

ORDINANCE #67477
Board Bill No. 376
Floor Substitute

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, BJH desires to improve further its existing buildings and facilities and to replace, erect or install permanent

improvements upon the Leased Premises as an integral part of the operations of BJH and its affiliated institutions and has agreed that not less than 15% of the Leased Premises shall be maintained as green space;

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

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

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

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

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

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

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

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

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

SECTION THREE. BJH Maintenance Trust Agreement; FPF Maintenance Trust Agreement, Maintenance Cooperation Agreement. The Mayor and the Comptroller of the City are hereby authorized and directed to enter into that certain BJH Maintenance Trust Agreement (the "BJH Maintenance Trust Agreement") in substantially the form attached hereto as Exhibit 2, incorporated herein and made a part of this Ordinance by this reference, by and among the City, BJH, and the trustee named therein, which provides for payments of the cost of maintaining Forest Park, as described in such BJH Maintenance Trust Agreement, for purposes as set forth in such BJH Maintenance Trust Agreement. The Mayor and the Comptroller of the City are hereby authorized and directed to enter into that certain FPF Maintenance Trust Agreement (the "FPF Maintenance Trust Agreement") in substantially the form attached hereto as Exhibit 3, incorporated herein and made a part of this Ordinance by this reference, by and among the City, Forest Park Forever, Inc., a Missouri not-for-profit corporation, and the trustee name therein, which provided for payments of a portion of the cost of in maintaining Forest Park, as described in such FPF Maintenance Trust Agreement, for the purposes as set forth in such FPF Maintenance Trust Agreement. The Mayor and the Comptroller of the City are hereby authorized and directed to enter into that certain Maintenance Cooperation Agreement (the "Maintenance Cooperation Agreement") in substantially the form attached hereto as Exhibit 4, incorporated herein and made a part of this Ordinance by this reference, by and between the City and Forest Park Forever, Inc., a Missouri not-for-profit corporation, which provides for certain shared responsibilities for maintaining Forest Park, as described in such Maintenance Cooperation Agreement, for purposes as set forth in such Maintenance Cooperation Agreement.

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

SECTION FIVE. Public Works. The design, installation and performance of the Public Works, as described and provided for in Section 5 of the Amended and Restated Lease are hereby authorized, to wit: (a) the study, design and performance of road

work, in connection with the improvement of vehicular, pedestrian and bike access to Clayton Avenue in order to improve access to and from Forest Park and to coordinate with the changes being made to Kingshighway and the ramp from westbound I-64/40 to northbound Kingshighway and the reconstruction and improvement of Clayton Avenue from Euclid to McKinley/Wilken and McKinley Wilken to I-64/40; and (b) funding the cost to relocate the playground equipment currently located in Hudlin Park and the installation of tennis courts on the portion of Forest Park south of Clayton Avenue, east of Kingshighway and north of I-64/40, fund the restoration, improvement and lighting of existing tennis courts at AAA, name them in honor of Richard Hudlin make them available for public access and to fund the construction and restoration of new and/or existing handball facilities in the area immediately adjacent to Lindell Pavilion. The estimated cost of these Public Works as established by the City's Board of Public Service is \$1,500,000 and shall be paid out of the payment to be made by BJH pursuant to Section 5 of the Amended and Restated Lease and from the funds on deposit in the hereinafter created Barnes-Jewish Hospital Forest Park Public Works Account. Such work shall be done using materials specified by the Board of Public Service, and in accordance with detailed plans and specifications finally adopted and approved by the Board of Public Service before bids are advertised therefor.

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

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

SECTION EIGHT. The Director of Parks, Recreation and Forestry and the Budget Division are directed to include in the City budget to be prepared for Fiscal Year 2008 the sum of One Million Six Hundred Thousand Dollars (\$1,600,000) from General Revenue, to be appropriated conditioned on payment by BJH of its initial payment to the BJH Maintenance Trust, and in every year thereafter in which such BJH payment is made, for payment to a special fund, hereby created, to be known as the Neighborhood Park Fund. Moneys in the Neighborhood Park Fund may be expended solely (i) in Fiscal Year 2008, for the acquisition and improvement of land and facilities for park and recreational use within a one and one-half mile radius of the Leased Premises; and (ii) in each Fiscal Year thereafter, as follows" a) One Million Two Hundred Thousand Dollars (\$1,200,000) thereof for park capital improvement projects and recreation purposes throughout the City **with at least Fifty percent (50%) of the One Million Two Hundred Thousand Dollars (\$1,200,000) to be spent on parks that are located north of Delmar Boulevard in the City;** b) Three Hundred Thousand dollars (\$300,000) thereof for recreational programs administered by the Director of Parks, Recreation and Forestry for children throughout the City; c) One Hundred Thousand Dollars for a program to be administered by the Director of Parks, Recreation and Forestry to provide access for low-income children, as determined by such Director, to fee-based non-public recreational programs selected by such Director in the City. As part of the annual budget preparation process, the Director of Parks, Recreation and Forestry shall submit to the Budget Division recommendations for expenditure of revenues in the Neighborhood Park Fund; provided, said recommendations shall be approved by resolution of the Parks and Environmental Matters Committee of the Board of Aldermen prior to their submission to the Budget Division.

SECTION NINE. Further Action. The Mayor and the Comptroller, and the other appropriate officers, agents and employees of the City, upon the recommendation of the Board of Estimate and Apportionment, are hereby authorized and directed to take such other and further action, and to execute, deliver and file such other and further documents, certificates and instruments not inconsistent herewith as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the City with respect to the Amended and Restated Lease, the BJH Maintenance Trust Agreement, the PFP Maintenance Trust Agreement, the Maintenance Cooperation Agreement and the Easement.

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

EXHIBIT 1

SECOND AMENDMENT TO AGREEMENT
BETWEEN
CITY OF ST. LOUIS, MISSOURI
AND
BARNES-JEWISH HOSPITAL

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

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

WHEREAS, pursuant to Ordinance 56576, the City entered into said Agreement and a lease of such area with Barnes

Hospital, a not-for-profit corporation of the State of Missouri (now known as Barnes-Jewish Hospital, "BJH"), as lessee ("Original Lease");

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

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

WHEREAS, by Ordinance 58982, approved December 7, 1983, an Amendment to Agreement amending the Original Lease was authorized extending the term of the Original Lease, expanding the use of the Leased Premises thereunder and providing for further development of the subsurface parking facility ("First Amendment");

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the Board of Aldermen found in Ordinance _____ (BB# _____) (the "Ordinance") that it is in the best interest of the City to authorize and direct the Mayor and the Comptroller to execute and enter into this Lease, which is an amendment and restatement with BJH of the Original Agreement as amended by the First Amendment, which provides for an extension of the term of the lease, an expansion of the authorized uses of the Leased Premises under the lease, an easement granting continued pedestrian and vehicular access to Kingshighway via Clayton Avenue and Euclid, the obligation to relocate the park improvements currently located on the Leased Premises and providing for other public works and to authorize and direct the Mayor and the Comptroller to also execute and enter into (a) a Maintenance Trust Agreement (as hereinafter defined) providing for specified donations by BJH and the dedication of such donations in trust for the maintenance of Forest Park; (b) an Easement (as hereinafter defined) granting continued pedestrian and vehicular access to Kingshighway from Clayton Avenue through Forest Park, whereby Clayton Avenue will remain open to two-way vehicular traffic, and also provides for access to Kingshighway via Euclid and Barnes-Jewish Hospital Plaza and provides for an easement to install and maintain utilities; and (c) a Maintenance Cooperation Agreement (as hereinafter defined), all as hereinafter provided;

WHEREAS, after consideration and action by the Forest Park Advisory Board and the Planning Commission, this Lease

complies with the Forest Park Master Plan and the City's Strategic Land Use Plan and requires no further approval by the Forest Park Advisory Board, the Planning Commission and any other now existing or hereafter created similar and/or successor organizations;

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

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

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

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

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

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

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

1. LEASED PREMISES.

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

(b) Highway Modifications. It is anticipated that upon completion of the highway modifications to the intersection of Kingshighway Boulevard and Highway I-64/40, a portion of the Leased Premises may be required to be dedicated to use by the Missouri Department of Transportation as additional right-of-way along the east line of Kingshighway Boulevard. Upon completion of the modifications to the intersection of Kingshighway Boulevard and Highway I64/40, any portion of Leased Premises, which are required to be a dedicated right-of-way to the Missouri Department of Transportation, shall be released from the terms of this Lease and excluded from the definition of the Leased Premises (the "Modifications"). The parties further shall commission a survey at BJH's expense to locate the boundaries of the Leased Premises if modified by the additions to the right-of-way dedicated to the Missouri Highway Department for use in connection with Highway I-64/40. The legal description generated by that survey shall be agreed to by the parties and a modification to this Lease shall be prepared substituting the new definition of Leased Premises and thereafter such defined area shall be Leased Premises. Further, there shall be a calculation of the total square feet subject to the terms of this Lease after such Modifications and the amount of the contributions to be made under the Maintenance Trust Agreement shall be modified in accordance with Section 3 thereof.

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

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

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

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

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

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

Park.

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

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

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

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

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

5. PUBLIC WORKS.

(a) BJH agrees to fund in accordance with Section 5(b) hereof during the term of this Lease public works including certain improvements to Forest Park and other locations (the "Public Works"), including (i) the study, design and performance of road work, in connection with the improvement of vehicular, pedestrian and bike access to Clayton Avenue in order to improve access to and from Forest Park and to coordinate with the changes being made to Kingshighway and the ramp from westbound I-64/40 to northbound Kingshighway and the reconstruction and improvement of Clayton Avenue from Euclid to McKinley/Wilken and McKinley Wilken to I-64/40 ("Initial Public Work Improvements); and (ii) funding the cost to relocate the playground equipment currently located in Hudlin Park and the installation of tennis courts on the portion of Forest Park south of Clayton Avenue, east of Kingshighway and north of I-64/40, fund the restoration, improvement and lighting of existing tennis courts at AAA, name them in honor of Richard Hudlin make them available for public access and to fund the construction and restoration of new and/or existing handball facilities in the area immediately adjacent to Lindell pavilion (collectively, the "Hudlin Improvements Relocation"). BJH agrees to continue to maintain the current location of Hudlin Park as a "park-like setting" from the date of execution of this Lease until such time as the commencement of the Hudlin Improvements Relocation. The Public Works shall be performed by the City using materials specified by the Board of Public Service, and in accordance with detailed plans and specifications finally adopted and approved by the Board of Public Service before bids are advertised therefor. The Board of Public Service shall cause the Public Works to be performed in accordance with its customary procedures.

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

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

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

(e) All necessary building, excavation, electrical and mechanical permits required by law or ordinance will be obtained by the City or its contractors in the normal course. Prior to the commencement of installation and construction of any of the Public Works, the City will obtain and maintain in force during installation and construction, insurance in amounts specified by the Board of Public Service and payment and performance bonds on which BJH will be an additional obligee, for the full amount of each contract let to perform such Public Works.

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

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

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

6. USE.

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

(b) Notwithstanding the foregoing, BJH may:

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

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

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

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

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

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

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

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

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

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

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

9. TAXES, REPAIRS, MAINTENANCE AND EXPENSES.

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

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

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

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

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

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

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

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

10. PUBLIC UTILITY CHARGES. BJH shall pay or cause to be paid all charges for gas, water, sewer, electricity, light, heat or power, telephone or other communication service used, rendered or supplied upon or in connection with the Leased Premises and the Improvements and also any charges or expenses in connection with any alterations, additions, installations or changes required or desired in connection with the supplying or using of such utilities or services or substitutes therefor throughout the term of this

Lease, and to indemnify City and save it harmless against any liability or damages on such account. BJH shall also at its sole expense procure any and all necessary permits, licenses or other authorization required for the lawful and proper installation and maintenance upon the Leased Premises and in or on the Improvements of wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any such service to the Improvements and upon the Leased Premises.

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

12. **COMPLIANCE WITH LAW; LICENSES AND PERMITS.**

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

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

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

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

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

15. **DAMAGE OR DESTRUCTION; PROPERTY INSURANCE.**

(a) BJH shall at its sole cost, procure and maintain on file with the City's Comptroller at all times during the initial term and any renewal term of this Lease certificates or other evidence of insurance as specified in Section 15(b) hereof. The policies described in Section 15(b)(i) shall name "The City of St. Louis and its officers, agents, and employees" as additional insureds.

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

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

(ii) Workers compensation insurance.

(iii) Builders Risk, property and casualty insurance.

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

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

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

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

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

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

16. CONDEMNATION.

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

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

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

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

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

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

(e) If the award or payments on account of any taking shall not be divided or apportioned by the court or the condemning authority into the portions set forth in (a), and if City and BJH shall be unable to agree on such apportionment, then such apportionment shall be determined by appraisers. City and BJH shall each appoint an appraiser, and the two appraisers so appointed shall promptly appoint a third appraiser. The three appraisers shall jointly determine the appropriate apportionment and shall render their decision within thirty (30) days after the appointment of the third appraiser. The appraisal agreed upon by a majority shall be binding upon the parties. All appraisers shall be members of the American Institute of Real Estate Appraisers (M.A.I.) or, if such Institute shall not then exist, members of its successor organization or an organization of substantially equivalent stature. The fees of the appraisers shall be borne equally by City and BJH.

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

18. REPRESENTATIONS.

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

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

19. ANNUAL REPORT. Notwithstanding Ordinance 59741, BJH shall submit to the City's Director of Parks, Recreation and

Forestry and the Forest Park Advisory Board its written annual reports for its prior fiscal years on or before March 31 of every year describing in detail the activities and operations of the Leased Premises by BJH and an update of its current long-range plans for the Leased Premises.

20. DEFAULT, TERMINATION AND REMEDIES. Notwithstanding Section 5.d. of Ordinance 59741 to the contrary:

- (a) The following conditions will, upon expiration of any cure period set forth in Section 20(b), constitute a breach of this Lease:
- (i) failure of BJH to make lease payments or failure of BJH to maintain the insurance required in Section 15 of this Lease; or
 - (ii) any violation by BJH of the use limitations set forth in Section 6 hereof; or
 - (iii) failure of BJH to fund the Public Works as and when provided in Section 5 hereto; or
 - (iv) failure of BJH to fund donations as and when provided under the Maintenance Trust Agreement.

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

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

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

21. RE-ENTRY.

If this Lease shall be terminated pursuant to Section 20 hereof, if this Lease is not renewed and extended pursuant to Section 3 hereof or at the end of the term of this Lease or any renewal thereof, BJH shall have the right to promptly (and in all events by the end of the term of this Lease) remove all or any of its property therefrom (which property shall remain the property of BJH), including any personal property or any structure or portions thereof which it has placed on the Leased Premises; provided that upon completion of any removal of such property or structure, BJH shall notify the City and thereafter the City or its agents and servants may immediately re-enter the Leased Premises and any property or structure which remains after said notice shall become the property of the City; provided that if BJH shall make a determination to remove any or all buildings on the Leased Premises, BJH shall notify the City and the City shall have an option for a period of three (3) months following notice from BJH to purchase such buildings which are to be removed for a purchase price equal to the fair market value of such buildings, provided, further that if BJH shall make a determination to remove any or all buildings on the Leased Premises, or if requested to do so by the City, BJH shall be obligated to restore the Leased Premises to a condition suitable for park purposes at the sole cost and expense of BJH.

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

22. ASSIGNABILITY AND SUBLETTING.

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

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

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

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

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

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

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

25. TITLE TO BUILDING AND IMPROVEMENTS.

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

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

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

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

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

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

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

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

and

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

And

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

If to BJH, delivery shall be to:

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

with a copy to:

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

and

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

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

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

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

32. MISCELLANEOUS

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

(b) Right of First Refusal. If during the term of this Lease the City desires to sell the Leased Premises, including the City's residual interest in the Improvements thereon, the City shall notify BJH in writing of the price and the terms and conditions on which the City would be willing to sell the Leased Premises. After receipt of such notice, BJH shall have an option for a period of six (6) months in which to purchase, or enter into a binding contract agreed to by the City to purchase, the Leased Premises at the price in cash or on such other terms and conditions as may be offered by the City. If BJH does not exercise this option to purchase or contract to purchase the Leased Premises, thereafter the City shall have a period of one (1) year in which to sell the Leased Premises, subject to the Lease, on any terms and conditions the City that are materially the same as those offered to BJH, but not at a price that is lower than that which was offered to BJH without BJH's prior written consent. If the City does not sell the Leased Premises during the one-year period, then any future proposed sale of the Leased Premises shall be subject to BJH's right of first refusal as described above.

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

[balance of page left blank intentionally]

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

CITY OF ST. LOUIS, MISSOURI

[SEAL]

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

ATTEST:

Name: Parrie L. May
Title: City Register

By: _____
Name: Darlene Green
Title: Comptroller

APPROVED AS TO FORM:

Name: Patricia A. Hageman
Title: City Counselor

[NOTARY]

BARNES-JEWISH HOSPITAL

[SEAL]

By: _____
Name: _____
Title: _____

[NOTARY]

**EXHIBIT A
LEASED PREMISES**

Existing Hudlin Park

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

BEGINNING at the point of intersection of the South line of Barnes-Jewish Hospital Plaza, 130 feet wide, with the West line of Euclid Avenue, 130 feet wide, thence along said West line South 04 degrees 27 minutes 35 seconds West 576.98 feet to the North line of Clayton Avenue, 60 feet wide, thence along said North line South 88 degrees 48 minutes 38 seconds West 484.28 feet to the East line of Kingshighway, variable width, thence along said East line the following courses and distances: thence North 50 degrees 43 minutes 46 seconds West 32.29 feet to a point of curvature to the right for which the radius point bears North 39 degrees 16 minutes 16 seconds East 560.69 feet; thence along last said curve with a chord which bears North 23 degrees 58 minutes 45 seconds West 504.73 feet, an arc length of 523.54 feet to a point of non-tangency; thence North 02 degrees 38 minutes 54 seconds East 128.81 feet; thence North 47 degrees 38 minutes 54 seconds East 14.14 feet to the South line of above said Barnes-Jewish Hospital Plaza; thence along last said South line South 87 degrees 20 minutes 24 seconds East 743.56 feet to the

POINT OF BEGINNING and containing 410,104 square feet or 9.415 acres, more or less, according to calculations by Stock and Associates Consulting Engineers, Inc. on August 23, 2006.

**EXHIBIT B
EASEMENT**

Space Above Line Reserved For Recorder's Use

- 1. Title of Document: Easement Agreement
- 2. Date of Document: January 15, 2007
- 3. Grantor(s): City of St. Louis, Missouri, a city and political subdivision
- 4. Grantee(s)/Lessor: Barnes-Jewish Hospital, a Missouri not-for-profit corporation

5. Statutory Mailing Address(es):
Grantor's Mailing Address: City Hall, Tucker and Market Streets, St. Louis, MO 63103
Grantee's Mailing Address: One Barnes-Jewish Hospital Plaza, St. Louis, MO 63110
6. Legal description: See Exhibits A, B, C and D annexed to the document on pages 10 - ??
7. Reference(s) to Book and Page(s): N/A

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

Return Recorded Document to:

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

EASEMENT AGREEMENT

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

WITNESSETH:

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

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

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

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

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

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

1. Grant of Easement.

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

(b) City hereby further grants to BJH a non-exclusive perpetual easement over and upon that portion of the Access Roads of the City's Property, which is described on Exhibit C attached hereto, for the purposes of construction, reconstruction, use, operation, maintenance and patrolling of the Utilities.

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

2. Maintenance and Repair.

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

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

3. Default. In the event that either party shall fail to comply with any of the terms, covenants, agreements, and conditions contained herein and if such failure shall continue for thirty (30) days after written notice of said default from the nondefaulting party to the defaulting party specifying such default in reasonable detail (or, in the case of a default that by its nature cannot be cured within such thirty (30)-day period, if the defaulting party shall not have commenced the curing of the default within such thirty (30)-day period and thereafter shall not diligently prosecute the curing of the default to completion), then the nondefaulting party, at its option, may pursue any remedies available to it at law or in equity (other than termination of this Agreement) or may proceed to take such action as shall be necessary to cure the default, in the name of the defaulting party and for the account of the defaulting party; provided, however, in the event of an emergency and upon making reasonable efforts to contact the defaulting party, the nondefaulting party may take such action to cure the default without notice to the defaulting party and shall subsequently notify the defaulting party of such action as soon as reasonably practicable. All expenses reasonably incurred by the nondefaulting party in connection with any work performed by the nondefaulting party pursuant to this Section shall be due and payable to the nondefaulting party by the defaulting party within ten (10) days of a detailed, written demand therefor (accompanied by reasonable documentation substantiating the amounts set forth therein) and shall bear interest at the rate of 1.5 percent per month or, if less, the maximum rate permitted by applicable law, from the date of any payment or expense by the nondefaulting party.

4. Miscellaneous.

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

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

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

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

and

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

And

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

If to BJH, delivery shall be to:

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

with a copy to:

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

and

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

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

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

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

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

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

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

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

[Signature Page Follows]

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

CITY OF ST. LOUIS

By: _____
Francis G. Slay, Mayor

By: _____
Darlene Green, Comptroller

[SEAL]

Parrie L. May, City Register

APPROVED AS TO FORM:

Patricia A. Hageman, City Counselor

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

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

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

Notary Public

My Commission Expires:

[SEAL]

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

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

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

Notary Public

My Commission Expires:

[SEAL]

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

BARNES-JEWISH HOSPITAL

By: _____
Name: _____
Title: _____

[SEAL]

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

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid,

the day and year first above written.

Notary Public

My Commission Expires:

[SEAL]

EXHIBIT A
TO THE AGREEMENT

LEGAL DESCRIPTION OF CITY’S PROPERTY

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

EXHIBIT B
TO THE AGREEMENT

LEGAL DESCRIPTION OF BJH’S PROPERTY

Existing Hudlin Park

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

BEGINNING at the point of intersection of the South line of Barnes-Jewish Hospital Plaza, 130 feet wide, with the West line of Euclid Avenue, 130 feet wide, thence along said West line South 04 degrees 27 minutes 35 seconds West 576.98 feet to the North line of Clayton Avenue, 60 feet wide, thence along said North line South 88 degrees 48 minutes 38 seconds West 484.28 feet to the East line of Kingshighway, variable width, thence along said East line the following courses and distances: thence North 50 degrees 43 minutes 46 seconds West 32.29 feet to a point of curvature to the right for which the radius point bears North 39 degrees 16 minutes 16 seconds East 560.69 feet; thence along last said curve with a chord which bears North 23 degrees 58 minutes 45 seconds West 504.73 feet, an arc length of 523.54 feet to a point of non-tangency; thence North 02 degrees 38 minutes 54 seconds East 128.81 feet; thence North 47 degrees 38 minutes 54 seconds East 14.14 feet to the South line of above said Barnes-Jewish Hospital Plaza; thence along last said South line South 87 degrees 20 minutes 24 seconds East 743.56 feet to the

POINT OF BEGINNING and containing 410,104 square feet or 9.415 acres, more or less, according to calculations by Stock and Associates Consulting Engineers, Inc. on August 23, 2006.

EXHIBIT C
TO THE AGREEMENT

DEPICTION OF ACCESS ROADS

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

EXHIBIT D
TO THE AGREEMENT

DESCRIPTION OF ACCESS ROADS EASEMENT AREA

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

EXHIBIT C
MAINTENANCE TRUST AGREEMENT

MAINTENANCE TRUST AGREEMENT
Dated as of January 15, 2007

Among
THE CITY OF ST. LOUIS, MISSOURI,
BARNES-JEWISH HOSPITAL
And
UMB BANK, N.A.

MAINTENANCE TRUST AGREEMENT

THIS MAINTENANCE TRUST AGREEMENT dated as of January 15, 2007 (the “Agreement”), between the **CITY**

OF ST. LOUIS, MISSOURI, a city and political subdivision duly organized and existing under its charter and the constitutions and laws of the State of Missouri (the "City"), **BARNES-JEWISH HOSPITAL**, a not-for-profit corporation organized and existing under the laws of the State of Missouri ("BJH"), and **UMB BANK, N.A.**, a national banking association, located in St. Louis, Missouri, and having full trust powers, as Trustee (the "Trustee").

RECITALS:

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

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

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

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

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

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

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

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

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

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

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

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

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

"Leased Premises" shall have the same meaning as provided in the Lease. "Lease Year" shall mean each July 1 to June 30 during the term of the Lease.

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

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

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

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

(c) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's and "P-1" by Moody's and maturing no more than 360 days after the date of purchase (ratings on

holding companies are not considered as the rating of the bank);

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

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

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

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

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

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

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

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

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

(iv) "Percentage Increase" shall mean the percentage equal to the fraction, the numerator of which shall be the Index at the Anniversary less the Base Index, and the denominator of which shall be the Base Index; provided, however that the Percentage Increase for each one-year period between each Anniversary shall be not less than one percent (1%) nor shall it exceed two percent (2%); and provided, further that the Percentage Increase for each five-year period between Anniversaries shall not exceed ten percent (10%).

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

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

(c) In the event that any portion of the Leased Premises shall be taken due to MoDOT modifications to intersection of I-64/40 and Kingshighway, the Donation Amount hereunder shall be reduced, commencing with the first day of the next Lease

Year following the date of such reduction of Leased Premises and for each Lease Year thereafter, by a fraction the numerator of which shall be the total square footage taken and the denominator of which shall be the total square footage of the Leased Premises prior to MoDOT modifications.

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

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

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

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

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

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

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

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

7. Liability of Trustee.

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

(b) So long as the Trustee applies the securities and money as provided herein, the Trustee shall not be liable for any deficiencies in the amounts necessary to pay the cost of maintaining Forest Park. Notwithstanding the foregoing, the Trustee shall not be relieved of liability arising from and proximate to its failure to comply fully with the terms of this Maintenance Trust Agreement.

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

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

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

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

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

(h) Anything herein to the contrary notwithstanding, before taking any action under this Maintenance Trust Agreement, other than any action specifically provided for herein or the part of the Trustee, the Trustee may, in its discretion, require that satisfactory indemnity be furnished to it by the other parties hereto for the reimbursement of all reasonable fees, costs liabilities, losses, claims and expenses to which it or its agents or counsel may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

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

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

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

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

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

The Trustee may be removed by the City if the Trustee fails to make timely payments of the amounts required to be paid by it by Section 4 of this Maintenance Trust Agreement. Any removal pursuant to this paragraph shall become effective upon the appointment of a successor Trustee (which may be a temporary successor Trustee) by the City and BJH, the acceptance of such successor Trustee of the terms, covenants and conditions of this Maintenance Trust Agreement, the transfer of the Park Maintenance

Fund, including the money and any investments held therein, to such successor Trustee and the completion of any other actions required for the securities to be made payable to such successor Trustee rather than the Trustee being removed.

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

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

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

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

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

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

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

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

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

(a) To the City at:

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

And:

City of St. Louis
Office of the Comptroller
City Hall

1200 Market Street, Room 212
St. Louis, Missouri 63103
Attention: Comptroller
Facsimile: 314-588-0550

With a copy to:

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

(b) To BJH at:

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

With a copy to:

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

And

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

(c) To the Trustee at:

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

(d) To Forest Park Forever at:

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

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

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

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

17. Dispute Resolution Process.

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

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

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

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

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

[Balance of Page Left Blank Intentionally]

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

[SEAL]

CITY OF ST. LOUIS, MISSOURI

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

ATTEST:

Name: Parrie L. May
Title: Register

By: _____
Name: Darlene Green
Title: Comptroller

APPROVED AS TO FORM:

Name: Patricia A. Hageman
Title: City Counselor

[NOTARY]

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

BARNES-JEWISH HOSPITAL

[SEAL]

By: _____
Name: _____
Title: _____

[NOTARY]

IN WITNESS WHEREOF, the parties hereto have each caused this Maintenance Trust Agreement to be executed by their

duly authorized officer(s) or elected official(s) and their corporate seals to be hereunder affixed and attested as of the date first above written.

UMB BANK, N.A.

[SEAL]

By: _____
Name: _____
Title: _____

[NOTARY]

**EXHIBIT A
TO THE MAINTENANCE TRUST AGREEMENT**

Request No: _____
Date: _____

DISBURSEMENT REQUEST

To: UMB, N.A., as Trustee
Corporate Trust Department
St. Louis, Missouri,

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

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

[Payee/Project] Amount Description

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

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

CITY OF ST. LOUIS, MISSOURI

By: _____
City Representative

**EXHIBIT B
TO THE MAINTENANCE TRUST AGREEMENT**

Request No: _____
Date: _____

DISBURSEMENT REQUEST

To: UMB, N.A., as Trustee
Corporate Trust Department
St. Louis, Missouri,

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

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

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

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

CITY OF ST. LOUIS, MISSOURI

By: _____
City Representative

EXHIBIT D

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

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

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

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

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

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

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

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

A contract or subcontract awarded to DBEs.

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

Expenditures to DBEs who perform a commercially useful function in the contract. A DBE is considered to perform a

commercially useful function when responsible for the execution of a distinct element of the work of a contract and the carrying out of the responsibilities by actually performing, managing and supervising the work involved.

Expenditures to a DBE manufacturer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Each general contract for a project shall provide a reasonable retainage to be withheld until the date of substantial completion. Pending completion of the contract, amounts paid to DBEs shall be reported to BJH on a monthly basis. Prior to the release of the retainage, the general contractor shall file a list with BJH showing the DBEs used and the work performed. The list shall show the actual dollar amount paid to each DBE that is applicable to the percentage participation established in the contract. The general contract shall provide that in the event the actual dollar amount paid to DBE falls short of the amount to be paid as set forth in the bid as awarded, BJH may sustain damages, the exact extent of which would be difficult or impossible to ascertain. Therefore, in order

to liquidate such damages, the contract shall provide that the monetary difference between the amount to be paid to the DBEs as set forth in the bid as awarded less the amount actually paid to the DBEs for performing a commercially useful function will be deducted from the contractor's payments as liquidated damages. No such deduction will be made when, for reasons beyond the reasonable control of the contractor, the stated DBE participation is not met. Any amount so deducted will be donated to organizations offering scholarship and/or internship programs for disadvantaged or disabled youth, with preference given to scholarships and internships in the fields of health care or used by BJH for such scholarship and/or internship programs as may be sponsored or operated by BJH. BJH shall report to the City's contract compliance officer the occurrence and amount of any such deduction and the organization to which the money is donated or the use made thereof by BJH for scholarship and/or internship programs.

EXHIBIT 2

[MAINTENANCE TRUST AGREEMENT]

See Exhibit C to Exhibit 1

EXHIBIT 3

MAINTENANCE TRUST AGREEMENT

Dated as of

Among
THE CITY OF ST. LOUIS, MISSOURI,
FOREST PARK FOREVER.
And
UMB BANK, N.A.

THIS MAINTENANCE TRUST AGREEMENT dated as of _____, 2007 (the "Agreement"), between the CITY OF ST. LOUIS, MISSOURI (the "City"), Forest Park Forever, Inc., a not-for-profit corporation organized and existing under the laws of the State of Missouri ("FPF"), and UMB Bank, N.A., a national banking association located in St. Louis, Missouri, and having full trust powers, as Trustee (the "Trustee").

RECITALS:

1. The City's Community Development Commission on December 5, 1995, pursuant to Chapter 3.48 of the Revised Code of the City of St. Louis 1994 ("Code"), adopted a Master Plan for Forest Park (as amended on February 4, 1997, and as further amended from time to time, the "Master Plan").
2. FPF is a Missouri nonprofit corporation organized to promote the rebuilding and restoration of Forest Park through development of wide-based financial and citizen support to guarantee that Forest Park will continue its preeminence as a major metropolitan asset forever.
3. The Master Plan calls for multiple projects comprising repairs of infrastructure, new construction and landscaping in the Park with an estimated aggregate cost of approximately \$86,000,000.
4. The City has also taken significant steps toward the implementation of the Master Plan, including but not limited to, the issuance of \$17,000,000 of Forest Park improvement bonds and the incurring of substantial expenses for design of various projects and the construction of certain park improvements in accordance with the Master Plan.
5. The City and FPF have agreed, since the start of their joint efforts to restore Forest Park, that in order to guarantee a lasting legacy for future generations that the Park must be protected through a long-term commitment by the City and FPF to maintain such improvements to the extent feasible by a well-funded quality maintenance program.
6. The City is desirous of establishing a long-term funding mechanism for the maintenance of Forest Park in order to meet the policy guidelines of the Master Plan.
7. Pursuant to Ordinance No. _____ adopted on _____, _____ 2007, the City authorized an Amended and Restated Lease dated _____, _____ 2007, between the City and Barnes-Jewish Hospital ("BJH") covering certain property located in a portion of Forest Park (the "BJH Lease").
8. The City has been authorized by Ordinance _____ to enter into a Trust Agreement with FPF (the "FPF Trust Agreement" or "this Trust Agreement") and to enter into a Maintenance Cooperation Agreement with FPF. In this FPF Trust Agreement, FPF agrees to make certain donations (the "FPF Donations") solely to pay for the Costs of Maintaining Forest Park, as defined and described in the Maintenance Cooperation Agreement, including personnel, supplies, equipment and services.
9. The City and BJH have agreed that a part of the consideration for the BJH Lease is the execution and performance under a Maintenance Trust Agreement (the "BJH Trust Agreement") to establish a long-term funding mechanism for Forest Park. Under the BJH Trust Agreement BJH will make donations in trust to the Trustee for the benefit of Forest Park and to be used for the payment of Costs of Maintaining Forest Park (the "BJH Donations").

10. FPF has agreed to make donations in trust under this Maintenance Trust Agreement (the "FPF Donations") in amounts which, together with the BJH Donations, will provide significant funding for the maintenance of Forest Park jointly by the City Department of Parks, Recreation and Forestry ("PRF") and FPF.

11. The City and FPF now wish to agree, as hereinafter provided, on how funds deposited in trust under the BJH Trust Agreement and under this Agreement shall be made available from time to time for the maintenance of the Park and the improvements therein.

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

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

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

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

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

"Costs of Maintaining Forest Park" shall have the meaning ascribed thereto in the Maintenance Cooperation Agreement.

"Donation Payment Dates" means dates on which one-half of the annual FPF Donations shall be made, to wit, July 1st and January 1st of each year commencing July 1, 2007.

"FPF Representative" means the President of FPF.

"FPF Park Maintenance Fund" means the fund by that name referred to in Section 2 of this Maintenance Trust Agreement.

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

- (a) cash, certificates of deposit or instruments of deposit (in each case, insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in paragraph (b) below);
- (b) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of Treasury of the United States of America;
- (c) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's and "P-1" by Moody's and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);
- (d) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by Standard & Poor's and "P-1" by Moody's and which matures not more than 270 days after the date of purchase;
- (e) investments in a money market fund rated "AAAm" or "AAAm-G" or better by Standard & Poor's.

"Program" shall have the meaning ascribed thereto in Section 1 of the Maintenance Corporation Agreement

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

3. Deposits to the FPF Park Maintenance Fund.

- (a) On each Donation Payment Date, FPF hereby agrees to deposit with the Trustee a minimum amount calculated as follows:

January 1 \$900,000

July 1 \$900,000

- (b) Trustee shall provide notice to the City of the failure of FPF to make a deposit on a Donation Payment Date.

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

- (a) The Trustee shall disburse moneys on deposit in the FPF Park Maintenance Fund from time to time for payment for the Costs of Maintaining Forest Park within three (3) Business Days after receipt by the Trustee of written disbursement requests in substantially the form of **Exhibit A** hereto, complete in all respects, and signed by either the City Representative or by the FPF Representative.
- (b) In making payments pursuant to this Section, the Trustee may rely upon such written requests and accompanying certificates and statements and shall not be required to make any independent inspection or investigation in connection therewith.

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

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

7. Liability of Trustee.

- (a) The Trustee shall not be liable for any loss resulting from any investment, sale, transfer or other disposition made pursuant to this Maintenance Trust Agreement in compliance with the provisions hereof. The Trustee shall have no lien whatsoever on any of the money or securities on deposit in the FPF Park Maintenance Fund for the payment of fees and expenses for services rendered by the Trustee under this Maintenance Trust Agreement or otherwise.
- (b) So long as the Trustee applies the securities and money as provided herein, the Trustee shall not be liable for any deficiencies in the amounts necessary to pay the cost of maintaining Forest Park. Notwithstanding the foregoing, the Trustee shall not be relieved of liability arising from and proximate to its failure to comply fully with the terms of this Maintenance Trust Agreement.
- (c) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, attorneys, receivers, employees or such other professionals but shall not be answerable for the conduct of the same in accordance with the standard specified above, provided the Trustee has exercised reasonable care in making such selection. The Trustee may act and conclusively rely upon the opinion or advice of counsel, who may, without limitation, be counsel to the City, FPF or an employee of the Trustee, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys, receivers, employees and other such professionals as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action by it taken or omitted to be taken in good faith and shall be fully protected in reliance upon such opinion or advice of counsel.
- (d) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Maintenance Trust Agreement believed by it to be genuine and correct and to have been signed, presented or sent by the proper

person or persons.

- (e) The permissive right of the Trustee to do things enumerated in this Maintenance Trust Agreement shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.
- (f) The Trustee shall not be required to give any bond or surety in respect of the execution of its trusts and powers hereunder.
- (g) Except as provided in Section 7 of this Maintenance Trust Agreement, the Trustee and its respective successors, assigns, agents, directors, officers, employees, and servants shall not be held to any personal liability whatsoever, in tort, contract or otherwise, in connection with the execution and delivery of this Maintenance Trust Agreement, the establishment of the FPF Park Maintenance Fund, the acceptance of the money deposited therein, the purchase of Permitted Investments in accordance with the terms of this Maintenance Trust Agreement, the retention of such Permitted Investments or the proceeds thereof or any payment, transfer or other application of the money or Permitted Investments held in the FPF Park Maintenance Fund in accordance with the provisions of this Maintenance Trust Agreement or by reason of any nonnegligent act, omission or error of the Trustee made in good faith in the conduct of its duties. The duties and obligations of the Trustee shall be determined by the express provisions of this Maintenance Trust Agreement.
- (h) Anything herein to the contrary notwithstanding, before taking any action under this Maintenance Trust Agreement, other than any action specifically provided for herein on the part of the Trustee, the Trustee may, in its discretion, require that satisfactory indemnity be furnished to it by the other parties hereto for the reimbursement of all reasonable fees, costs, liabilities, losses, claims and expenses to which it or its agents or counsel may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.
- (i) Unless the Trustee is guilty of negligence or willful misconduct with regard to its duties hereunder, the City, to the extent permitted by law and FPF hereby agree, jointly and severally, to indemnify the Trustee and hold it harmless from any and all claims, liabilities, losses, actions, suits, or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Trustee under this Maintenance Trust Agreement; and in connection therewith, to indemnify the Trustee against any and all expenses, including reasonable attorneys' fees and expenses and the cost of defending any action, suit or proceeding or resisting any claim. Notwithstanding anything in this Maintenance Trust Agreement to the contrary, the Trustee shall be vested with a lien on the FPF Park Maintenance Fund for indemnification, for reasonable attorneys' fees and expenses, court costs, for any suit, interpleader or otherwise, or any other expenses, fees or charges of any character or nature, which may be incurred by the Trustee by reason of disputes arising between the City and FPF as to the correct interpretation of this Maintenance Trust Agreement and instructions given to the Trustee hereunder, or otherwise, with the right of the Trustee, regardless of the instructions aforesaid, to hold the said property until and unless said additional expenses, fees and charges shall be fully paid. The foregoing indemnities shall survive the resignation or substitution of the Trustee or the Termination Date.

8. Fees and Costs of the Trustee. The aggregate amount of the costs, fees and expenses of the Trustee in connection with the creation of the trust described in and created by this Maintenance Trust Agreement and in carrying out any of the duties, terms or provisions of this Maintenance Trust Agreement shall be a Program expense to be shared by the City and FPF when due and shall be paid from the Trust.

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

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

The Trustee may be removed only upon an agreement to do so by both FPF and City if the Trustee fails to make timely payments of the amounts required to be paid by it pursuant to this Maintenance Trust Agreement. Any removal pursuant to this paragraph shall become effective upon the appointment of a successor Trustee (which may be a temporary successor Trustee) by the City and FPF, the acceptance of such successor Trustee of the terms, covenants and conditions of this Maintenance Trust Agreement,

the transfer of the FPF Park Maintenance Fund, including the money and any investments held therein, to such successor Trustee and the completion of any other actions required for the securities to be made payable to such successor Trustee rather than the Trustee being removed.

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

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

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

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

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

10. Limitation on Liability. Neither FPF nor the City shall not be liable (a) for any loss resulting from any investment made pursuant to this Maintenance Trust Agreement, (b) for the accuracy of the calculations as to the money in the FPF Park Maintenance Fund, or (c) for any acts of the Trustee.

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

12. Termination. This Maintenance Trust Agreement shall terminate upon the expiration or termination of the Maintenance Cooperation Agreement. Upon such termination, and receipt of notice from the City to the Trustee confirming such termination, all amounts on deposit in the Maintenance Trust Fund shall be transferred for the maintenance of Forest Park in accordance with the directions sent to the Trustee in writing by the City and FPF.

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

(a) To the City: City Counselor's Office
314 City Hall
1200 Market Street
St. Louis, Missouri 63103
Attn: F. M. Oates, Associate City Counselor
Fax: (314) 622-4956

(b) To FPF: Forest Park Forever
5595 Grand Drive
St. Louis, Missouri 63112
Attn: President
Fax: (314) 367-7622

With a copy to: S. Jerome Pratter, Esq.

The Stolar Partnership
911 Washington Avenue, 7th Floor
St. Louis, Missouri 63101
Fax: (314) 436-8400

(c) To the Trustee at: UMB Bank, N.A.
2 South Broadway, Suite 435
St. Louis, Missouri 63102

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

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

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

17. Counterparts. This Maintenance Trust Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument. The Trustee, FPF and the City agree that the transactions described herein may be conducted and related documents may be received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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

CITY OF ST. LOUIS, MISSOURI

By: _____
Mayor

(Seal)

ATTEST:

By: _____
Comptroller

APPROVED AS TO FORM:

Name: _____
Title: City Counselor

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

FOREST PARK FOREVER

By: _____
Name: _____
Title: _____

(Seal)

ATTEST:

Name: _____
Title: _____

[NOTARY]

IN WITNESS WHEREOF, the parties hereto have each caused this Maintenance Trust Agreement to be executed by their

duly authorized officers or elected officials and their corporate seals to be hereunder affixed and attested as of the **date first** above written.

[TRUST COMPANY]

(Seal)

By: _____
Name: _____
Title: _____

ATTEST:

Name: _____
Title: _____

[NOTARY]

**EXHIBIT A
TO THE MAINTENANCE TRUST AGREEMENT**

Request No: _____

Date: _____

DISBURSEMENT REQUEST

To: _____, as Trustee
Corporate Trust Department
_____, Missouri,

Re: Maintenance Trust Agreement among the City of St Louis, Missouri, Forest Park Forever, Inc. and the Trustee

You are hereby requested and directed as Trustee under the Maintenance Trust Agreement dated as of July 1, 2006 (the "Maintenance Trust Agreement"), among the City of St. Louis, Missouri, Forest Park Forever, Inc. and you, as Trustee, to pay from moneys in the FPF Park Maintenance Fund, pursuant to **Section 4** of the Maintenance Trust Agreement, to the Payee/Project indicated for the following items which constitute Costs of Maintaining Forest Park (as defined in the Maintenance Trust Agreement):

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

The undersigned authorized representatives of the City of St. Louis, Missouri (the "City") or Forest Park Forever, Inc. ("FPF") hereby states and certifies that:

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

CITY OF ST. LOUIS, MISSOURI

By: _____
City Representative
OR
FOREST PARK FOREVER

By: _____
FPF Representative

Copy to: Forest Park Forever
OR
City of St. Louis

EXHIBIT 4

MAINTENANCE COOPERATION AGREEMENT

This Maintenance Cooperation Agreement (“Maintenance Agreement”) between the City of St. Louis, Missouri, a municipal corporation (the “City”) and Forest Park Forever, Inc., a Missouri nonprofit corporation (“FPF”), is made and entered into this _____ day of _____, 2007 (the “Date Hereof”).

RECITALS

1. The City’s Community Development Commission on December 5, 1995, pursuant to Chapter 3.48 of the Revised Code of the City of St. Louis 1994 (“Code”), adopted a Master Plan for Forest Park (as amended on February 4, 1997, and as further amended from time to time, the “Master Plan”).

2. FPF is a Missouri nonprofit corporation organized to promote the rebuilding and restoration of Forest Park through development of wide-based financial and citizen support to guarantee that Forest Park will continue to be a metropolitan asset.

3. The Master Plan calls for multiple projects comprising repairs of infrastructure, new construction and landscaping in the Park.

4. The City and FPF are desirous of establishing a long-term funding mechanism for the maintenance of Forest Park.

5. Pursuant to Ordinance No. _____ adopted on _____, 2007, the City authorized an Amended and Restated Lease dated July 1, 2006 between the City and Barnes-Jewish Hospital (“BJH”) covering certain property located in a portion of Forest Park (the “BJH Lease”).

6. The City and BJH have agreed that a part of the consideration for the BJH Lease is the execution and performance of a Maintenance Trust Agreement (the “BJH Trust Agreement”) to establish a long-term funding mechanism for Forest Park’s maintenance and operations. Under the BJH Trust Agreement BJH will make donations in trust to a Trustee for the benefit of Forest Park to be used for the operation and maintenance of Forest Park (the “BJH Donations”), and not for new construction.

7. The City has been authorized by Ordinance _____ to enter into a Trust Agreement with FPF (the “FPF Trust Agreement”) and to enter into this Maintenance Cooperation Agreement with FPF. In the FPF Trust Agreement (Exhibit A hereto), FPF agrees to make certain donations (the “FPF Donations”), initially, One Million Eight Hundred Thousand Dollars per year, payable in equal installments on January 1 and July 1 of each year, to be applied as provided herein and in the FPF Trust Agreement.

8. The City and FPF wish to agree, as hereinafter provided, on how funds deposited in trust under the BJH Trust Agreement and under this Agreement shall be made available from time to time for the maintenance and operation of the Park and the improvements therein.

9. The Board of FPF has authorized and approved the execution of this Agreement and the FPF Trust Agreement by resolution dated _____, 2007.

NOW, THEREFORE, in consideration of the foregoing Recitals and of the mutual agreements and covenants hereinafter set forth, and of other good and valuable consideration, receipt of which is mutually acknowledged and pursuant to the provisions of Sections 70.210 et seq. RS Mo, the City and FPF agree as follows:

1. DEFINITIONS. As used in this Agreement the following terms have the following meanings:

“Costs of Maintaining Forest Park” means i) maintenance and operations costs incurred by the City in maintaining the land, improvements, facilities and infrastructure of Forest Park, including personnel costs (including salary and benefits of all kinds) of City Forest Park personnel, supplies, equipment purchases and repairs, and contractual services and ii) costs incurred by the City or FPF in performing, in areas of Forest Park depicted in Exhibit B hereto, tasks specified in Exhibit C hereto, or additional or other tasks as may subsequently specified pursuant to this Agreement.

“Forest Park Maintenance Steering Committee” or “Committee” means the City’s Director of Parks, Recreation and Forestry and the President of Forest Park Forever, Inc.

2. SCOPE OF AGREEMENT AND WORK. The City and FPF have agreed that maintenance of Forest Park within areas of the Park generally described in Exhibit B shall be shared by them. The responsibilities of the City and FPF in such areas have been divided into certain tasks which are defined in Exhibit C. Exhibits B and C are incorporated herein by this reference and are hereinafter referred to as the “Program”. All such work shall be done in a workerlike manner to keep the improvements and Zones throughout the Park in good condition and repair throughout the term of this Agreement and will be performed, as provided herein and to the extent of funds available, in accordance with:

i. the City of St. Louis developed “Forest Park Management and Maintenance Plan”, a collaborative effort with the City of St. Louis and Forest Park Forever” (the “Spaid Plan”), dated January 9, 2004; and

ii. "Forest Park Ground Maintenance Operations Manual prepared by the City of St. Louis Department of Parks, Recreation and Forestry" dated June 22, 2004 (the "Manual").

3. TERM. The Term of this Agreement ("Term") shall commence on the Date Hereof and terminate on the fiftieth anniversary of the day before the Date Hereof, unless earlier terminated pursuant to Section 16 hereof.

4. YEARLY JOINT MAINTENANCE PROGRAM APPROVAL AND FUNDING.

A. By March 31 of each year, the Forest Park Maintenance Steering Committee shall i) in 2010 and every third year thereafter, review the expert's reports provided under Section 13 hereof; ii) if deemed necessary by the Committee, draft revisions and amendments to the Program and iii) prepare a Budget for the Costs of Maintaining Forest Park during the City Fiscal Year beginning July 1 of such year. The total amount of such Budget shall not exceed the sum of i) the amount of donations initially payable annually by BJH under the BJH Trust Agreement, to wit, Two Million Dollars (\$2,000,000) and ii) the amount of donations paid and payable by FPF in the calendar year in which such Fiscal Year begins under the FPF Trust Agreement. Upon approval by the Committee of the Program amendments, if any, and Budget, the Trustee shall be furnished a copy of the Program as amended and such Budget, together with any additional information deemed appropriate by the Committee concerning the anticipated timing and dollar amounts of requisitions from funds of the FPF and BJH Trusts during the coming Fiscal Year.

B. In the event the Committee has not agreed on a Program and/or Budget by April 30 of any year, the prior year's Program and Budget shall remain in effect until a new Program and Budget are agreed to by the Committee. Upon such agreement, such Program and/or Budget shall be furnished to the Trustee and shall be in effect for such Fiscal Year or the remainder thereof.

C. During a Fiscal Year the parties shall requisition funds for the implementation of the Program, as more fully provided in the BJH and FPF Maintenance Trust Agreements, which are attached hereto as Exhibits D and E, respectively, and incorporated herein.

5. GENERAL PROVISIONS REGARDING MAINTENANCE STANDARDS AND ALLOCATION. Certain tree work in Forest Park is provided for by Section 20 of a Contract dated July 10, 2003, among Catering St. Louis, Inc., a Missouri corporation, FPF, and the City. Other tree planting and tree trimming may be completed in the Park using a combination of City Forestry and Park crews and the Forest Park Forever funded staff as provided by the Program, or as determined by the Committee in the Budget. Other tree-related work will be done as determined by the Director.

Throughout the term of this Agreement, the City will solely be responsible for the cost and performance of all maintenance work related to the streets, street lighting, roads, sidewalks and sewers within the Park. Notwithstanding any provision of Ch. 22.42 of the City Code to the contrary, the City shall make available one thousand square feet of office space, and adequate parking for FPF supervisory personnel, in the Forest Park maintenance yard area. In areas listed in Exhibit C, the Department shall be solely responsible for issuing permits for events but agrees to consider suggestions from FPF concerning conditions of permits for events. Any items, areas or zones not included in the Program are to be maintained by the City.

6. MAINTENANCE EXCLUSIONS. Except as set forth in i) this Agreement ii) the Lease dated November 6, 2002 from the City to FPF of the Lindell Pavilion and iii) in the Cooperation Agreement dated November 1, 20005 regarding the Variety Club Children's Playground, FPF shall have no duties, responsibilities or obligations with respect to the maintenance and repair of any improvements in Forest Park or any part of Forest Park and is not authorized to perform or cause to be performed maintenance, alterations or repair work of any kind whatsoever without the prior written permission of the Director.

7. EQUIPMENT FOR PARK MAINTENANCE - PURCHASE AND USE.

A. FPF hereby agrees that within thirty (30) days of the execution of this Agreement, it shall allocate \$150,000 which it is to use for the purchase of mowing equipment, to wit: ten (10) Zero Turn Grass mowers - Ferris 72" Decks with 33HP CAT Diesel Engines (the "Equipment"). Upon the purchase of the Equipment, FPF shall donate it to the City for use solely in the Park. The City agrees that it shall be responsible for the maintenance and repair of said Equipment in a manner that is consistent with the maintenance of such equipment by private professional construction and landscape contractors. If at any time FPF believes that the Equipment is not being used and maintained in accord with this Agreement, it shall notify the City and the parties shall meet to resolve this issue within ten (10) days.

B. FPF agrees to exercise reasonable care in the use, operation and custody, as may be authorized from time to time by the Director, of any City equipment, including the Equipment, used in the performance of this Agreement. FPF may from time to time request the use of the Equipment for use in its Tasks in Forest Park pursuant to this Agreement. FPF shall comply with all provisions of this Agreement in the use, operation and custody of any City equipment, including the Equipment. FPF shall not be responsible for the cost of repairs or maintenance of any City equipment, including but not limited to the Equipment, unless FPF has been negligent in its use of any City equipment.

8. ALTERATIONS BY THE CITY. The City will not make any major improvement or repair to areas of the Park jointly maintained by the City and FPF without first providing a minimum of thirty (30) days advance written notice to FPF, except in cases of emergency, as determined by the Director, in which case the Director will notify FPF as promptly as practicable thereafter. The City agrees that it will use its reasonable efforts to ensure that interference with FPF's services pursuant to this Agreement caused by any such improvements or repairs is minimized.

9. INDEPENDENT CONTRACTOR STATUS. FPF and Department agree that FPF is an independent contractor.

As such, FPF must adhere to the City of St. Louis' "Living Wage" ordinance, the City's executive order(s) relevant to minority participation in contractual agreements and to any federal or state laws that relate to "prevailing wage" issues. Work performed by FPF under this Agreement must not displace current City employees currently performing these tasks. It is understood and agreed that all personnel employed by FPF are employees of FPF and are not employees of the City, and that FPF alone is responsible for their work, direction, compensation and personal conduct while engaged pursuant to this Agreement. FPF agrees that neither it nor its personnel or agents will hold themselves out as, or claim to be, officers or employees of the City, or of any department, agency, or unit thereof, and that they will not, by reason hereof, make any claim, demand, or application for any right or privilege applicable to an officer or employee of the City, including but not limited to worker's compensation coverage, unemployment insurance benefits, social security coverage, or employee retirement membership or credit. Nothing in any provision of this Agreement shall be construed to impose any liability or duty upon the City to persons, firms or corporations employed or engaged by FPF as employees, servants, agents, consultants, experts or independent contractors or in any other capacity whatsoever, or to render the City liable to any persons, firms, corporations, associations or to any government for any acts, omissions, liabilities, obligations (including those relating to taxes of any nature and unemployment insurance) of FPF or its consultants, experts, employees, servants, agents or independent contractors. Nothing in this subparagraph shall limit the indemnification provisions enumerated in Section 12 hereof.

10. MAINTENANCE OF CITY FINANCIAL COMMITMENT. The City's present level of funding for grounds maintenance and operations in Forest Park is approximately One Million Six Hundred Thousand Dollars from City general revenue. The City agrees to use reasonable efforts to maintain that level of financial commitment to the Park from the BJH donations or otherwise, throughout the term of this Agreement.

11. INSURANCE.

A. FPF, at its own cost and expense, shall procure and maintain on file with the City's Comptroller at all times during the term of this Agreement certificates or other evidence of insurance as specified in Section 11.B hereof. The policies described in Section 11.B shall name FPF as insured and "The City of St. Louis and its officers, agents, and employees" as additional insureds.

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

	Each Occurrence	Aggregate
Bodily Injury	\$3,000,000	\$3,000,000
Property Damage	\$1,000,000	\$2,000,000
Umbrella Coverage	\$5,000,000	

(ii) Worker's Compensation : Missouri Statutory

(iii) Comprehensive Automobile Liability. FPF shall carry automobile liability and property damage insurance with limits of liability and for types of vehicles further described herein, and with the City of St. Louis, its officials, agents and employees as additional insureds:

	<u>EACH OCCURRENCE</u>	<u>AGGREGATE</u>
Bodily Injury and Property Damage (combined)	<u>\$1,000,000</u>	<u>\$3,000,000</u>

This insurance shall include for bodily injury and property damage:

- (i) owned automobiles;
- (ii) hired automobiles;
- (iii) non-owned automobiles;
- (iv) fire insurance.
- (iv) personal property insurance on personal property, furnishings and equipment owned by FPF or by the City and used in FPF's operations: actual replacement cost, but not less than \$500,000.

C. All Certificates of Insurance shall state that prior to cancellation of any insurance policy, the City shall be given thirty (30) days prior written notice by registered mail, return receipt requested.

D. Any insurance required to be carried under this Agreement may be included as part of any blanket or other policy or policies of insurance, subject to the provisions of this Agreement and to the prior written approval of the City's Comptroller (the "Comptroller").

E. With respect to any insurance required to be carried by the Concessionaire, deductibles, if any, shall be subject to the prior written approval of the Comptroller.

F. If at any time, any of the insurance policies required by this section shall fail to satisfy the requirements of this Section as to form or substance, (including coverage amounts) or if a company issuing such policy shall have a Bests' Rating of less than B 12, FPF shall, upon notice to that effect from the Comptroller, promptly obtain a new policy and submit same for approval to the Comptroller, provided, however, that within ten (10) days of receipt of notice to such effect from the City, FPF may notify the City that it disputes the content of such notice. In that event, such issue shall be resolved within forty five (45) days by a panel consisting of the Comptroller or a designee, a designee of FPF and an insurance broker doing business in the metropolitan St. Louis area jointly selected by the Comptroller or designee and FPF within ten (10) days of FPF's notice under this paragraph.

G. FPF shall also procure and maintain Employers Liability Insurance with limits of \$1,000,00 per accident.

H. Failure of FPF to procure or maintain any insurance required under this Agreement (the "Insurance Requirements") shall not relieve FPF of any liability under this Agreement.

I. FPF shall use its best efforts to have all policies provide, as riders, that notices of accidents occurring in Forest Park, sent by FPF to its insurance company, shall be deemed notice by both FPF and City to the insurance company.

J. FPF shall require its subcontractors who perform work for FPF pursuant to this Agreement and in connection with FPF's responsibilities in Forest Park to procure and maintain a policy of commercial general liability insurance with such limits as may be requested by the Director from time to time, but not less than \$3,000,000 combined single limit for Bodily Injury and Property Damage with \$2,000,000 General Liability plus \$1,000,000 Umbrella in respect to bodily injury or death arising out of any one occurrence, and \$1,000,000 for property damage. Any policy or policies evidencing such insurance shall include the City of St. Louis, FPF, and their officers, trustees, employees, and agents as additional insured parties, and FPF shall require its subcontractor(s) to provide FPF with a certificate of insurance naming such additionally insured parties prior to the execution of any agreement with FPF. All policies to be maintained pursuant to this Agreement shall be issued by an insurance company or companies licensed to do business in the State of Missouri having a Best's rating of at least A-(7).

K. FPF shall require the following terms and conditions to be written into all subcontractor's policies of insurance as riders:

- i. The policies shall not be canceled, terminated or modified unless thirty (30) days prior written notice is sent by certified mail to FPF.
- ii. Notices of a claim shall be given by such subcontractor to its insurance company within one hundred twenty (120) days after such claim is filed.
- iii. Notices of accidents occurring in Forest Park, sent by such subcontractor to its insurance company shall be deemed notice by both FPF and the City to the insurance company.

L. From time to time, but not more frequently than once every five (5) years, the levels or nature of insurance required to be maintained by FPF or its subcontractors under this Section 11 shall be reviewed upon the written request of the City's Comptroller or FPF to determine whether such levels or nature of coverage are consistent with those maintained by other parties in similar activities in similar locations, and with the parties' claims experience, and the levels or nature of required coverages shall be reasonably adjusted.

M. Upon written notice at any time from the City's Comptroller that the limitations on liability of the City under section 537.610 R.S. Mo have been increased pursuant to subsection 537.610.5 above the levels of coverage provided by FPF at the time of such notice, FPF shall within ten (10) business days cause its and the City's liability coverage to the amount determined pursuant to subsection 537.610.5, and shall provide evidence of such increase to the Comptroller.

12. INDEMNIFICATION

A. To the extent permitted by law, City agrees to indemnify and hold harmless FPF, its officers, trustees, employees, and volunteers from and against liabilities, obligations, damages and expenses as a result of or in the course of services performed and activities conducted by FPF pursuant to this Agreement, to the extent attributable to the negligence or wilful misconduct of the City, its officer or employees.

B. FPF shall defend, indemnify and hold harmless the City and its officers, employees and agents from any and all claims, suits, demands or judgments by any person or entity whatsoever, including but not limited to employees and volunteers of FPF, by reason of property damage or personal injuries, including death, arising out of or as a result of negligence or intentional or wilful acts or omissions of FPF, its officers, trustees, employees, volunteers, agents or subcontractors.

C. Both parties shall cooperate and assist the other in notification concerning, and in the review, adjudication and/or settlement of all claims and actions against the other party subject to the indemnity obligations outlined in this paragraph and shall provide all documents, incident and/or accident reports and such other assistance as is necessary for the formulation and presentation

of any defense pursuant to the indemnity obligations outlined herein.

13. INDEPENDENT INSPECTIONS OF THE PARK. Beginning in the year 2010, and every third year thereafter during the term hereof, the City and FPF shall jointly select a qualified independent landscape maintenance expert to inspect and review Forest Park's maintenance, and make non-binding recommendations for the coming year's Program and Budget to the Forest Park Maintenance Steering Committee. Such expert shall each send his findings to the Committee members, in writing, on or before December 31 of the year in which the expert is engaged. The cost of these services shall be borne by the City and FPF equally and shall be part of the Budget for the year in which the expert is engaged.

14. NON-DISCRIMINATION; MBEs/WBEs. FPF shall not discriminate against any employee or applicant for employment because of race, creed, religion, color, sex, age, national origin, disability, marital status or sexual orientation. FPF agrees that the Mayor's Executive Order #28, as amended, shall be applicable to this Agreement and to its contractors and subcontractors.

15. BREACHES AND REMEDIES.

A. It shall be a breach of this Agreement if FPF:

- i. fails to make a timely payment of a Donation to the Trustee as recited herein and provided under the FPF Trust Agreement;
- ii. fails to perform any act required under the terms and conditions of this Agreement or takes any action prohibited to it under the terms and conditions of this Agreement;
- iii. makes any false representation to the City;
- iv. fails to pursue its fundraising campaign with reasonable and appropriate diligence under all of the circumstances;
- v. fails to maintain its Missouri nonprofit corporate and Federal tax-exempt status;
- vi. violates any provision of the FPF Trust Agreement.

B. It shall be a breach of this Agreement if the City:

- i. fails to perform any act required under the terms and conditions of this Agreement or takes any action prohibited to it under the terms and conditions of this Agreement;
- ii. makes any false representation to FPF;
- iii. violates any provision of the FPF Trust Agreement.

C. City and FPF Remedies. The parties acknowledges that the other will act in reliance on promises and undertakings expressed in this Agreement and, in doing so, will expend significant amounts of money on property heavily used by the general public. FPF further acknowledges that it is a public benefit corporation under §355.881 R.S.Mo. (1996) Supp. and that its contributions are made and received by it for the benefit of Forest Park. Accordingly, the parties agree that in the event of a material breach of this Agreement by the other, in addition to all available remedies at law, the other party shall be entitled to seek mandatory equitable relief, but said other party remains free in all respects to defend on the merits of its claim.

16. TERMINATION RIGHTS. This Agreement will terminate on the later of sixty (60) days after written notice or extension by the City after a breach by FPF under Section 15.A. i hereof. This Agreement may be terminated by either party on sixty (60) days written notice to the other party for any other breach set forth in Section 15 hereof.

17. NOTICES. FPF shall prepare and provide to Department operational status reports as reasonably requested by the Director, and reports of major accidents or unusual incidents involving employees and/or agents of FPF, occurring in the Park, on a regular basis and in a formal reasonably acceptable to Director. FPF shall promptly notify Department, in writing, of any claim for injury, death, property damage or theft which may be asserted against FPF with respect to the Park for which indemnification is not sought by FPF pursuant to this Agreement. FPF shall designate a person to handle all such claims, including all insured claims for loss or damage pertaining to the maintenance and repair of the Park, and FPF shall notify Department in writing as to said person's name and address.

To the City: Department of Parks, Recreation and Forestry
5600 Clayton Road (Forest Park)
St. Louis, Missouri 63110
Attn: Director
Fax: (314) 535-3901

and Forest Park Executive Director

5600 Clayton Road (Forest Park)
St. Louis, Missouri 63110
Attn: Director
Fax: (314) 535-3901

and City Counselor's Office
314 City Hall
1200 Market Street
St. Louis, Missouri 63103
Attn: F. M. Oates, Associate City Counselor
Fax: (314) 622-4956

and Joseph Vacca
Deputy Commissioner
Department of Parks, Recreation & Forestry
5600 Clayton Road
St. Louis, Missouri 63110

To FPF: Forest Park Forever, Inc.
5595 Grand Drive
St. Louis, Missouri 63112
Attn: Executive Director
Fax: (314) 367-7622

and Bill Reininger
Park Operations Manager
Forest Park Forever, Inc.
5595 Grand Drive
St. Louis, Missouri 63112

With a copy to: S. Jerome Pratter, Esq.
The Stolar Partnership
911 Washington Avenue, 7th Floor
St. Louis, Missouri 63101
Fax: (314) 436-8400

18. COMPLIANCE WITH APPLICABLE STATUTES AND REGULATIONS. FPF agrees to comply with all applicable laws, rules, regulations, requirements, guidelines, directives, instructions and orders which are issued by duly authorized officials of agencies of the United States, State or City.

19. GOVERNING LAW. This Agreement shall be construed in accordance with and be governed by Missouri law.

20. SEVERABILITY. The provisions of this Agreement are severable. In the event one or more provisions hereof is finally decreed to be or otherwise becomes unenforceable, the other provisions hereof shall remain in effect unless without the unenforceable provisions the essential nature of this Agreement is altered.

21. NO ASSIGNMENT. No assignment of this Agreement by FPF, in whole or in part, will be effective unless it is agreed to, in writing, by the City.

22. MODIFICATION. No waiver, modification or amendment to any provision of this Agreement will be effective unless it is in writing and signed by duly authorized representatives of both the City and FPF.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and date first set forth above.

FOREST PARK FOREVER, INC.

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Title: _____

By: _____
Title: Comptroller, City of St. Louis

Director of Department of Parks,
Recreation and Forestry of the City of St. Louis

APPROVED AS TO FORM:

City Counselor

ATTEST:

EXHIBIT A
(FPF Maintenance Trust Agreement)

EXHIBIT B
(Map)

EXHIBIT C
Zones and Tasks to be Performed by the City and Forest Park Forever

ZONE 1

DeBaliviere Median and easement strips

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace sidewalks
- Maintain, repair and replace turf on median and on lots East and West of Median

Forest Park Forever to:

- Maintain, repair and replace plantings within the median

DeBaliviere and Grand Drive Median

City of St. Louis to:

- Empty trash receptacles

Forest Park Forever to:

- Maintain, repair and replace plantings within the median

Twin Lots

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace sidewalks along streets and within the parking lots
- Lot stripping
- Remove snow on lots
- Maintain, repair and replace asphalt paving and concrete curbing
- Maintain, repair and replace turf

Forest Park Forever to:

- Supply trash receptacles
- Remove loose litter
- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.

Dwight Davis Tennis Center frontage

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace sidewalks adjacent to streets and parking lots
- Maintain, repair and replace turf
- Repair and replace irrigation system

Forest Park Forever to:

- Maintain and operate irrigation system
- Maintain, repair and replace landscaping and trees, Tree plantings to be done in accordance with plans agreed to by both parties.
- Supply trash receptacles

- Remove loose litter

Area enclosed by Lindell, Cricket Drive, Grand, and the History Museum

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace Handball courts with asphalt aprons
- Maintain, repair and replace Racquetball courts with asphalt aprons
- Maintain, repair and replace benches adjacent to Handball and Racquetball courts
- Maintain, repair and replace sidewalks adjacent to streets and parking lots
- Maintain, repair and replace turf Repair and replace irrigation system

Forest Park Forever to:

- Maintain, repair and replace paths (asphalt and soft) including bollards
- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Maintain and operate irrigation system a Supply trash receptacles
- Remove loose litter

ZONE 2

Grand Basin Area

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace sidewalks adjacent to streets
- Maintain, repair and replace fountains! Lighting
- Clean and maintain, repair and replace debris collectors
- Maintain, repair and replace bridges
- Maintain, repair and replace concrete structures (railings and steps)
- Maintain, repair and replace turf
- Repair and replace irrigation system

Forest Park Forever to:

- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Perform Aquatic weed treatments
- Maintain Savanna
- Maintain, repair and replace paths (asphalt and soft)
- Maintain and operate irrigation systems
- transport trash receptacles to side of street to be emptied
- Maintain, repair and replace benches
- Maintain, repair and replace drains installed in planting beds

Boat House Grounds

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace concrete sidewalks
- Stripe the parking lot
- Remove snow from parking lot
- Clean and maintain Comfort Station
- Maintain and repair/replace asphalt paving in parking lot and curbing
- Maintain, repair and replace turf
- Repair and replace irrigation system

Forest Park Forever to:

- Maintain and operate irrigation systems
- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Maintain, repair and replace paths (asphalt and soft)

Post Dispatch Lake and adjacent grounds

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace concrete sidewalks adjacent to street
- Maintain, repair and replace Weirs
- Maintain, repair and replace turf
- Repair and replace irrigation system

Forest Park Forever to:

- Perform Algae treatments
- Control aquatic weeds
- Control Muskrat population
- Maintain, repair and replace asphalt and soft paths
- Maintain, repair and replace stone slab bridges
- Maintain, repair and replace signage
- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Maintain Wildlife Island
- Dredge to retain depth as designed
- Maintain and operate irrigation system

Picnic Island

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace bridges
- Maintain, repair and replace turf
- Repair and replace irrigation system

Forest Park Forever to:

- Maintain, repair and replace soft paths
- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Transport trash receptacles to side of street to be emptied
- Maintain and operate irrigation system

ZONE 3Art Hill and Parking Lots

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace parking lots, walks, and plazas
- Maintain, repair and replace turf
- Maintain, repair and replace landscaping and trees at top of Art Hill.
- Maintain, operate, repair and replace irrigation system

Forest Park Forever to:

- Supply trash receptacles
- Maintain, repair and replace landscaping and trees on surrounding hillsides. Tree plantings to be done in accordance with plans agreed to by both parties.
- Provide technical assistance as needed at top of Art Hill

Cascades

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace sidewalk adjacent to street
- Maintain, repair and replace pump for the waterfall
- Repair, maintain and replace stone structures (falls and basin)

- Maintain, repair and replace turf

Forest Park Forever to:

- Maintain, repair and replace landscaping
- Maintain, repair and replace soft path
- Supply trash receptacles
- Remove loose litter

Bates Statue

City of St. Louis to:

- Maintain and repair statue
- Maintain and repair statue base and pedestal
- Maintain, repair and replace turf
- Repair and replace irrigation system

Forest Park Forever to:

- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Maintain, repair and replace lighting used on statues and monuments
- Maintain and operate irrigation system
- Remove loose litter

Dual Path (from Tamm west to Skinker, along Skinker, and east along Lindell and south to Steinberg Rink)

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace bridges
- Maintain, repair and replace drinking fountains

Forest Park Forever to:

- Maintain, repair and replace benches and bench pads
- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Supply trash receptacles
- Maintain, repair and replace asphalt and soft paths, including bollards
- Maintain, repair and replace informational signage

ZONE 4

Deer Lake Area

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace concrete sidewalks adjacent to streets
- Maintain, repair and replace turf
- Perform high mowing
- Maintain, repair and replace soft and grass paths
- Supply trash receptacles
- Remove loose litter
- Maintain, repair and replace rock slab bridges
- Maintain, repair, replace and increase natural plantings.
- Perform control measures on invasive plants in conjunction with Forest Park Forever
- Maintain Weirs

Forest Park Forever to:

- Supply trash receptacles
- Maintain, repair and replace informational signage
- Maintain, repair, replace and increase natural plantings in accordance with plans agreed to by both parties.
- Perform control measures on invasive plants in conjunction with the City

Steinberg Prairie Area

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace boardwalks
- Maintain, repair and replace Victorian bridge
- Maintain, repair and replace turf
- Perform high mowing
- Maintain, repair, replace and increase natural plantings.
- Perform control measures on invasive plants in conjunction with Forest Park Forever

Forest Park Forever to:

- Supply trash receptacles
- Maintain, repair, replace and increase natural plantings in accordance with plans agreed to by both parties.
- Perform control measures on invasive plants in conjunction with the City
- Remove loose litter
- Maintain, repair and replace informational signage

Kennedy Forest

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace trails and boardwalks
- Maintain pavilion
- Maintain and clean Comfort Station
- Maintain, repair and replace picnic tables
- Maintain, repair and replace water features
- Maintain trees along roadways and paths

Forest Park Forever to:

- Supply trash receptacles
- Maintain, repair, replace and increase natural plantings in accordance with plans agreed to by both parties.
- Perform control measures on invasive plants
- Remove loose litter
- Maintain, repair and replace informational signage

Successional Forest

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace trails and bridges

Forest Park Forever to:

- Supply trash receptacles
- Maintain, repair, replace and increase natural plantings in accordance with plans agreed to by both parties.
- Perform control measures on invasive plants
- Remove loose litter
- Maintain, repair and replace informational signage

Skinker Savanna

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace turf • Perform high mowing

Forest Park Forever to:

- Supply trash receptacles
- Maintain, repair, replace and increase natural plantings in accordance with plans agreed to by both parties.
- Perform control measures on invasive plants
- Remove loose litter

- Maintain, repair and replace informational signage

ZONE 5

Worlds Fair Pavilion Grounds/Government Hill

City of St. Louis to:

- Empty trash receptacles
- Maintain and clean Restrooms
- Maintain Pavilion, including metal railings
- Maintain, repair and replace turf
- Maintain and repair St. Louis Awards Statue
- Maintain, repair and replace plaza and benches around St. Louis Awards Statue
- Repair and replace irrigation system

Forest Park Forever to:

- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Supply trash receptacles
- Remove loose litter
- Maintain, repair and replace concrete turtle and spheres
- Maintain and operate irrigation systems

ZONE 6

Jewish Tercentenary Memorial, Joie de Vivre Sculpture, Sigel, and Blair Statues

City of St. Louis to:

- Maintain, repair and replace concrete sidewalks
- Maintain and repair statues, memorial and sculptures
- Maintain and repair statue and sculpture bases and pedestals
- Maintain, repair and replace turf
- Maintain, repair and operate fountain at Jewish Tercentenary Memorial

Forest Park Forever to:

- Maintain and operate irrigation systems
- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Maintain, repair and replace lighting used on statues and monuments
- Remove loose litter
- Supply trash receptacles

Steinberg Skating Rink Grounds

City of St. Louis to:

- Maintain, repair and replace concrete sidewalks
- Empty trash receptacles
- Maintain, repair and replace turf

Forest Park Forever to:

- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.
- Remove loose litter
- Supply trash receptacles

Murphy Lake Area

City of St. Louis to:

- Maintain, repair and replace concrete sidewalks
- Empty trash receptacles
- Maintain, repair and replace turf

Forest Park Forever to:

- Maintain, repair and replace landscaping and trees. Tree plantings to be done in accordance with plans agreed to by both parties.

- Remove loose litter
- Supply trash receptacles

ZONE 7

Jewel Box Interior

City of St. Louis to:

- Maintain, repair and replace Jewel Box structure and systems
- Maintain, repair, design and replace seasonal displays in Jewel Box
- Utilize Flora Conservancy as the primary horticultural volunteer group

Forest Park Forever to:

- Provide tropical interior-scape maintenance

Jewel Box Grounds & Round About

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace concrete sidewalks
- Maintain, repair and replace asphalt drive
- Maintain, repair and replace pools and water works
- Maintain, repair and replace statues/monuments, bases and pedestals
- Maintain, repair and replace turf
- Utilize Flora Conservancy as the primary horticultural volunteer group.
- Maintain, repair and replace landscaping and trees.

Forest Park Forever to:

- Supply trash receptacles
- Provide technical assistance as needed

Pagoda Circle

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace concrete sidewalks
- Maintain, repair and replace Band Stand
- Maintain Weirs
- Maintain, repair and replace turf
- Maintain, repair, replace and operate irrigation system
- Maintain, repair and replace landscaping and trees.
- Utilize Flora Conservancy as the primary horticultural volunteer group

Forest Park Forever to:

- Supply trash receptacles
- Provide technical assistance as needed Parks, Recreation, and Forestry

Administration Building Grounds

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace concrete sidewalks
- Maintain, repair and replace turf
- Maintain, repair and replace landscaping and trees.

Forest Park Forever to:

- Supply trash receptacles

ZONE 8**Picnic Site #7**

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace pavilion
- Maintain, repair and replace sidewalks a Maintain, repair and replace turf
- Maintain, repair and replace landscaping and trees.

Forest Park Forever to:

- Supply trash receptacles

Cabanne House

City of St. Louis to:

- Maintain, repair, update, and replace Cabanne House structure
- Empty trash receptacles
- Maintain, repair and replace turf
- Maintain, repair and replace landscaping and trees.
- Utilize Flora Conservancy as the primary horticultural volunteer group

Forest Park Forever to:

- Supply trash receptacles

Kingshighway Median

City of St. Louis to:

- Maintain, repair and replace landscaping and trees.
- Repair, maintain and replace irrigation system
- Utilize Flora Conservancy as the primary horticultural volunteer group

Turtle Park

City of St. Louis to:

- Maintain, repair and replace turf
- Repair, maintain and replace irrigation system
- Repair, maintain and replace pathways
- Repair and maintain statues
- Maintain signage
- Maintain, repair and replace landscaping and trees.

Forest Park Forever to:

- Supply trash receptacles

Greenhouse

City of St. Louis to:

- Maintain, repair, update and replace greenhouse facilities and systems
- Plan, acquire, grow and maintain plant collections for displays, gardens and other floral installations throughout the city.
- Utilize Flora Conservancy as the primary horticultural volunteer group
- Order supplies

Boeing Aviation Field

City of St. Louis to:

- Empty trash receptacles
- Maintain, repair and replace asphalt paths

- Drag and maintain infields
- Maintain and replace fencing
- Maintain and clean Concession Stand / Comfort Station
- Maintain, operate, repair, and replace irrigation system
- Maintain Dugouts
- Maintain, repair and replace turf

Forest Park Forever to:

- Supply trash receptacles

ADDENDUM TO
LEASE AGREEMENT BETWEEN THE CITY OF
ST. LOUIS, MISSOURI AND BARNES-JEWISH HOSPITAL

This Addendum is made and entered into as of February ____, 2007 by and between the City of St. Louis, Missouri (the “City”) and Barnes-Jewish Hospital, a not-for-profit corporation of the State of Missouri (now known as Barnes-Jewish Hospital, “BJH”).

WITNESSETH:

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

WHEREAS, pursuant to Ordinance 56576, the City entered into said Agreement and a lease of such area with Barnes Hospital, as lessee (“Original Lease”);

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

WHEREAS, the City and BJH wish to further amend the Lease to replace, erect or install permit improvements upon the Leased Premises pursuant to a Second Amendment to Agreement, to be dated _____, 2007, (the “Second Amendment”);

WHEREAS, this Addendum supplements the Second Amendment by providing additional terms and conditions which are set forth below:

NOW, THEREFORE, in consideration of the premises and of the mutual promises, undertakings and agreements hereinafter set forth, the receipt and sufficiency of which is acknowledged, and as further consideration for the City to enter into Second Amendment, the parties agree to add the following terms and conditions to the Second Amendment:

BJH will ensure and support appropriate workforce development, qualified minority business enterprises (MBEs) and qualified women’s business enterprises (WBEs) participation in conjunction with the development of the Leased Premises that includes providing for at least twenty-five percent (25%) of all work for the project as a whole to be performed by MBEs and at least five percent (5%) of all work to be performed by WBEs.

BJH will work in collaboration with the members of the Aldermanic Black Caucus to identify and gain support for the development of an appropriate north side site to develop a 24-hour medical emergency center. The research of options and opportunities will begin as soon as possible and the goal is to develop a plan for such a development no later than December 2008.

BJH will support the establishment of and participation in a “Green Ribbon Panel” to update the Forest Park Master Plan, help identify other sources of funding for Forest Park and review the precepts of the Forest Park Master Plan.

BJH will establish a “Community Input Panel” to serve in a consultative and advisory role in conjunction with the development of the 9.4 acre leased site. The Panel will include representatives from the aldermen whose wards include sections of Forest Park; Citizens to Protect Forest Park; members of the Forest Park Southeast and the Central West End neighborhoods; and Forest Park Forever. BJH will be responsible for staffing this panel.

Approved: March 5, 2007

**ORDINANCE #67478
Board Bill No. 374**

An ordinance recommended by the Planning Commission to change the zoning of property as indicated on the district map, to the “I” Central Business District, so as to include the described parcels of land in city block 2022; and containing an emergency clause.

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

SECTION ONE. The zoning designation of certain real property located in City Block 2022 is hereby changed to the “I” Central Business District, real property being particularly described as follows:
Parcel #1:

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

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

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

Approved: March 5, 2007

ORDINANCE #67479
Board Bill No. 230
Floor Substitute

An ordinance recommended by the Board of Public Service to vacate public surface rights for vehicle, equestrian and pedestrian travel in First Street from Carr to Martin Luther King Dr. in the City of St. Louis, Missouri, as hereinafter described, in accordance with Charter authority, and in conformity with Section 14 of Article XXI of the Charter and imposing certain conditions on such vacation.

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

SECTION ONE: The public surface rights of vehicle, equestrian and pedestrian travel, between the rights-of-way of:

A tract of land being a portion of 1st Street (38.5 feet wide), being in City Blocks 23, 17 and 18 in the City of St. Louis, Missouri, and more particularly described as follows:

Beginning at the southwest corner of a tract conveyed to PNK (St. Louis RE), LLC by instrument recorded in deed book 09092005, Page 248 said southwest corner also being the intersection of the east right-of-way line of 1st Street and the north right-of-way line of Martin Luther King Drive (32.08 feet wide); thence along the north right-of-way line of Dr. Martin Luther King Drive, north 80 degrees 26 minutes 08 seconds west a distance of 38.51 feet to a point on the west right-of-way line of said 1st Street; thence departing said north right-of-way line of Martin Luther King Drive, along said west right-of-way line of 1st Street, north 08 degrees 16 minutes 14 seconds east a distance of 849.92 feet to a point; thence departing said west right-of-way line of 1st Street, south 82 degrees 17 minutes 35 seconds east a distance of 38.50 feet to a point on the east right-of-way line of said 1st Street; thence along said east right-of-way line of 1st Street, south 08 degrees 16 minutes 14 seconds west a distance of 851.17 feet to the point of beginning.

are, upon the conditions hereinafter set out, vacated.

SECTION TWO: Notwithstanding the foregoing vacation, the vacated area shall continue to be open and usable by the public for vehicular travel. The abutting property owners may close the street from time to time on a temporary basis (not to exceed three (3) days or such longer period if agreed to by Laclede's Landing Redevelopment Corporation) for casino and residential/retail special events provided that written notice of the closure is given at least ten (10) days in advance to the Laclede's Landing Redevelopment Corporation and by placing placards at the end of each street to be blocked, and provided further that the street shall not be closed if Leonor K. Sullivan and Second Street between the south curb line of Martin Luther King and the north curb line of Carr Streets are not open and passable for vehicular traffic. In addition, the abutting property owners may close the street for maintenance and/or resurfacing subject to Section 4 hereof but only when the portions of Leonor K. Sullivan Boulevard and Second Street specified above shall be open and passable for vehicular traffic.

SECTION THREE: All rights of the public in the land bearing rights-of-way traversed by the foregoing conditionally vacated street, are reserved to the City of St. Louis for the public including present and future uses of utilities, governmental service entities and franchise holders, except such rights as are specifically abandoned or released herein.

SECTION FOUR: The owners of the land may, at their election and expense remove the surface pavement of said so vacated street for resurfacing provided however, such removal and resurfacing work shall be performed only when the portions of Leonor K. Sullivan Boulevard and Second Street specified in Section 2 above shall be open and passable for vehicular traffic and such work shall be completed promptly and diligently within a reasonable period of time, and provided further all utilities within the rights-of-way shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

SECTION FIVE: The City, utilities, governmental service entities and franchise holders shall have the right and access to go upon the land and occupation hereof within the rights-of-way for purposes associated with the maintenance, construction or planning of existing or future facilities, being careful not to disrupt or disturb the owners interests more than is reasonably required.

SECTION SIX: The owner(s) shall not place any improvement upon, over or in the area(s) vacated without: 1) lawful permit from the Building Division or Authorized City agency as governed by the Board of Public Service; 2) obtaining written consent of the utilities, governmental service entities and franchise holders, present or future. The written consent with the terms and conditions thereof shall be filed in writing with the Board of Public Service by each of the above agencies as needed and approved by such Board prior to construction.

SECTION SEVEN: The owners may secure the removal of all or any part of the facilities of a utility, governmental service entity or franchise holder by agreement in writing with such utilities, governmental entity or franchise holder, filed with the Board of Public Service prior to the undertaking of such removal.

SECTION EIGHT: In the event that granite curbing or cobblestones are removed within the vacated area, the Department of Streets of the City of St. Louis must be notified. Owner(s) must have curbing cobblestones returned to the Department of Streets in good condition.

SECTION NINE: This ordinance shall be ineffective unless within three hundred sixty (360) days after its approval, or such longer time as is fixed by the Board of Public Service not to exceed three (3) days prior to the affidavit submittal date as specified in the last section of this ordinance, the owner(s) of the area to be vacated must fulfill the following monetary requirements, if applicable, as specified by the City of St. Louis Agencies listed below. All monies received will be deposited by these agencies with the Comptroller of the City of St. Louis.

- 1) CITY WATER DIVISION to cover the full expenses of removal and/or relocation of Water facilities, if any.
- 2) CITY TRAFFIC AND TRANSPORTATION DIVISION to cover the full expense of removal, relocation and/or purchase of all lighting facilities, if any. All street signs must be returned.
- 3) CITY STREET DEPARTMENT to cover the full expenses required for the adjustments of the City's alley(s), sidewalk(s) and street(s) as affected by the vacated area(s) as specified in Sections Two and Eight of the Ordinance.

SECTION TEN: An affidavit stating that all of the conditions be submitted to the Director of Streets for review of compliance with conditions 365 days (1 year) from the date of the signing and approval of this ordinance. Once the Director of Streets has verified compliance, the affidavit will be forwarded to the Board of Public Service for acceptance. If this affidavit is not submitted within the prescribed time the ordinance will be null and void.

Approved: March 13, 2007