. Except as specifically provided for herein, the City shall not be under any duty or obligation to Lessee to repair, maintain, or clean the Leased Equipment or any portion thereof, or any facilities or equipment constructed thereon. The City shall not be responsible or liable to Lessee for any claims for compensation for any losses, damages, or injury, including lost profits, sustained by Lessee resulting from failure of the Airport structures or utility systems, or caused by the natural physical conditions on the Airport, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, act of God, state of war, terrorism, civilian commotion or riot, or any other cause or peril beyond the control of the City, except to the extent covered by the City's insurance or as may be caused by the City's negligence, willful misconduct, or bad faith.

ARTICLE V RENT AND FEES

Section 501. General. Lessee, for and in consideration of the rights and privileges granted herein, agrees to promptly and timely pay the Rents set forth in this Agreement, without demand during the term of this Agreement.

Section 502. Rent Payment. Lessee shall pay in advance to City an annual rental of \$18,638.60 to be paid in twelve equal monthly installments of \$1,553.23, which shall be due on or before the first day of each month of the term of this Agreement.

Section 503. Interest Charges and Late Charges on Overdue Payment. If Lessee fails to make payment of any sums due hereunder by the due dates set forth herein, Lessee shall pay to the City, in addition to all other remedies available to the City and all other payments to be made by Lessee to the City, an interest charge equal to 1.5% for each month of the overdue amount, and costs and attorney's fees reasonably incurred by the City in attempting to obtain payment, if any. Payments received later than 30 days from their respective due date shall be assessed an additional one-time late charge of 5% of the amount due, in addition to applicable interest charges.

Section 504. Form of Payment. Lessee shall pay all sums due hereunder in lawful money of the United States of America, without notice or demand, without deduction or setoff, by wire transfer or check made payable to the "Treasurer, City of St. Louis," which check shall be delivered postage or other charges prepaid to:

By U.S. Mail: Airport Assistant Director of Finance
Lambert-St. Louis International Airport
P.O. Box 10036, Lambert Station
St. Louis, Missouri 63145

By Express Mail: Airport Assistant Director of Finance
Lambert-St. Louis International Airport
10701 Lambert International Boulevard
St. Louis, Missouri 63145

By Wire Transfer: Routing Number: 081000210-1001018702
Bank Name: USBank (Checking)
Account Name: Airport Revenue Fund
(include a description of the transfer (e.g. "Name of Lessee, Agreement No. AL- 390"))

or as hereafter the City may designate by Notice to Lessee.

Section 505. Security Deposit.

- A. Amount and Form of Security Deposit. Upon execution of this Agreement, Lessee shall provide the City with an irrevocable letter of credit, contract bond, or other security or instrument acceptable to the City ("Security Deposit") in an amount equal to 3 (three) months of estimated Rents. The Security Deposit shall guarantee the faithful performance by Lessee of all of its obligations hereunder and the payment of all Rents due to the City. The Security Deposit shall be in such form and with such company licensed to do business in the State of Missouri as shall be acceptable to the City, within its reasonable discretion. The Security Deposit is not the sole or exclusive remedy of the City and shall not be construed, in and of itself, as adequate assurance of Lessee's future performance.
- B. Term of Security Deposit. Lessee shall maintain the Security Deposit until the termination of this Agreement. Lessee shall provide at least 60 days prior Notice of the date on which any Security Deposit expires or is subject to cancellation.
- C. City's Right to Use Security Deposit; Replenishment. If Lessee commits or is under an Event of Default pursuant to Section 901, the City shall have the right to use the amounts of such Security Deposit to pay Lessee's Rents or any other amounts owed to the City by Lessee then due and payable, or to apply the proceeds to any cost or expense or material damages incurred by the City as a result of Lessee's default, or Event of Default under Section 901. If any such Security Deposit, or portion thereof, is used as stated in this Subsection, Lessee shall replenish or provide a renewal or replacement Security Deposit up to the full amount set forth in Subsection 505(A) within 10 days of being notified to do so by the City. The City's rights under this Section shall be in addition to all other rights and remedies provided to the City hereunder.
- D. Waiver of Security Deposit Requirement. Notwithstanding the provisions of Subsections 505(A)-(C), the City will waive the Security Deposit obligation if it determines that Lessee qualifies for relief from such obligation. To qualify for such relief, Lessee must:
- 1) not be under an Event of Default pursuant to, and not have received Notice in accordance with, Section 901, for the first six months of the term of this Agreement;
 - 2) have made timely payments of all applicable Rents, Fees, and Charges during the first six months of the term of this Agreement.

If, after having waived the Security Deposit obligation in accordance with this Subsection, the City determines that Lessee has not continued to satisfy the requirements for relief, or if Lessee commits or is under an Event of Default pursuant to Section 901, Lessee shall immediately provide a Security Deposit in accordance with the provisions of Subsection 505(A).

ARTICLE VI
TENANT IMPROVEMENTS

Section 601. Alterations and Improvements by Lessee. Lessee may construct and install, at Lessee's sole expense, such improvements to the Leased Equipment as Lessee deems to be necessary for its use of the Leased Equipment. The plans and specifications, location, and construction schedule for such improvements, including any substantial alteration or addition thereto, must be submitted to and approved by the City prior to the commencement of any and all such construction or installation. Lessee shall comply with the requirements of all applicable laws and building codes and the City's Rules and Regulations governing tenant construction, alterations, and improvements. No reduction or abatement of Rents shall be allowed for any interference with Lessee's operations by such construction. All such alterations and improvements by Lessee shall be subject to the following:

- A. The City shall have the right to refuse approval of such plans and specifications. The City may, at its own cost, inspect any such alterations or improvements.
- B. All improvements made to the Leased Equipment and permanent additions or alterations thereto made by Lessee, except those financed by the City, shall be and remain the property of Lessee until expiration of the term of this Agreement. Upon expiration or early termination of this Agreement, said additions and alterations shall become the property of the City; provided, however, that any trade fixtures, signs, and other removable personal property of Lessee shall remain the property of Lessee, subject to the terms of Article X.
- C. Lessee shall promptly pay all lawful claims made against the City and discharge all liens filed or which exist against the Leased Equipment, or Lessee's trade fixtures or trade equipment arising out of or in connection with the failure to make payment for work done or materials provided by Lessee, its contractors, subcontractors, or materialmen. Lessee shall have the right to contest the amount or validity of any such claim or lien without being in default hereunder; provided, however, that while contesting the amount and validity of any such claims or liens Lessee shall provide the City, at the City's request, with a performance bond in an amount equal to the amount of the claim or lien. Lessee shall give timely Notice to the City of all such claims and liens.
- D. Lessee shall use, and shall cause each of its officers, directors, employees, agents, contractors, and suppliers to use, the highest degree of care when entering upon any property owned by the City in connection with the work. Lessee shall comply, and shall cause each of its officers, directors, employees, agents, contractors, and suppliers to comply with any and all instructions and requirements for the use of City-owned property.

- E. In any contract relating to the construction or installation of improvements to the Leased Equipment, Lessee shall require each of its contractors and suppliers to:
1. carry a policy of Builders Risk Insurance in accordance with Section 701(B)(4); and
 2. furnish performance and payment bonds in the full amount of any contract in a form acceptable to the City. Payment bonds shall comply with the coverage requirements and conditions of Section 107.170 of the Missouri Revised Statutes, as amended. Copies of the bonds shall be given to the City for approval before work begins. Any sum or sums derived from said performance and payment bonds shall be used for the completion of said construction and the payment of laborers and material suppliers, as the case may be.
- F. Upon the completion of the improvements hereunder, Lessee shall submit to the City a copy of its acceptance letter certifying completion, a certified copy of any certificate or permit which may be required by any federal, state or local government or agency in connection with the completion or occupancy thereof by Lessee, and a certified set of "as built" drawings.

Section 602. Nondisturbance of Airport Tenants and Operations. Any work by Lessee and its contractors shall be conducted in an orderly and proper manner, and shall not otherwise disturb, create a hazard, or interfere with other projects on, or the operations of, the Airport. Lessee shall promptly comply, and shall cause its contractors to comply, with any reasonable request from the City to correct its conduct or that of its contractors. If Lessee or its contractors fails to comply with the provisions of this Section, the City shall have the right to stop any or all work being performed, until such compliance is achieved, without terminating this Agreement.

ARTICLE VII INSURANCE, DAMAGE, AND INDEMNIFICATION

Section 701. Insurance.

- A. General. Lessee at all times during the term hereof, shall cause St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their officers, agents and employees and Lessee to be insured on an occurrence basis against the risk of all claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of the activities or omissions of Lessee, its officers, agents, and employees pursuant to this Agreement both with respect to the use and operation of the Leased Equipment and on the Airport.
- B. Risks and Minimum Limits of Coverage. Lessee shall procure and maintain the following policies of insurance:
1. Commercial General Liability Insurance in an amount not less than \$2 million. Such coverage shall be single limit liability with no annual aggregate.
 2. Workers' Compensation and Employer's Liability Insurance in accordance with Missouri laws and regulations. With respect to Workers' Compensation Insurance, if Lessee elects to be self-insured, Lessee shall comply with the applicable requirements of law. Lessee shall require that all its subcontractors or licensees similarly provide such coverage (or qualify as a self-insured) for their respective employees. City, its officers, employees, or agents shall not be liable or responsible for any claims or actions occasioned by Lessee's failure to comply with the provisions of this Subparagraph and that the indemnification provisions hereof shall apply to this Section. It is expressly agreed that the employees of Lessee are not employees of the City for any purpose, and that employees of the City are not employees of Lessee.
 3. Contents Insurance. Lessee shall be solely responsible for obtaining insurance policies that provide coverage for losses of Lessee owned property. The City shall not be required to provide such insurance coverage or be responsible for payment of Lessee's cost for such insurance.
 4. Builders Risk Insurance. During any period of construction or reconstruction for which Lessee contracts, Lessee shall carry, or shall require its contractor or contractors to carry, a policy of Builders Risk Insurance in an amount sufficient to insure the value of the work. The City shall be named Loss Payee on Builders Risk coverage to the extent of the City's interest therein (except to the extent coverage relates to Lessee's equipment and personal property). Lessee may elect to self-insure for individual projects with a total cost of \$50,000 or less.
 5. Other Property Coverage. Lessee shall provide an "All Risk" or a specific property insurance policy for the full replacement value (including installation costs) of the Leased Equipment, providing protection from direct loss arising out of any fortuitous cause other than those perils or causes specifically excluded by norm and which covers Lessee's Leased Equipment, conveyors, motors, control devices and systems, trade fixtures, and mechanical/electrical equipment and systems. The City shall be named Loss Payee on such coverage to the extent of the City's interest therein (except to the extent coverage relates to Lessee's equipment and personal property).
- C. Issuers of Policies. The issuer of each policy required herein shall be a financially sound insurance company authorized to issue insurance policies in the State of Missouri. Acceptable insurers include insurance companies with an "A.M. Best Company" rating of at least an "A," or other insurers or insurance syndicates of similar recognized responsibility.

1. Form of Policies. The insurance may be in one or more policies of insurance.
 2. Non-waiver. Nothing the City does or fails to do shall relieve Lessee from its duties to provide the required coverage hereunder, and the City's actions or inactions shall not be construed as waiving the City's rights hereunder.
 3. Insured Parties. Each policy by endorsement, except those for Workers' Compensation, Employer's Liability, shall name the City, its officers, agents, and employees as "additional insured" on the certificate of insurance, including all renewal certificates, to the extent of Lessee's indemnification obligations hereunder. Inclusion as an "additional insured" is not intended to, and shall not, make the City a partner or joint venturer with Lessee in its operations.
 4. Deductibles. Lessee shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against the City, its officers, agents, or employees; provided, however, that nothing herein stated shall diminish Lessee's rights or increase Lessee's obligations in respect to its undertakings or hold harmless defense and indemnification set forth in Section 704 hereof.
 5. Cancellation. Each policy shall expressly state that it may not be cancelled, materially modified or nonrenewed unless 30 days advance Notice is given in writing to the City by the insurance company, or authorized representative of Lessee.
 6. Subrogation. Each policy shall contain an endorsement by which the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents, or employees.
 7. Endorsement of Primary Insurance. Each policy hereunder except Workers' Compensation shall be primary insurance to any other insurance available to the Additional Insured and Loss Payee with respect to claims arising hereunder.
 8. Liability for Premium. Lessee shall be solely responsible for payment of all insurance premiums required pursuant to this Agreement, and the City shall not be obligated to pay any premiums; provided, however, that if Lessee fails to obtain the insurance as required herein or make premium payments, the City may, without further notification, effect such insurance or make such payments on Lessee's behalf and, after Notice to Lessee, the City may recover the cost of those payments with the installment of Rents next due, plus 15% administrative charge, from Lessee.
 9. Proof of Insurance. Within 30 days of the full execution of this Agreement by the City and Lessee and at any time during the term hereof, Lessee shall furnish the City with certificates of insurance. At least 5 days prior to the expiration of any such policy, Lessee shall submit to the City a certificate showing that such insurance coverage has been renewed. If such coverage is canceled or reduced, Lessee shall, within 15 days after the date of such notice from the insurer of such cancellation or reduction in coverage, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon reasonable notification by the City to Lessee, the City shall have the right to examine Lessee's insurance policies.
- D. Maintenance of Coverage. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Lessee, continuously and without interruption, maintain in force the required insurance coverages set forth above.
- E. City Right to Review and Adjust Coverage Limits. The City reserves the right at reasonable intervals during the term of this Agreement to cause the insurance requirements of this Article to be reviewed, at its sole cost, by an independent insurance consultant experienced in insurance for public airports, taking into consideration changes in statutory law, court decisions, or the claims history of the airline industry as well as that of Lessee, and, based on the written recommendations of such consultant, and in consultation with Lessee, to reasonably adjust the insurance coverages and limits required herein but not more often than every 24 months.

Section 702. Lessee Actions Affecting Insurance. Lessee shall not knowingly do or permit to be done anything, either by act or failure to act, that may cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that may cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If such Lessee's act, or failure to act, causes cancellation of any policy, then Lessee shall immediately, upon notification by the City, do whatever is necessary to cause reinstatement of said insurance. Furthermore, if Lessee does or permits to be done any act or fails to do any act which causes an increase in the City's insurance premiums, Lessee shall immediately remedy such actions and/or pay the increase in premiums, upon Notice from the City to do so; but in any event, Lessee will hold the City harmless for any expenses and/or damage resulting from any such action.

Section 703. Indemnification.

- A. Lessee shall defend, indemnify, and hold harmless St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their respective officers, agents and employees (the "Indemnified Parties") from and against

any and all loss, liability, penalties, damages of whatever nature, causes of action, suits, claims, demands, judgments, injunctive relief, awards, settlements, costs, and expenses, including payments of claims of liability resulting from any injury or death of any person or damage to or destruction of any property including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs and expert fees) of any nature, arising out of and in connection with this Agreement, or Lessee's use or operation of the Leased Equipment or other areas or facilities at the Airport by Lessee, its agents, employees, contractors, or subcontractors, including, but not limited to:

1. the acts or omissions of Lessee, its agents, employees, contractors, or suppliers;
2. Lessee's use or operation of the Airport or the Leased Equipment; and
3. any violation by Lessee under this Agreement its use of its Leased Equipment or any provision, warranty, covenant, or condition of this Agreement.

Lessee shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

- B. Lessee shall defend, indemnify, pay, and hold harmless the Indemnified Parties from and against all applicable taxes and assessments for which the City may become liable and which by law may be levied or assessed on the Leased Equipment, or which arise out of the operations of Lessee or by reason of Lessee's operation or use of the Leased Equipment except for any taxes or assessments based on the gross or net income or gross or net receipts of the City that are not allocable to Lessee-related receipts. However, Lessee may, at its own risk, cost, and expense, and at no cost to the City, contest, by appropriate judicial or administrative proceedings, the applicability or the legal or constitutional validity of any such tax or assessment, and the City will, to the extent permitted by law, execute such documents as are necessary to permit Lessee to contest or appeal the same. Lessee shall be responsible for obtaining bills for all of said taxes and assessments directly from the taxing authority and shall promptly deliver to the City, upon request by the City, copies of receipts of payment. If the City receives any tax billings falling within the scope of this paragraph, it will forward said billings to Lessee. Lessee shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.
- C. Lessee shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature associated therewith in any way arising from or based in whole or substantial part upon claim or allegation of a violation of any federal, state, or local laws, statutes, resolutions, regulations, ordinance, or court order affecting the Airport, by Lessee, its agents, employees, contractors, or suppliers, in conjunction with Lessee's use and/or operation of the Leased Equipment. Lessee will, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not. Lessee shall include the substance of this Subsection (C) in every sublease, contract or other agreement which Lessee may enter into related to its activities with respect to the Leased Equipment, and any such sublease, contract or other agreement shall specifically provide that the City is a third-party beneficiary of this and related provisions. This provision does not constitute a waiver of any other condition of this Agreement prohibiting or limiting assignments, subletting or subcontracting.
- D. If a prohibited incursion into the air operations area occurs, or if the Aircraft Operations Area or sterile area security is breached, by or due to the negligence or willful act or omission of any of Lessee's employees, agents, contractors, or suppliers, and such incursion or breach results in a civil penalty action against the City, Lessee shall assume the defense of any such action and be responsible for any civil penalty or settlement amount required to be paid by the City as a result of such incursion or breach. The City shall notify Lessee of any allegation, investigation, or proposed or actual civil penalty sought for such incursion or breach. Civil penalties and settlement and associated expenses reimbursable under this paragraph include but are not limited to those paid or incurred as a result of violation of FAA or TSA regulations or security directives.
- E. Lessee's obligation to defend and indemnify past officers, employees, and agents of the City shall apply to such persons only for claims, suits, demands, actions, liability, loss, damages, judgments, or fines arising from events, occurrences, and circumstances during which said officers, employees, and agents held their office or position with the City.
- F. The City shall promptly notify Lessee of each claim, action, proceeding, or suit in respect of which indemnity may be sought by the City against Lessee hereunder, setting forth the particulars of such claim, action, proceeding or suit; shall furnish Lessee with a copy of all judicial filings and legal process and any correspondence received by the City related thereto; and shall tender the defense of same to Lessee.
- G. The duty to defend, indemnify, hold harmless, and reimburse shall apply to any claim, demands, or suits made against the City for which Lessee is responsible pursuant to this Section. Provided, however, that upon the filing by anyone of a claim with the City for damages arising out of incidents for which Lessee herein agrees to indemnify and hold the City harmless, the City shall promptly notify Lessee of such claim and, if Lessee does not settle or compromise such claim, then Lessee shall undertake the legal defense of such claim both on behalf of Lessee and on behalf of the City, at Lessee's expense; provided, however, that Lessee shall immediately notify City if a conflict between the interests of Lessee and City arises during the course of such representation. Lessee shall use counsel reasonably acceptable to the City Counselor of the City or his or her designee, after consultation with the Airport Director, in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this Agreement. It is specifically agreed, however, that the City, at its option and at its own expense, may participate in the legal defense of any claim defended by Lessee in accordance with this Section. Any final judgment rendered against the City for any cause for which Lessee is liable

hereunder shall be conclusive against Lessee as to amount upon the expiration of the time for appeal therefrom. Nothing in this Article shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim of legal liability against the City. This Section shall not be construed as a waiver of the City's sovereign or other immunity.

- H. The City, at its own expense except as otherwise provided herein, shall be invited to attend and participate in all meetings (including those related to settlement) and to appear and participate in all judicial proceedings and to the extent of its interests, approve, in writing, the terms of any settlement related to any claim, action, proceeding or suit set forth in this Section.
- I. Notwithstanding the provisions of this Section, Lessee shall have no obligation to defend, indemnify, or hold harmless the City for any consequential damages or for any amounts to be paid in connection with losses, liabilities, penalties, damages of whatever nature, causes of action, suits, claims, demands, injunctive relief, judgments, awards and settlements if the City is conclusively determined to be more than 50% liable due to contributory negligence.
- J. This Section shall survive the expiration or early termination of this Agreement. Lessee understands and agrees that any insurance protection furnished by Lessee pursuant to Section 701 shall in no way limit Lessee's responsibility to indemnify and hold harmless the City under the provisions of this Agreement.

Section 704. City Not Liable. Unless otherwise expressly provided for in this Agreement, the City shall not in any event be liable to Lessee for:

- A. any acts or omissions of Lessee, its officers, directors, employees, agents, contractors, or suppliers, or for any conditions resulting from the operations or activities of Lessee's directors, officers, employees, agents, contractors, or suppliers;
- B. Lessee's failure to perform any of the obligations hereunder or for any delay in the performance thereof;
- C. any environmental condition in existence at the Airport, or any part thereof including without limitation the Leased Equipment, which condition may interfere with Lessee's business or other operations or activities, or which might otherwise cause damages to Lessee through loss of business, destruction of property, or injury to Lessee, its officers, directors, employees, agents, contractors, suppliers, invitees, or licensees except to the extent such conditions are caused by the City, its employees or agents; or
- D. bodily injury or any loss or damage to real or personal property or business income occasioned by flood, fire, smoke, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, vandalism, malicious mischief, or acts of war or terrorism, or for any injury, loss or damage not caused by the negligence, willful misconduct, or bad faith of the City.

ARTICLE VIII MERGERS, ASSIGNMENT, AND SUBLETTING

Section 801. Mergers and Consolidations. If Lessee consolidates with or merges into another company or permits one or more other companies to consolidate with or merge into it, or transfers or conveys all or substantially all of its property, assets and licenses to another company, the business entity resulting from or surviving such merger (if other than Lessee) or consolidation or the company to which such transfer or conveyance is made shall (i) expressly assume in writing and agree to perform all of Lessee's obligations hereunder, (ii) be qualified to do business in the State of Missouri, and (iii) if such business entity is not organized and existing under the laws of the United States of America or any state or territory thereof or the District of Columbia, furnish to the City an irrevocable consent to service of process in, and to the jurisdiction of, the courts of the State of Missouri with respect to any action or suit, in law or at equity, brought by the City to enforce this Agreement. If Lessee is the surviving business entity in such a merger, the express assumption referred to in this Section shall not be required.

Section 802. Assignments. Lessee shall not assign, transfer, convey, sell, mortgage, pledge, or encumber (hereinafter collectively referred to as "Assignment") this Agreement other than in connection with a transaction referenced in Section 801 without the express consent of the City.

Section 803. Subleases. Lessee shall not sublease the Leased Equipment without the express written consent of the City.

ARTICLE IX DEFAULT AND TERMINATION

Section 901. Events of Default. Each of the following constitutes an "Event of Default" under this Agreement:

- A. Lessee fails to punctually pay when due any Rents or any other sum required to be paid hereunder, and such failure continues for a period of 15 days after Notice of non-payment has been given to Lessee by the City.
- B. Lessee fails to keep, perform and observe any promise, covenant or other provision of this Agreement for a period of 30 days after Notice specifying such failure by the City; provided, however, that any such failure which can be cured, but which cannot with due diligence be cured within such 30 day period, shall not give rise to the City's right to terminate this

Agreement if corrective action is instituted by Lessee within such 30 day period and diligently pursued until the failure is corrected.

- C. Any representation or warranty of a material fact made by Lessee herein or in any certificate or statement furnished to the City pursuant to or in connection herewith proves untrue in any material respect as of the date of issuance or making thereof, and such materiality is then continuing.
- D. Lessee discontinues its use of the Leased Equipment for conduct of its business for a period of 30 consecutive days or, after exhausting or abandoning any further appeals, Lessee is prevented for a period of 30 consecutive days by action of any governmental agency other than the City from the use of the Leased Equipment for the conduct of its business.
- E. Lessee fails to maintain the minimum required insurance coverage as required by Section 701 for a period of 30 days after Notice specifying such failure by the City, provided that the City shall have the right to immediately suspend Lessee's right to operate or use the Leased Equipment at the Airport until Lessee has obtained the minimum required insurance coverage.
- F. Lessee becomes insolvent (as such term is defined under Section 101 of the Federal Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), or any successor statute thereto); or fails to pay its debts generally as they mature; or takes the benefit of any present or future federal or state insolvency statute; or makes a general assignment for the benefit of creditors.
- G. Lessee files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its indebtedness under the Bankruptcy Code or under any other law or statute of the United States or of any state thereof, or under any law or statute of another country; or consents to the appointment of a receiver, trustee, custodian, liquidator, or other similar official, of all or substantially all of its property; or an order for relief is entered by or against Lessee under any chapter of the Bankruptcy Code.
- H. Lessee is adjudged a debtor or bankrupt and/or an order is made approving a petition filed by any of Lessee's creditors or stockholders seeking Lessee's liquidation or reorganization under the Bankruptcy Code or under any other law or statute of the United States or any state thereof, and such order or decree is not stayed or vacated within 60 days of its issuance.
- I. A petition under any chapter of the Bankruptcy Code or an action under any federal or state insolvency law or statute, or an action under any insolvency law or statute of another country is filed against Lessee and is not dismissed or stayed within 60 days after the filing thereof.
- J. By or pursuant to, or under authority of any legislative act, resolution, or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, custodian, liquidator, or other similar official takes possession or control of all or substantially all of the property of Lessee and such possession or control continues in effect for a period of 60 days.
- K. Lessee becomes a corporation in dissolution.
- L. The letting, license, or other interest of or rights of Lessee hereunder is transferred to, passed to, or devolved upon, by operation of law or otherwise, any other person, firm, corporation, or other entity, by, in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation, or other proceedings or occurrence described in subparagraphs (F) through (K) of this Section.
- M. Lessee enters into an Assignment or sublease which is not approved by the City in accordance with the provisions of Article VIII, and, if a sublease, it is not terminated within 10 days after Notice from the City.

Notwithstanding any other provision of this Agreement, if Lessee is a debtor in a Chapter 7 or Chapter 11 case under the Bankruptcy Code, such case shall not constitute an Event of Default.

Section 902. Termination by the City for Cause.

- A. Whenever an Event of Default has occurred, the City may at its option, immediately and without further notification of such Event of Default:
 - 1. Terminate this Agreement and/or Lessee's rights granted hereby, but without discharging any of Lessee's obligations hereunder and, at the City's further option, exclude Lessee from its Leased Equipment. If Lessee uses, occupies, or fails to surrender or remove its property from its Leased Equipment, or any portion thereof, without the consent of the City after this Agreement has been terminated or expires, Lessee may be deemed a tenant at sufferance during the period of such use or failure and, in such event, Lessee shall pay Rents established by the City during such period. In such event, the City shall have, in addition to whatever other rights are available to the City, the right to all remedies provided under applicable laws, and reasonable costs, disbursements, and attorney fees including consequential damages incurred as a result of the holdover.
 - 2. Without terminating this Agreement, exclude Lessee from its Leased Equipment and use its best efforts to lease such Leased Equipment to a replacement Lessee. Lessee shall remain liable for all Rents and other payments

due hereunder for the remainder of the term of this Agreement; provided, however, that any rents received from a replacement Lessee shall be credited against the amounts owed by Lessee.

- B. In the event of an Event of Default, the City may exercise any and all of the rights provided to it in this Section irrespective of any subsequent cure by Lessee, unless otherwise mutually agreed by Lessee and the City.
- C. The remedies set forth in this Article shall be in addition to all other remedies which are or may be available to the City at law or in equity to enforce the performance and observance of any obligation, agreement or covenant of Lessee hereunder, including collection of amounts due.
- D. All rights and remedies given to the City herein and all rights and remedies granted to the City by law shall be cumulative and concurrent. No termination of this Agreement or the taking or recovering of the Leased Equipment shall deprive the City of any of the City's remedies or actions against Lessee for Rents or for damages or for the breach of any covenant herein contained, nor shall the bringing of any action for Rents or breach of covenant, the resort to any other remedy herein provided for the recovery of Rents or any delay in exercising such rights, be construed as a waiver of the right to obtain possession of the Leased Equipment.
- E. In no event shall this Agreement or any rights or privileges hereunder be an asset of Lessee under any bankruptcy, insolvency, or reorganization proceedings.

Section 903. Change of Term.

Notwithstanding the provisions of Section 301, automatically and immediately upon the occurrence of an Event of Default described in Subsections 901 (F) - (K), the term of this Agreement shall convert to month-to-month; provided, however, that the conversion of the term of this Agreement pursuant to this Section shall not discharge any of Lessee's obligations hereunder nor affect any of the City's remedies set forth herein.

Section 904. Termination by Lessee for Cause.

At any time that Lessee is neither in default nor has committed an Event of Default hereunder, Lessee may terminate this Agreement to the extent set forth below, at Lessee's option, prior to the scheduled expiration date set forth in Section 301, by giving the City 30 days' advance Notice upon or after the happening and during the continuance of any of the following events:

- A. Any action of any federal, state, county, or municipal governmental agency refusing to permit Lessee to operate or use the Leased Equipment as Lessee has previously operated regularly thereon, and the remaining in force of such refusal for a period of at least 30 days;
- B. Any failure by the City to keep, perform and observe any material promise, covenant, or other provision of this Agreement for a period of 30 days after Notice specifying such failure and requesting that it be remedied is given to the City by Lessee; provided, however, that any such failure which can be cured, but which cannot with due diligence be cured within such 30 day period, shall not give rise to Lessee's right to terminate this Agreement if corrective action is instituted by the City within such 30 day period and diligently pursued until the failure is corrected; or
- C. Lessee is prevented from conducting its business with respect to the use and operation of the Leased Equipment for a period in excess of 90 consecutive days for any reason other than causes directly controlled by Lessee.

ARTICLE X
SURRENDER OF LEASED EQUIPMENT

Section 1001. Surrender of Leased Equipment.

- A. Surrender of Leased Equipment. On expiration of the term of this Agreement or earlier termination as hereinafter provided, Lessee shall:
 - 1. peaceably surrender possession of the Leased Equipment to the City in a clean, sanitary, and good condition, excepting only reasonable wear and tear (taking into account repair and maintenance required to be done by Lessee), acts of God, fire, and other casualties, and the City shall have the right to take possession of said Leased Equipment hereunder; and
 - 2. return the Leased Equipment to the City in a condition such that Hazardous Materials which were placed, stored, used, generated, treated, released, discharged, disposed, and/or spilled on, under, or about the Leased Equipment by Lessee, its officers, directors, employees, agents, contractors, or suppliers do not exceed allowable levels established under applicable Environmental Laws and Environmental Permits in accordance with Subsection 406(C). If the City is required under applicable Environmental Laws to undertake actions to bring the Leased Equipment into compliance with this provision, or any applicable Environmental Laws or Environmental Permits as a result of Lessee's failure to timely correct same in accordance with Subsection 406(C), Lessee shall reimburse the City for any Remediation Costs incurred by the City, as provided for in Subsection 406(E).

The City shall not be required to notify Lessee to quit possession at the expiration date of the term of this Agreement.

- B. Removal of Personal Property. Provided Lessee is not in default for non-payment of Rents or any other payment due hereunder, Lessee shall have the right, on expiration or early termination of this Agreement and within 30 days thereafter, to remove or dispose of all trade fixtures, equipment and other personal property installed or placed by Lessee in or on the Leased Equipment. Lessee shall not be entitled to remove non-trade fixtures without the advance consent of the City. If, following the expiration or early termination of this Agreement, the City has immediate need to accommodate a new tenant, the City may remove and store Lessee's trade fixtures, equipment and personal property, at Lessee's risk.
- C. Removal Damages. Lessee shall repair any damage caused by the removal of its trade fixtures, equipment or personal property. Removal shall be at Lessee's expense. Notwithstanding the above, consideration shall be given to the intended long-term use of the Leased Equipment and if the City determines that such Leased Equipment would not be maintained for a period warranting the repairs indicated above, the City may alter or waive the repair requirement of this Subsection. If the Leased Equipment is yielded or delivered to the City in need of repair, reconditioning, or restoration to the condition that existed when Lessee first used the Leased Equipment pursuant to this Agreement or any preceding agreement (reasonable wear and tear taking into account repair and maintenance required to be done by Lessee excepted), after reasonable notification by the City to Lessee, the City shall repair or recondition said Leased Equipment and the cost thereof, plus actual administrative costs, shall be invoiced to Lessee and payable immediately. The City shall determine the condition of the Leased Equipment at the expiration or early termination of this Agreement.
- D. Ownership of Trade Fixtures, Equipment and Personal Property Not Removed. If, after 30 days following the expiration or early termination of this Agreement, Lessee fails to remove its trade fixtures, equipment and other personal property from the Leased Equipment, such trade fixtures, equipment and personal property may be deemed abandoned. In addition to whatever other rights are available to the City, with prior notification of Lessee, the City may: (i) remove, sell, or store Lessee property at Lessee's expense, or (ii) take title to Lessee property in lieu of removal on behalf of Lessee. If the City takes title to such property or otherwise disposes of the property, the City shall be entitled to all proceeds of sale of such Lessee property as liquidated damages for the breach of this covenant to remove.

ARTICLE XI MISCELLANEOUS PROVISIONS

Section 1101. Relationship of Parties. Nothing herein contained is intended or shall be construed to create or establish any relationship other than that of lessor and lessee, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Lessee the general representative or agent of the City for any purpose whatsoever.

Section 1102. Amendment. Except as otherwise expressly provided herein, this Agreement may not be changed, modified, discharged, or extended except by written amendment duly executed by the parties.

Section 1103. Subordination to Agreements with the United States.

- A. This Agreement shall be subordinated to the provisions of any existing or future agreement between the City and the United States Government or governmental authority, relating to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds or the approval to impose or use PFCs for the improvement or development of the Airport. Lessee shall not cause the City to violate any assurances made by the City to the United States Government in connection with the granting of such federal funds or the approval of such PFCs.
- B. All provisions of this Agreement shall be subordinate to the rights of the United States of America to operate all of the Airport or any part thereof during time of war or national emergency. Such rights shall supersede any provisions of this Agreement inconsistent with the operation of the Airport by the United States of America.

Section 1104. Subordination to Trust Indenture.

- A. This Agreement and all rights granted to Lessee hereunder are expressly subordinated and subject to the lien and provisions of the pledges, covenants (including rate covenants), transfers, hypothecation, or assignments made by the City in the Trust Indenture and any Bond ordinance (including related documents authorized or approved by such ordinance) enacted by the City regarding the issuance of Bonds.
- B. Lessee understands that the City is and will be the issuer of Bonds. With respect to outstanding Bonds that may be issued in the future, the interest on which is intended to be excludable from gross income of the holders of such Bonds for federal income tax purposes under federal law, Lessee shall not act, or fail to act (and will immediately cease and desist from any action, or failure to act) with respect to the use of the Leased Equipment, if the act or failure to act may cause the City to fail to be in compliance with the provisions of federal law with respect to those types of Bonds, as it now exists or may be amended, supplemented, or replaced, or the regulations or rulings issued thereunder, nor will Lessee take, or persist in, any action or omission that may cause the interest on the tax-exempt Bonds either (i) not to be excludable from the gross income of the holders thereof for federal income tax purposes; or (ii) to become subject to the alternative minimum tax for federal income tax purposes.

Section 1105. Certificate in Connection with Issuance of Bonds. In connection with any issuance of Bonds by the City, upon not less than 30 days prior request by the City, Lessee shall deliver to the City a statement in writing certifying:

- A. that this Agreement is unmodified and in full force and effect (or if there have been modifications, a description of such modifications and that the Agreement as modified is in full force and effect);
- B. that to Lessee's knowledge the City is not in default under any provision of this Agreement, or, if in default, the nature thereof in detail; and
- C. such further matters as may be reasonably requested by the City, it being intended that any such statement may be relied upon by the parties involved in such issuance of Bonds.

Section 1106. No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein expressed or implied shall give or be construed to give to any person or entity other than the parties hereto and their assigns any legal or equitable rights hereunder.

Section 1107. Counterparts. This Agreement may be executed in one or more counterparts.

Section 1108. Exhibits. All certificates, documents, exhibits, attachments, riders, and addenda referred to herein, including the exhibits referred hereto, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

Section 1109. Survival of Warranties. All warranties and covenants set forth in this Agreement shall survive the execution and performance of this Agreement.

Section 1110. Quiet Enjoyment. Upon payment of all amounts due hereunder and performance of the covenants and agreements on the part of Lessee to be performed hereunder, the City shall not act or fail to act, except as otherwise provided by this Agreement, in a manner that will prevent Lessee from peaceably having and, in accordance with the terms hereof, enjoying the Leased Equipment and all rights, licenses, services, and privileges of the Airport and its appurtenances and facilities granted herein.

Section 1111. No Personal Liability.

- A. The City shall not be liable for any acts or omissions of any Lessee or any condition resulting from the operations or activities of tenants or their representatives.
- B. No director, officer, employee, or agent of the City or Lessee shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach hereof or because of its or their execution of this Agreement. Any administrative complaint brought against the City relating to any aspect of this Agreement shall be brought against the City and not against named individual respondents.

Section 1112. Governing Law and Forum Selection. This Agreement is made and entered into in the State of Missouri, and Missouri law shall govern and apply to this Agreement. Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Agreement shall be brought only in a federal or state court in the City of St. Louis, Missouri. Lessee and the City hereby admit and consent to the jurisdiction and venue of such courts. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 1113. Communications and Notices.

- A. Except as otherwise expressly provided in this Agreement, all communications, including notifications, requests, authorizations, approvals, demands, and consents provided for hereunder shall be in writing.

If to the City, to: Airport Director
Lambert-St. Louis International Airport
10701 Lambert International Boulevard
St. Louis, Missouri 63145

If to Lessee, to: Station Director
American Airlines, Inc.
Lambert-St. Louis International Airport®
P.O. Box 10128
St. Louis, MO 63145

With a copy to: Senior Principal, Corporate Real Estate
American Airlines, Inc.
Lambert-St. Louis International Airport®
P.O. Box 10007
St. Louis, MO 63145

or to such other person or address as either the City or Lessee may hereafter designate by Notice to the other in accordance with Subsection 1113(B).

- B. All Notices required by this Agreement shall be mailed via certified mail return-receipt requested, via overnight mail with receipt, or personally delivered to the City and Lessee at the addresses set forth in Subsection 1113(A), with copy to:

if to the City:

Office of the City Counselor
Airport Legal Department
10701 Lambert International Boulevard
St. Louis, Missouri 63145

If to Lessee:

Vice President, Corporate Real Estate
American Airlines, Inc.
P.O. Box 619616
Dallas/Ft. Worth Airport, TX 75261

With a copy to:

Senior Principal, Corporate Real Estate
American Airlines, Inc.
Lambert-St. Louis International Airport®
P.O. Box 10007
St. Louis, MO 63145

or to such other person or address as either the City or Lessee may hereafter designate by Notice.

Except as otherwise expressly provided hereunder, any such Notice shall be deemed to have been given or made: (i) if sent by certified mail, 5 days after being deposited in the mails, postage prepaid and properly addressed; (ii) if via overnight mail, the next business day; and (iii) if delivered by personal service, when delivered to the addressee.

Section 1114. Force Majeure.

- A. Neither party hereto shall be liable to the other for any failure, delay, or interruption in performing its obligations hereunder due to acts, events or conditions beyond its control, including acts of God, weather conditions, shortages of energy or materials, embargoes, riots, rebellions, sabotage, acts of a public enemy, war, terrorism, insurrection, strikes, boycotts, picketing, slow-downs, work stoppages or other labor actions affecting the rights or obligations of the City or Lessee hereunder, their respective contractors or subcontractors, except to the extent that such failure, delay or interruption directly or indirectly results from failure on the part of the City or Lessee to use reasonable care to prevent, or make reasonable efforts to cure, such failure, delay or interruption; provided, however, that, except as herein specifically provided, nothing in this Section is intended or shall be construed to abate, postpone or in any respect diminish Lessee's obligations to make any payments due to the City pursuant to this Agreement.
- B. The City shall be under no obligation to supply any service if and to the extent and during any period that the supplying of any such service or the use of any component necessary therefor shall be prohibited or rationed by any law, ordinance, rule, regulation, requirement, order or directive of any federal, state, county or municipal government having jurisdiction.

Section 1115. Invalid Provisions. If any covenant, condition, or provision in this Agreement is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, or conclusively determined to be inconsistent with federal law or FAA grant assurances, such covenant, condition, or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City or Lessee in its respective rights and obligations contained in the valid covenants, conditions, or provisions of this Agreement.

Section 1116. No Waiver. No provision of this Agreement shall be deemed to have been waived by either party unless such waiver is in writing, signed by the party making the waiver and addressed to the other party, nor shall any custom or practice that may evolve between the parties in the administration of the terms of this Agreement be construed to waive or lessen the right of either party to insist upon the performance of the other party in strict accordance with the terms of this Agreement.

Section 1117. City's Rights and Remedies are Cumulative. All rights and remedies of the City as provided herein and under law are cumulative in nature.

Section 1118. Construction of Agreement. The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto and have sought and received whatever competent advice and counsel was necessary for them

to form a full and complete understanding of all rights and obligations herein. The parties further acknowledge that this Agreement is the result of extensive negotiations between the parties and shall not be construed against the City by reason of the preparation of this Agreement by the City.

Section 1119. Timing. The parties expressly agree that time is of the essence in this Agreement. Failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the other party, without liability, of any obligation to accept such performance.

Section 1120. Representatives. The City and Lessee shall each designate a representative who, except as otherwise provided hereunder, shall be authorized to act for the City and Lessee, respectively, with respect to any actions to be taken by either of them under the terms of this Agreement. Except as specifically set forth herein, for the purposes of actions to be taken by it or by the City, the City's representative shall be the Airport Director. Lessee's representative shall be designated in a Notice delivered to the City. Any party hereto may change its designated representative by Notice to the other party.

Section 1121. Approvals.

- A. Whenever in this Agreement any approval is required, such decision shall be promptly rendered and shall not be unreasonably withheld or conditioned. No disapproval shall be valid if such disapproval constitutes an anticompetitive act as described by a federal agency having jurisdiction over such matters.
- B. Unless otherwise required by state or local law, wherever in this Agreement the approval, authorization, consent, certification, determination, waiver, or any other action of the City is required, it may be performed by the Airport Director, unless otherwise provided herein. In taking such actions, the Airport Director shall act reasonably, and take into consideration the best interest of the traveling public and the operations of the Airport.
- C. In all instances in this Agreement where consent or approval of one party is required for an action by the other party, such consent shall be in writing unless otherwise agreed by the parties.

Section 1122. Successors and Assigns. The terms, conditions, and covenants of this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and upon their permitted successors, assigns and sublessees, if any. This provision shall not constitute a waiver of any conditions regarding assignment or subletting contained in this Agreement.

Section 1123. Authority to Execute. The person(s) executing this Agreement on behalf of Lessee warrants to the City that Lessee is a duly authorized and existing corporation, that Lessee is qualified to do business in the State of Missouri, that Lessee has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Lessee is authorized to do so.

Section 1124. Other Agreements. The City acknowledges that Lessee may have entered into other agreements with the City with respect to Lessee's operations at the Airport, which agreements may grant certain additional rights to, and impose certain additional obligations upon, Lessee in addition to those rights and obligations set forth herein. Nothing in this Agreement shall serve to restrict any such additional rights or obligations.

Section 1125. Entire Agreement. This Agreement embodies the entire agreement between the City and Lessee relating to the subject matter hereof, and supersedes all prior agreements and understandings, written or oral, express or implied, between the City and Lessee relating thereto.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year first above written.

Authorized by City Ordinance _____, approved _____, 2006

The foregoing Agreement was approved by the Airport Commission at its meeting on the _____ day of _____, 2006.

THE CITY OF ST. LOUIS BY:

Commission Chairman and Director of Airports Date

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

City Counselor Date
City of St. Louis

Comptroller, Date
City of St. Louis

ATTESTED TO BY:

Register, Date

City of St. Louis

The Board of Estimate and Apportionment approved the foregoing Agreement in substance at its meeting on the ___ day of _____, 2006.

Secretary,
Board of Estimate & Apportionment

Date

AMERICAN AIRLINES, INC

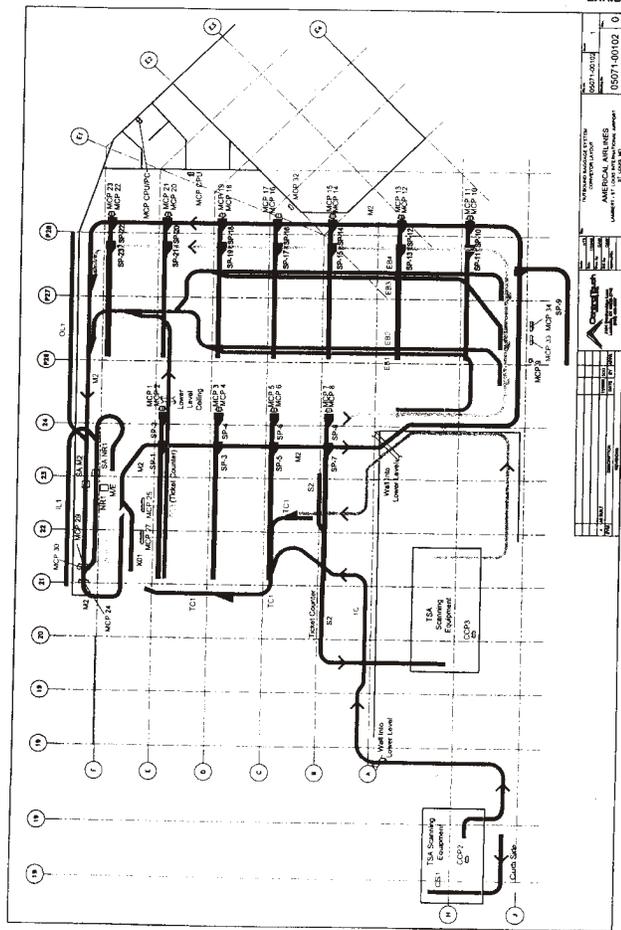
BY: _____

Title: _____

Date: _____

EXHIBIT "A"
"LEASED EQUIPMENT"

67316



Approved: November 27, 2006