

**ORDINANCE #67581**  
**Board Bill No. 115**

An ordinance approving a Redevelopment Plan for the 1470 S. Vandeventer Ave. Area ("Area") after finding that the Area is blighted as defined in Section 99.320 of the Revised Statutes of Missouri, 2000, as amended, (the "Statute" being Sections 99.300 to 99.715 inclusive), containing a description of the boundaries of said Area in the City of St. Louis ("City"), attached hereto and incorporated herein as Exhibit "A", finding that redevelopment and rehabilitation of the Area is in the interest of the public health, safety, morals and general welfare of the people of the City; approving the Plan dated April 24, 2007 for the Area ("Plan"), incorporated herein by attached Exhibit "B", pursuant to Section 99.430; finding that there is a feasible financial plan for the development of the Area which affords maximum opportunity for development of the Area by private enterprise; finding that **no** property in the Area may be acquired by the Land Clearance for Redevelopment Authority of the City of St. Louis ("LCRA") through the exercise of eminent domain; finding that the property within the Area is **unoccupied**, and the Redeveloper shall be responsible for relocating any eligible occupants displaced as a result of implementation of the Plan; finding that financial aid may be necessary to enable the Area to be redeveloped in accordance with the Plan; finding that there shall be available ten (10) year real estate tax abatement; and pledging cooperation of the Board of Aldermen and requesting various officials, departments, boards and agencies of the City to cooperate and to exercise their respective powers in a manner consistent with the Plan.

**WHEREAS**, by reason of predominance of defective or inadequate street layout, insanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, there exist conditions which endanger life or property by fire or other causes and constitute an economic or social liability or a menace to the public health, safety, morals or welfare in the present condition and use of the Area, said Area being more fully described in Exhibit "A"; and

**WHEREAS**, such conditions are beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by ordinary private enterprise without the aids provided in the Statute; and

**WHEREAS**, there is a need for the LCRA, a public body corporate and politic created under Missouri law, to undertake the development of the above described Area as a land clearance project under said Statute, pursuant to plans by or presented to the LCRA under Section 99.430.1 (4); and

**WHEREAS**, the LCRA has recommended such a plan to the Planning Commission of the City of St. Louis ("Planning Commission") and to this St. Louis Board of Aldermen ("Board"), titled "Blighting Study and Plan for 1470 S. Vandeventer Ave. Area," dated April 24, 2007, consisting of a Title Page, a Table of Contents Page, and thirteen (13) numbered pages, attached hereto and incorporated herein as Exhibit "B" ("Plan"); and

**WHEREAS**, under the provisions of the Statute, and of the federal financial assistance statutes, it is required that this Board take such actions as may be required to approve the Plan; and

**WHEREAS**, it is desirable and in the public interest that a public body, the LCRA, undertake and administer the Plan in the Area; and

**WHEREAS**, the LCRA and the Planning Commission have made and presented to this Board the studies and statements required to be made and submitted by Section 99.430 and this Board has been fully apprised by the LCRA and the Planning Commission of the facts and is fully aware of the conditions in the Area; and

**WHEREAS**, the Plan has been presented and recommended by LCRA and the Planning Commission to this Board for review and approval; and

**WHEREAS**, a general plan has been prepared and is recognized and used as a guide for the general development of the City and the Planning Commission has advised this Board that the Plan conforms to said general plan; and

**WHEREAS**, this Board has duly considered the reports, recommendations and certifications of the LCRA and the Planning Commission; and

**WHEREAS**, the Plan does prescribe land use and street and traffic patterns which may require, among other things, the vacation of public rights-of-way, the establishment of new street and sidewalk patterns or other public actions; and

**WHEREAS**, this Board is cognizant of the conditions which are imposed on the undertaking and carrying out of a redevelopment project, including those relating to prohibitions against discrimination because of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap; and

**WHEREAS**, in accordance with the requirements of Section 99.430 of the Statute, this Board advertised that a public hearing would be held by this Board on the Plan, and said hearing was held at the time and place designated in said advertising and all those who were interested in being heard were given a reasonable opportunity to express their views; and

**WHEREAS**, it is necessary that this Board take appropriate official action respecting the approval of the Plan.

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

**SECTION ONE.** There exists within the City of St. Louis ("City") a blighted area, as defined by Section 99.320 of the Revised Statutes of Missouri, 2000, as amended, (the "Statute" being Sections 99.300 to 99.715 inclusive, as amended) described in Exhibit "A", attached hereto and incorporated herein, known as 1470 S. Vandeventer Ave. Area.

**SECTION TWO.** The redevelopment of the above described Area, as provided by the Statute, is necessary and in the public interest, and is in the interest of the public health, safety, morals and general welfare of the people of the City.

**SECTION THREE.** The Area qualifies as a redevelopment area in need of redevelopment under the provision of the Statute, and the Area is blighted as defined in Section 99.320 of the Statute.

**SECTION FOUR.** The Blighting Study and Plan for the Area, dated April 24, 2007 ("Plan") having been duly reviewed and considered, is hereby approved and incorporated herein by reference, and the President or Clerk of this St. Louis Board of Aldermen ("Board") is hereby directed to file a copy of said Plan with the Minutes of this meeting.

**SECTION FIVE.** The Plan for the Area is feasible and conforms to the general plan for the City.

**SECTION SIX.** The financial aid provided and to be provided for financial assistance pertaining to the Area is necessary to enable the redevelopment activities to be undertaken in accordance with the Plan for the Area, and the proposed financing plan for the Area is feasible.

**SECTION SEVEN.** The Plan for the Area will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the redevelopment of the Area by private enterprise, and private developments to be sought pursuant to the requirements of the Statute.

**SECTION EIGHT.** The Plan for the Area provides that the Land Clearance for Redevelopment Authority of the City of St. Louis ("LCRA") **may not** acquire any property in the Area by the exercise of eminent domain.

**SECTION NINE.** The property within the Area is currently **unoccupied**. If it should become occupied, all eligible occupants displaced by the Redeveloper ("Redeveloper" being defined in Section Twelve, below) shall be given relocation assistance by the Redeveloper at its expense, in accordance with all applicable federal, state and local laws, ordinances, regulations and policies.

**SECTION TEN.** The Plan for the Area gives due consideration to the provision of adequate public facilities.

**SECTION ELEVEN.** In order to implement and facilitate the effectuation of the Plan hereby approved it is found and determined that certain official actions must be taken by this Board and accordingly this Board hereby:

- (a) Pledges its cooperation in helping to carry out the Plan;
- (b) Requests the various officials, departments, boards and agencies of the City, which have administrative responsibilities, likewise to cooperate to such end and to execute their respective functions and powers in a manner consistent with the Plan; and
- (c) Stands ready to consider and take appropriate action upon proposals and measures designed to effectuate the Plan.

**SECTION TWELVE.** All parties participating as owners or purchasers of property in the Area for redevelopment ("Redeveloper") shall agree for themselves and their heirs, successors and assigns that they shall not discriminate on the basis of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap in the sale, lease, or rental of any property or improvements erected or to be erected in the Area or any part thereof and those covenants shall run with the land, shall remain in effect without limitation of time, shall be made part of every contract for sale, lease, or rental of property to which Redeveloper is a party, and shall be enforceable by the LCRA, the City and the United States of America.

**SECTION THIRTEEN.** In all contracts with private and public parties for redevelopment of any portion of the Area, all Redevelopers shall agree:

- (a) To use the property in accordance with the provisions of the Plan, and be bound by the conditions and procedures set forth therein and in this Ordinance;
- (b) That in undertaking construction under the agreement with the LCRA and the Plan, bona fide Minority Business Enterprises ("MBE's") and Women's Business Enterprises ("WBE's") will be solicited and fairly considered for contracts, subcontracts and purchase orders;
- (c) To be bound by the conditions and procedures regarding the utilization of MBE's and WBE's established by the City;
- (d) To adhere to the requirements of the Executive Order of the Mayor of the City, dated July 24, 1997.
- (e) To comply with the requirements of Ordinance No. 60275 of the City;

(f) To cooperate with those programs and methods supplied by the City with the purpose of accomplishing, pursuant to this paragraph, minority and women subcontractors and material supplier participation in the construction under this Agreement. The Redeveloper will report semi-annually during the construction period the results of its endeavors under this paragraph, to the Office of the Mayor and the President of this Board; and

(g) That the language of this Section Thirteen shall be included in its general construction contract and other construction contracts let directly by Redeveloper.

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

The term "Redeveloper" as used in this Section shall include its successors in interest and assigns.

**SECTION FOURTEEN.** The Redeveloper may seek up to ten (10) year real estate tax abatement pursuant to Sections 99.700 - 99.715, Revised Statutes of Missouri, 2000, as amended, upon application as provided therein. Such real estate tax abatement shall not include any Special Business District taxes which may be assessed for the property located in a Special Business District.

In lieu of the ten (10) year abatement outlined above, a Redeveloper which is an urban redevelopment corporation formed pursuant to Chapter 353 of the Missouri Statutes shall hereby be entitled to real property ad valorem tax abatement which shall not include any Special Business District taxes which may be assessed for the property located in a Special Business District for a total period of up to ten (10) years from the commencement of such tax abatement, in accordance with the following provisions:

If property in the Area is sold by the LCRA to an urban redevelopment corporation formed pursuant to Chapter 353 of the Missouri Statutes, or if any such corporation shall own property within the Area, then for the first ten (10) years after the date the redevelopment corporation shall acquire title to such property, taxes on such property shall be based upon the assessment of land, exclusive of any improvements thereon, during the calendar year preceding the calendar year during which such corporation shall have acquired title to such property. In addition to such taxes, any such corporation shall for the same ten (10) year period make a payment in lieu of taxes to the Collector of Revenue of the City of St. Louis in an amount based upon the assessment on the improvements located on the property during the calendar year preceding the calendar year during which such corporation shall have acquired title to such property. If property shall be tax exempt because it is owned by the LCRA and leased to any such corporation, then such corporation for the first ten (10) years of such lease shall make payments in lieu of taxes to the Collector of Revenue of the City in an amount based upon the assessment on the property, including land and improvements, during the calendar year preceding the calendar year during which such corporation shall lease such property.

All payments in lieu of taxes shall be a lien upon the property and, when paid to the Collector of Revenue of the City shall be distributed as all other property taxes. These partial tax relief and payment in lieu of taxes provisions, during up to said ten (10) year period, shall inure to the benefit of all successors in interest in the property of the redevelopment corporation, so long as such successors shall continue to use such property as provided in this Plan and in any contract with the LCRA. In no event shall such benefits extend beyond ten (10) years after the redevelopment corporation shall have acquired title to the property.

**SECTION FIFTEEN.** Any proposed modification which will substantially change the Plan must be approved by the St. Louis Board of Aldermen in the same manner as the Plan was first approved. Modifications which will substantially change the Plan include, but are not necessarily limited to, modifications on the use of eminent domain, to the length of tax abatement, to the boundaries of the Area, or to other items which alter the nature or intent of the Plan. The Plan may be otherwise modified (e.g. urban design regulations, development schedule) by the LCRA, provided that such revisions shall be effective only upon the consent of the Planning Commission of the City. Changes which are not substantial are those that do not go to the crux of the Plan.

**SECTION SIXTEEN.** The sections of this Ordinance shall be severable. In the event that any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections of this Ordinance are valid, unless the court finds the valid sections of the Ordinance are so essential and inseparably connected with and dependent upon the void section that it cannot be presumed that this Board would have enacted the valid sections without the void ones, or unless the court finds that the valid sections standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

EXHIBIT "A"

1470 S. Vandeventer Avenue AREA  
LEGAL DESCRIPTION

C.B. 3989 VANDEVENTER  
269 FT 3 IN/334 FT 8 ¼ IN X  
58 FT 3 ½ IN/203 FT 2 ½ IN 0.85 ACRES  
MCREE ADDN LOT PT 20  
BND 82 FT 7 IN W OF BOYLE AVE

3989-00-00200  
1470 S. Vandeventer Avenue

EXHIBIT "B"  
Form 03/01/07

BLIGHTING STUDY AND PLAN  
FOR THE  
1470 SOUTH VANDEVENTER AVENUE AREA  
PROJECT #1157  
LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY  
OF THE CITY OF ST. LOUIS  
APRIL 24, 2007

MAYOR  
FRANCIS G. SLAY

BLIGHTING STUDY AND PLAN FOR  
1470 S. Vandeventer Avenue Area

	<u>PAGE</u>
<b>A. EXISTING CONDITIONS AND FINDING OF BLIGHT</b> .....	1
1. DELINEATION OF BOUNDARIES .....	1
2. GENERAL CONDITION OF THE AREA .....	1
3. PRESENT LAND USE OF THE AREA .....	1
4. PRESENT LAND USE AND DENSITY OF SURROUNDING PROPERTIES .....	1
5. CURRENT ZONING .....	1
6. FINDING OF BLIGHT .....	2
<b>B. PROPOSED DEVELOPMENT AND REGULATIONS</b> .....	2
1. DEVELOPMENT OBJECTIVES .....	2
2. PROPOSED LAND USE OF THE AREA .....	2
3. PROPOSED ZONING .....	2
4. RELATIONSHIP TO LOCAL OBJECTIVES .....	2
5. PROPOSED EMPLOYMENT FOR THIS AREA .....	3
6. CIRCULATION .....	3
7. BUILDING AND SITE REGULATIONS .....	3
8. URBAN DESIGN .....	3
9. PARKING REGULATIONS .....	4
10. SIGN REGULATIONS .....	4
11. BUILDING, CONDITIONAL USE AND SIGN PERMITS .....	5
12. PUBLIC IMPROVEMENTS .....	5
<b>C. PROPOSED SCHEDULE OF DEVELOPMENT</b> .....	5
<b>D. EXECUTION OF PROJECT</b> .....	6
1. ADMINISTRATION AND FINANCING .....	6
2. PROPERTY ACQUISITION .....	6
3. PROPERTY DISPOSITION .....	6
4. RELOCATION ASSISTANCE .....	6
<b>E. COOPERATION OF THE CITY</b> .....	6

**F. TAX ABATEMENT** ..... 6

**G. COMPLIANCE WITH AFFIRMATIVE ACTION AND NONDISCRIMINATION LAWS AND REGULATIONS** ..... 7

    1. LAND USE ..... 7

    2. CONSTRUCTION AND OPERATIONS ..... 7

    3. LAWS AND REGULATIONS ..... 8

    4. ENFORCEMENT ..... 8

**H. MODIFICATIONS OF THIS PLAN** ..... 8

**I. DURATION OF REGULATION AND CONTROLS** ..... 8

**J. EXHIBITS** ..... 9

**K. SEVERABILITY** ..... 9

**EXHIBITS**

- "A" LEGAL DESCRIPTION
- "B" PROJECT AREA PLAN
- "C" PROPOSED LAND USE
- "D" ACQUISITION MAP
- "E" EQUAL OPPORTUNITY AND NON-DISCRIMINATION GUIDELINES

**A. EXISTING CONDITIONS AND FINDINGS OF BLIGHT**

1. DELINEATION OF BOUNDARIES

The 1470 S. Vandeventer Avenue Area ("Area") encompasses approximately 0.85 acres in the Forest Park Southeast neighborhood of the City of St. Louis ("City") and is located on the east side of S. Vandeventer Avenue with S. Boyle Avenue to the north and Tower Grove Avenue to the south.

The legal description of the Area is attached and labeled Exhibit "A". The boundaries of the Area are delineated on Exhibit "B" ("Project Area Plan").

2. GENERAL CONDITION OF THE AREA

The Area comprises one parcel of City Block 3989. The Area is in fair condition. The physical conditions within the Area are shown on Exhibit "B" (Project Area Plan). For the purpose of this Plan, "Fair Condition" means (1) property that is generally structurally sound but suffers from inadequate maintenance and upkeep, or (2) vacant unimproved property that is under-utilized. "Poor Condition" means (1) buildings that are structurally unsound and/or substantially deteriorated, requiring major improvements such as new roofs, windows, systems, etc., in order to be used productively, or (2) property without buildings which is poorly maintained, has crumbling pavement, and/or is used for open storage.

Unemployment figures, computed by the Missouri State Employment Service, indicate a 6.7 % unemployment rate for the City as of February, 2007. It is estimated that this rate is prevalent for residents of the neighborhoods surrounding the Area.

There are currently no jobs within the Area.

3. PRESENT LAND USE OF THE AREA

Existing land uses within the Area include an unoccupied industrial building.

The land use, including the location of public and private uses, streets and other rights-of-way is shown on Exhibit "B".

4. PRESENT LAND USE AND DENSITY OF SURROUNDING PROPERTIES

The properties surrounding the Area are primarily used for commercial and industrial purposes.

Residential density for the surrounding neighborhoods is approximately 8.99 persons per acre.

5. CURRENT ZONING

The Area is zoned "K" Unrestricted District, pursuant to the Zoning Code of the City, which is incorporated in this Plan by reference.

6. FINDING OF BLIGHT

The property within the Area is unoccupied and in fair condition (as defined in Section A(2) above). The existence of deteriorated property constitutes both an economic liability to the City of St. Louis and presents a hazard to the health and well being of its citizens. These conditions, therefore, qualify the Area as blighted within the meaning of Section 99.300 et seq. of the Revised Statutes of Missouri (the Land Clearance for Redevelopment Authority Law).

**B. PROPOSED DEVELOPMENT AND REGULATIONS**

1. DEVELOPMENT OBJECTIVES

The primary objective of this Plan is to facilitate the development of the Area into productive industrial uses.

2. PROPOSED LAND USE OF THE AREA

The proposed land uses for the Area are industrial uses permitted in Areas designated "K" Unrestricted District by the City of St. Louis Zoning Code. Redevelopers authorized by the Land Clearance for Redevelopment Authority of the City of St. Louis ("LCRA") to develop property in the Area (hereafter referred to as "Redeveloper") shall be permitted to use said property only for the above proposed purposes.

Exhibit "C" (Proposed Land Use) shows the proposed uses for the Area.

3. PROPOSED ZONING

The zoning for the Area can remain "K" Unrestricted District. All land coverage and building intensities shall be governed thereby.

4. RELATIONSHIP TO LOCAL OBJECTIVES

The proposed land uses, zoning, public facilities and utility plans are appropriate and consistent with local objectives as defined by the General Plan of the City of St. Louis which includes the Strategic land Use plan (2005). Any specific proposal to the LCRA for development of the Area or any portion of the Area shall contain, among other things, adequate provisions for traffic, vehicular parking, safety from fire, adequate provisions for light and air, sound design and arrangement and improved employment opportunities.

5. PROPOSED EMPLOYMENT FOR THIS AREA

There will be 6-8 new jobs as a result of the proposed development.

6. CIRCULATION

The Proposed Land Use Plan (Exhibit "C") indicates the proposed circulation system for the Area. The layouts, levels and grades of all public rights-of-way may remain unchanged.

Rights-of-way changes will be subject to the review and approval of the City Department of Streets, and all vacations of rights-of-way are subject to approval by ordinance.

7. BUILDING AND SITE REGULATIONS

The Area shall be subject to all applicable federal, state and local laws, ordinances, regulations and codes, including but not limited to, the City Building Code, Zoning District Regulations, and stipulations of the Planning and Urban Design Agency ("PDA") of the City. The population densities, land coverage, and building intensities of redevelopment shall be governed by the Zoning Code. No changes in the building codes or ordinances are required.

Each Redeveloper shall develop the Area in accordance with this Plan and the Redevelopment Agreement, and shall maintain all structures, equipment, paved areas, and landscaped areas controlled by the Redeveloper in good and safe order both inside and outside, structurally and otherwise, including necessary and proper painting. Failure to meet this requirement may result in suspension of tax abatement.

8. URBAN DESIGN**a. Urban Design Objectives**

The property shall be developed it is an attractive industrial asset to the surrounding neighborhood.

**b. Urban Design Regulations**

Rehabilitation shall respect the original exterior in terms of design and materials. Window and door shapes and detailing shall be compatible with the original design.

**c. Landscaping**

The property shall be well landscaped. Perimeter street trees of a minimum caliper of 2-1/2 inches and generally 30-35 feet on center, depending upon tree type, utilities, curb cuts, etc., shall be provided along all public or private streets - preferably in tree lawns along the curb. If necessary, sidewalks shall be notched to accommodate the trees.

Ornamental or shade trees should be provided in the front lawns along with evergreen accent shrubs.

Existing, healthy trees shall be retained, if feasible.

**d. Fencing**

Fencing in the front yards and facing side streets shall be limited to ornamental metal with black matte finish. Fencing behind the building line and not facing a street may be chain link with a black matte finish, or a good quality, privacy fence provided it is not wood stockade style.

9. PARKING REGULATIONS

Parking shall be provided in accordance with the applicable zoning and building code requirements of the City, including PDA standards. This will provide adequate vehicular parking for the Area.

Surface parking shall not extend beyond the established building line. Surface parking along public streets shall be buffered by a continuous evergreen hedge at least two and one-half (2-1/2) feet high on planting and maintained at three and one-half (3-1/2) feet high at maturity. Three percent (3%) of the interior of all parking lots containing more than twenty-five (25) spaces shall be landscaped with trees, at least two and one-half (2-1/2) inch caliper in size on planting. The trees shall be planted on islands, the largest dimension of which shall be at least five (5) feet, planted with low lying ground cover or other plant material.

10. SIGN REGULATIONS

All new signs shall be limited as set out in the City Code, PDA stipulations, this Plan and contracts between the LCRA and the Redeveloper. A uniform signage plan must be prepared by the Redeveloper for the entire project. All new signs shall be restricted to those identifying the names and/or business of the person or firm occupying the premises.

New wall signs shall not obstruct any architectural building elements, and shall project no more than eighteen (18) inches from the face of the building: **Upper Level** signage shall be located just below or above the top floor windows facing in any direction regardless of street orientation, shall not exceed 2% of the area of the façade on which it appears nor have letters more than one foot in height for each ten foot (10') of building height provided that the maximum shall be ten foot (10') high letters (i.e. maximum sign letter height on a fifty foot (50') high building shall be five feet (5')). **Pedestrian level** signage shall be below the second floor window sill of a structure and/or above the store front windows or on the sides of building perpendicular to the street. The total pedestrian level signage per business per façade shall be the lessor of fifty (50) sq. ft. on ten percent (10%) of the ground floor façade area.

Canvas awnings with signs are permitted, provided they are compatible with the overall design and architectural details of the building upon which they are to be placed and are placed neatly within the window or door opening. Signage on awnings may be located on the sloping portion of the canvas awning, on the front of a canopy or on the awning valance. In no case shall signage be allowed on both an awning and a building for the same business. Logos and graphic elements may be up to ten (10) sq. ft. in size (depending on the size of the awning), while names or brand copy shall be in proportion to the size of the awning, but in no case shall lettering be more than twelve inches (12") high.

11. BUILDING, CONDITIONAL USE AND SIGN PERMITS

No building, conditional use, or sign permits shall be issued by the City without the prior written approval of the LCRA.

12. PUBLIC IMPROVEMENTS

No additional schools, parks, recreational and community facilities or other public facilities will be required. Additional water, sewage or other public utilities may be required depending on development. The cost of such utility improvements will be borne by the Redeveloper.

If funds are available to the LCRA, it may provide public improvements including, but not limited to, measures for the control of traffic, improvements to street lighting, street trees, and any other improvements which may further the objectives of this Plan.

When developed in accordance with this Plan, the Area will comprise a coordinated, adjusted and harmonious development that promotes the health, safety, morals, order, convenience, prosperity, the general welfare, efficiency and economy of the City.

**C. PROPOSED SCHEDULE OF DEVELOPMENT**

The implementation of this Plan shall take place in a single phase initiated within approximately one (1) years of approval of this Plan by ordinance and completed within approximately two (2) years of approval of this Plan by ordinance.

The LCRA may alter the above schedule as economic conditions warrant.

**D. EXECUTION OF PROJECT**

1. ADMINISTRATION AND FINANCING

The LCRA is empowered by Missouri law to administer development of all types pursuant to this Plan and can do so to the extent and in the manner prescribed by the Land Clearance for Redevelopment Authority Law of Missouri.

All costs associated with the development of the Area will be borne by the Redeveloper.

Implementation of this Plan may be financed by funds obtained from private and/or public sources, including, without limitation, revenue bonds, bank loans, and equity funds provided by the Redeveloper.

2. PROPERTY ACQUISITION

The Property Acquisition Map, Exhibit "D" attached, identifies all the property located in the Area. The LCRA may not acquire any property in the area through the exercise of eminent domain.

3. PROPERTY DISPOSITION

If the LCRA acquires property in the Area, it may sell or lease the property to a Redeveloper who shall agree to develop such property in accordance with this Plan and the contract between such Redeveloper and the LCRA. Any property acquired by the LCRA and sold to a Redeveloper will be sold at not less than its fair value, taking into account and giving consideration to those factors enumerated in Section 99.450, R.S.Mo. (2000) as amended, for uses in accordance with this Plan.

4. RELOCATION ASSISTANCE

The property within the Area is currently unoccupied. If it should become occupied all eligible occupants displaced as a result of the implementation of the Plan shall be given relocation assistance in accordance with all applicable federal, state and local laws, ordinances, regulations and policies.

**E. COOPERATION OF THE CITY**

The City and its Board of Aldermen, by enacting an ordinance approving this Plan, pledges its cooperation to enable the project to be carried out in a timely manner and in accordance with this Plan.

**F. TAX ABATEMENT**

A Redeveloper may seek ten-(10) year real estate tax abatement pursuant to Sections 99.700 – 99.715, Revised Statutes of Missouri 2000, as amended, upon applications as provided therein. Such real estate tax abatement shall not include any Special Business District, Neighborhood Improvement District, Commercial Improvement District, or any other similar local taxing district created in accordance with Missouri law, whether now existing or later created.

In lieu of the ten (10) year abatement outlined above, a Redeveloper which is an urban redevelopment corporation formed

pursuant to Chapter 353 of the Missouri Statutes shall hereby be entitled to real property ad valorem tax abatement, which shall not include any Special Business District, Neighborhood Improvement District, Commercial Improvement District, or any other single local taxing district created in accordance with Missouri law, whether now existing or later created, for a total period of up to ten (10) years from the commencement of such tax abatement, in accordance with the following provisions of this Plan

If property in the Area is sold by the LCRA to an urban redevelopment corporation formed pursuant to Chapter 353 of the Missouri Statutes, or if any such corporation shall own property within the Area, then for the first ten (10) years after the date the redevelopment corporation shall acquire title to such property, taxes on such property shall be based upon the assessment of land, exclusive of any improvements thereon, during the calendar year preceding the calendar year during which such corporation shall have acquired title to such property. In addition to such taxes, any such corporation shall for the same ten (10) year period make a payment in lieu of taxes to the Collector of Revenue of the City of St. Louis in an amount based upon the assessment on the improvements located on the property during the calendar year preceding the calendar year during which such corporation shall have acquired title to such property. If property shall be tax exempt because it is owned by the LCRA and leased to any such corporation, then such corporation for the first ten (10) years of such lease shall make payments in lieu of taxes to the Collector of Revenue of the City in an amount based upon the assessment on the property, including land and improvements, during the calendar year preceding the calendar year during which such corporation shall lease such property.

All payments in lieu of taxes shall be a lien upon the property and, when paid to the Collector of Revenue of the City shall be distributed as all other property taxes. These partial tax relief and payment in lieu of taxes provisions, during up to said ten (10) year period, shall inure to the benefit of all successors in interest in the property of the redevelopment corporation, so long as such successors shall continue to use such property as provided in this Plan and in any contract with the LCRA. In no event shall such benefits extend beyond ten (10) years after the redevelopment corporation shall have acquired title to the property

#### **G. COMPLIANCE WITH AFFIRMATIVE ACTION AND NONDISCRIMINATION LAWS AND REGULATIONS**

##### **1. LAND USE**

The Redeveloper shall not discriminate on the basis of race, color, creed, national origin, marital status, sex, age, sexual orientation or physical handicap in the lease, sale or occupancy of the Area.

##### **2. CONSTRUCTION AND OPERATIONS**

A Redeveloper shall not discriminate on the basis of race, color, creed, national origin, marital status, sex, age, sexual orientation or physical handicap in the construction and operation of any project in the Area and shall take such affirmative action as may be appropriate to afford opportunities to everyone in all activities of the project, including enforcement, contracting, operating and purchasing.

##### **3. LAWS AND REGULATIONS**

A Redeveloper shall comply with all applicable federal, state and local laws, ordinances, executive orders and regulations regarding nondiscrimination and affirmative action, including the City Guidelines for Maximum Utilization of Minority Enterprises dated January 1, 1981, as may be amended, and the "Equal Opportunity and Nondiscrimination Guidelines" in Exhibit "E", attached.

##### **4. ENFORCEMENT**

All of the provisions of this Section G shall be incorporated in a Contract between the LCRA and a Redeveloper, which agreement shall be recorded in the office of the Recorder of Deeds. The provisions of G (1) and G (3) shall be covenants running with the land, without limitation as to time, and the provisions of G (2) shall be for the duration of this Plan and any extension thereof.

All of the provisions of Section G shall be enforceable against the Redeveloper, its heirs, successors or assigns, by the LCRA, the City, any state having jurisdiction or the United States of America.

#### **H. MODIFICATIONS OF THIS PLAN**

Any proposed modification which will substantially change this Plan shall be approved by the St. Louis Board of Aldermen in the same manner as this Plan was first approved. Modifications which will substantially change this Plan include, but are not necessarily limited to, modifications on the use of eminent domain, to the length of tax abatement, to the boundaries of the Area, or other items which alter the nature or intent of this Plan.

This Plan may be otherwise modified (e.g. urban design regulations, development schedule) by the LCRA, provided that such revisions shall be effective only upon the consent of the Planning Commission of the City. Changes which are not substantial are those that do not go to the crux of this Plan.

**I. DURATION OF REGULATION AND CONTROLS**

The regulation and controls set forth in this Plan shall be in full force and effect for twenty-five years commencing with the effective date of approval of this Plan by ordinance, and for additional ten (10) year periods unless before the commencement of any such ten (10) year period the Board of Aldermen shall terminate this Plan as of the end of the term then in effect, except as provided in Section G (4) of this Plan.

**J. EXHIBITS**

All attached exhibits are hereby incorporated by reference into this Plan and made a part hereof.

**K. SEVERABILITY**

The elements of this Plan satisfy all requirements of state and local laws. Should any provisions of this Plan be held invalid by a final determination of a court of law, the remainder of the provisions hereof shall not be affected thereby, and shall remain in full force and effect.

**EXHIBIT "A"**

**1470 S. Vandeventer Avenue AREA  
LEGAL DESCRIPTION**

C.B. 3989 VANDEVENTER  
269 FT 3 IN/334 FT 8 ¼ IN X  
58 FT 3 ½ IN/203 FT 2 ½ IN 0.85 ACRES  
MCREE ADDN LOT PT 20  
BND 82 FT 7 IN W OF BOYLE AVE

**3989-00-00200**  
1470 S. Vandeventer Avenue

See attached Exhibits B, C & D

**EXHIBIT "E"  
FORM: 08/02/99**

**EQUAL OPPORTUNITY AND NONDISCRIMINATION GUIDELINES**

In any contract for work in connection with the redevelopment of any property in the Area, the Redeveloper (which term shall include Redeveloper, any designees, successors and assigns thereof, any entity formed to implement the project of which the Redeveloper is affiliated), its contractors and subcontractors shall comply with all federal, state and local laws, ordinances, or regulations governing equal opportunity and nondiscrimination (Laws). Moreover, the Redeveloper shall contractually require its contractors and subcontractors to comply with such laws.

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

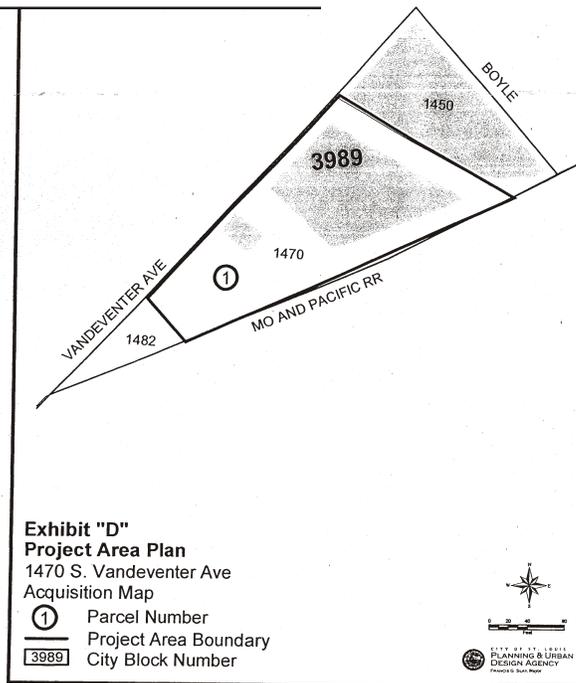
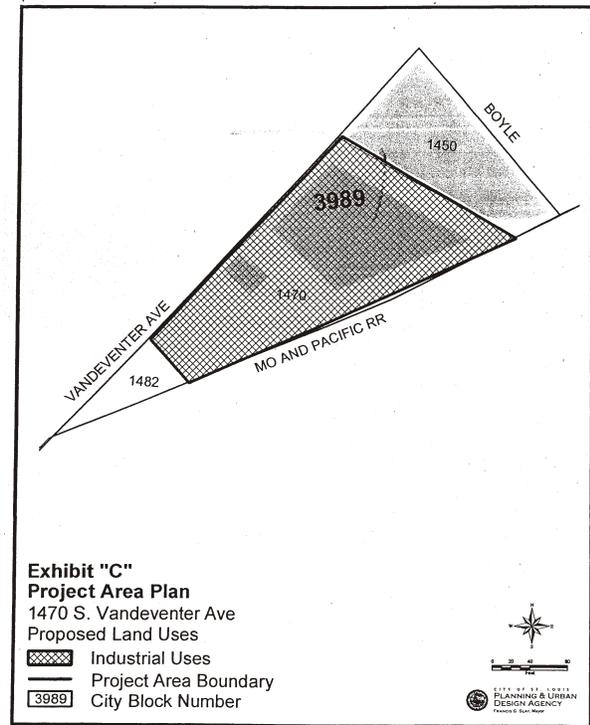
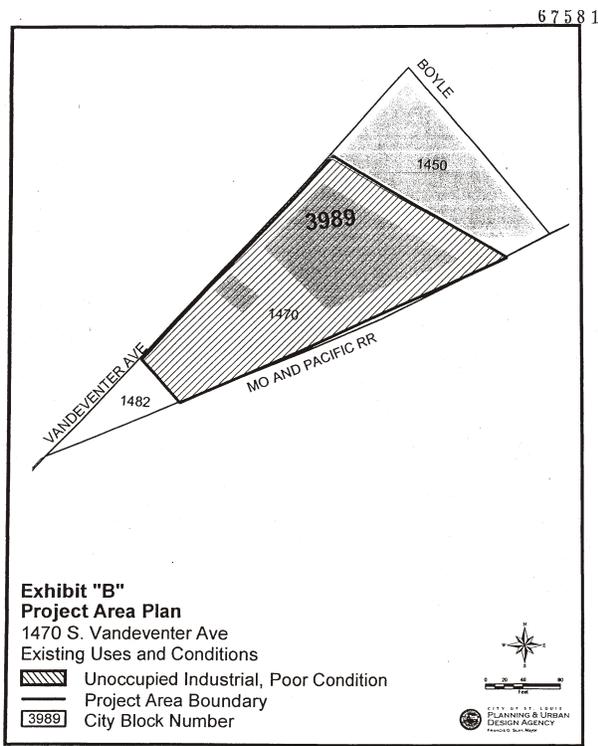
The Redeveloper shall fully comply with Executive Order #28 dated July 24, 1997 relating to minority and women-owned business participation in City contracts.

The Redeveloper agrees for itself and its successors and assigns, that there shall be covenants to ensure that there shall be no discrimination on the part of the Redeveloper, its successors or assigns upon the basis of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap in the sale, lease, rental, use or occupancy of any property, or any improvements erected or to be erected in the Area or any part thereof, and those covenants shall run with the land and shall be enforceable by the LCRA, the City, and the United States of America, as their interests may appear in the project.

The Redeveloper shall fully comply (and ensure compliance by "anchor tenants") with the provisions of St. Louis City Ordinance #60275 which is codified at Chapter 3.09 of the Revised Ordinances of the City of St. Louis.

**Approved: June 20, 2007**

ORDINANCE NO. 67581 - EXHIBITS B, C & D



**ORDINANCE #67582**  
**Board Bill No. 119**

**AN ORDINANCE APPROVING THE PETITION OF WTD VENTURE, LLC, AS OWNER OF CERTAIN REAL PROPERTY, TO ESTABLISH A COMMUNITY IMPROVEMENT DISTRICT, ESTABLISHING THE 1400 WASHINGTON COMMUNITY IMPROVEMENT DISTRICT, FINDING A PUBLIC PURPOSE FOR THE ESTABLISHMENT OF THE 1400 WASHINGTON COMMUNITY IMPROVEMENT DISTRICT, AND CONTAINING A SEVERABILITY CLAUSE.**

**WHEREAS**, Mo. Rev. Stat. §67.1400 et seq. (the “CID Act”) authorized the Board of Aldermen to approve the petitions of property owners to establish a Community Improvement District; and

**WHEREAS**, a petition has been filed with the City, requesting formation and establishment of the 1400 Washington Community Improvement District, signed by authorized representatives of the owners of more than fifty percent by assessed value and per capita of the property located within the 1400 Washington Community Improvement District (as amended, the “Petition”); and

**WHEREAS**, the Register of the City of St. Louis did review and determine that the Petition substantially complies with the requirements of the CID Act; and

**WHEREAS**, a public hearing, duly noticed and conducted as required by and in accordance with the CID Act was held at \_\_\_\_\_ on \_\_\_\_\_, 2007, by the Board of Aldermen; and

**WHEREAS**, this Board of Aldermen hereby finds that the adoption of this ordinance is in the best interest of the City of St. Louis and that the property owners of the 1400 Washington Community Improvement District, as well as the City as a whole, will benefit from the establishment of the 1400 Washington Community Improvement District.

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

**Section One.**

(a) A community improvement district, to be known as the “1400 Washington Community Improvement District” (hereinafter referred to as the “District”), is hereby established pursuant to the CID Act on certain real property described below to provide services, construct improvements, impose assessments and taxes and carry out other functions as set forth in the Petition, which is attached hereto as Appendix A and incorporated herein by this reference.

(b) The District boundaries are set forth in the map included in the Petition in Appendix A and are generally described as follows: that real property bounded on the north by Washington Avenue, on the east by 14th Street, on the south by St. Charles Street, and on the west by the western boundary of the parcel of real property commonly known as 1408-1414 Washington Avenue.

**Section Two.**

The District is authorized by the Petition, in accordance with the CID Act to impose a tax upon retail sales within the District, to provide funds to accomplish any power, duty or purpose of the District.

**Section Three.**

The District is authorized by the CID Act, at any time, to issue obligations, or to enter into agreements with other entities with the authority to issue obligations, for the purpose of carrying out any of its powers, duties, or purposes. Such obligations shall be payable out of all, part or any combination of the revenues of the District and may be further secured by all or any part of any property or any interest in any property by mortgage or any other security interest granted. Such obligations shall be authorized by resolution of the District, and if issued by the District, shall bear such date or dates, and shall mature at such time or times, but not more than twenty (20) years from the date of issuance, as the resolution shall specify. Such obligations shall be in such denomination, bear interest at such rate or rates, be in such form, be payable in such place or places, be subject to redemption as such resolution may provide and be sold at either public or private sale at such prices as the District shall determine subject to the provisions of Mo. Rev. Stat. §108.170. The District is also authorized to issue such obligations to refund, in whole or part, obligations previously issued by the District.

**Section Four.**

(a) Pursuant to the Petition, the District shall be in the form of a political subdivision of the State of Missouri, known as the 1400 Washington Community Improvement District.

(b) Pursuant to Section 67.1471 of the CID Act, the fiscal year for the District shall be the same as the fiscal year for the City of St. Louis.

(c) No earlier than one hundred and eighty (180) days and no later than ninety (90) days prior to the first day of each

fiscal year, the District shall submit to the Board of Aldermen a proposed annual budget for the District, setting forth expected expenditures, revenues, and rates of assessments, if any, for such fiscal year. The Board of Aldermen may review and comment on this proposed budget, but if such comments are given, the Board of Aldermen shall provide such written comments no later than sixty (60) days prior to the first day of the relevant fiscal year; such comments shall not constitute requirements, but shall only be recommendations.

(d) The District shall hold an annual meeting and adopt an annual budget no later than thirty (30) days prior to the first day of each fiscal year.

**Section Five.** The District is authorized to use the funds of the District for any of the improvements, services or other activities authorized under the CID Act.

**Section Six.** Pursuant to the CID Act, the District shall have all of the powers necessary to carry out and effectuate the purposes of the District and the CID Act as set forth in the CID Act.

**Section Seven.** The City of St. Louis hereby finds that the uses of the District proceeds as provided for in the Petition hereto will serve a public purpose by remediating blight and encouraging the redevelopment of real property within the District.

**Section Eight.** The District is located within the Washington Ave. Loft Area, which was declared “blighted” under Chapter 99 RSMo. in Ordinance No. 65965 of the City of St. Louis Board of Aldermen, and such designation of blight is hereby reaffirmed.

**Section Nine.** Within one hundred twenty (120) days after the end of each fiscal year, the District shall submit a report to the Register of the City and the Missouri Department of Economic Development stating the services provided, revenues collected and expenditures made by the District during such fiscal year, and copies of written resolutions approved by the board of the District during the fiscal year. The Register shall retain this report as part of the official records of the City and shall also cause this report to be spread upon the records of the Board of Aldermen, pursuant to Section 67.1471 of the CID Act.

**Section Ten.** The term for the existence of the District shall be as set forth in the Petition, as may be amended from time to time or as such term may be otherwise modified in accordance with the CID Act.

**Section Eleven.** Pursuant to the CID Act, the Board of Aldermen shall not decrease the level of publicly funded services in the District existing prior to the creation of the District or transfer the burden of providing the services to the District unless the services at the same time are decreased throughout the City, nor shall the Board of Aldermen discriminate in the provision of the publicly funded services between areas included in the District and areas not so included.

**Section Twelve.** The Register shall report in writing the creation of the 1400 Washington Community Improvement District to the Missouri Department of Economic Development.

**Section Thirteen.** The Petition provides that the District shall be governed by a Board of Directors consisting of five individual directors (collectively the “Directors” and each a “Director”), such Directors to be appointed by the Mayor of the City with the consent of the Board of Aldermen, in accordance with the CID Act and the qualifications set forth in the Petition.

**Section Fourteen.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional, or unlawful for any reason, by any court of competent jurisdiction, such portion shall be deemed and is hereby declared to be a separate, distinct and independent provision of this ordinance, and such holding or holdings shall not affect the validity of the remaining portions of this ordinance.

#### APPENDIX A

##### 1400 Washington Community Improvement District Petition

Is on file with the City Register.

Approved: June 20, 2007

#### ORDINANCE #67583 Board Bill No. 128

An ordinance recommended by the Port Authority Commission of the City of St. Louis authorizing and directing the Mayor and the Comptroller to enter into a lease agreement between the City of St. Louis and Steel Warehouse Company LLC, for certain land on the Unimproved Wharf for a period of ten (10) years commencing on the date of execution with three (3) five (5) year options, in substantially the form attached hereto and incorporated by reference herein as Exhibit 1, and containing an emergency clause.

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

**SECTION ONE.** The Mayor and Comptroller of the City of St. Louis are hereby authorized and directed to enter into a lease agreement with Steel Warehouse Company LLC for a period of ten (10) years commencing on the date of execution with three

(3) five (5) year options, in substantially the form attached hereto and incorporated by reference herein as Exhibit 1.

### EXHIBIT 1

#### LEASE FOR LAND AND WAREHOUSE SPACE

This LEASE FOR LAND AND WAREHOUSE SPACE (this "Lease") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between The City of St. Louis, a body corporate and a political subdivision duly organized and validly existing under its charter and the Constitution and laws of the State of Missouri (hereinafter called "Lessor"), and Steel Warehouse Company LLC (hereinafter called "Lessee").

#### WITNESSETH:

1. The term "Lease" shall mean this agreement, including amendments thereto, together with any Exhibits and the attached APPENDIX "A," and any amendments thereto.

2. That, for and in consideration of the rents hereinafter reserved to be paid by Lessee to the Lessor, and the mutual covenants and agreements herein contained, the Lessor hereby leases and lets to Lessee the following described land (the "Leased Premises"), to wit:

#### PARCEL A

Beginning at the intersection of the east right-of-way line of First Street, 66.50 feet wide, with the north right-of-way line of Clinton Street, 60 feet wide in City Block 2142; thence N. 21° 34' 27" W. along the eastern line of said First Street, a distance of 83.00 feet to a point; thence N. 8° 01' 35" W. a distance of 85.38 feet to a point; thence N. 4° 48' 42" W. a distance of 173.36 feet to a point; thence N. 68° 25' 33" E. a distance of 24.00 feet to a point; thence N. 21° 34' 27" W. a distance of 53.00 feet to a point; thence N. 68° 25' 33" E. a distance of 18.00 feet to a point; thence N. 21° 34' 27" W. a distance of 55.00 feet, thence N. 68° 25' 33" E. a distance of 141.59 feet to a point; thence S. 21° 34' 27" E. a distance of 55.00 feet to a point; thence N. 68° 25' 33" E. a distance of 60.00 feet to a point; thence S. 52° 13' 25" E. a distance 61.61 feet to a point; thence S. 54° 41' 01" E. a distance of 73.95 feet to a point; thence S. 47° 25' 25" E. a distance of 99.98 feet to a point; thence S. 37° 52' 16" E. a distance of 95.00 feet to a point; thence S. 30° 32' 08" E. a distance of 90.00 feet to a point along said northern line of Clinton Street; thence S. 68° 25' 33" W. a distance of 469.66 feet to said point of beginning; containing 152,888 square feet or 3.50 acres more or less.

#### PARCEL B

Commencing at the intersection of the northern right-of-way line of Clinton Street, 60 feet wide and the eastern right-of-way line of First Street, 80 feet wide; thence N. 68° 25' 33" E. a distance east of 469.66 feet to the point of beginning, said point being in the former northern right-of-way line of Clinton Street; thence continuing eastwardly along said line of Clinton Street prolongation N. 68° 25' 35" E. a distance of 63.44 feet to a point, said point being 14 feet west of center line of the most western existing railroad track; thence northwardly along an arc, deflecting to the left a distance of 235.20 feet to the point of tangency of curve, said curve having a radius of 1160.90 feet with a central angle of 11° 36' 30" and a chord bearing of N. 38° 26' 18" W; thence N. 44° 14' 32" W. a distance of 78.55 feet to the point of tangency of a curve; thence northwestwardly along an arc, deflecting to the right a distance of 211.65 feet to a point 40 feet south of the south line of North Market Street, 100 feet wide; said curve has radius of 1633.33 feet with a central angle of 7° 31' 36" and a chord having a bearing of N. 40° 32' 25" W; the three immediate aforementioned distances are 14 feet West of the center line of existing western track; thence S. 68° 25' 54" W. along a line parallel to and 40 feet south of southern right-of-way line of North Market Street, 100 feet wide, a distance of 230.17 feet to a point; thence S. 0° 0' 0" W. a distance of 61.47 feet to a point; thence N. 68° 25' 33" E. a distance of 140.57 feet to a point; thence S. 21° 34' 27" E. a distance of 55.00 feet to a point; thence N. 68° 25' 33" E. a distance of 60.00 feet to a point; thence S. 53° 33' 56" E. a distance of 135.52 feet to a point; thence S. 49° 10' 18" E. a distance of 20.92 feet to a point; thence S. 46° 57' 40" E. a distance of 79.07 feet to a point; thence S. 40° 51' 18" E. a distance of 95.33 feet to a point; thence S. 27° 24' 15" E. a distance of 90.57 feet to a point on the north line of Clinton Street and being the point of beginning; containing 45,416 square feet or 1.04 acres more or less.

3. The term of this Lease shall be for a period of ten (10) years, beginning on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, and terminating on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_, with three (3) five (5) year options, each option to be exercised with the mutual consent of the Lessee and the Lessor's Port Authority Commission and Board of Public Service which consent may be withheld for any reason or for no reason at all. Lessee must give six (6) months written notice to the Office of the Comptroller, Room 212, City Hall, St. Louis, Missouri 63103, prior to the expiration of this Lease or any extension thereof if Lessee wishes to exercise an option to extend for an additional five (5) year period.

4. For the rights and privileges herein granted, the Lessee agrees to pay the rent as described in this Section 4.

Notwithstanding the provisions of Section 1 of APPENDIX "A" to the contrary, the lease rate shall be divided into two (2) categories as described below.

A one-hundred twenty (120) day building preparation period (“BPP”) shall occur, during which period a rental rate of zero dollars (\$0.00) shall apply to both categories. The BPP is identified as beginning on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, through the \_\_\_\_ day of \_\_\_\_\_, 20\_\_. Following the BPP, the Lessee shall commence payment for both categories as below described.

#### Category One

An initial base rate (“IBR”) of \$1.25 per square foot per year shall apply to all warehouse space serviced with overhead cranes (“OC”) beginning on the \_\_\_\_ day of \_\_\_\_\_, 2007. The IBR shall increase by \$.25 cents per square foot per year for OC space in each subsequent year achieving a final rate of \$2.00 per square foot per year beginning in year four (4) for OC space. This final rate of \$2.00 per square foot for OC space shall not be subject to any further increase for a period of not less than six (6) years.

OC space contains 105,095 square feet. The annual rent for OC space for the first year beginning on the \_\_\_\_ day of \_\_\_\_\_, 2007, is One Hundred Thirty One Thousand, Three Hundred Sixty Eight Dollars and Seventy Five Cents (\$131,368.75) paid monthly in advance at the first of each month beginning on the \_\_\_\_ day of \_\_\_\_\_, 2007. The annual rent for OC space for the second year beginning on the \_\_\_\_ day of \_\_\_\_\_, 2008, is One Hundred Fifty Seven Thousand Six Hundred Forty Two Dollars and Fifty Cents (\$157,642.50) paid monthly in advance at the first of each month beginning on the \_\_\_\_ day of \_\_\_\_\_, 2008. The annual rent for OC space for the third year beginning on the \_\_\_\_ day of \_\_\_\_\_, 2009, is One Hundred Eighty Three Thousand Nine Hundred Sixteen Dollars and Twenty Five Cents (\$183,916.25) paid monthly in advance at the first of each month beginning on the \_\_\_\_ day of \_\_\_\_\_, 2009. The annual rent for OC space for the fourth year through on the \_\_\_\_ day of \_\_\_\_\_, 2017, is Two Hundred Ten Thousand One Hundred Ninety Dollars (\$210,190.00) paid monthly in advance at the first of each month beginning on the \_\_\_\_ day of \_\_\_\_\_, 2017.

#### Category Two

A warehouse base rate (“WBR”) of Forty Cents (\$.40) cents per square foot per year shall apply for other warehouse space (“OWS”) identified as bays and office space not serviced with overhead cranes. This WBR will remain fixed for a ten (10) year period, beginning on the \_\_\_\_ day of \_\_\_\_\_, 2007.

OWS contains 47,793 square feet. The annual rent for OWS is Nineteen Thousand One Hundred Seventeen Dollars and Twenty Cents (\$19,117.20) paid monthly in advance at the first of each month beginning on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

#### Additional Terms

A. After year ten (10) for each of the two (2) categories, further adjustments to the IBR and WBR may be considered at five (5) year intervals beginning on the \_\_\_\_ day of \_\_\_\_\_, 2017, upon recommendation of the Port Authority Commission and approval of the Board of Public Service. Any such recommendation shall be made by the Port Authority Commission within 180 days of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the anniversary date of each five (5) year interval. The maximum adjustment which can be recommended and approved shall be twenty-five percent (25%) of then current adjusted IBR and WBR set out above. Each adjustment shall be added to the base rates plus any previous adjustments and the resultant rate shall be called the current adjusted IBR and WBR. If the recommended adjustment to the base rate by the Port Authority Commission and the approval by the Board of Public Service is in excess of fifteen percent (15%), the recommended and approved raise of the rate shall be additionally approved by resolution of the Board of Aldermen. If the Board of Aldermen fails to act before the effective date of the rate increase, the rate then shall be automatically adjusted by fifteen percent (15%).

B. To the extent Section 1 of APPENDIX “A” is contrary to this Section 4, this Section 4 shall apply. APPENDIX “A” is attached hereto and incorporated by reference.

5. The Lessee shall use the Leased Premises as a Steel Service Center for processing and distribution activities. Potentially including, slitting, cut-to-length, shearing, cold reduction, annealing, pickling, burning, tube manufacturing and post processing. A steel fabrication process potentially including welding, stamping, punching, forming and painting. Lessee is responsible for all maintenance requirements for the Leased Premises.

6. The Lessee has undertaken a Phase I investigation of the Leased Premises for the purpose of establishing a base line measure of the condition of the Leased Premises prior to its occupancy by Lessee. The Port Authority of the City of St. Louis will cooperate with the Lessee and share in the costs of undertaking a Phase II environmental investigation of the condition of the Leased Premises, if warranted by the results of the Phase I investigation. Anything in APPENDIX “A” to the contrary notwithstanding, including without limitation the provisions of Section 28, upon expiration of the Lease Term or earlier termination of this Lease, Lessee shall be responsible for restoration of the environmental condition of the Leased Premises only to the extent it has contributed to any changes in the environmental condition of the Leased Premises from the base line measure of the condition. The reports from the Phase I, and if undertaken, Phase II, environmental investigation shall be attached hereto as Appendix B and incorporated herein by reference.

7. Notwithstanding the provisions of Section 4 of APPENDIX “A” to the contrary, violations of federal and state laws or City ordinances constituting a breach of this Lease are defined within the context of environmental violations as defined within Section 4 and the City’s right to terminate this Lease pursuant to this Section is subject to Lessee’s opportunity to remedy violations in the manner provided in this Section.

8. Notwithstanding the provisions of Section 5 of APPENDIX "A" to the contrary, Lessee shall, during the term of this Lease, provide Property Damage Insurance in an amount equal to the market value of the Leased Premises as established by appraisal. Lessee shall provide environmental impairment liability insurance as required in Section 5, subsections (2) and (3), only to the extent Lessee's St. Louis operations conducted at the Leased Premises meet the conditions of this subsection. Lessee's obligation to "forever" indemnify the City shall be to the extent permitted by law and is in connection with environmental violations at the Leased Premises.

9. Lessee shall annually provide the Port Commission with proof of compliance in accordance with Section 29 of APPENDIX "A" or upon request of the Port Commission upon a reasonable belief that a violation has occurred or is about to occur.

10. Notwithstanding the provisions of Section 32 to the contrary, upon termination of this Lease as a result of a breach by Lessee, except as provided in Section 13 of this Lease, Lessee shall continue to be obligated under the terms of this Lease, including the obligation to continue to pay Base Rental and other required sums, through term of this Lease until and unless the Leased Premises shall have been relet.

11. Any references in APPENDIX "A" to mooring vessels or mooring area rights shall not be applicable to this Lease unless Lessee is granted access or rights to mooring areas.

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

LESSEE:  
STEEL WAREHOUSE COMPANY LLC  
By: \_\_\_\_\_

LESSOR:  
THE CITY OF ST. LOUIS  
\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Comptroller  
ATTEST:  
\_\_\_\_\_  
City Register

APPROVED AS TO FORM, ONLY:  
\_\_\_\_\_  
City Counselor

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

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me appeared FRANCIS G. SLAY and DARLENE GREEN to me personally known, who being by me duly sworn did say that they are the Mayor and Comptroller of the City of St. Louis and that they are authorized to execute this Lease on behalf of the City of St. Louis under the authority of Ordinance No. \_\_\_\_\_ and acknowledge said instrument to be the free act and deed of the City of St. Louis.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed by official seal in the City of St. Louis 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, a Notary Public in and for the City of St. Louis, Missouri, appeared \_\_\_\_\_ who, being sworn, did say that he/she is \_\_\_\_\_ of Steel Warehouse Company LLC and that said Lease was signed in behalf of said company/corporation by authority of instrument to be the free act and deed of said company.

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

\_\_\_\_\_  
Notary Public

My Commission Expires:

(SEAL)

**APPENDIX "A"**  
**STANDARD PROVISIONS**  
**LEASES OF WHARF LAND AND MOORING RIGHTS**

1. The base rate of \$0.0750 (current adjusted base rate \$0.14625) per square foot of land and \$7.50 (current adjusted base rate \$14.625) per linear foot of mooring may be adjusted at five year intervals beginning January 1, 2009, upon recommendation of the Port Commission and approval of the Board of Public Service. No such recommendation may be made by the Port Commission unless within 180 days before January 1 on which the adjusted rates are to become effective, the Port Commission shall conduct a public hearing with due notice to the public and to the users of City owned land and mooring rights. The maximum adjustment which can be recommended and approved shall be twenty-five percent (25%) of the base rates set out in the first sentence of this section. Each adjustment shall be added to the base rate plus any previous adjustments and the resultant rate shall be called the current adjusted base rate. If the recommended adjustment to the base rate by the Board of Public Service is in excess of fifteen percent (15%), the recommended raise of rate shall be approved by resolution of the Board of Aldermen. If the Board of Aldermen fails to act before the effective date of the rate increase, the rate then shall be automatically adjusted by fifteen percent (15%).

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

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

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

- (1) The term "City" shall mean The City of St. Louis, Missouri, a city and political subdivision duly organized and existing under its charter, the Constitution and laws of the State of Missouri.
- (2) The term "Discharge" shall have the meaning ascribed to such term by §311(a)(2) of the Clean Water Act, 33 U.S.C. 1321(a)(2);
- (3) The term "Environmental Law" shall mean any international, foreign, federal, state, regional, county, local, governmental, public or private statute, law, regulation, ordinance, order, consent decree, judgment, permit, license, code, covenant, deed restriction, common law, treaty, convention or other requirement, pertaining to protection of the environment, health or safety of person, natural resources, conservation, wildlife, waste management, any Hazardous Material Activity (as hereinafter defined), and pollution (including, without limitation, regulation of releases and disposals to air, land, water and ground water), including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, 42 U.S.C. 9601 et seq.; Solid Waste Disposal Act (SWDA) of 1965, 42 U.S.C. 6901 et seq., as amended by the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984; Federal Water Pollution Control Act (Clean Water Act) of 1948, 33 U.S.C. 1251 et seq, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987; Air Pollution Control Act of 1955, 42 U.S.C. 7401 et seq, as amended by the Clean Air Act of 1990; Toxic Substances Control Act (TSCA) of 1976, 15 U.S.C. 2601 et seq, as amended from time to time, and regulations promulgated thereunder; Occupational Safety and Health (OSH) Act of 1970, 29 U.S.C. 651 et seq, as amended from time to time, and regulations promulgated thereunder; Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, 42 U.S.C. 11001 et seq, as amended by the Debt Collection Improvement Act (DCIA) of 1996; National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., as amended from time to time, and regulations promulgated thereunder; and any similar or implementing state law, and all amendments, rules, regulations, guidance documents and publications promulgated thereunder;
- (4) The term "Hazardous Material" as used in this Lease shall mean any hazardous or toxic chemical, waste, byproduct, pollutant, contaminant, compound, product or substance, including, without

limitation, asbestos, polychlorinated byphenyls, petroleum (including crude oil or any fraction thereof), and any material the exposure to, or manufacture, possession, presence, use, generation, storage, transportation, treatment, release, disposal, abatement, cleanup, removal, remediation or handling of which, is prohibited, controlled or regulated by any Environmental Law;

- (5) The term "Improved Wharf" shall mean Improved Wharf as defined in Section 21.08.060 of the Revised Code of the City of St. Louis;
- (6) The term "Infectious Waste" shall mean any substance designated or considered to be an Infectious Waste pursuant to any Environmental Law;
- (7) The term "Lease" shall mean the Lease Agreement to which this Appendix A is attached together with any Exhibits and together with this Appendix A, and any amendments thereto;
- (8) The term "Lease Agreement" shall mean the lease agreement, including amendments thereto, to which this Appendix A is attached;
- (9) The term "Leased Premises" shall mean the leased premises and/or mooring area or leased area as defined in Section One (1) or other Sections, of the Lease Agreement;
- (10) The term "Oil" shall mean any substance designated or considered to be an oil pursuant to any Environmental Law;
- (11) The term "Port Commission" shall mean the Port Authority Commission of the City of St. Louis;
- (12) The term "Solid Waste" shall mean any substance designated or considered as a solid waste pursuant to any Environmental Law.

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

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

5. Lessee agrees to hold Lessor harmless from and to defend the Lessor from any and all claims for injuries or damages resulting from or arising out of Lessee's use of the Leased Premises or mooring area described herein; furthermore Lessee will at all times during the Term of this Lease at its own cost, and for the benefit of the City, protect the City with Public Liability and Property Damage Insurance, issued in the name of Lessee and naming the City and Port Commission as additional non-contributing named insureds, covering each person up to One Million Dollars (\$1,000,000) with an overall limit as to all persons for each occurrence of Three Million Dollars (\$3,000,000) as well as coverage of Three Million Dollars (\$3,000,000) for property damage, approved by the City Counselor as to form and by the Comptroller as to surety and reserving the right of recovery by the City in the event of damage to City owned property.

Included in the insurance policy shall be coverage requiring immediate removal of the vessel when the vessel is damaged or sunken from any cause whatsoever. This clause shall be expressed as a specific warranty by the insurance company regardless of cause.

Lessee, and its successors and assigns, shall forever indemnify, defend and hold harmless, the City of St. Louis, the Port

Commission, its governing members, directors, officers, agents, attorneys, employees, independent contractors, and successors and assigns, from and against all claims, without limitation, damages, punitive damages, liabilities, losses, demands, claims, cost recovery actions, lawsuits, administrative proceedings, orders, response costs, compliance costs, investigation expenses, consultant fees, attorneys fees, paralegal fees and litigation expenses, arising from: (i) any Hazardous Material activity by Lessee, its successors or assigns, or at the Leased Premises; (ii) the operation of any applicable Environmental Law against Lessee or Leased Premises; (iii) any environmental assessment, investigation, and environmental remediation expenses; (iv) the violation at the Leased Premises or by Lessee of any applicable Environmental Law; or (v) any third party claims or suits filed or asserted.

Promptly after receiving notice, the Lessee, and its successors or assigns, shall pay all costs and expenses incurred by Lessor and its successors and assigns to enforce the provisions of this indemnification, including without limitation, attorney and paralegal fees and litigation expenses. The obligations of Lessee under this Section Five (5) and this indemnification shall survive the termination of this Lease and shall remain in force beyond the expiration of any applicable statute of limitations and the full performance of Lessee's obligations hereunder.

Lessee shall be required to purchase and maintain environmental impairment liability insurance, during the term of this Lease, in the amount of Three Million Dollars (\$3,000,000.00), or such other amount as shall be determined solely by the Port Commission, and naming the City of St. Louis as an additional primary, non-contributing insured, if:

- (1) at any time more than the reportable quantity of a Hazardous Material, Oil or Infectious Waste will be stored or otherwise present on the Leased Premises in any form whatsoever, including in any type of container(s) (including, but not limited to, drums, barrels, boxes, bags, tank trucks or trailers, rail cars or storage tanks, whether above or below ground);
- (2) Lessee is required by federal or state law and/or regulation, as a result of or in connection with Lessee's operations on the Leased Premises, to obtain a permit for (a) any Discharge of effluents, pollutants, toxic pollutants or other substances into waters of the United States, tributaries thereof, sewer systems and/or publicly owned treatment works; (b) any Discharges of effluents, pollutants or toxic pollutants to a sewer system and/or publicly owned treatment works subsequent to pretreatment thereof; (c) any emission, release or Discharge of pollutants or other substances into the air or land; (d) treatment, storage or disposal of Hazardous Waste(s); (e) treatment, storage or disposal of Infectious Waste(s); (f) treatment, storage, processing, management, recycling or disposal of Solid Waste(s); (g) operation of a waste tire site or waste tire processing facility; or (h) placement of fill or dredged material into the waters of the United States or onto adjacent property;
- (3) Lessee is required by Environmental Laws or is otherwise required to obtain a hazardous waste generator identification number from either the federal or a state government;
- (4) Lessee engages in the recycling, recovery or reclamation of Solid Waste and/or Hazardous Material on the Leased Premises;
- (5) Lessee engages in the manufacture of hazardous, extremely hazardous, or toxic substances, or Hazardous Material, in, on, or about the Leased Premises.

The environmental impairment liability insurance required pursuant to the terms of this Section Five (5) shall provide coverage for unexpected and unintended liability, damages and injuries arising or resulting from sudden and accidental, continuous or repeated Discharges, spills and releases, into or onto the air, water, soil, sewer system or similar media, of any hazardous substance, Hazardous Material, pollutant, toxic pollutant, extremely hazardous substance, toxic substance, Infectious Waste, Solid Waste, or similar material or substance, which disposal, Discharge, release or spill occurs in, on, from, or about the Leased Premises.

Any insurance policy which Lessee is required to obtain pursuant to the provisions of this Section Five (5) shall provide that said policy may not be canceled except upon the giving of thirty (30) days notice of such cancellation to the Comptroller's Office and the Port Commission. Furthermore, any policy limit requirements for any insurance policy which Lessee is required to obtain pursuant to this Section Five (5) maybe increased and adjusted upon recommendation and approval of the Board of Public Service. In the event that any policy which Lessee is required to obtain pursuant to the provisions hereof is canceled by the insurer or has an expiration date prior to the expiration of the Term of this Lease, Lessee shall be required to obtain replacement insurance, and provide proof thereof to the Comptroller's Office and the Port Commission, prior to the date that the cancellation or expiration becomes effective. Failure to do so shall be considered a breach of this Lease. The Lessee shall notify or cause the insurance company to notify the Comptroller's Office and the Port Commission of the renewal of all insurance required pursuant to the provisions of this section or of the cancellation of same. Failure to do so shall be considered a breach of this Lease.

For any type of insurance, Lessee is required to provide, pursuant to this Section Five (5), certificates evidencing such insurance and copies of the policy governing such insurance to the Comptroller's Office and to the Port Commission before the Lease is issued, and shall file replacement certificates of insurance and policies at least fifteen (15) days prior to the expiration of any original or replacement certificates. Lessee shall maintain said insurance coverage during the life of this Lease, and any renewal or extension thereof, and shall provide proof of same within five (5) days of request by the City or the Port Commission. If Lessee, at any time during the Term of this Lease after execution of this Lease, commences engagement in any of the activities or is required to obtain any permit or number referenced in subparagraphs (1) through (5) of this Section Five (5), Lessee shall furnish such certificates and policy copies to the Comptroller and to the Port Commission prior to engaging in any such activities or obtaining any such permit or number. Failure to do so shall be considered a breach of this Lease.

6. Upon the nonpayment of the rent due under the Lease at the time when the same becomes due, or upon the nonperformance by the Lessee of any of the provisions or requirements under the Lease, the Lessor, at its election, may terminate this Lease, provided that the Lessee shall, after notice of nonpayment, breach or default, have thirty (30) days to cure any such nonpayment, and ninety (90) days to cure any such other breach, unless the provisions hereof provide either that a specified breach is grounds for immediate termination of the Lease or that failure to cure within a specified time frame of less than thirty (30) days is grounds for immediate termination (such as violating a statute or other law). The failure and omission of the Lessor to declare this Lease forfeited upon the breach or default of said Lessee in the payment of said rents as the same become due, or the nonperformance of any of the substantive covenants to be performed by the Lessee, shall not operate to bar, abridge, or destroy the right of the Lessor to declare this Lease null and void upon any subsequent breach, forfeiture or cause therefore by the Lessee.

7. Lessee agrees to pay ad valorem taxes on boats, vessels, aircraft or watercraft and on operation of same that may be moored on said Leased Premises or involved in any operations within said Leased Premises, including all other owned property and equipment, and it is agreed that the Lessee will not deny the authority of the proper assessing agency to assess ad valorem taxes on said improvements. Further, Lessee agrees to pay any and all taxes, fees and assessments due on any other aspect of Lessee's business operations or improvements within the Leased Premises. The Lessee reserves the right to question the amount of such assessment in any court of competent jurisdiction or other tribunal established by law to correct the valuation of the property on which the assessment of such tax is based. Failure to pay ad valorem and/or other taxes, fees and/or assessments due as and when due, whether or not such taxes, fees and/or assessments are appealed, shall be considered a breach of the terms of this Lease. All barges In Transit shall be exempt from the payment of taxes, fees and/or assessments. "In Transit" shall mean moored at the Leased Premises for not more than seven (7) calendar days in any 365-day period.

8. If the Lessee remains in possession of the Leased Premises after the expiration of the Term for which it is leased and the Lessee pays rent and the Lessor accepts said rent, such possession shall be construed as creating a month to month tenancy and not a renewal or extension of this Lease, but such month to month tenancy shall not continue for more than one (1) year. If the Lessee continues to occupy the Leased Premises on a month to month basis following the expiration of the Lease Term, Lessee's obligations under the Lease shall continue in full force and effect for the duration of Lessee's occupancy of the Leased Premises. Any such month to month tenancy may be terminated by Lessor at any time.

9. The Lessor reserves the right to modify, amend, or cancel this Lease as set forth in Section Ten (10) hereof in the event any portion of the Leased Premises is needed for any municipal purpose, which shall include, but is not limited to, right of way, sewer, Floodwall or Floodwall construction or repair, any other necessary or reasonable municipal purposes or use, and/or economic development in the Port District as defined by the Lessor in Lessor's sole discretion.

10. In the event that any portion of the Leased Premises or mooring area shall be needed for any municipal purpose as set forth in Section Nine (9) above, the Lessor shall have the right to modify, amend, or cancel this Lease upon one (1) year's written notice thereof to Lessee (or, in the case of an emergency, the existence of which shall be determined in Lessor's reasonable discretion, upon no less than fourteen (14) days' notice) and to eliminate from the Leased Premises such portion of the Leased Premises or mooring area as shall be needed for such purpose, which portion may include all of such Leased Premises or mooring area. In such event, it is agreed and understood by Lessee that no claim or action for damages or other compensation shall arise or be allowed by reason of such termination or modification, other than as set forth in Section Eleven (11) below. Written notice when required shall be deemed to be sufficient and delivered when sent by Certified U.S. Mail to Lessee's last known address.

11. If this Lease is amended or modified under the provisions of Sections Nine (9) and/or Ten (10), the current rent shall be adjusted in direct proportion to the change made in the Leased Premises. Lessee shall have the right to terminate this Lease without penalty by written notice within ninety (90) days after Lessor sends the notice to amend provided by Section Ten (10) if Lessee determines, in Lessee's sole discretion, that the portion of the Leased Premises which will remain after the elimination of the portion to be used for municipal purposes is not suitable to the Lessee. Lessee hereby acknowledges and agrees all other provisions of this Lease shall remain in effect for the duration of the Term for that remaining portion of the Leased Premises not used for municipal purposes under Sections Nine (9) and Ten (10). Lessee hereby acknowledges and agrees that the Lease shall be deemed terminated with respect to the portion of the Leased Premises eliminated pursuant to the notice referenced in Section Ten (10) above on the one-year anniversary of the date of the notice referenced in Section Ten (10) above, provided, however, that in the case of an emergency as described in Section Ten (10) above, the Lease shall be deemed terminated on the date specified in the notice.

12. In the event this Lease is canceled, modified or amended under the provisions of Sections Nine (9) and/or Ten (10) hereof, the Lessor shall cause the Lessee to be reimbursed, in accordance with the provisions of this Section Twelve (12), for the cost of capital improvements the Lessee has made and paid for on the Leased Premises pursuant to the written approval of the Board of Public Service including any such approved improvements in place on the commencement date of this Lease and made and paid for by Lessee during any prior lease term, **provided, however**, that Lessor shall not cause the Lessee to be reimbursed for any capital improvements: (a) the cost of which is or was expressly invoiced to the Lessee's customers via a separate surcharge for such improvements on any such customer's bill; or (b) removable from the Leased Premises and reusable at another location. It is agreed and understood that the term capital improvements shall not include wharf boats, vessels or other floating improvements. Lessee agrees that the amount of the anticipated profits shall not be a factor in the determination of any reimbursement. Furthermore, Lessee shall not be entitled to any reimbursement for any capital improvements during any period that Lessee remains in possession of the Leased Premises in a month to month tenancy after the expiration of the Term as described in Section Eight (8), above. No funds from the City of St. Louis general revenue shall be used for the purpose of providing any reimbursement required pursuant to this Section Twelve (12).

In the event that the rate/rates for service to Lessee's customer(s) has/have been increased expressly and by separate invoice

line item to cover the cost of any capital improvement made by Lessee, Lessor and Lessee agree that the sum of all payments made by such customers with respect to such capital improvement and the terms of the financing for such capital improvement shall be taken into account in determining the Lessee's cost of the capital improvement.

13. The Lessee shall have the right to terminate this Lease upon service of one (1) year's written notice and the payment of an additional one (1) year's rental which shall accompany such notice. The payment of the additional year's rental shall not relieve Lessee of the obligation to pay the current year's rental as provided herein. In the event Lessee shall terminate pursuant to this Section Thirteen (13), no reimbursement shall be made by Lessor under Section Twelve (12).

14. Any sublease, transfer, sale or assignment of Lessee's rights or interests under this Lease, and/or change in corporate structure of Lessee are expressly prohibited unless and until the Board of Public Service, the Port Commission and the Board of Aldermen of the City of St. Louis approves such action. Failure to obtain such approvals before taking any such action shall be considered a breach of this Lease. If such action is so approved, all parts of this Lease are binding on any sublessee, assignee, successor, or new or modified corporate entity.

15. This Lease may be canceled at the option of the City, in the City's sole discretion, if, at any time during the Term of this Lease, the person or persons who on the date of execution of this Lease owns or own a majority of the Lessee's voting shares of stock, ceases or cease to own a majority of such shares, except if such change in ownership is the result of transfer(s) by inheritance, or the result of a public offering pursuant to the Securities and Exchange Act of 1934, as amended, or the result of merger of the Lessee into or consolidation with another corporation.

This Lease may be canceled at the option of the City, in its sole discretion, if the Lessee sells a majority of or all of the assets of the Lessee without Board of Public Service and Port Commission approval, which approval shall not be unreasonably withheld. If sale, transfer or assignment of Lessee's stock is approved, all parts of this Lease are binding on the purchaser, transferee or assignee. If the approvals described in this Section are obtained with respect to an action described in this Section, or if no such approvals are required with respect to an action described in this section, all parts of this Lease are binding on any sublessee, assignee, or new or modified corporate entity.

16. The Lessee agrees not to erect any barrier, fence or supporting structures or store any materials on the Floodwall itself or within twenty-five (25) feet of either side of the Floodwall. Notwithstanding any other provision of this Lease, the City and any lawfully designated agent or representative of the City shall retain the right to enter onto any portion of the Leased Premises and to alter any portion of the Leased Premises as may be reasonably necessary to install, inspect, maintain or repair the Floodwall and relief wells whenever the City or its lawfully designated agent or representative deems necessary, in the City's sole discretion. Lessee shall not alter or modify any portion of the Leased Premises that lay within fifty (50) feet of any Floodwall or relief well without the express written consent of the President of the Board of Public Service.

17. Any payment due pursuant to this Lease which is not timely paid shall be delinquent and shall bear interest from the date due at prime rate plus two (2) percent. Prime rate shall be that average rate as established by U.S. Bank N.A. or Bank of America N.A., or any successors or assigns of such Banks.

18. The Lessee shall not store, or allow the storage of, any garbage or trash on the Leased Premises or mooring area. Further, Lessee shall ensure that Lessee, Lessee's customers, and employees and/or guests of Lessee do not throw trash or any articles or materials of any sort whatsoever into the river or onto any portion of the Wharf, mooring area, or Leased Premises. Lessee shall be responsible for enforcing this prohibition. Lessee shall also be responsible for ensuring that the Leased Premises and the adjoining river are at all times neat and free of all trash, rubble, and debris, regardless of whether or not such trash, rubble, and debris was deposited by Lessee. The Lessee shall enforce this clause on any craft or vehicle servicing, or being serviced by, the Lessee. Lessee's failure to abide by the provisions of this section shall be considered a breach of this Lease. The Lessee shall have responsibility for the housekeeping on the Improved Wharf immediately in front of the mooring area and Leased Premises. Failure to maintain this area as required by this Lease or to abide by any other City ordinances shall result in the cancellation of this Lease upon approval by the Board of Public Service and the Port Commission.

19. Upon execution of this Lease, the Lessee shall, at his own expense, have this Lease recorded by the City's Recorder of Deeds.

#### 20. EQUAL OPPORTUNITY AND NONDISCRIMINATION GUIDELINES.

Regarding any contract for work in connection with the improvement of any property included in the Leased Premises, the Lessee (which term shall include Lessee, any designees, successors and assigns thereof, any entity formed to implement a project in which the Lessee has a controlling interest), and Lessee's contractors and subcontractors shall include a clause requiring compliance with all federal, state and local laws, ordinances, or regulations governing equal opportunity and nondiscrimination, and with all Executive Orders of the Mayor of the City St. Louis addressing participation by Minority Enterprises ("MBEs") and Women Business Enterprises ("WBEs") in City-assisted work. The Lessee and its contractor(s) shall not contract or subcontract with any party known to have been found in violation of any such laws, ordinances, regulations or Executive Orders.

Further, Lessee agrees, for itself and for its successors and assigns, that Lessee shall not discriminate in any way on the basis of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap in the sale, lease, rental, use or occupancy of the Leased Premises or any improvements erected or to be erected in or on the Leased Premises or any part thereof. Further, Lessee agrees, for itself and for its successors and assigns, to include covenants in each and every contract entered

into by Lessee with respect to the improvement or operation of the Leased Premises to ensure such discrimination by any of Lessee's contractors is prohibited. The non-discrimination provisions embodied in this Section shall run with the land and shall be enforceable by the Port Commission, by the City, and by the United States of America, as their interests may appear. Lessee agrees that, if the improvement and use of the Leased Premises creates permanent jobs, it shall enter into a First Source Referral Agreement with the Saint Louis Agency on Training and Employment and the Port Commission for referral of Jobs Training Partnership Act-eligible individuals. Said Referral Agreement shall specify the number and types of jobs to be covered by the Referral Agreement, the target date for referrals to begin, and the procedure for referral.

21. On or within thirty (30) days before or after January 1 of each year, Lessee must present to the Port Commission a marine survey by a qualified marine engineer, acceptable to the Port Commission, attesting to the safety of all of the facilities operated by Lessee on, at or in the Leased Premises. Lessee's failure to provide such survey and/or failure of the survey to unequivocally assert that all such facilities are safe shall be considered a breach of this Lease.

22. All vessels must be moored in line parallel to the Floodwall and all mooring activities shall be conducted only pursuant to and shall comply in all respects with all applicable permits.

23. No auxiliary craft shall be moored to any craft or vessel subject to this Lease except for clear and explicit emergency public safety reasons, except as expressly permitted by the Coast Guard and Army Corps of Engineers, and except temporarily for maintenance purposes. Maintenance craft may be moored to another craft or vessel only during the actual time period when maintenance is taking place.

24. After notice to the Board of Public Service and the Port Commission, after submission to the Board of Public Service and the Port Commission of drawings and specifications signed and sealed by a licensed marine engineer, and after issuance of all applicable permits from all applicable City, state and federal regulatory agencies, Lessee shall have the right to install, or modify the installation or use of, deadmen and mooring cells on the bank adjacent to Lessee's mooring area and Leased Premises in accordance with said signed and sealed drawings and specifications and permits. Installations in existence on the date hereof shall be permitted to remain, but any and all modifications or replacement of such installations shall be subject to the requirements of this section.

Lessee shall have the right to ingress and egress to the mooring facilities over the land between the Floodwall and the Leased Premises.

25. Lessee accepts the property in "as is" condition, and, except as otherwise expressly stated elsewhere in this Lease, without any express or implied warranties of suitability, merchantability, fitness for a particular purpose or environmental fitness. The City and the Port Commission have made no representations or warranties, express or implied, and explicitly disclaims the same, concerning the absence of any pollution, contamination, Hazardous Material, Infectious Waste, Solid Waste, underground storage tanks, or hazardous building materials in, on or about the Lease Premises or its improvements, except as may be specifically and expressly stated elsewhere in this Lease.

26. Lessee shall not remove any underground or aboveground storage tanks located on the Leased Premises without first obtaining the written consent of the Port Commission, which consent shall not be unreasonably withheld. Any such removal shall be performed in accordance with any and all applicable laws, regulations and ordinances. During the term of this Lease or any extension thereto, Lessee shall not abandon an underground or aboveground storage tank in place, and Lessee shall remove or replace or repair any such tank within ninety (90) days of any discontinuation of use. Lessee shall not install any underground or aboveground storage tanks on the Leased Premises without first obtaining the permission of the Port Commission. Unless specifically stated elsewhere in this Lease, the Port Commission shall have absolute discretion to approve or deny a request by Lessee to install a new underground or aboveground storage tank. Notwithstanding the foregoing provision, where the Lessee proposes to replace an existing underground or aboveground storage tank with a new tank, the Port Commission shall not unreasonably withhold permission therefor.

27. Lessee must obtain the explicit written permission of the Port Commission prior to applying to an agency or agencies of the state and/or federal governments for a permit or license to:

- (1) treat, store or dispose of Hazardous Material(s);
- (2) treat, store or dispose of waste Oil;
- (3) treat, store, process, manage, recycle or dispose of Solid Waste(s);
- (4) operate a waste tire site or waste tire processing facility; or
- (5) manufacture Hazardous Material(s);

on all or any portion of the Leased Premises. Further, Lessee shall not apply for a permit or license to allow it to place, nor shall Lessee place, any fill or dredged material into the waters of the United States or tributaries thereof which are adjacent to or on the Leased Premises without first obtaining the explicit written approval of the Port Commission therefor. The Port Commission may, in its absolute and unfettered discretion, grant or deny approval for any activity referenced in this Section. Should the Port Commission deny permission for any such activity, Lessee shall abandon plans for such activity on, in or at the Leased Premises and shall not conduct such activity on, in or at the Leased Premises unless and until the Port Commission grants express written approval

for such activity.

28. Upon the expiration or earlier termination of this Lease, Lessee shall quit and peacefully surrender the Premises to Lessor, and Lessor, upon or at any time after any such expiration or termination, may without further notice, enter upon and re-enter the Leased Premises and possess and repossess itself thereof, by summary proceedings, ejectment or otherwise, and may dispossess Lessee and remove Lessee and all other persons and property from the Leased Premises and may have, hold and enjoy the Leased Premises and the right to receive all rental income of and from the same. Lessee shall leave and surrender the Leased Premises to the Lessor in the same condition in which the Leased Premises was at the commencement of this Lease, except as repaired, rebuilt, restored, altered, replaced or added to as permitted or required by any provision of this Lease, and except for ordinary wear and tear. Upon such surrender, Lessee shall (a) remove from the Leased Premises all property which is owned by Lessee or third parties other than the Lessor and (b) repair any damage caused by such removal. Lessee further agrees and warrants that, upon the expiration or earlier termination of this Lease, Lessee shall return the Leased Premises to the City free of any and all Hazardous Material, Infectious Waste, Solid Waste (unless disposal of solid waste on the Leased Premises was specifically permitted by the terms of this Lease or a subsequent written document executed on behalf of, and authorized by, the Port Commission), pollutants, and contaminants which were placed, released, discharged, disposed, and/or spilled on, into, or about the Leased Premises. Lessee shall, upon the expiration or earlier termination of this Lease, remove all product(s) or waste(s) stored in underground and aboveground storage tanks located on the Leased Premises which were installed or used during the term of the Lease. Upon termination or expiration of the Lease, Lessee shall also perform tank tightness testing on all underground and aboveground storage tanks and connecting piping, installed or used during the term of the Lease, and shall, upon request and at the sole discretion of the Port Commission, remove any tanks that were installed by Lessee pursuant to this Lease or a prior lease agreement between the City and the Lessee. Lessee shall also either remove or decontaminate any soil contaminated by leaks from storage tanks or connecting piping installed or used during the term of the Lease. Any such removal and/or decontamination shall be performed in accordance with any and all applicable laws, regulations and ordinances at Lessee's sole cost and expense, which obligation shall survive the expiration or termination of this Lease. In the event that Lessee fails to perform its obligations pursuant to this Section of the Lease, the City shall give Lessee notice of said failure within thirty (30) days of discovering the Lessee's default of its obligations under this section. If Lessee fails to fully comply with its obligations hereunder within thirty (30) days of such notice, the City may undertake any and all legal actions, including but not limited to, injunction and/or specific performance, as are necessary to bring the Leased Premises into compliance with the standards set out herein. In the event that the City is required to undertake actions to bring the Leased Premises into compliance with said standards, Lessee shall reimburse the City for all costs thereof, including, but not limited to, reasonable attorneys fees and expenses, litigation costs, fees for engineering and consulting services, costs of testing, removal, and/or remediation, and disposal costs. The Lessee expressly agrees that the City may attach liens to any of Lessee's real and personal property located in the City of St. Louis in order to recover the City's costs of bringing the Leased Premises into compliance with the standards set out herein.

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

30. During the term of this Lease and any extension thereof, Lessee shall be prohibited from conducting gaming activities on, within or from the Leased Premises or mooring area, or on, within or from any vessel or other facility moored within the Leased Premises or mooring area, and Lessee shall be prohibited from taking any action (including, without limitation, application for a Gaming License, application for appropriate zoning classification, or any other action of any kind or nature) which is in any way related to any possible use of the mooring, docking or other rights granted to Lessee herein for gaming purposes of any kind, without the prior express written consent of the City and Port Commission.

31. The terms and conditions of this Lease shall be binding on Lessee's heirs, successors and assigns.

32. No expiration or early termination of this Lease shall relieve Lessee of its liability and obligations under this Lease, and such liability and obligations shall survive any expiration or early termination. In the event of any such expiration or early termination, whether or not the Leased Premises or any part thereof shall have been relet, Lessee shall continue to pay to the Lessor the Base Rental and all other sums, amounts and charges required to be paid by Lessee during the Term of this Lease. Except as otherwise expressly provided herein, this Lease and the rights of Lessor and the obligations of Lessee hereunder shall not be affected by: (i) any damage to or theft, loss or destruction of any of the Leased Premises, (ii) any default on the part of Lessee hereunder or under any Note, Mortgage, Assignment or any other agreement, (iii) any latent or other defect in any of the Leased Premises, (iv) any violation of any provision of this Lease by Lessor, (v) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution or winding-up of, or other proceeding affecting, Lessee, (vi) the exercise of any remedy, including foreclosure, under any Mortgage or Assignment, (vii) any action with respect to this Lease (including the disaffirmance hereof) which may be taken by Lessee, any trustee, receiver or liquidator of Lessee or any court under the Federal Bankruptcy Code or otherwise, (viii) market or economic changes, or (ix) any other cause, whether similar or dissimilar to the foregoing, any present or future Law to the contrary notwithstanding.

In the event that either (a) Lessee's business fails to operate for any reason for any period in excess of ninety (90) days and Lessee fails to use due diligence to resume its operations, or (b) Lessee's business fails to operate for any reason for any period in excess of one-hundred eighty (180) days regardless of Lessee's due diligence, Lessor may terminate this Lease at the end of either

such period. In the event that Lessee or any corporate entity or individual holding a majority of control over Lessee declares bankruptcy, Lessor may terminate this Lease unless such termination is expressly prohibited by a court of law.

33. This Lease, including any exhibits and this Appendix in their collective entirety, includes all the covenants and agreements between the Lessor and Lessee. This Lease and its exhibits and this Appendix can be changed, renewed, or extended only by amendment in writing signed by Lessor and Lessee and approved by the Port Commission and Board of Public Service, and only when such amendment is authorized by an ordinance enacted for that purpose. In no event shall the lease of wharf property be extended to cover a period of time exceeding a total of twenty-five (25) years as provided by City Charter Article I, Section 1(16).

**Approved: June 20, 2007**

**ORDINANCE #67584  
Board Bill No. 121**

**AN ORDINANCE RECOMMENDED BY THE BOARD OF ESTIMATE AND APPORTIONMENT AUTHORIZING AND DIRECTING THE ISSUANCE AND DELIVERY OF NOT TO EXCEED \$21,410,000 PLUS ISSUANCE COSTS PRINCIPAL AMOUNT OF TAX INCREMENT REVENUE NOTES (PARK PACIFIC REDEVELOPMENT PROJECT), OF THE CITY OF ST. LOUIS, MISSOURI; PRESCRIBING THE FORM AND DETAILS OF SUCH NOTES AND THE COVENANTS AND AGREEMENTS MADE BY THE CITY TO FACILITATE AND PROTECT THE PAYMENT THEREOF; AND PRESCRIBING OTHER MATTERS RELATING THERETO.**

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

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

**WHEREAS**, staff and consultants of the City and ParkPacific TIF, Inc., a Missouri limited liability company (the "Developer"), prepared a plan for redevelopment titled "Park Pacific TIF Redevelopment Plan" dated April 21, 2006, as amended June 23, 2006, with amendments, if any, from time to time, (the "Redevelopment Plan"), for an area bounded on the north by Olive Boulevard, on the east by Tucker Boulevard, on the south by Pine Street and on the west by 13th Street (the "Redevelopment Area" or "Area"), which Redevelopment Area is more fully described in the Redevelopment Plan, such legal description being attached hereto and incorporated herein as Exhibit A; and

**WHEREAS**, on June 14, 2006, the TIF Commission found that completion of the Redevelopment Project (as hereinafter defined) would provide a substantial and significant public benefit through the elimination of blight, strengthening of the employment and economic base of the City, increased property values and tax revenues, stabilization of the Redevelopment Area, and facilitation of economic stability for the City as a whole, and further found that without the assistance of tax increment financing in accordance with the TIF Act, the Redevelopment Project is not financially feasible and would not otherwise be completed; and

**WHEREAS**, after due consideration of the TIF Commission's recommendations, the City adopted: (1) on July 21, 2006, Ordinance No. 67234 [Board Bill No. 163] designating the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, approving the Redevelopment Plan, and approving the redevelopment project described in the Redevelopment Plan, adopting tax increment allocation financing within the Redevelopment Area, and establishing the Special Allocation Fund; and, (2) on \_\_\_\_\_, 2007, Ordinance No. \_\_\_\_\_ [Board Bill No. \_\_\_\_] authorizing the City to enter into a redevelopment agreement with Developer; and

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

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

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

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

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

**SECTION ONE.** Any TIF Notes issued pursuant to this Ordinance shall conform to the following terms and conditions.

## ARTICLE I DEFINITIONS

**Section 1.1 Definitions of Words and Terms.** In addition to the words and terms defined elsewhere in this ordinance (the "Ordinance"), the following capitalized words and terms, as used in this Ordinance, shall have the following meanings:

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

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

"Approving Ordinance" means Ordinance No. 67235 [Board Bill No. 163] adopted on July 21, 2006 designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, making certain findings with respect thereto, adopting tax increment financing within the Redevelopment Area, establishing the Special Allocation Fund, and authorizing certain related actions by City officials.

"Authorized Denominations" means an initial amount of \$100,000 or any integral multiple of \$1,000 in excess thereof, except with respect to the TIF Note issued upon acceptance by the City of the final Certificate of Reimbursable Redevelopment Project Costs, which TIF Note may be issued in any denomination, subject to the limitation on the aggregate Principal Amount, subject to the limitation provided in **Section 2.1** of this Ordinance.

"Authorizing Ordinance" means Ordinance No. \_\_\_\_\_ [ Board Bill No. \_\_\_\_], adopted on \_\_\_\_\_, 2007, affirming adoption of the Redevelopment Plan, Redevelopment Area, and Redevelopment Project, authorizing execution of a Redevelopment Agreement for the construction of the Redevelopment Project and making certain findings related thereto.

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

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

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

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

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

"CID" or "Community Improvement District" means a community improvement district to be formed within part or all of the Redevelopment Area pursuant to Sections 67.1401 to 67.1571 RSMo. (2006) to be known as the Park Pacific Community Improvement District

"CID Costs" has the meaning set forth in **Section 4.1** of this Agreement.

"CID Project" means the "Project" as defined in the petition to create the CID.

"CID Revenues" means the proceeds, after deduction for costs of collection and/or administration, from the imposition of the CID Sales Tax which are not captured as EATs but are instead pledged by the CID to the City for deposit in the EATs Account of the Special Allocation Fund for the repayment of TIF Obligations.

"City" means the City of St. Louis, Missouri, a body corporate and political subdivision duly authorized and existing under

its charter and the Constitution and laws of the State of Missouri.

“Debt Service Fund” means the fund by that name created in **Section 4.1** of this Ordinance.

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

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

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

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

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

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

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

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

“Owner” or “Registered Owner” means, when used with respect to any TIF Note, the person in whose name such TIF Note is registered.

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

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

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

“Project Fund” means the fund by that name created in **Section 4.1** of this Ordinance.

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

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

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

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

“Redevelopment Plan” means the plan titled “Park Pacific TIF Redevelopment Plan” dated April 21, 2006, as amended June 23, 2006, with amendments, if any, and as approved by the City pursuant to the Approving Ordinance, as such plan may from time to time be amended in accordance with the TIF Act.

“Redevelopment Project” or “Park Pacific Redevelopment Project” means the redevelopment project as identified by the Redevelopment Plan and Redevelopment Agreement.

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

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

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

“Revenue Fund” means the fund by that name created in **Section 4.1** of this Ordinance.

“Special Allocation Fund” means the City of St. Louis, Missouri, Park Pacific Special Allocation Fund created by Ordinance No. 67235 [Board Bill No. 163] effective on September 2, 2006 and including the accounts and sub-accounts for the Park Pacific Redevelopment Project into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement, including a PILOTS Account and an EATS Account.

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

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

“TIF Notes” means one or more series of not to exceed \$21,410,000 plus Issuance Costs Tax Increment Revenue Notes (Park Pacific Redevelopment Project), Series 200\_ issued by the City pursuant to and subject to the Redevelopment Agreement and this Ordinance in substantially the form set forth in **Exhibit B**, attached hereto and incorporated herein by reference.

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

**Section 1.2 Rules of Construction.** For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires:

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

Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, associations and limited liability companies, including public bodies. The headings and captions herein are not a part of this document.

Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by generally accepted principles of accounting.

Whenever an item or items are listed after the word “including,” such listing is not intended to be an exhaustive listing that excludes items not listed.

## ARTICLE II AUTHORIZATION OF TIF NOTES

**Section 2.1 Authorization of TIF Notes.** There are hereby authorized and directed to be issued by the City to the Original Purchaser one or more series of the TIF Notes in an aggregate principal amount not to exceed \$21,410,000 plus Issuance Costs. The TIF Notes shall be in substantially the form of Exhibit B, attached hereto and incorporated herein by reference.

### **Section 2.2 Description of TIF Notes.**

(a) **Title of TIF Notes.** There shall be issued one series of one or more Taxable TIF Notes in an aggregate principal amount not to exceed \$21,410,000 plus Issuance Costs authorized hereunder and one series of one or more Tax-Exempt TIF Notes in an aggregate principal amount not to exceed \$21,410,000 plus Issuance Costs less the aggregate principal amount of Taxable TIF Notes. The Taxable TIF Notes shall be designated “Taxable Tax Increment Revenue Notes (Park Pacific Redevelopment Project), Series 200\_”. The Tax-Exempt TIF Notes shall be designated “Tax-Exempt Tax Increment Revenue Notes (Park Pacific Redevelopment Project), Series 200\_”. The TIF Notes may have such further appropriate particular designation added to or incorporated in such title for the TIF Notes of any particular series as the City may determine.

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

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

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

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

(f) Dating. The TIF Notes shall be dated as provided in **Section 2.7**, as evidenced by the Finance Officer's signature on Schedule A to each TIF Note.

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

(h) Sale of TIF Notes. When TIF Notes have been executed and authenticated as required by this Ordinance, the Finance Officer shall hold the TIF Notes in trust or, if directed in writing by the Owners thereof, deliver the TIF Notes to or upon the order of the Owners thereof, as provided in paragraph (g) above, but only upon payment to the City of a purchase price equal to one hundred percent (100%) of the face amount of the TIF Notes, which payment shall be deemed to have occurred under the circumstances described in **Section 4.5** of this Ordinance.

**Section 2.3 Finance Officer to Serve as Paying Agent and Registrar.** The Finance Officer or the authorized representative thereof is hereby designated as the paying agent for the payment of principal of and interest on the TIF Notes and the bond registrar with respect to the registration, transfer and exchange of the TIF Notes and for allocating and holding funds as provided herein.

**Section 2.4 Security for TIF Notes.** All TIF Notes shall be equally and ratably secured by Available Revenues. The TIF Notes shall be special, limited obligations of the City payable solely from and secured as to the payment of principal and interest by a pledge of the Available Revenues. The taxing power of the City is not pledged to the payment of the TIF Notes either as to principal or interest. The TIF Notes shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. **THE OBLIGATIONS OF THE CITY WITH RESPECT TO THE TIF NOTES SHALL TERMINATE ON THE FIRST TO OCCUR OF THE FULL PAYMENT AND DISCHARGE OF THE TIF NOTES OR THE MATURITY DATE (WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HAS BEEN PAID IN FULL).**

**Section 2.5 Method and Place of Payment of TIF Notes.** The principal of and interest on the TIF Notes shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America. Payment shall be made by the Finance Officer as provided in this Note Ordinance and as set forth in Exhibit B. Principal and interest shall be payable by check or draft at the office of the Finance Officer or by wire transfer to the person in whose name such TIF Note is registered on the Register on each Payment Date.

**Section 2.6 Registration, Transfer and Assignment.** So long as the TIF Notes remain outstanding, the City shall cause to be kept at the office of the Finance Officer books for the registration, transfer and exchange of the TIF Notes as herein provided. The TIF Notes when issued shall be registered in the name of the Original Purchaser thereof on the Register.

The TIF Notes and beneficial interest therein may only be purchased by an Original Purchaser and transferred or assigned to the Developer, a Related Entity, a Qualified Institutional Buyer or Project Lender upon the execution by each proposed purchaser, transferee or assignee of a letter in substantially the form of **Exhibit C**, attached hereto and incorporated herein by reference, stating

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

**Section 2.7 Execution, Authentication and Delivery of the TIF Notes.** Each of the TIF Notes, including any TIF Notes issued in exchange or as substitution for the TIF Notes initially delivered, shall be signed by the manual or facsimile signature of the Mayor and the Finance Officer of the City, attested by the manual or facsimile signature of the City Register, and shall have the official seal of the City affixed thereto or imprinted thereon. If any officer whose signature appears on any TIF Note ceases to be such officer before the delivery of such TIF Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any TIF Note may be signed by such persons who at the actual time of the execution of such TIF Note are the proper officers to sign such TIF Note although at the date of such TIF Note such persons may not have been such officers.

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

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

The TIF Notes shall be initially executed and authenticated by the City upon the last to occur of the following: (i) acceptance or deemed acceptance of the Certificate of Substantial Completion; (ii) approval of a Certificate of Reimbursable Redevelopment Project Costs (provided that no such certificate shall be required with respect to any TIF Notes issued on behalf of the CID as reimbursement for CID Costs incurred); (iii) receipt of an opinion of Bond Counsel regarding the taxable nature of the TIF Notes; (iv) the full payment of all advances required to be paid under Section 2.2 of the Redevelopment Agreement; and (v) receipt of such other documentation as the City shall reasonably require of Developer in order for the City to obtain an opinion of Bond Counsel as required by this Section 5.1 of the Redevelopment Agreement.

Upon the Developer's satisfaction of the foregoing conditions and upon approval of each Certificate of Reimbursable Redevelopment Project Costs, the Finance Officer shall either: (i) at the request of the City upon instructions of the Developer, endorse an outstanding TIF Note on Schedule A thereto to evidence an increase in the aggregate principal amount equal to such Reimbursable Redevelopment Project Costs, or (ii) at the request of the City upon instructions of the Developer issue a new TIF Note in a principal amount equal to such Reimbursable Redevelopment Project Costs (and CID Costs, as applicable), or any combination thereof. Each date of endorsement of each such TIF Note shall be the date of acceptance by the City of each Certificate of Reimbursable Redevelopment Project Costs (or, with respect to CID Costs, satisfaction of the conditions of Section 4.1 of the Agreement with respect thereto) except that the initial endorsement of each TIF Note shall be dated the date of issuance of such TIF Note. Thereupon, pursuant to Section 202(h), the TIF Notes shall either be held or delivered to or upon the order of the party submitting the Certificate of Reimbursable Redevelopment Project Costs (or the party designated by the CID) relating to such Notes. Upon acceptance by the City of such a Certificate of Reimbursable Redevelopment Project Costs (or satisfaction of conditions relating to the issuance of TIF Notes on behalf of the CID) in accordance with the Redevelopment Agreement and upon execution and authentication of the TIF Notes as required by this Ordinance, the Developer shall be deemed to have advanced funds to the City in an amount equal to the purchase price of the TIF Notes, which shall be one hundred percent (100%) of the face amount of the TIF Notes, and, upon the issuance of an endorsement of the TIF Notes as provided in the preceding paragraph, the City shall be deemed to have reimbursed the Developer in full for such Reimbursable Redevelopment Project Costs or CID Costs, as applicable.

**Section 2.8 Mutilated, Lost and Stolen TIF Notes.** If any mutilated TIF Note is surrendered to the Finance Officer or the Finance Officer receives evidence to his/her satisfaction of the destruction, loss or theft of any TIF Note and there is delivered to the Finance Officer such security or indemnity as may be required by it to save the City and the Finance Officer harmless, then, in the absence of notice to the Finance Officer that such TIF Note has been acquired by a bona fide purchaser, the City shall execute and the Finance Officer shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen TIF Note, a new TIF Note with the same Maturity Date and of like tenor and principal amount. Upon the issuance of any new TIF Note under this Section, the City and the Finance Officer may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith. If any such mutilated, destroyed, lost or stolen TIF Note has become or is about to become due and payable, the Finance Officer may, in its discretion, pay such TIF Note instead of issuing a new TIF Note.

**Section 2.9 Cancellation, Discharge and Abatement of TIF Notes.** All TIF Notes that have been paid or redeemed or that otherwise have been surrendered to the Finance Officer, either at or before the Maturity Date, shall be canceled and destroyed by the Finance Officer in accordance with existing security regulations upon the payment or redemption of such TIF Note and the surrender thereof to the Finance Officer. The Finance Officer shall execute a certificate in duplicate describing the TIF Notes so cancelled and destroyed, and shall file an executed counterpart of such certificate with the City.

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

### ARTICLE III REDEMPTION AND PAYMENT OF PRINCIPAL AND INTEREST

**Section 3.1 Optional Redemption.** The TIF Notes are subject to optional redemption by the City in whole at any time or in part on any Payment Date at a redemption price of 100% of the principal amount of the TIF Note to be redeemed, plus accrued interest thereon to the date fixed for redemption. The TIF Notes shall be called by the City for optional redemption pursuant to this Section without the necessity of any action by the City other than as provided in **Section 4.3** of this Ordinance. If only a partial redemption is to occur, then each TIF Note shall be redeemed in the order of maturity designated by the City, and within any maturity the TIF Notes shall be redeemed in Authorized Denominations by the City in such manner as it may determine. In the event of an optional redemption of the Notes, unless waived by any Registered Owner of Notes to be redeemed, official notice of any redemption shall be given by the Finance Officer on behalf of the City by mailing a copy of an official redemption notice by first class mail, postage prepaid, at least thirty (30) days (five days if all of the Notes are owned by the Developer) and not more than sixty (60) days prior to the date fixed for redemption, to each Registered Owner of the Notes to be redeemed at the address shown on the Note Register.

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

**Section 3.2 Special Mandatory Redemption.** All TIF Notes are subject to special mandatory redemption by the City on each Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, which amount of principal being redeemed shall be an amount equal to Available Revenues then on deposit in the applicable account of the Special Allocation Fund and which will not be required for the payment of interest on such Payment Date.

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

**Section 3.3 Selection of Notes to be Redeemed.** TIF Notes shall be redeemed only in Authorized Denominations. When less than all of the outstanding TIF Notes are to be redeemed and paid prior to maturity, such TIF Notes or portions of TIF Notes to be redeemed shall be selected in Authorized Denominations by the Fiscal Agent in such equitable manner as it may determine. In the case of a partial redemption of TIF Notes when TIF Notes of denominations greater than the minimum Authorized Denomination are then outstanding, then for all purposes in connection with such redemption each Authorized Denomination unit of face value shall be treated as though it was a separate TIF Note of the denomination of the minimum Authorized Denomination.

**Section 3.4 Notice and Effect of Call for Redemption.** In the event of any optional or special mandatory redemption of the Notes, unless waived by any Registered Owner of Notes to be redeemed, official notice of any redemption shall be given by the Finance Officer on behalf of the City by mailing a copy of an official redemption notice by first class mail to each Registered Owner of the Notes to be redeemed at the address shown on the Note Register.

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

- (a) the redemption date;
- (b) the redemption price;
- (c) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption of any Notes, the respective principal amounts) of the Notes to be redeemed;
- (d) a statement that on the redemption date the redemption price will become due and payable upon each Note or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the redemption date; and

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

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

#### ARTICLE IV FUNDS AND REVENUES

**Section 4.1 Creation of Funds and Accounts.** There are hereby created or ratified and ordered to be established in the treasury of the City the Special Allocation Fund into which all TIF Revenues shall be deposited, and within it the following separate funds and accounts:

- (a) PILOTS Account;
- (b) an EATS Account (and within it, a CID Revenues Account);
- (c) a Revenue Fund and, within it, (A) (i) a PILOTs Account; and (ii) an EATS Account, into which all Available Revenues shall be deposited;
- (d) a Debt Service Fund; and
- (e) a Project Fund.

**Section 4.2 Administration of Funds and Accounts.** The Special Allocation Fund and the funds and accounts established therein shall be maintained in the treasury of the City and administered by the City solely for the purposes and in the manner as provided in the Act, this Ordinance, the Approving Ordinance, and the Authorizing Ordinance so long as any TIF Notes remain outstanding hereunder.

#### **Section 4.3 Revenue Fund.**

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

- (i) Those Available Revenues attributable to PILOTs into the PILOTs Account of the Revenue Fund; and
- (ii) Those Available Revenues attributable to EATs and CID Revenues into the EATs Account of the Revenue Fund.

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

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

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

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

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

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

*Sixth*, all other remaining money in the PILOTs Account and the EATs Account of the Special Allocation Fund shall annually be declared as surplus and distributed in the manner provided in the TIF Act and/or the CID Act (as such term is defined in the Redevelopment Agreement), as applicable.

If monies available in the Special Allocation Fund are insufficient to reimburse the City as provided above on any Payment Date, then the unpaid portion shall be carried forward to the next Payment Date, with interest thereon at the same rate as the tax-exempt TIF Obligations.

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

**Section 4.4 Debt Service Fund.**

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

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

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

**Section 4.5 Project Fund.** Upon acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs and the issuance or endorsement of a TIF Note pursuant to **Section 2.7** of this Ordinance, the Developer shall be deemed to have advanced funds necessary to purchase such TIF Note and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Developer or paid for in full for such costs from the amounts deemed to be on deposit in the Project Fund.

**Section 4.6 Nonpresentment of Notes.** If any TIF Note is not presented for payment when the principal thereof becomes due at stated maturity or prior redemption date, if funds sufficient to pay such TIF Note have been made available to the Finance Officer, all liability of the City to the Registered Owner thereof for the payment of such TIF Note shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Finance Officer to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such TIF Note, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, said TIF Note. If any TIF Note is not presented for payment within five (5) years following the date when such TIF Note becomes due at maturity, the Finance Officer shall repay to the City the funds theretofore held by it for payment of such TIF Note, and such TIF Note shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Registered Owner thereof shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid to it by the Finance Officer, and the City shall not be liable for any interest thereon and shall not be regarded as a Finance Officer of such money.

**ARTICLE V  
REMEDIES**

**Section 5.1 Remedies.** The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owner. The Owner shall have the right:

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

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

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

**Section 5.2 Limitation on Rights of Owner.** The Owner secured hereby shall not have any right in any manner whatever by its action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided.

**Section 5.3 Remedies Cumulative.** No remedy conferred herein upon the Owner is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of the Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owner by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by the Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to the Owner, then, and in every such case, the City and the Owner shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties

of the Owner shall continue as if no such suit, action or other proceedings had been brought or taken.

#### **ARTICLE VI DEPOSIT AND INVESTMENT OF MONEYS**

**Section 6.1 Deposits of Moneys.** All moneys deposited with or paid to the Finance Officer for the account of the various funds established under this Ordinance shall be held by the Finance Officer in trust and shall be applied only in accordance with this Ordinance. The Finance Officer shall not be under any liability for interest on any moneys received hereunder except as otherwise provided herein.

**Section 6.2 Investment of Moneys.** Moneys held in any fund or account referred to in this Ordinance shall be invested by the City as set forth in Section 95.530 Revised Statutes of Missouri of Missouri, as amended. All earnings on any investments held in any fund shall accrue to and become a part of such fund or account.

#### **ARTICLE VII MISCELLANEOUS PROVISIONS**

**Section 7.1 Covenant to Request Appropriations.** The City agrees that it shall comply with its Charter, Article XVI, Section 3 for each fiscal year that the TIF Notes are outstanding and the City official(s) shall request an appropriation of all moneys on deposit in the Special Allocation Fund for transfer to the Finance Officer for deposit at the times and in the manner provided in **Section 4.3** of this Ordinance.

**Section 7.2 Tax Matters.** Neither the City nor the Developer shall use or permit the use of any proceeds of the Tax Exempt TIF Note to acquire any securities or obligations, and shall not take or permit to be taken any other action or actions, which would cause the Tax Exempt TIF Note to be an "arbitrage bond" within the meaning of Section 148(a) of the Code, or "federally guaranteed" within the meaning of Section 149(b) of the Code. The City (to the extent within its power or discretion) and the Developer shall not use or permit the use of any proceeds of the Tax Exempt TIF Note, and shall not take or permit to be taken any other action or actions, which would result in the Tax Exempt TIF Note being treated as other than an obligation described in Section 103(a) of the Code. The City (to the extent within its power or discretion) and the Developer shall not use any portion of the proceeds of the Tax Exempt TIF Note, including any investment income earned on such proceeds, in any manner that would cause the Tax Exempt TIF Note to be a "private activity bond" within the meaning of Section 141(a) of the Code. The officers of the City, including the Mayor, the Finance Officer and the City Register, shall be, and they hereby are, authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Section.

**Section 7.3 Payments Due on Saturdays, Sundays and Holidays.** In any case where the Payment Date is a Saturday, a Sunday or a legal holiday or other day that is not a business day, then payment of principal or interest need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the Payment Date, and no interest shall accrue for the period after such date.

**Section 7.4 Notices, Consents and Other Instruments.** Any notice, consent, request, direction, approval, objection or other instrument required by this Ordinance to be signed and executed by the Owner of the TIF Notes may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owner in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of the TIF Note, if made in the following manner, shall be sufficient for any of the purposes of the Ordinance, and shall be conclusive in favor of the City with regard to any action taken, suffered or omitted under any such instrument, namely:

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

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

**Section 7.5** The City is hereby authorized to enter into and the Mayor and the Finance Officer of the City are hereby authorized and directed to execute and deliver, for and on behalf of and as the act and deed of the City, the TIF Notes and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance. The officers of the City, including without limitation the Mayor, the Finance Officer and the Register, are hereby authorized and directed to execute, and the City Register is hereby authorized and directed where appropriate to attest, all certificates, documents or other instruments, and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instrument and other documents herein approved, authorized and confirmed which they determine to be in the City's best interest, and the execution or taking of such action shall be conclusive evidence of such determination.

**Section 7.6** If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

**Section 7.7** This Ordinance shall be governed exclusively by and constructed in accordance with the applicable

internal laws of the State of Missouri.

**Section 7.8** The Board of Aldermen of the City hereby declares that it is in the City's best interest to sell the TIF Notes at private sale because a public sale of the TIF Notes would cause additional expense to the City and because the condition of the current financial markets makes such a public sale not feasible or the best course of action for the City.

**Section 7.9** After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over his veto; provided that if, within ninety (90) days after the effective date of this Ordinance, the Developer has not (i) executed the Redevelopment Agreement pertaining to the Redevelopment Project and (ii) paid all fees due to the City in accordance with the terms of the Redevelopment Agreement, the provisions of this Ordinance shall be deemed null and void and of no effect and all rights conferred by this Ordinance on Developer, shall terminate, provided further, however, that prior to any such termination the Developer may seek an extension of time in which to execute the Redevelopment Agreement, which extension may be granted in the sole discretion of the Board of Estimate and Apportionment of the City of St. Louis.

**EXHIBIT A**  
**Legal Description of Park Pacific Redevelopment Area**

A parcel of ground in Block 504, of the City of St. Louis, Missouri, described as follows:

Beginning at the point of intersection of the Northern line of Pine Street, 60 feet wide, with the Eastern line of Thirteenth Street, 60 feet wide; thence Northwardly 193.50 feet along the Eastern line of Thirteenth Street, to its intersection with the Southern line of Olive Street, 100 feet wide; thence Eastwardly 150.00 feet along the Southern line of Olive Street, to a point; thence Southwardly 69.23 feet, along a line parallel to and distant 150.00 feet East of the Eastern line of Thirteenth Street, to the Northern line of the 15 foot wide East and West alley in said Block; thence Westwardly 11.00 feet, along the Northern line of said East and West alley, to the Western terminus thereof; thence Southwardly 124.23 feet along the Eastern line of said alley, to the Northern line of Pine Street; thence Westwardly 139.00 feet along the Northern line of Pine Street to the Eastern line of Thirteenth Street and the point of beginning.

A parcel of ground in Block 504 of the City of St. Louis, Missouri, described as fronting 25.00 feet on the Southern line of Olive Street, 100 feet wide, and extending Southwardly 69.23 feet between parallel line to the Northern line of the East and West alley in said Block, on which it has a width of 25.00 feet; said parcel bounded on the West by a line parallel to and distant 150.00 feet East of the Eastern line of Thirteenth Street.

A Lot of ground in Block 504 of the City of St. Louis, fronting 50 feet on the South line of Olive Street (as widened by Ordinance No. 30751) by a depth Southwardly of 69 feet 1 inch to an alley; bounded East by an alley and West by property now or formerly of Fortune Properties Corporation.

A tract of land being part of City Block 504 in the City of St. Louis, Missouri, and being more particularly described as follows:

Beginning at the point of intersection of the Northern line of Pine Street (60 feet wide) and the West line of Tucker Boulevard (150 feet wide); thence with the North line of Pine Street, North 75 degrees 05 minutes 00 seconds West, a distance of 100.20 feet to the Southwest corner of the herein described tract of land; thence departing said Pine Street, North 14 degrees 57 minutes 39 seconds East, a distance of 193.36 feet to a point on the South line of Olive Street (100 feet wide); thence with said South line of Olive Street, South 75 degrees 03 minutes 01 seconds East, a distance of 100.30 feet to the West line of the aforesaid Tucker Boulevard; thence with said West line, South 14 degrees 59 minutes 27 seconds West, 193.30 feet to the point of beginning.

A Lot of ground in Block 504 of the City of St. Louis, fronting 50 feet on the North line of Pine Street by a depth Northwardly of 109 feet 1 inch to an alley; bounded East by an alley, 20 feet wide, or a line 120 feet 2-3/4 inches West of the West line of Twelfth Boulevard.

A Lot in Block 504 of the City of St. Louis, fronting 21 feet on the North line of Pine Street, by a depth Northwardly of 109 feet 1 inch to an alley; bounded on the East by a line 50 feet West of the West line of an alley, 20 feet wide, running North and South through said Block.

All intervening alleys and rights of way in City Block 504.

**EXHIBIT B**  
**Form of Note**

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

UNITED STATES OF AMERICA

STATE OF MISSOURI

Registered

Registered

No. R-\_\_

Not to Exceed \$21,410,000 plus Issuance Costs (See Schedule A attached)

CITY OF ST. LOUIS, MISSOURI

[TAXABLE][TAX-EXEMPT] TAX INCREMENT REVENUE NOTE (PARK PACIFIC REDEVELOPMENT PROJECT) SERIES 200\_\_

Rate of Interest: [\_\_%] Maturity Date: \_\_\_\_, 2029 Dated Due: \_\_\_\_, CUSIP Number: None

REGISTERED OWNER:

PRINCIPAL AMOUNT: See SCHEDULE A attached hereto.

The CITY OF ST. LOUIS, MISSOURI, a body corporate and a political subdivision duly organized and validly existing under its charter and the Constitution and laws of the State of Missouri (the "City"), for value received, hereby promises to pay to the Registered Owner shown above, or registered assigns, the Principal Amount shown from time to time on Schedule A attached hereto on the Maturity Date shown above unless called for redemption prior to the Maturity Date, and to pay interest thereon from the effective date of registration shown from time to time on Schedule A attached hereto or from the most recent Payment Date to which interest has been paid or duly provided for, at the Rate of Interest shown above computed on the basis of a 360-day year of twelve 30-day months. Interest and principal shall be payable each March 1 and September 1 (each, a "Payment Date"), commencing on the first March 1 or September 1 following the City's acceptance or deemed acceptance of the Certificate of Substantial Completion in accordance with the Redevelopment Agreement between the City and ParkPacific TIF, Inc. (the "Developer"), dated as of \_\_\_\_, 2007 (the "Redevelopment Agreement"), until all principal and interest accruing pursuant to the TIF Notes are paid in full except as otherwise provided herein. The TIF Notes shall bear interest from their registration date or from the most recent Payment Date to which interest has been paid or duly provided for.

Except as otherwise provided herein, the capitalized terms herein shall have the meanings as provided in Ordinance No. \_\_\_\_, adopted by the Board of Aldermen on \_\_\_\_, 2007 (the "Note Ordinance") or the Redevelopment Agreement.

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

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

This TIF Note is one of an authorized series of fully registered Notes of the City designated "City of St. Louis, Missouri, [Taxable][Tax-Exempt] Tax Increment Revenue Notes (Park Pacific Redevelopment Project), Series 200 \_\_," issued in an aggregate principal amount of not to exceed \$21,410,000 plus Issuance Costs (the "TIF Notes" or "Notes"). The TIF Notes are being issued for the purpose of paying a portion of the Redevelopment Project Costs in connection with the Redevelopment Plan, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, of the Revised Statutes of Missouri, as amended (the "Act"), and pursuant to the Note Ordinance.

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

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

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

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

On or before the date that is five (5) days prior to each Payment Date while the TIF Notes remain outstanding, the City shall transfer and deposit those Available Revenues in the PILOTs Account into the PILOTs Account of the Revenue Fund, and those Available Revenues in the EATs Account (including the CID Revenues Account, if any) into the EATs Account of the Revenue Fund. Available Revenues shall be applied from the Revenue Fund, first from the EATS Account and then from the PILOTS Account to payments on this TIF Note as follows:

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

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

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

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

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

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

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

The City covenants that it shall comply with the Charter of the City of St. Louis, Article XVI, Section 3 for each fiscal year that TIF Notes are outstanding and the City official(s) shall request an appropriation of all Available Revenues on deposit in the

Special Allocation Fund for application to the payment of the principal of (including, but not limited to, payment of a premium, if any) and interest on the TIF Notes.

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF ST. LOUIS, MISSOURI

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
Finance Officer

Attest:

(Seal)

\_\_\_\_\_  
City Register

Approved as to Form:

\_\_\_\_\_

ASSIGNMENT

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

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

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

Dated: \_\_\_\_\_.

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

Signature Guaranteed By:

\_\_\_\_\_  
(Name of Eligible Guarantor Institution)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

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

SCHEDULE A

CERTIFICATE OF AUTHENTICATION

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

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

\_\_\_\_\_ → \_\_\_\_\_  
 \_\_\_\_\_ → \_\_\_\_\_  
 \_\_\_\_\_ → \_\_\_\_\_  
 \_\_\_\_\_ → \_\_\_\_\_  
 \_\_\_\_\_ → \_\_\_\_\_  
 \_\_\_\_\_ → \_\_\_\_\_  
 \_\_\_\_\_ → \_\_\_\_\_

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

**EXHIBIT C**

**Form of Letter of Representations**

\_\_\_\_\_, 20\_\_

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

Re: Not to Exceed \$21,410,000 (plus Issuance Costs) City of St. Louis, Missouri, Tax Increment Revenue Notes, (Park Pacific Redevelopment Project), Series 200\_

Ladies and Gentlemen:

This letter is to provide you with certain representations and agreements with respect to the purchase by the undersigned of not to exceed \$21,410,000 (plus Issuance Costs) aggregate principal amount of Tax Increment Revenue Notes, (Park Pacific Redevelopment Project), Series 200\_ (the "TIF Notes"), issued by the City of St. Louis, Missouri (the "City"). The TIF Notes are secured in the manner set forth in Ordinance No. \_\_\_\_\_ [Board Bill No. \_\_\_\_] of the City adopted on \_\_\_\_\_, 200\_\_ (the "Note Ordinance"). The undersigned hereby represents to each of you and agrees with each of you, as follows:

- 1. The undersigned is an Approved Investor (as defined in the Note Ordinance).
- 2. The undersigned acknowledges that the City has not made any representation or warranty concerning the accuracy or completeness of any information furnished in connection with the purchase by the undersigned of the TIF Notes. Accordingly, the undersigned has not relied upon the City as to the accuracy or completeness of such information. As a sophisticated investor, the undersigned has made its own decision to purchase the TIF Notes based solely upon its own inquiry and analysis.
- 3. The undersigned understands that the TIF Notes do not constitute an indebtedness of the City or a loan or credit thereof within the meaning of any constitutional or statutory debt limitation or restriction.
- 4. The undersigned is familiar with and has counsel who are familiar with the federal and state legislation, rules, regulations and case law pertaining to the transfer and distribution of securities, including, but not limited to, disclosure obligations of the seller incident to any such transfer or distribution. The undersigned hereby covenants and agrees that the undersigned will not sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage or dispose of the TIF Notes or any interest therein in violation of applicable federal or state law or in violation of restrictions on sale, assignment, negotiation or transfer of the TIF Notes as set forth in paragraph 6 below.
- 5. The undersigned is purchasing the TIF Notes for its own account for investment (and not on behalf of another) and, other than a contemplated pledge of the TIF Notes, has no present intention of reselling the TIF Notes or dividing its interest therein. Notwithstanding the foregoing, the undersigned has the right to sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage or dispose of the TIF Notes at some future date determined by it, provided that such disposition is not in violation of

restrictions on sale, assignment, negotiation or transfer of the TIF Notes as set forth in paragraph 6 below.

6. The undersigned acknowledges that the right to sell, assign, negotiate or otherwise transfer the TIF Notes shall be limited to Approved Investors (as defined in the Note Ordinance).

7. The undersigned agrees to indemnify and hold you harmless from any and all claims, judgments, attorneys' fees and expenses of whatsoever nature, whether relating to litigation or otherwise, resulting from any attempted or affected sale, offer for sale, pledge, transfer, conveyance, hypothecation, mortgage or disposition of the TIF Notes in violation of this letter.

8. The undersigned has satisfied itself that the TIF Notes may be legally purchased by the undersigned.

Sincerely,

\_\_\_\_\_

as Purchaser

By: \_\_\_\_\_

Title: \_\_\_\_\_

Approved: June 27, 2007

**ORDINANCE #67585**  
**Board Bill No. 134**

An ordinance, recommended by the Board of Estimate and Apportionment, authorizing a supplemental appropriation; amending Ordinance 67090, commonly referred to as the City of St. Louis Annual Operating Plan for Fiscal Year 2006 2007; appropriating and setting apart the sum of One Million, Seven Hundred Eighty Thousand Five Hundred Thirteen Dollars (\$1,780,513) in proceeds from the Convention and Sports Facility Project and Refunding Bonds, Series C 2007 to Fund 1211 Center 1320001 for costs and expenses of the City for repair, improvement and renovation of Cervantes Convention Center, One Hundred Twenty Eight Thousand Eight Hundred Seventy Six Dollars (\$128,876) from interest and sinking fund revenue to Fund 1311 Center 1602006 for the payment of interest expenses on the City's 2006 general obligation bond issue and Two Hundred Eighty Six Thousand Nine Hundred Ninety One Dollars (\$286,991) from receipts accruing to the Problem Properties and Nuisance Crime Prosecution Account Center 1390003 and the Enhanced Criminal Prosecution Account Center 3120008 of the Public Safety Trust Fund 1120 for the purpose of funding enhanced problem properties and nuisance crime prosecution efforts of the City Counselor's Office and criminal prosecution efforts of the Circuit Attorney's Office respectively as specified in Ordinance 67193 and detailed in Exhibit A; and containing an emergency clause.

**WITNESSETH THAT,**

**WHEREAS,** the Convention and Sports Facility Project Refunding Bonds, Series C 2007 have been issued and proceeds to pay certain capital expenses of the Cervantes Convention Center are available for appropriation, and;

**WHEREAS,** the general obligation bond series authorized by Ordinance 67176 has been issued and interest and sinking fund revenues are available to provide for the first interest payment coming due during the current fiscal year, and;

**WHEREAS,** funds have now accrued to the Problem Properties and Nuisance Crime Prosecution Account and the Enhanced Criminal Prosecution account of the Public Safety Trust Fund pursuant to Ordinance 67193 in excess of Two Hundred Eighty Six Thousand Nine Hundred Ninety One Dollars (\$286,991) and are available for appropriation, and;

**WHEREAS,** the Charter of The City of St. Louis, Article XVI, Section 6, authorizes supplemental appropriations when any accruing, unappropriated City revenue is available and the when the Board of Estimate and Apportionment recommends same;

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

**SECTION ONE.** Pursuant to the recommendation of the Board of Estimate and Apportionment, Ordinance 67090, commonly referred to as the City of St. Louis Annual Operating Plan for Fiscal Year 2006 2007, is hereby amended and there is hereby appropriated and set apart the sum of One Million, Seven Hundred Eighty Thousand Five Hundred Thirteen Dollars (\$1,780,513) in proceeds from the Convention and Sports Facility Project and Refunding Bonds, Series C 2007 to Fund 1211 Center 1320001 for costs and expenses of the City for repair, improvement and renovation of Cervantes Convention Center, One Hundred Twenty Eight Thousand Eight Hundred Seventy Six Dollars (\$128,876) from interest and sinking fund revenue to Fund 1311 Center 1602006 for the payment of interest expenses on the City's 2006 general obligation bond issue, Two Hundred Eighty Six Thousand Nine Hundred Ninety One Dollars (\$286,991) from receipts accruing to the Problem Properties and Nuisance Crime Prosecution Account Center 1390003 and the Enhanced Criminal Prosecution Account Center 3120008 of the Public Safety Trust Fund 1120 for the purpose of funding enhanced problem properties and nuisance crime prosecution efforts of the City Counselor's Office and criminal prosecution efforts of the Circuit Attorney's Office respectively as specified in Ordinance 67193 and detailed in Exhibit A.

**SECTION TWO.** Emergency Clause. This being an ordinance providing for the preservation of public health and safety and providing for current expenses of the City government, it is hereby declared to be an emergency measure within the meaning

of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore this ordinance shall become effective immediately upon its passage and approval by the Mayor.

**EXHIBIT A**

FUND 1120  
DEPT. 1390003  
NAME: City Counselor

<u>Acct</u>	<u>Item Description</u>	<u>Amounts</u>	<u>Subtotals</u>
	PERSONAL SERVICES		
5101000	Salaries Regular Employees	\$ 3,476	
5136000	Employer Social Security Coverage	\$ 266	
5137000	Employees Health Insurance	\$ 282	
5138000	Employee Retirement Plan	\$ 263	
5142000	Employees Life Insurance	\$ 12	
5147000	Workers' Comp - Insurance & Admin.	\$ 47	
			\$ 4,346
	MATERIALS AND SUPPLIES		
5235000	Office and Computer	\$ 5,000	
			\$ 5,000
	Department Total		\$ 9,346

FUND 1120  
DEPT. 312008  
NAME: Circuit Attorney

<u>Acct</u>	<u>Item Description</u>	<u>Amounts</u>	<u>Subtotals</u>
	PERSONAL SERVICES		
5101000	Salaries Regular Employees	\$ 75,291	
5136000	Employer Social Security Coverage	\$ 5,764	
5137000	Employees Health Insurance	\$ 5,305	
5138000	Employee Retirement Plan	\$ 7,582	
5142000	Employees Life Insurance	\$ 323	
5147000	Workers' Comp - Insurance & Admin.	\$ 1,365	
5172000	Overtime - Regular Employees	\$ 250	
			\$ 95,880
	MATERIALS AND SUPPLIES		
5235000	Office and Computer	\$ 1,500	
			\$ 1,500
	NON-CAPITAL ASSETS		
5435000	Office and Computer	\$ 16,000	
			\$ 16,000
	CAPITAL ASSETS		
5535000	Office and Computer	\$ 97,913	
5539000	Fleet	\$ 22,380	
			\$ 120,293

CONTRACTUAL AND OTHER SERVICES			
5635000	Office and Computer	\$	100
5659000	Professional Services	\$	43,872
			\$ 43,972
	Department Total	\$	277,645
	<b>FUND 1120 TOTAL</b>	<b>\$</b>	<b>286,991</b>

Approved: June 27, 2007

**ORDINANCE #67586**  
**Board Bill No. 137**

An ordinance recommended by the Parking Commission making appropriation for payment of the operating expenses, capital equipment and improvement expenses, including lease purchase agreements involving Parking Division assets, and debt service expenses of the Parking Division of the Treasurer's Office, Kiel Parking Facilities, Argyle Parking Facility, Chouteau Parking Facility, Williams Paper Parking Facility, and the Central Downtown Parking Facility for the fiscal year beginning July 1, 2007 and ending June 30, 2008, amounting in the aggregate to the sum of Twelve Million, Six Hundred Sixty Eight Thousand, Three Hundred Ninety Four Dollars (\$12,668,394) and containing an emergency clause.

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

**SECTION ONE.** There is hereby appropriated, from the anticipated revenue of the Parking Fund, the Sum of Six Million, Eight Hundred Thirty One Thousand, Seven Hundred Twenty One Dollars (\$6,831,721) for the payment during the fiscal period beginning July 1, 2007 and extending through June 30, 2008 of operating expenses, capital expenses, lease/purchase agreements for Parking Division assets, including parking systems and equipment and other required expenses of the Parking Division of the Treasurer's Office, as hereinafter detailed on Exhibit 1.

**SECTION TWO.** Pursuant to Ordinance 62674, dated July 7, 1992, there is hereby appropriated from revenues available to the Kiel Center Parking Facilities the sum of Three Million, Ninety Seven Thousand, Seven Hundred Thirty Eight Dollars (\$3,097,738) for the operations and maintenance of the Kiel Center Parking Facilities, including the sum of Two Million, Three Hundred Fifty Seven Thousand, Two Hundred Fifty Three Dollars (\$2,357,253) for debt service as hereinafter detailed on Exhibit 2.

**SECTION THREE.** Pursuant to Ordinance 64539 dated January 4, 1999, there is hereby appropriated from revenues available to the Argyle Parking Facility the sum of Five Hundred Seventy Four Thousand, Eight Hundred Thirty Six Dollars (\$574,836) for the operations and maintenance of the Argyle Parking Facility, including the sum of Two Hundred Sixteen Thousand Dollars (\$216,000) for debt service as hereinafter detailed on Exhibit 3.

**SECTION FOUR.** There is hereby appropriated from revenues available to the Chouteau Parking Facility the sum of Four Hundred Nineteen Thousand, One Hundred Dollars (\$419,100) for the operations and maintenance of the Chouteau Parking Facility as hereinafter detailed on Exhibit 4.

**SECTION FIVE.** There is hereby appropriated from revenues available to The Williams Paper Parking Facility the sum of One Hundred Eighty Five Thousand Dollars (\$185,000) for the operations and maintenance of The Williams Paper Parking Facility as hereinafter detailed in Exhibit 5.

**SECTION SIX.** Pursuant to ordinance 65403 dated January 25, 2002, there is hereby appropriated from revenues available to the Central Downtown Parking Facility the sum of One Million, Five Hundred Sixty Thousand Dollars (\$1,560,000) for the operations and maintenance of the Central Downtown Parking Facility including the sum of One Million, One Hundred Seventy Five Thousand Dollars (\$1,175,000) for debt service as hereinafter detailed on Exhibit 6.

**SECTION SEVEN.** The passage of this Ordinance being deemed necessary for the immediate preservation of the public peace, health and safety, it is hereby declared to be an emergency Ordinance as provided for by Article IV. Section 20 of the Charter of the City of St. Louis and shall be effective immediately upon approval by the Mayor.

## EXHIBIT 1

FUND 1520  
 DEPT 343  
 NAME: Parking Division

<u>Acct</u>	<u>Item Description</u>	<u>Amount</u>	<u>Subtotals</u>
	- PERSONAL SERVICES -		
5101	Salaries - Regular Employees	\$ 4,175,874	
5136	Employer Social Security Coverage	\$ 319,454	
5137	Employees Health Insurance	\$ 637,530	
5138	Employee Retirement Plan	\$ 315,278	
5142	Employees Life Insurance	\$ 14,281	
5144	Workers' Comp - Disability	\$ 200,000	
5149	Workers' Comp - Administration	\$ 56,374	
			\$ 5,718,793
	- MATERIALS & SUPPLIES -		
5235	Office Supplies & Computer Supplies	\$ 20,900	
5237	Health & Safety (Wearing Apparel)	\$ 28,000	
5238	Facility & Grounds	\$ 27,900	
5239	Fleet Supplies	\$ 82,000	
5290	Parking Supples (Tools, Misc., Tickets)	\$ 116,000	
			\$ 273,900
	- RENTAL AND NON-CAPITAL LEASES -		
5335	Lease of Equipment	\$ 1,128	
			\$ 1,128
	- NON-CAPITAL EQUIPMENT -		
5435	Office Equipment	\$ 25,900	
5490	Parking Equipment	\$ 32,000	
			\$ 57,900
	- CONTRACTUAL & OTHER SERVICES -		
5635	Postage	\$ 4,100	
5636	Telecom Services & Repair Contracts	\$ 33,100	
5637	Health & Safety	\$ 14,000	
5639	Fleet Repair	\$ 60,000	
5645	Travel	\$ 13,500	
5646	CPE	\$ 4,000	
5649	Utilities	\$ 33,000	
5659	Professional Service	\$ 184,200	
5660	Legal Service	\$ 200,000	
5668	Lobbying	\$ 2,000	
5638	Facility & Grounds	\$ 10,000	
5670	Prior year Encumbrances	\$ 125,000	
5690	Parking Expansion & Repairs	\$ 37,100	
5790	New Parking Lots	\$ 60,000	
			\$ 780,000
	Department Total		\$ 6,831,721

**EXHIBITS 2**  
**CITY OF ST. LOUIS**  
**FY 2007 - 08**

FUND	1521		
DEPT	343		
NAME	Kiel Parking Facility		
<b>Acct</b>	<b>Item Description</b>	<b>Amount</b>	<b>Subtotal</b>
	-PERSONAL SERVICES-		
5101	Salaries - Regular Employees	\$ 217,263	
5112	Salaries - Per Performance Employees	\$ 160,880	
5136	Employer Social Security Coverage	\$ 28,550	
5137	Employees Health Insurance	\$ 36,315	
5138	Employee Retirement Plan	\$ 16,403	
5142	Employees Life Insurance	\$ 830	
5147	Workers' Compensation - Administration	\$ 2,933	
			\$ 463,175
	-MATERIALS & SUPPLIES -		
5235	Office & Computer Supplies	\$ 4,000	
5237	Health & Safety (Wearing Apparel)	\$ 2,000	
5238	Facility & Grounds	\$ 9,000	
5290	Parking supplies (Tools, Misc, Tickets)	\$ 18,300	
5239	Fleet Supplies	\$ 2,500	
			\$ 35,800
	-NON-CAPITAL EQUIPMENT-		
5490	Parking Equipment	\$ 1,500	
			\$ 1,500
	-CONTRACTUAL & OTHER SERVICES -		
5639	Fleet Repair	\$ 4,000	
5636	Telecom Service	\$ 3,720	
5637	Health & Safety	\$ 7,390	
5638	Facility & Grounds	\$ 38,900	
5649	Utilities	\$ 56,000	
5659	Professional Services	\$ 67,000	
5663	Insurance Property	\$ 60,000	
5790	New Parking Lots	\$ 3,000	
			\$ 240,010
	-DEBT SERVICE CHARGES-		
5756	Principal & Interest	\$ 2,352,253	
5757	Debt Fees	\$ 5,000	
			\$ 2,357,253
	<b>Department Total</b>		<b>\$ 3,097,738</b>

**EXHIBIT 3**  
**CITY OF ST. LOUIS**  
**FY 2007 - 08**

FUND	1523		
DEPT	343		
NAME	Argyle Parking Facility		
<b>Acct</b>	<b>Item Description</b>	<b>Amounts</b>	<b>Subtotal</b>
	- PERSONAL SERVICES -		
5101	Salaries - Regular Employees	\$ 103,771	
5136	Employer Social Security Coverage	\$ 13,964	
5137	Employees Health Insurance	\$ 20,175	
5138	Employee Retirement Plan	\$ 7,835	
5142	Employees Life Insurance	\$ 355	
5172	Salaries - Per Performance	\$ 78,776	
5147	Workers' comp - Administration	\$ 1,401	
			\$ 226,266
	- MATERIALS & SUPPLIES -		
5235	Office & Computer Supplies	\$ 2,000	
5237	Health & Safety (Wearing Apparel)	\$ 500	
5238	Facility & Grounds	\$ 2,500	
5290	Parking Supplies (Tools, Misc., Tickets)	\$ 2,000	
			\$ 7,000
	- NON CAPITAL EQUIPMENT -		
5435	Office Equipment	\$ 1,200	
			\$ 1,200
	- CONTRACTUAL & OTHER SERVICES -		
5636	Telecom. Services & Repair Contracts	\$ 3,900	
5637	Health & Safety	\$ 1,470	
5638	Facility & Grounds	\$ 19,000	
5649	Utilities	\$ 30,000	
5663	Insurance - Property	\$ 60,000	
5790	New Parking Lots - Special	\$ 5,000	
5690	Parking Expansion & Repairs	\$ 5,000	
			\$ 124,370
	- DEBT SERVICE CHARGES -		
5756	Principal & Interest	\$ 216,000	
			\$ 216,000
	Department Total		\$ 574,836

## EXHIBIT 4

CITY OF ST. LOUIS  
FY 2007 - 08

FUND	1524		
DEPT	343		
NAME	Chouteau Parking Facilities		
<b>Acct</b>	<b>Item Description</b>	<b>Amounts</b>	<b>Subtotal</b>
	- MATERIALS & SUPPLIES -		
5238	Facility & Grounds	\$ 500	\$ 500
	- CAPITAL ASSETS -		
5538	Tenant Improvements	\$ 50,000	\$ 50,000
	- CONTRACTUAL & OTHER SERVICES -		
5636	Telecom Services	\$ 600	
5638	Facility & Grounds	\$ 290,000	
5649	Utilities	\$ 3,000	
5659	Professional Services	\$ 75,000	
			\$ 368,600
	Department Total		\$ 419,100

## EXHIBIT 5

CITY OF ST. LOUIS  
FY 2007 - 08

FUND	1525		
DEPT	343		
NAME	Williams Paper Project		
<b>Acct</b>	<b>Item Description</b>	<b>Amounts</b>	<b>Subtotal</b>
	- MATERIALS & SUPPLIES -		
5235	Office & Computer Supplies	\$ 100	
5238	Facility & Grounds	\$ 7,000	
5290	Parking Supplies	\$ 2,000	
			\$ 9,100
	- CONTRACTUAL & OTHER SERVICES -		
5636	Telecom. Services	\$ 3,000	
5638	Facility & Grounds	\$ 3,000	
5649	Utilities	\$ 3,000	
5790	New Parking Lots - Special	\$ 3,000	
			\$ 12,000
	- DEBT SERVICE CHARGES -		
5756	Principal & Interest	\$ 163,900	
			\$ 163,900
	Department Total		\$ 185,000

**EXHIBIT 6**  
**CITY OF ST. LOUIS**  
**FY 2007 - 08**

FUND 1526  
DEPT 343  
NAME Central Downtown Parking Facilities

<u>Acct</u>	<u>Item Description</u>	<u>Amounts</u>	<u>Subtotals</u>
	- PERSONAL SERVICES -		
5101	Salaries - Regular Employees	\$ 119,303	
5172	Salaries - Per Performance Employees	\$ 56,190	
5136	Employer Social Security Coverage	\$ 13,425	
5137	Employees Health Insurance	\$ 12,105	
5138	Employee Retirement Plan	\$ 9,007	
5142	Employees Life Insurance	\$ 408	
5147	Workers' Compensation - Administration	\$ 1,611	
		<hr/>	\$ 212,050
	- MATERIALS & SUPPLIES -		
5235	Office & Computer Supplies	\$ 2,000	
5237	Health & Safety (Wearing Apparel)	\$ 500	
5238	Facility & Ground	\$ 1,300	
5290	Parking Supplies	\$ 1,500	
		<hr/>	\$ 5,300
	- NON CAPITAL EQUIPMENT -		
5490	Parking Equipment	\$ 1,500	
		<hr/>	\$ 1,500
	- CONTRACTUAL & OTHER SERVICES -		
5636	Telecom Service	\$ 4,500	
5637	Health & Safety	\$ 1,250	
5638	Facility & Grounds	\$ 45,400	
5649	Utilities	\$ 48,000	
5663	Insurance Property	\$ 50,000	
5790	New Parking Lots	\$ 5,000	
5659	Professional Services	\$ 12,000	
		<hr/>	\$ 166,150
	- DEBT SERVICE CHARGES -		
5756	Principal & Interest	\$ 1,175,000	
		<hr/>	\$ 1,175,000
	Department Total		<hr/> <hr/> <b>\$ 1,560,000</b>

Approved: July 9, 2007

**ORDINANCE #67587**  
**Board Bill No. 162**

An ordinance authorizing and directing the Mayor and Comptroller of the City of St. Louis to execute, upon receipt of and in consideration of the sum of Eight Hundred Dollars (\$800.00) and other good and valuable consideration, a Quit Claim Deed to remise, release and forever quit-claim unto Otis L. Taylor, certain City-owned property located in City Block 4465, which property is known as 3025-27 Marnice Place, and containing an emergency clause.

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

**SECTION ONE.** The Mayor and Comptroller are hereby authorized and directed to execute, upon receipt of and in consideration of the sum of Eight Hundred Dollars (\$800.00) and other good and valuable consideration, a Quit Claim Deed, attached

hereto as Exhibit A, to remise, release and forever quit-claim unto Otis L. Taylor, certain City-owned property located in City Block 4465, which property is known as 3025-27 Marnice Place, and which is more fully described in said Exhibit A.

**SECTION TWO.** Emergency Clause. This ordinance, being necessary for the immediate preservation of public peace, health, safety, and general welfare, shall be and is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and, as such, this ordinance shall take effect immediately upon its passage and approval by the Mayor.

**Exhibit A**

**QUIT CLAIM DEED**

THIS DEED, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2007, by and between the City of Saint Louis, a municipal corporation of the State of Missouri, 1200 Market Street, St. Louis, Missouri 63103, (Grantor), and Otis L. Taylor, a widower, whose address is 3019-23 Marnice Place, St. Louis Missouri 63115, (Grantee).

WITNESSETH, that the said Grantor, for and in consideration of the sum of One Dollar (\$1.00) to it paid by the said Grantee, and other good and valuable consideration, the receipt of which is hereby acknowledged, does by these presents Remise, Release, and Quit-Claim unto the said Grantee, the following described Real Estate, situated in the City of Saint Louis and State of Missouri, to-wit:

**See Exhibit A attached hereto and incorporated into this deed.**

Subject to restrictions, covenants, and easements of record.

TO HAVE AND TO HOLD the same, together with all rights and appurtenances to the same belonging, unto the said Grantee, and to its heirs and assigns, so that neither the said Grantor, nor its heirs, nor any other person or persons for it or in its name or behalf, shall or will hereafter claim or demand any right or title to the aforesaid premises, or any part thereof, but they and every one of them shall, by these presents, be excluded and forever barred.

IN WITNESS WHEREOF, the said Grantor and Grantee have executed these presents the day and year first above written.

THE CITY OF SAINT LOUIS  
(Grantor)

OTIS L. TAYLOR  
(Grantee)

BY: \_\_\_\_\_  
Francis G. Slay  
Mayor

By: \_\_\_\_\_  
Otis L. Taylor

BY: \_\_\_\_\_  
Darlene Green  
Comptroller

Approved as to form:

\_\_\_\_\_  
Stephen J. Kovac  
Deputy City Counselor

Attest:

\_\_\_\_\_  
Parrie L. May  
City Register

State of Missouri )  
                          ) ss.  
City of St. Louis )

On this \_\_\_\_\_ day of \_\_\_\_\_ 2007, before me appeared Francis G. Slay and Darlene Green to me personally known, who being by me duly sworn did say that they are the Mayor and the Comptroller of the City of Saint Louis, respectively, and that they are authorized to execute this Quit-Claim Deed on behalf of the City of Saint Louis under the authority of Ordinance \_\_\_\_\_ and acknowledge said instrument to be the free act and deed of the City of Saint Louis.

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

\_\_\_\_\_

Notary Public

State of Missouri )
) ss.
City of St. Louis )

On this \_\_\_ day of \_\_\_, 2007, before me appeared Otis L. Taylor, to me personally known, and who executed the forgoing instrument, who being by me duly sworn did say that he executed said instrument as his free act and deed.

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

Exhibit A

A parcel of land in City Block 4465 fronting 60 feet on Marnice Place by a depth of 89 feet 7 inches and being lots 26 and 27 of Marnice Place, also described as:

Lots 26 and 27 according to a plat in Surveyor's Record 8 page 72 and in block 4465 of the City of St. Louis, Missouri together fronting 60 feet on the West line of Marnice Place by a depth Westwardly of 89 feet 7 3/4 inches; bounded North by a line 750 feet South of the South line of Ashland Avenue, commonly known as and numbered 3025-27 Marnice Place. Parcel ID 4465-00-04400

Approved: July 9, 2007

ORDINANCE #67588
Board Bill No. 170

An ordinance prohibiting the issuance of any package liquor license for any non-licensed premises within the boundaries of the Eighteenth Ward Liquor Control District, as established herein, for a period of three years from the effective date hereof; containing exceptions and allowing, during the moratorium period, for the transfer of existing licenses, under certain circumstances; and containing an emergency clause.

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

SECTION ONE. LEGISLATIVE FINDINGS.

The existence of alcoholic beverage establishments appears to contribute directly to numerous peace, health, safety and general welfare problems including loitering, littering, drug trafficking, prostitution, public drunkenness, defacement and damaging of structures, pedestrian obstructions, as well as traffic circulation, parking and noise problems on public streets and neighborhood lots. The existence of such problems creates serious impacts on the health, safety and welfare of residents of single- and multiple-family within the district, including fear for the safety of children, elderly residents and of visitors to the district. The problems also contribute to the deterioration of the neighborhood and concomitant devaluation of property and destruction of community values and quality of life. The number of establishments selling alcoholic beverages and the associated problems discourage more desirable and needed commercial uses in the area. In order to preserve the residential character and the neighborhood-serving commercial uses of the area, there shall be a moratorium on the issuance of new liquor licenses within the area beginning at the intersection of the centerlines of Delmar Blvd. and Union Blvd., proceeding along the centerlines in a generally clockwise direction north to Cates Ave., east to Clarendon Ave., north to Raymond Ave., east to Academy Ave., north to Page Blvd., west to Academy Ave., north to Dr. Martin Luther King Dr., west to Academy Ave., north to Cote Brilliante Ave., west to Union Blvd., north to Northland Ave., east to N. Euclid Ave., south to Cote Brilliante Ave., east to Marcus Ave., south to Evans Ave., east to N. Newstead Ave., south to Finney Ave., east to N. Vandeventer Ave., south to Lindell Blvd., west to N. Newstead Ave., north to McPherson Ave., east to N. Boyle Ave., north to Olive St., west to N. Kingshighway Blvd., north to Delmar Blvd., west to the point of the beginning. Such area shall be known as the Eighteenth Ward Liquor Control District.

SECTION TWO. The Excise Commissioner is hereby prohibited, for a period of three years, beginning as of the effective date of this Ordinance, from approving the issuance of a package liquor license for any premises which is located within the boundaries of the Eighteenth Ward Liquor Control District established in Section One of this ordinance.

SECTION THREE. Notwithstanding the provisions of Section Two of this Ordinance, the Excise Commissioner shall have authority to:

- (1) Approve transfer of an existing license to another premises within the petition circle of the currently licensed premises, pursuant to the provisions of subsection (B) of section 14.06.330 of Ordinance 61289; and
(2) Issue a drink license for premises, not licensed as of the effective date of this Ordinance, which currently is or will be, upon opening, operated as a restaurant, as such term is defined in section 14.01.390 of Ordinance 61289.
(3) Approve the renewal of an existing license under the provisions of Section 14.08.090 of Ordinance 62656

**SECTION FOUR. EMERGENCY CLAUSE.**

This being an ordinance for the preservation of public peace, health and safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore this ordinance shall become effective immediately upon its passage and approval by the Mayor.

Approved: July 9, 2007

**ORDINANCE #67589  
Board Bill No. 135**

An ordinance appropriating the sum of **TWENTY MILLION, FIVE HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$20,545,000)**, as described and defined in Section 94.600 through 94.655, R.S. Mo. Supp. 1986 as amended for the period herein stated, which sum is hereby appropriated out of the "Transportation Trust Fund" to the Bi-State Development Agency for transportation purposes; and further providing that the appropriation is conditional upon the Bi-State Development Agency supplying the Board of Estimate and Apportionment an annual evaluation report; further providing that in no event shall the Comptroller draw warrants on the Treasurer for an amount greater than the amount of proceeds deposited in the "Transportation Trust Fund" during the period from July 1, 2007 through June 30, 2008; providing for the appropriation to be reduced if certain funds are used for other than public transit purposes; further providing that the appropriation is conditional upon Bi-State requiring the payment of prevailing wages and benefits to employees of outside service contractors; and containing a severability clause.

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

**SECTION ONE.** There is hereby appropriated from the unappropriated balance of the "Transportation Trust Fund," subject to the conditions herein contained in sections three (3) and four (4), the sum of **TWENTY MILLION, FIVE HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$20,545,000)**, as described and defined in Section 94.600 through 94.655, R.S. Mo. Supp. 1986 as amended for the period herein stated, which sum is hereby appropriated out of the "Transportation Trust Fund" to the Bi-State Development Agency to be used exclusively and without diversion in any way for public transit purposes pursuant to section 94.600 R.S. Mo. Supp. 1986.

**SECTION TWO.** The Comptroller of the City of St. Louis is hereby authorized and directed to draw warrants from time to time on the Treasurer of the City of St. Louis for payments to the Bi-State Development Agency, as authorized herein, on the "Transportation Trust Fund" as the proceeds of the one-half percent (1/2%) sales tax authorized by Ordinance No. 56554, approved June 29, 1973, are received from the Director of Revenue of the State of Missouri and are deposited in the "Transportation Trust Fund" as provided by Ordinance No. 56584, approved October 9, 1973, until the total amount appropriated herein has been paid or until the 30th day of June, 2008, whichever event occurs first. This authorization is made subject to and conditional upon the Bi-State Development Agency submitting to the Board of Estimate and Apportionment an annual evaluation report describing services provided and the cost thereof including cost justification for overhead rates and other management fees. The receipt of any funds appropriated hereunder shall constitute consideration for the Bi-State Development Agency's obligating itself to furnish the evaluation reports as required herein.

**SECTION THREE.** In no event shall the Comptroller draw warrants on the Treasurer of the City of St. Louis for an amount greater than the amount of the proceeds received from the Director of Revenue of the State of Missouri and deposited in the "Transportation Trust Fund" during the period from July 1, 2007 through June 30, 2008.

**SECTION FOUR.**

(a) The Bi-State Development Agency ("Bi-State") shall include in all its requests for competitive bids for outside service work the requirement that the bidder pay prevailing wages and benefits to its employees in performing such contractual work.

(b) For the purpose of this ordinance, "prevailing wages and benefits" shall mean the wages paid generally in the St. Louis Metropolitan area to workers engaged in service work of a similar character, and all benefits associated therewith. Prior to letting any bid for outside service work, Bi-State shall establish prevailing wages and benefits for service workers in the contract for which the bid will be let, which shall be attached to and made a part of each bid specification. In establishing prevailing wages and benefits, Bi-State shall obtain from the Missouri Department of Labor and Industrial Relations, Division of Labor Standards, a list of prevailing wages for the job classification(s) which come closest in nature and character to the jobs to be performed in the service contract for which bids are to be let. In addition to such list, Bi-State shall also base its established prevailing wages and benefits on information from the United States Department of Labor, Bureau of Labor Standards, to the greatest extent feasible.

(c) After establishing prevailing wages and benefits for a bid to be let, and not less than one week prior to letting the bid, Bi-State shall provide the Board of Aldermen, c/o the Clerk, with copies of all information and material used to establish such prevailing wages and benefits.

**SECTION FIVE.** In the event Bi-State is not operating the existing 34-mile MetroLink alignment of the right-of-way, stations, overhead catenary, power traction, other ancillary equipment and light rail cars (the "Assets"), the City of St. Louis shall have the authority to contract with a city transit authority as defined by Mo. Rev. Stat. § 94.600(2) (2000) created by an ordinance of the City of St. Louis, and disburse the sales tax proceeds authorized by Mo. Rev. Stat. § 94.600 et seq. (2000) to such city transit authority for further appropriation to any municipal or private corporation for the operation of the Assets.

**SECTION SIX.** In the event the Board of Estimate and Apportionment concludes that any funds herein appropriated or previously appropriated by the City of St. Louis to the Bi-State Development Agency and remaining unspent are used for other than public transit purposes, the appropriation herein enacted shall be reduced by an amount equal to the amount used for other than public transit purposes. The determination of the Board of Estimate and Apportionment of such spending for other than public transit purposes shall be conclusive.

**SECTION SEVEN.** The sections of this Ordinance shall be severable. In the event that any section of this Ordinance is found by a court of competent jurisdiction to be unconstitutional or is inconsistent with the ability of Bi-State to receive funding from the United States, the remaining sections of this ordinance are valid unless the court finds the valid or consistent sections of this Ordinance are so essentially and inseparably connected with, and so dependent upon the void or inconsistent section that it cannot be presumed that the Aldermen would have enacted the valid sections without the void or inconsistent sections, or unless the court finds that the valid or consistent sections, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

**Approved: July 9, 2007**

**ORDINANCE #67590**  
**Board Bill No. 136**

An Ordinance pertaining to the Transportation Sales Tax imposed pursuant to Senate Bill 432 as adopted and approved by the voters of St. Louis City on August 2, 1994, pursuant to Ordinance 63168; creating the "City Public Transit Sales Tax Trust Fund" directing the Treasurer of the City of St. Louis to deposit funds received pursuant to said sales tax into the "City Public Transit Sales Tax Trust Fund" appropriating **TEN MILLION, FIVE HUNDRED FIFTY THOUSAND, THREE HUNDRED DOLLARS (\$10,550,300)** from the said sales tax for the period herein stated to the Bi-State Development Agency for certain purposes; providing for the payment of such funds during the period July 1, 2007 through, June 30, 2008; further providing that in no event shall the Comptroller draw warrants on the Treasurer for an amount greater than the amounts of the proceeds deposited in the "City Public Transit Sales Tax Trust Fund" during the period of July 1, 2007 through June 30, 2008; containing a severability clause.

**WHEREAS,** In accordance with Ordinance #65613, the City of St. Louis, Missouri is authorized to enter into a Memorandum of Agreement (MOA) with the Bi-State Development Agency and St. Louis County, Missouri providing for the City's annual appropriation of the quarter-cent sales tax levied for public mass transportation purposes, and pursuant to provisions of Section 3.2 of the MOA, the City shall transfer monthly to the Trustee, BNY Trust of Missouri, in immediately available funds, all moneys on deposit in the City Public Transit Sales Tax Fund;

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

**SECTION ONE.** All sales taxes collected pursuant to Senate Bill 432 and Ordinance 63168 and distributed by the Director of Revenue to the Treasurer of St. Louis City as authorized by Senate Bill 432 (the "Act") as approved and adopted by the voters of St. Louis City on August 2, 1994, pursuant to Ordinance 63168 shall be deposited in a special trust fund, which is hereby created, to be known as the "City Public Transit Sales Tax Fund."

**SECTION TWO.** There is hereby appropriated out of the "City Public Transit Sales Tax Trust Fund," subject to the conditions herein contained in Sections Four and Five, the amount of **TEN MILLION, FIVE HUNDRED FIFTY THOUSAND, THREE HUNDRED DOLLARS (\$10,550,300)**, for the period herein stated to the Bi-State Development Agency to be used for the purposes authorized by the Act.

**SECTION THREE.** The Comptroller of the City of St. Louis is hereby authorized and directed to draw warrants from time to time on the Treasurer of the City of St. Louis for payments to the Bi-State Development Agency, as authorized herein on the "City Public Transit Sales Tax Trust Fund," as the proceeds from the one-quarter percent (1/4%) sales tax authorized by Senate Bill 432 as approved and adopted by the voters of the City of St. Louis on August 2, 1994, pursuant to Ordinance 63168 are received from the Director of Revenue of the State of Missouri and are deposited in the "City Public Transit Sales Tax Trust Fund" as provided herein from July 1, 2007 through June 30, 2008.

**SECTION FOUR.** In no event shall the Comptroller draw warrants on the Treasurer of the City of St. Louis for an amount greater than the amount of proceeds received from the Director of Revenue of the State of Missouri and deposited in the "City Public Transit Sales Tax Trust Fund" during the period from July 1, 2007 through June 30, 2008.

**SECTION FIVE.** The sections of this Ordinance shall be severable. In the event that any section of this Ordinance is found by a court of competent jurisdiction to be unconstitutional or is inconsistent with the ability of the Bi-State Development Agency to receive funding from the United States, the remaining sections of the Ordinance are valid unless the court finds the valid or consistent sections of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the void or inconsistent section that it cannot be presumed that the Aldermen would have enacted the valid sections without the void or inconsistent sections, or unless the court finds the valid or consistent sections, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

**Approved: July 9, 2007**

**ORDINANCE #67591**  
**Board Bill No. 167**

An ordinance authorizing and directing execution of a Cooperation Agreement between the City and Gateway Foundation (the "**Foundation**"), a not-for-profit trust, which provides procedures for the improvement of a two-block portion of the property commonly known as the Gateway Mall and for the operation and maintenance of said property once the improvements are completed.

**WHEREAS**, an existing master plan for the Gateway Mall, which was commissioned by the City in 1999, recommended that a two-block portion of the Mall be developed as a sculpture garden which portion is bounded on the east by Eighth Street, on the west by Tenth Street, on the south by Market Street, and on the north by Chestnut Street, and is generally depicted on Exhibit A attached hereto ("**City Blocks 190 and 276**"); and

**WHEREAS**, the City desires to improve City Blocks 190 and 276 by adding landscape improvements, hardscape improvements, a café, and water features, and by providing areas for the display of public artwork and sculpture (such improved property is referred to herein as the "**Urban Garden**"); and

**WHEREAS**, the Foundation has agreed to fund the preparation of a plan for the development of the Urban Garden on City Blocks 190 and 276 as provided above; and

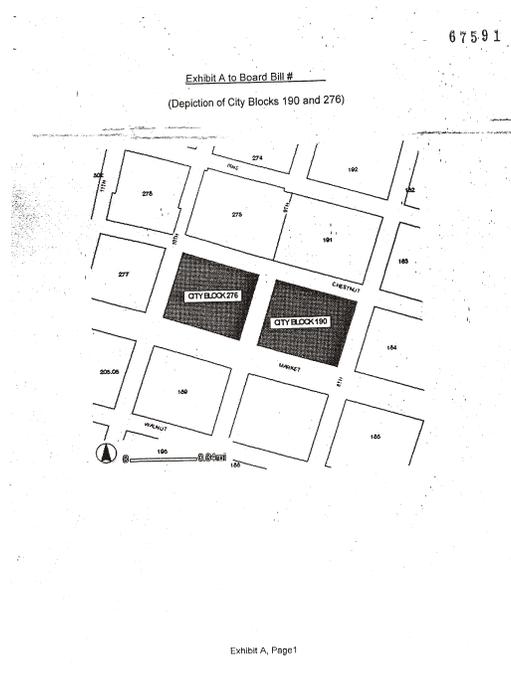
**WHEREAS**, the City and the Foundation desire to enter into the Cooperation Agreement, in the form attached hereto as Exhibit B, which provides procedures for the planning, completion, operation, and maintenance of the Urban Garden; and

**WHEREAS**, notwithstanding the development of City Blocks 190 and 276 as provided in the Cooperation Agreement, the Urban Garden will be the property of the City, free and open to the public, subject to closures that are necessitated by construction or maintenance, or as otherwise permitted by the City, and subject to the Foundation's ownership of all artwork and sculpture within the Urban Garden as provided in the Cooperation Agreement.

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

**SECTION ONE.** The Director of Parks, Recreation and Forestry, the President of the Board of Public Service and the Comptroller are hereby authorized and directed to enter into and execute on behalf of the City of St. Louis a Cooperation Agreement with the Foundation with respect to that portion of the Gateway Mall depicted on Exhibit A, which is incorporated herein by this reference, in substantially in the form attached hereto as Exhibit B, which is incorporated herein by this reference, as well as any other documents that are necessary or appropriate to carry out the provisions of this ordinance.

**Exhibit A to Board Bill #**  
**(Depiction of City Blocks 190 and 276)**



**Exhibit B to Board Bill #**  
(Form of Cooperation Agreement)

Follows on the next page.

**EXHIBIT B**

**COOPERATION AGREEMENT**

**THIS COOPERATION AGREEMENT** (this “**Agreement**”) is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2007 (the “**Date Hereof**”) by and between Gateway Foundation, a not-for-profit trust organized under the laws of the State of Missouri (the “**Foundation**”), and The City of St. Louis, Missouri, a constitutional charter city of the State of Missouri (the “**City**”).

**WHEREAS**, the City owns certain real property located in the downtown area of the City of St. Louis, Missouri, which consists of eighteen (18) blocks and is commonly known as the Gateway Mall (the “**Mall**”);

**WHEREAS**, an existing master plan for the Mall, which was commissioned by the City in 1999, recommended that a two-block portion of the Mall be developed as a sculpture garden;

**WHEREAS**, the City desires, and the Foundation wishes to cooperate with the City in effecting, the improvement of such two-block portion of the Mall, which portion is bounded on the east by Eighth Street, on the west by Tenth Street, on the south by Market Street, and on the north by Chestnut Street, and is generally depicted on **Exhibit A** attached hereto and incorporated herein (“**City Blocks 190 and 276**”), by the addition of certain landscape improvements, hardscape improvements, a structure capable of accommodating a café, and water features, and by the provision of areas for the display of public artwork and sculpture (such improvements being referred to herein as the “**Urban Garden**”);

**WHEREAS**, City Blocks 190 and 276 and the Urban Garden thereon will be, at all times (except as otherwise herein provided), City property and free and open to the public;

**WHEREAS**, the Foundation is willing to fund the preparation of a plan for the development of the Urban Garden on City Blocks 190 and 276 as provided above (the “**Design Documents**”);

**WHEREAS**, upon the completion of the Design Documents and mutual acceptance of the Design Documents by the City and the Foundation pursuant to the terms of this Agreement, the Foundation is willing to implement the Design Documents and effect the development of the Urban Garden on City Blocks 190 and 276 in accordance with the Design Documents and pursuant to the terms of this Agreement, and to donate the Urban Garden (other than the Artwork, as hereinafter defined) to the City;

**WHEREAS**, the City and the Foundation desire to enter into this Agreement, which provides procedures for their cooperation in the design and completion of the Urban Garden and for their cooperative operation and maintenance of the Urban Garden after construction of the Urban Garden is completed;

**WHEREAS**, the presently estimated cost of the improvement of the Urban Garden (including a 10% contingency, but not including the cost of the Artwork, as hereinafter defined) is Ten Million Dollars (\$10,000,000) (the “**Project Cost**”);

**WHEREAS**, pursuant to Sections 70.210-70.325 RSMo municipalities and private entities are authorized to contract and cooperate for the planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service;

**WHEREAS**, the execution and delivery by the City of this Agreement is authorized by Sections 70210-70.325 RSMo, and has been authorized by City Ordinance No. \_\_\_\_\_ (BB \_\_\_\_);

**WHEREAS**, pursuant to that certain Lease (the “**Lease**”) dated as of October 24, 2000 between the City (as lessor) and St. Louis Municipal Finance Corporation (“**SLMFC**”) (as lessee), SLMFC currently leases a portion of the Mall, including City Blocks 190 and 276, from the City; and

**WHEREAS**, pursuant to that certain Leasehold Deed of Trust (the “**Deed of Trust**”) dated as of November 17, 2000 between SLMFC (as grantor), Husch Trustee, Inc. (as trustee), and the Secretary of Housing and Urban Development (“**HUD**”) (as beneficiary), SLMFC pledged as partial collateral a portion of the Mall, including City Blocks 190 and 276, to HUD to secure certain indebtedness in an amount not to exceed \$20,000,000.00.

**NOW, THEREFORE**, for and in consideration of the above-stated premises and other good and valuable consideration, the parties hereto agree as follows.

**1. General Provisions.**

(a) License to Enter City Blocks 190 and 276. The City hereby grants to the Foundation, and its agents, employees, consultants, contractors, successors, and assigns during the term of this Agreement, the continuous and unrestricted, non-exclusive right, subject to the provisions of this Agreement, to enter upon City Blocks 190 and 276 for the purpose of developing

the Design Documents and otherwise designing and completing the Urban Garden, implementing the loan of the Artwork (hereinafter defined) and cooperating with the City in maintaining the Urban Garden, all in accordance with this Agreement.

(b) Term.

(i) Term. The initial term of this Agreement shall commence on the later of (a) the Date Hereof or (b) the date on which this Agreement has been executed by the Foundation and the City and countersigned by SLMFC in the space indicated below, by which countersignature SLMFC acknowledges and consents to the transactions and actions authorized and contemplated by this Agreement, and the initial term shall expire on the date that is fifteen (15) years thereafter (the “**Initial Term**”). Thereafter, the term of this Agreement shall automatically renew for successive ten (10) year periods (each such successive period being a “**Renewal Term**”), subject to the termination rights contained in this Agreement (including Section 1(b)(ii) below). The Initial Term and each successive Renewal Term shall be referred to herein collectively as the “**Term.**”

(c) Termination.

(1) By the Foundation prior to the Commencement of Construction. The Foundation shall have the right to terminate this Agreement for convenience and without cause at any time prior to commencement of construction (hereinafter defined) of the Urban Garden by providing the City with thirty (30) days prior written notice, in which event the Foundation shall have no obligation to complete the design of the Urban Garden. As used herein, “**commencement of construction**” shall mean the first physical alteration of City Blocks 190 and 276 by or on behalf of the Foundation. Upon commencement of construction, except as otherwise provided in this Agreement, the Foundation shall not have any right to terminate this Agreement until construction is completed in accordance with the Construction Drawings (hereinafter defined).

(2) By the Foundation after the Completion of Construction. After completion of construction, the Foundation shall have the right at any time during the remainder of the Initial Term of this Agreement to terminate this Agreement for convenience and without cause by providing the City with one hundred eighty (180) days prior written notice, in which event this Agreement automatically shall terminate on the one hundred eightieth day after such written notice is given.

(3) By Either Party During any Renewal Term. Following expiration of the Initial Term, either party may terminate this Agreement for convenience and without cause by providing the other party one hundred eighty (180) days written notice, in which event this Agreement automatically shall terminate on the one hundred eightieth day after such written notice is given.

(4) The Parties’ Rights and Obligations Upon Termination. Upon expiration or termination of this Agreement, thereafter, (i) neither party shall have any further obligation or liability hereunder, except for matters which expressly survive termination, (ii) all improvements and fixtures located in the Urban Garden (except for the Artwork) shall remain in the Urban Garden as the property of the City, and (iii) the Foundation shall have the right to remove the Artwork (hereinafter defined) from the Urban Garden as provided in Section 4(g) below. Notwithstanding anything contained herein to the contrary, if the Foundation elects to terminate this Agreement for convenience and without cause during the Initial Term and after construction has been completed pursuant to Section 1(b)(ii)(2) above, then the Foundation shall continue to maintain and repair the improvements located in the Urban Garden as provided in Section 6 below until the originally-scheduled expiration of the Initial Term.

Additionally, if the City breaches this Agreement and the Foundation terminates this Agreement during the Initial Term due to such breach, or if the Foundation otherwise is forced by the City (or SLMFC or HUD) to remove the Artwork from the Urban Garden prior to the expiration of the Initial Term, then (i) the City shall be responsible for any costs and expenses incurred by the Foundation to remove the Artwork from the Urban Garden, provided that the City’s liability for such removal costs and expenses shall not exceed \$50,000.00, and expenses incurred by the Foundation to store the Artwork in a suitable storage facility during the remainder of the Initial Term, provided that the City’s liability for such storage costs shall not exceed \$50,000.00, and (ii) all of the Foundation’s obligations under this Agreement, including but not limited to the Foundation’s repair, maintenance, insurance and security obligations shall immediately cease and be of no further force or effect.

(c) Communication with the Public. A representative of the City shall be the primary spokesperson for the Urban Garden. The City representative shall endeavor to cooperate fully with the Foundation in all communications.

(d) Designated Representatives.

(i) The Foundation’s “**Designated Representative**” is:

Christy B. Fox  
Gateway Foundation  
720 Olive Street, Suite 1977  
St. Louis, Missouri 63101  
Facsimile: 314.241.3559  
Telephone: 314.241.3337

(ii) The City’s “**Designated Representative**” is:

Barbara A. Geisman

Executive Director for Development  
City of St. Louis Mayor's Office  
Room 200 City Hall  
1200 Market Street  
St. Louis, Missouri 63103  
Facsimile: 314.622.3240  
Telephone: 314.622.4792

Either party hereto may replace its Designated Representative by providing written notice thereof to the other party.

(e) Lease and Deed of Trust. Notwithstanding anything contained herein to the contrary, the City shall use reasonable efforts to obtain from both Husch Trustee, Inc. and HUD written consent to the transactions and actions authorized and contemplated by this Agreement. Subject to the receipt of consent from SLMFC, Husch Trustee, Inc. and HUD as provided above, the City hereby represents and warrants to the Foundation that (i) the City is authorized to enter into and consummate the transaction contemplated by this Agreement and (ii) the execution of this Agreement and the performance by the City of its obligations under this Agreement do not conflict with any other agreements to which the City (or any of its departments or affiliates) is a party.

## 2. The Design Phase.

(a) The Design Documents. Subject to the terms of this Agreement, including the termination rights contained herein, the parties agree that the Foundation will engage, at the Foundation's sole cost and expense, one or more design firms chosen by the Foundation, in its sole discretion, to prepare the Design Documents for the proposed development of the Urban Garden. The Design Documents shall include complete information relating to the proposed appearance and infrastructure of the Urban Garden, including but not limited to information relating to traffic and pedestrian flow, the use of natural and artificial light and materials, the common area and green space landscapes, and the location and types of hardscape improvements and water features. The Design Documents will not reference any specific works of art or sculptures. The Foundation anticipates that a draft of the Design Documents will be presented to the Foundation in October of 2007.

(b) Preliminary Review. While the Foundation is working with the design professionals in the development of the Design Documents, the Foundation and the City shall cooperate through an informal meeting or meetings so that the City Representative and the City Representative's designees may review the Design Documents and discuss the City's initial reactions and/or comments thereto with the Foundation in an effort to address issues so that the formal review process is expedited to the greatest extent possible. Thereafter, the Foundation may, but shall not be obligated to, cause its design firm to revise the Design Documents before the Foundation submits the Design Documents to the City for formal approval pursuant to Section 2(c) below.

(c) The Approval Process. After the informal preliminary review contemplated in Section 2(b) above and upon the Foundation's approval of any revisions to the Design Documents, the Foundation shall submit four (4) complete sets of the Design Documents to the City for review and approval as provided in this Section. The Foundation shall deliver the Design Documents to the City's Designated Representative. Within five (5) business days after his or her receipt of the Design Documents, the City's Designated Representative shall present the Design Documents to the City's Board of Public Service ("BPS") and to the City's Preservation Board (collectively, the "**Reviewing Parties**"). Within thirty (30) days after their receipt of the Design Documents, the Reviewing Parties shall notify the Foundation in writing as to whether or not they have approved the Design Documents. If any of the Reviewing Parties have not approved the Design Documents, then their written notifications to the Foundation shall specify the reasons therefor, in which event the Foundation may, but shall not be obligated to, revise the Design Documents and re-submit the same to the Reviewing Parties for review and approval. If the Foundation re-submits the Design Documents to the Reviewing Parties as provided in the immediately preceding sentence, then within ten (10) days after their receipt of the re-submitted Design Documents, the Reviewing Parties shall notify the Foundation in writing as to whether or not they have approved the Design Documents. If any of the Reviewing Parties have not approved the Design Documents, then their written notifications to the Foundation shall specify the reasons therefor. The foregoing procedure shall be repeated until either the Foundation ceases its efforts to obtain approval of the Design Documents or the Design Documents have been finally approved by the Foundation and the Reviewing Parties. Notwithstanding the ten- and thirty-day periods of time referenced in the foregoing provisions, the Reviewing Parties shall use their best efforts to expedite their review and approval processes; provided, however, that the foregoing shall not require any Reviewing Party to take any action that would violate or otherwise be contrary to any ordinance to which said Reviewing Party is subject. The provisions of any ordinance to the contrary notwithstanding, approval of the Design Documents by the Reviewing Parties shall be sufficient to bind the City with respect thereto and shall be the only Design Documents approval required on behalf of the City.

## 3. The Construction Phase.

(a) The Construction Drawings. Upon the completion of the Design Documents and the City's approval of same as provided in Section 2 above, the parties agree that the Foundation will engage an architect to prepare plans and specifications for the construction of the Urban Garden (the "**Construction Drawings**"), which shall include, among other things, the location of the Artwork (hereinafter defined) and the location and types of shrubs, trees and other plants within the Urban Garden and which shall be subject to the City's approval as provided in this Section.

(b) The Approval Process. Upon completion of the Construction Drawings, the Foundation shall deliver four (4) complete sets of the Construction Drawings to the City's Designated Representative. Within five (5) business days after his

or her receipt of the Construction Drawings, the City's Designated Representative shall present the Construction Drawings to BPS for review and approval and to the Plan Examination Section of the City's Building Division solely for the purpose of confirming whether the Construction Drawings comply with the applicable building codes (collectively, the "**CD Reviewing Parties**"). Within twenty (20) business days after their receipt of the Construction Drawings, the CD Reviewing Parties shall notify the Foundation in writing as to whether they have approved or disapproved the Construction Drawings. If any of the CD Reviewing Parties elects not to approve the Construction Drawings, then such CD Reviewing Party's written notification to the Foundation shall specify the reasons therefor. If any of the CD Reviewing Parties elect not to approve the Construction Drawings, then the Foundation may, but shall not be obligated to, revise the Construction Drawings and re-submit the same to the CD Reviewing Parties for review and approval. If the Foundation re-submits the Construction Drawings to the CD Reviewing Parties as provided in the immediately preceding sentence, then within ten (10) days after their receipt of the re-submitted Construction Drawings, the CD Reviewing Parties shall notify the Foundation in writing as to whether or not they have approved the Construction Drawings. If any of the CD Reviewing Parties have not approved the Construction Drawings, then their written notifications to the Foundation shall specify the reasons therefor. The foregoing procedure shall be repeated until either the Foundation ceases its efforts to obtain approval of the Construction Drawings or the Construction Drawings have been finally approved by the Foundation and the CD Reviewing Parties. Notwithstanding the ten- and twenty-day periods of time referenced in the foregoing provisions, the CD Reviewing Parties shall use their best efforts to expedite their review and approval processes; provided, however, that the foregoing shall not require any CD Reviewing Party to take any action that would violate or otherwise be contrary to any ordinance to which said CD Reviewing Party is subject. If the CD Reviewing Parties approve the Construction Drawings, the provisions of any ordinance to the contrary notwithstanding, the City shall be deemed to have approved the Construction Drawings and no further City review or approval shall be required and the City and any applicable departments of the City shall issue any building permits or other authorizations that are required for the Foundation to commence construction of the Urban Garden; provided, however, that the Foundation's contractor or contractors shall be required to secure a building permit and, in addition, separate permits for plumbing, electrical, heating/ventilation, and fire protection installations to the extent the Construction Drawings contemplate such work.

(c) Changes to the Construction Drawings prior to Construction. If, after the City's approval of the Construction Drawings as provided above and prior to the commencement of construction, the Foundation desires to make a material change to the Construction Drawings, then such change shall be subject to the approval of the CD Reviewing Parties on behalf of the City, as required above. As used in this Agreement, a "**material change**" means a change that would affect the types or locations of the improvements within the Urban Garden (including significant changes to lighting and landscaping).

(d) Compliance with Laws. All work performed by or on behalf of the Foundation in connection with the Urban Garden shall be done in a professional and workmanlike manner, according to the best practices of the respective trades, and so as to comply with all applicable statutes, laws, ordinances, rules, codes, orders and specifications of all federal, state and local agencies, utilities or other bodies having jurisdiction, including but not limited to occupational safety and health acts and regulations, and the following state statutes pertaining to public works: prevailing wages on public works, §§ 290.210-290.340, RSMo; public works during excessive unemployment §§ 290.550-290.580, RSMo; and prompt payment §§ 34.057, 34.058, RSMo. Furthermore, the Foundation shall cause the Design Documents and the Construction Drawings to comply with the federal Americans with Disabilities Act and other applicable laws relating to access for persons with disabilities. If, after completion and acceptance of the Urban Garden, alterations must be made to the Urban Garden due to the enactment of any new law or any amendment of a law existing on the Date Hereof, then the Foundation shall be obligated to complete such alterations or improvements if the cost of such alterations or improvements does not exceed \$100,000. If the cost of such alterations or improvements exceeds \$100,000, the City and Foundation shall cooperate to resolve said issue, provided that the Foundation shall not be required to incur costs in excess of \$100,000. The Foundation shall file with the Secretary of BPS the name and address of all contractors and subcontractors who will work on the construction of the Urban Garden, together with the dollar amount of all contracts for the construction of the Urban Garden. All such contractors and subcontractors shall be licensed by the City and current on payment of all applicable City taxes, and the Foundation shall secure and pay for (or shall cause its contractors and subcontractors to secure and pay for) all necessary licenses, permits and inspection fees relating to the Urban Garden.

(e) MBE/WBE Policy. The Foundation will comply, and it will require its contractors and subcontractors to comply, with the MBE/WBE policy that is attached hereto as Exhibit B (the "**MBE/WBE Policy**"), which implements Mayor's Executive Order No. 28, as amended and extended, for purposes of the Urban Garden project.

(f) Bidding Procedure. Prior to issuing a bid package for the Urban Garden, the Foundation may issue a request for qualifications for contractors for the Urban Garden. Based on the responses to said request for qualifications that are received by the Foundation, the Foundation may issue a bid package for the Urban Garden to those contractors and/or subcontractors whose responses to the request for qualifications were acceptable to the Foundation, in its sole discretion. The Foundation's bid package, as well as its construction and design contracts, shall require that the City shall receive all the rights and benefits of contractor and supplier warranties and, upon completion of the Urban Garden, the City shall receive copies of the "as-built" drawings for the Urban Garden.

(g) Inability to Secure a Qualified Contractor. If, after receiving construction bids for the Urban Garden, the Foundation determines that qualified contractors cannot be secured to construct the Urban Garden in accordance with the Construction Drawings for the Project Cost, it shall immediately notify the City's Designated Representative. Unless the Foundation indicates that it is willing to pay the additional costs, the Foundation shall meet as soon as practical with the President of BPS or designee, the City's Designated Representative and the Foundation's design representative to determine what changes might be made in the Construction Drawings to secure an acceptable bid for the Project Cost. The parties shall have thirty (30) days to evaluate such changes and agree on modifications to the Construction Drawings. If the parties cannot agree to proceed with revised Construction Drawings, either the City or the Foundation may notify the other that the Urban Garden project is terminated, in which event this

Agreement shall cease and terminate.

(h) Selection of Contractors. Upon determination by the Foundation, based upon its own criteria, that acceptable bids which conform to the Construction Drawings for the Urban Garden have been received from one or more contractors, the Foundation shall have the authority to select the contractor(s) for the Urban Garden project in the Foundation’s sole discretion, provided, however that such selection(s) shall conform to the requirements of the MBE/WBE Policy.

(i) Payment and Performance Bonds. The Foundation shall secure, or cause its contractors to secure, and file with the City, payment and performance bonds for work to be performed by its contractors, in the amounts and types recommended by BPS, and naming the City as an additional obligee. Unless recommended otherwise by BPS, the following shall be minimum requirements for any such payment and performance bonds:

(i) Bonds shall be executed by a surety company satisfactory to the City and duly authorized to transact business in Missouri as evidenced by a Certificate of Authority granted by the Director of the Department of Insurance for the State of Missouri; and

(ii) The surety company shall have a policy holder’s rating of “A-” or better and a financial rating of “V” or higher as indicated in the latest edition of Best’s Key Rating Guide; and

(iii) The bonds shall be for the full dollar amount of the contract and any amendments thereto.

(j) Insurance.

(i) Commercial General Liability Insurance. The Foundation shall obtain and maintain a commercial general liability insurance (“CGL”) policy, which provides insurance to protect against claims for bodily injury and property damage arising out of premises operations, products and completed operations and advertising and personal injury liability. The City, its officers, and employees shall be included as “additional insureds” under the CGL policy. The CGL policy shall provide limits no less than the following:

	<u>Per Occurrence</u>	<u>In the Aggregate</u>
Personal and Bodily Injury	\$3,000,000	\$3,000,000
Property Umbrella	\$1,000,000	\$2,000,000 \$4,000,000
Fire Damage	\$50,000	
Medical Expense	\$10,000	

(ii) Workers Compensation Insurance. The Foundation shall obtain and maintain insurance sufficient to discharge its obligations under all applicable workers compensation laws in the state that work is to be performed, including any of the federal or maritime laws.

(iii) Miscellaneous. The Foundation shall cause each of its contractors employed by or contracted with the Foundation to purchase and maintain insurance of the types and limits specified herein (including appropriate motor vehicle insurance). The Foundation shall furnish the City with standard certificates of insurance as evidence of confirmation of all such insurance prior to commencement of the construction contemplated by this Agreement. All certificates shall provide for thirty (30) days written notice to the City prior to the cancellation, expiration or reduction of the limits of any insurance referred to therein and shall name the City, its officers, and employees as additional insureds. All insurers shall have an A.M. Best rating of A-, IX or higher and be fully authorized to conduct business in the State of Missouri.

Any such required minimum amounts shall not be construed to limit the liability of the Foundation or its contractor(s). The Foundation shall file certificates of insurance with BPS and the City’s Comptroller reflecting the coverage required in Section 3(j)(i) above, naming the City, its officers, and employees as additional insureds.

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 the Foundation under this Section 3(j) shall be reviewed upon the written request of the City’s Comptroller or the Foundation to determine whether such levels or nature of coverage is consistent with that maintained by other parties engaged in similar activities in similar locations, and the levels of required coverage shall be reasonably adjusted as agreed to by the parties.

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 the Foundation as of the time of such notice, the Foundation 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.

(k) Construction Contracts. Upon compliance with Section 3(h) above, the Foundation shall negotiate and execute construction contract(s) with the successful bidder(s), which contracts shall be in a form acceptable to the Foundation in its sole discretion (other than provisions that are required to be included in said contracts pursuant to the terms of this Agreement). Thereupon, the City shall issue all necessary building permits subject to Section 3(b) above (provided that the selected contractor(s) have made application for such permits, such applications reflect compliance with all applicable codes, ordinances and laws, and the requisite permit fees have been paid) and other authorizations to allow the Foundation and its contractors to commence construction

of the Urban Garden and authorize entry of the Foundation and its contractors onto City Blocks 190 and 276 for the purpose of constructing the Urban Garden.

(l) Termination of Construction Contracts. The Foundation shall have the right, in its sole discretion, to terminate any construction contract and/or replace any contractor or subcontractor engaged in connection with the Urban Garden. The Foundation shall notify the City's Designated Representative, in writing, within seven (7) days of such action.

(m) City Monitor. The City Representative shall designate a City monitor (the "**Monitor**") in connection with the Urban Garden. The Monitor may be changed by the City Representative upon one (1) week's prior written notice to the Foundation. The Foundation shall furnish the Monitor with a copy of the bid package pursuant to Section 3(f) for review and comment within a reasonable time prior to its issuance, and shall advise the Monitor of the process for soliciting bids for the Urban Garden. The Foundation shall notify the Monitor when it believes acceptable bids have been received for the Urban Garden. The Monitor shall review all bonds and insurance posted or tendered by the Foundation and its contractors in connection with the Urban Garden for compliance with this Agreement and shall notify the Foundation of any deficiency, including any deficiency with respect to the MBE/WBE Policy. If the Monitor reasonably believes any material provision of this Agreement has been violated by the Foundation or that work being done or facilities being installed do not conform to the plans and specifications approved pursuant to this Agreement, he shall notify the Foundation, and the Monitor, the President of BPS and the City's Designated Representative shall confer with the Foundation about the matter. If in the reasonable judgment of such President the matter is not satisfactorily resolved within ten (10) days after notice to the Foundation, the President may, but need not, cause suspension of the building permits or other authorization to the Foundation and its contractors to enter City property for project installation purposes until the matter is resolved. If the City (or the President of BPS) suspends any building permits or other authorization to the Foundation (or its contractors) in connection with the Urban Garden, then the Foundation shall have the right to terminate this Agreement by providing the City with five (5) days prior written notice, in which event this Agreement automatically shall terminate on the sixth day after such written notice is given. If the Foundation terminates this Agreement as provided in the immediately preceding sentence, then the Foundation and the City shall jointly devise a plan to mitigate the impact of the termination of this Agreement by returning City Blocks 190 and 276 to the same condition as such blocks existed prior to the commencement of construction or with such modifications to such condition as BPS determines to be acceptable.

(n) Liens. The Foundation shall, in its construction contracts, require each contractor to agree that no labor performed or materials furnished and incorporated in the Urban Garden shall be the basis for filing a lien against the City or City Blocks 190 and 276. Furthermore, the Foundation shall indemnify and hold harmless the City from and against any liability arising from the claim of any lien against the City or against City Blocks 190 and 276 for construction performed or for labor, materials, services or other products incorporated into the Urban Garden. The Foundation shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien charge, encumbrance or claim on or with respect to the Urban Garden or any part thereof other than as provided herein. The Foundation shall reimburse the City for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(o) Change to the Construction Drawings during Construction.

(i) The Foundation shall furnish any request for a change order to the City Monitor within one (1) business day of the Foundation's receipt thereof, and shall notify the Monitor of any changes in the Construction Drawings proposed by the Foundation. If the Foundation receives a request for a change order or desires to make such a change in the Construction Drawings which would result in a material change (as defined in Section 3(c) above) in the Urban Garden as designed, or would cause the Urban Garden to be inconsistent with the approved plans and specifications, it shall, prior to approving such change, secure the approval of the City to such change order, which approval shall not be unreasonably withheld, conditioned, or delayed. If a proposed change order is not a material change, then the Foundation shall have the right to approve or reject such change order in its sole discretion.

(ii) If any change order would increase the cost of the Urban Garden beyond the Project Cost, the City and the Foundation shall endeavor to determine ways to reduce the Project Cost to cover the change. However, if the Foundation and the City agree on the design change and the Foundation agrees to pay the increased cost, the Foundation may, in its sole discretion, proceed with the change order. If the parties determine, after their analysis that the cost of a change order makes the completion of the Urban Garden financially infeasible, they shall jointly devise a plan to mitigate the impact of the termination or abandonment of the Urban Garden by returning City Blocks 190 and 276 to the same condition as such blocks existed prior to the commencement of construction or with such modifications to such condition as BPS determines to be acceptable.

(p) Review of Records. The Foundation shall retain at its offices copies of all Urban Garden invoices, lien waivers and payment records showing the amounts paid and retainage, which shall be available during normal business hours to the City. If the City desires copies of such records, the Foundation shall provide them within seven (7) days of a written request for them from the City.

(q) Inspections during Construction. Prior to the commencement of construction, the Foundation shall notify the City of the dates of commencement and anticipated completion of construction on the Urban Garden. BPS, in conjunction with the City's Designated Representative, shall determine an inspection schedule and perform inspections at appropriate times during construction solely for the purpose of confirming that the Urban Garden is being completed in accordance with the Construction Drawings and applicable laws.

(r) Final Inspection. Upon completion of the Urban Garden and prior to final payments and release of

retainage, the Foundation shall notify the City, which shall inspect the Urban Garden. If the Urban Garden has been completed according to the Construction Drawings, BPS shall issue a Certificate of Completion to the Foundation and BPS shall accept the donation of the Urban Garden from the Foundation on behalf of the City. The Foundation shall then make the final payment to the contractors and suppliers and shall thereafter deliver copies of the "as built" drawings and warranties to BPS. Upon delivery and acceptance of the proposed donation of the completed Urban Garden by BPS, the completed Urban Garden (other than the Artwork) shall be the property of the City.

(s) Construction Deadline. Subject to the termination rights contained in this Agreement (including Section 1(b)(ii) above) and subject to force majeure, the Foundation and the City intend for the Urban Garden to be completed prior to the 2009 Major League Baseball All-Star Game, which is scheduled to take place in St. Louis in July of 2009. As used in the immediately preceding sentence, "force majeure" shall mean failure to perform, in whole or in part, due to contingencies beyond the Foundation's reasonable control, including unusual weather conditions, strikes, riots, war, fire, explosions, acts of God, injunctions, failure to obtain any necessary governmental approvals, and failure of equipment suppliers to timely provide the equipment needed for the Urban Garden. The City agrees to cooperate with the Foundation to enable the Foundation to complete construction of the Urban Garden as provided above.

#### 4. The Artwork.

(a) Selection. The Foundation intends to purchase and install high quality sculptures and other works of art which may include so-called "video art" (collectively, the "**Artwork**") in the Urban Garden.

The parties agree that after completion of the Urban Garden the Foundation will loan Artwork to the City for installation in the Urban Garden, all of which will be selected by the Foundation in its sole discretion, as well as any bases, supports, lighting, labels, and equipment installed by the Foundation in connection with the Artwork. Plans for supports, bases, lighting and equipment installed by the Foundation in connection with the Artwork, to the extent not approved as part of the City's approval of the Design Documents and the Construction Drawings, shall be subject to the prior approval of BPS, which shall not be unreasonably withheld, conditioned, or delayed.

The Foundation shall be responsible for ensuring that no piece of Artwork in the Urban Garden can reasonably be considered to be immoral, pose a physical danger to persons or property, create a dangerous distraction or obstruction to drivers on adjacent streets or cause irreparable harm to the City's image as a desirable place to live work and visit. The Foundation shall also be responsible for ensuring Artwork placed in the Urban Garden is in fact of high quality. The City acknowledges and agrees that Artwork in the Urban Garden may stimulate debate and commentary and evoke emotion, and may be controversial, and that such debate, commentary, emotion and controversy are fundamental to the nature of art. The City acknowledges and agrees that the Artwork may be displayed in the Urban Garden throughout the Term of this Agreement and that the City will not require removal of the Artwork until this Agreement expires or is terminated by either party pursuant to the terms of this Agreement.

Notwithstanding the foregoing, prior to any final decision by the Foundation with respect to the selection of Artwork for installation in the Urban Garden or replacement of the Artwork pursuant to Section 4(f) below, the Foundation and the City's Director of Planning and Urban Design shall confer with respect to such selection of Artwork. If the Director of Planning and Urban Design reasonably believes that any element of Artwork proposed for installation in the Urban Garden is immoral, poses a physical danger to persons or property, creates a dangerous distraction or obstruction to drivers on adjacent streets, or will cause irreparable harm to the City's image as a desirable place to live, work and visit, then the Director shall bring his or her concerns to the attention of the Foundation in a timely manner and the Director and the Foundation shall work cooperatively to resolve the concerns prior to the installation of the Artwork element.

(b) Ownership. Notwithstanding anything contained herein to the contrary, at all times, the Foundation shall retain ownership of the Artwork. The Foundation shall indemnify, defend, and hold harmless the City from and against any liability arising from any claim made against the City by any person or persons claiming that the Foundation does not own or have possessory rights to the Artwork.

(c) Installation and Maintenance. The Foundation shall arrange for the installation, care, and maintenance of the Artwork. The City shall not clean or otherwise treat the Artwork without obtaining the prior written consent of the Foundation. The Foundation may regularly inspect the Artwork and may arrange for surface cleanings or other needed treatments. Except as provided in Section 6(a) hereof, the City shall not perform any required maintenance within close proximity to the Artwork without the prior written consent of the Foundation.

(d) Damage. If any of the Artwork sustains significant damage as a result of the negligence or willful misconduct of the City or its consultants, contractors, agents, or employees, then, to the extent that the Foundation does not recover insurance proceeds sufficient to cover all losses and costs associated with the damage, including costs of repair and restoration, the City shall be responsible for such damage and shall reimburse the Foundation, upon demand, for all losses and costs associated with the damage, including costs of repairs and restoration. The City shall notify the Foundation immediately by telephone if the City discovers that any of the Artwork has been damaged. If any of the Artwork sustains significant damage (whether as a result of the City's negligence or willful misconduct or otherwise), then the Foundation shall have the option to either (i) have such Artwork repaired, in which case such repair shall commence within sixty (60) days after the date of the damage, or (ii) remove such Artwork from the Urban Garden. If the Foundation elects to remove such damaged Artwork from the Urban Garden, then the Foundation may, at its sole discretion, replace the damaged Artwork with another sculpture or work of art selected by the Foundation in its sole discretion, which, if so installed, shall be considered part of the Artwork for all purposes under this Agreement. As used in this

Section, “**significant damage**” means damage that (i) affects the structural integrity of the Artwork, (ii) if un-repaired will cause a deterioration in the physical components of the Artwork, or (iii) a reasonably prudent person would recognize has an immediate negative effect on the value of the Artwork.

(e) Rotation. While it is anticipated that much of the Artwork will remain on long-term loan to the City for the Term of this Agreement, it is recognized and understood that the Foundation may rotate the Artwork within the Urban Garden on a periodic basis.

(f) Removal and Replacement during the Term. Notwithstanding anything contained herein to the contrary, the Foundation shall have the right, at any time and for any reason or no reason, to remove all or any portion of the Artwork from the Urban Garden. Further, the Foundation shall have the right, at any time and for any reason or no reason, to replace all or any portion of the Artwork with other sculptures or works of art selected by the Foundation in its sole discretion, which, if so installed, shall be considered part of the Artwork for all purposes under this Agreement.

(g) Removal upon Expiration of the Term. Upon the expiration or earlier termination of this Agreement, the Foundation shall have the right, at its sole cost and expense (subject to Section 1(b)(ii)(4) above and Section 4 (h) below), to remove the Artwork from the Urban Garden. The Foundation shall repair any damage caused to the Urban Garden by the Foundation’s removal of the Artwork.

(h) Restoration after Removal. Except as otherwise provided in this Agreement, upon any removal by the Foundation of any or all of the Artwork, the Foundation shall, at the direction of the City, remove pedestals, bases, lighting, equipment and labels installed in connection with the removed Artwork, and shall restore the affected area to a state compatible with the Urban Garden.

(i) Insurance. In addition to the insurance required by Section 3(j) above, throughout the Term of this Agreement, the Foundation shall procure and maintain a fine arts all-risk policy of insurance covering the Artwork.

(j) Photography. The Foundation shall retain all of its rights of reproduction with respect to the Artwork. If the City wishes to obtain photographs of the Artwork for publicity or publication or wishes to reproduce any images of the Artwork for publicity or publication, then the City must obtain the prior written consent of the Foundation, provided, however, that such prior written consent requirement shall not apply to photographs of the Urban Garden in whole or in part, as long as such photographs shall not have as their sole subject a particular piece of the Artwork. Information about the Artwork used for catalogs, labels or for any other purposes shall conform to data furnished by the Foundation. The Foundation may provide display labels for all of the Artwork, which, if so provided, shall be displayed with the respective Artwork throughout the Term of this Agreement.

(k) Failure of Foundation to Maintain or Repair. Should the City determine that any of the Artwork has deteriorated and is in need of maintenance or repair, the City shall so notify the Foundation with specificity as to the deterioration and the recommended repairs. If the Foundation fails to address such deterioration within one hundred eighty (180) days following notice from the City, the City shall have the right (but not the obligation) to make repairs in a manner deemed appropriate by City, in City’s sole discretion.

## 5. Café.

(a) The Concept. The parties agree that the Foundation may, subject to all procedures and approvals required hereunder with respect to the Urban Garden, designate an area in the Urban Garden within which it may, as part of the Urban Garden, design and construct a café (the “**Café**”) with indoor and/or outdoor seating that would provide food and beverage service to members of the public visiting the Urban Garden.

(b) Ownership. Upon completion of the construction of the Urban Garden in accordance with the applicable Design Documents and Construction Drawings, the Café shall be deemed to be the property of the City and the City shall operate, maintain, and repair the Café as provided in Section 6 below. Notwithstanding the foregoing, if the Foundation reasonably believes that the City is operating or maintaining the Café in a manner that is inconsistent with the overall image, operation and maintenance of the Urban Garden, then the Foundation shall notify the City of its concerns, the parties shall promptly schedule a meeting to discuss the Foundation’s concerns, and the parties shall reasonably cooperate with one another to address the Foundation’s concerns. Notwithstanding the foregoing, if the City determines that the continued use of the Café facility and area for food and beverage service is (i) not economically feasible, (ii) not conducive to the enjoyment by the public of the Urban Garden, or (iii) harmful or dangerous to the public peace, safety and welfare, it shall notify the Foundation and the parties shall endeavor to agree on a resolution of the matter that is consistent with and does not detract from the use of the Urban Garden, which may include removal of the Café or its use by the Foundation for some other purpose; if the parties fail to agree on a resolution of the matter after thirty (30) days, the City may take any action with respect to the Café which it deems in the public interest and which is consistent with the continued operation of the Urban Garden, which may also include removal of the Café.

(c) Food and Beverage Service. Subject to the prior written approval of the Foundation and the provisions of Section 5(b) above, the City shall negotiate and enter into a contract with a food and beverage vendor for the provision of food and beverage services at the Café.

(d) Insurance. The City shall procure and maintain, or cause to be procured and maintained, all-risk property insurance covering the Café in an amount equal to the replacement value thereof including, without limitation, protection

against any peril included within the classification “fire and extended coverage,” together with insurance against flood or water damage, sprinkler damage, vandalism, explosion and malicious mischief. The City may comply with the provisions of this Section 5(d) by self-insuring the Café or by requiring any operator of the Café to provide the insurance described in this Section 5(d).

6. **Maintenance and Security.**

(a) **Improvements (excluding the Artwork).** Except as otherwise set forth in this Agreement, during the Term of this Agreement, the Foundation shall be responsible for the operation, maintenance, and repair of the improvements (including all lighting and landscaping) located in the Urban Garden. The City shall be responsible for (i) mowing the grass located on the Urban Garden in accordance with the City’s existing practices therefor (unless otherwise contracted therefor by the Foundation), (ii) the on-going cost of providing electricity and water to the Urban Garden, and (iii) the operation, maintenance, and repair of the Café in accordance with the City’s existing practices for similar improvements owned by the City.

(b) **Coordination with the Missouri Botanical Garden.** As of the Date Hereof, the Foundation anticipates that, during the design phase of the Urban Garden, the Foundation will consult with the Missouri Botanical Garden regarding the selection of grass, shrubs, trees, and other plants for the Urban Garden and regarding the installation and maintenance of infrastructure necessary for such plants to thrive (including, for example, appropriate soils and irrigation systems). Further, the Foundation intends to engage the Missouri Botanical Garden to maintain or otherwise care for the shrubs, trees and other plants located within the Urban Garden. The President of BPS and the City’s Designated Representative shall meet with the Foundation’s Designated Representative during the last quarter of each calendar year and develop a written maintenance plan for the Urban Garden (other than the Artwork) for the following calendar year.

(c) **Security.** The City shall be responsible for the protection and safekeeping of the Urban Garden to the same degree that the City is responsible for the protection and safekeeping of other property owned by the City. Notwithstanding the foregoing, the Foundation shall, as part of its maintenance function, have the right, but not the obligation, to engage a private security firm licensed by and in good standing with the St. Louis Board of Police Commissioners at its cost and expense to patrol and provide security for the Urban Garden.

(d) **Improvements Made by the City.** During the Term of this Agreement, except as otherwise expressly set forth herein, the City shall not install and/or construct any new improvements or alter any existing improvements in the Urban Garden or install any signage on the exterior of the Café or elsewhere in the Urban Garden (collectively referred to in this Section 6(d) as “alterations”), without the prior written consent of the Foundation. If the City performs any such alterations without the prior written consent of the Foundation, then the Foundation shall have the right, but not the obligation, to immediately terminate this Agreement upon written notice to the City, in which event the Foundation immediately may remove the Artwork from the Urban Garden as provided in Section 4(e) above. Further, unless the Foundation agrees otherwise in writing, the City shall be responsible for the operation, maintenance, and repair of any alterations performed by the City. Notwithstanding the foregoing, the City or an operator may make interior improvements to the Café without the prior written consent of the Foundation.

(e) **Special Events.** During the Term of this Agreement, the City shall not permit the occurrence of special events including, but not limited to, exhibitions, demonstrations, carnivals, fairs, rallies, parades, concerts, or other similar events, at the Urban Garden without the prior written consent of the Foundation. Similarly, if any such special event is scheduled to occur on the City’s property (including roadways) adjacent to, or within close proximity to, the Urban Garden and is reasonably likely to increase the number of visitors to the Urban Garden, then the City shall notify the Foundation of such event as soon as reasonably possible (and in any event at least twenty four (24) hours) before the occurrence of such event so that the City and the Foundation may coordinate and provide for appropriate security measures to ensure the safety and security of the improvements and the Artwork located within the Urban Garden.

(f) **Failure of Foundation to Maintain or Repair.** Notwithstanding anything herein to the contrary, should the City determine that any portion of the Urban Garden has deteriorated and is in need of maintenance or repair, the City shall so notify the Foundation with specificity as to the deterioration and the recommended repairs. If the Foundation fails to address such deterioration within one hundred eighty (180) days following notice from the City, the City shall have the right (but not the obligation) to make repairs in a manner deemed appropriate by City, in City’s sole discretion.

7. **Default.** If either party is in default of this Agreement by reason of failure or refusal to comply with any of the terms of this Agreement and such defaulting party fails to cure such default within thirty (30) days after such party’s receipt of written notice thereof from the non-defaulting party, then the non-defaulting party shall have the right, but not the obligation, (i) to terminate this Agreement upon two (2) business days written notice to the defaulting party (in which event this Agreement automatically shall terminate on the third day after such written notice is given) and/or (ii) to exercise any other rights or remedies available to the non-defaulting party at law or in equity.

8. **Notices.**

(a) Any notice, report, demand, request or other instrument or communication authorized, required, or desired to be given under this Agreement shall be in writing and shall be deemed given if addressed to the party intended to receive the same, at the address of such party set forth below, (i) when delivered at such address by hand or by overnight delivery service, (ii) two (2) days after its deposit in the United States mail as certified mail, return receipt requested, or (iii) when delivered by facsimile at the facsimile number listed below.

If to the Foundation: Christy B. Fox  
Gateway Foundation  
720 Olive Street, Suite 1977  
St. Louis, Missouri 63101  
Facsimile: 314.241.3559  
Telephone: 314.241.3337

With a copy to: David A. Linenbroker  
Blackwell Sanders Peper Martin LLP  
720 Olive Street, Suite 2400  
St. Louis, Missouri 63101  
Facsimile: 314.345.6060  
Telephone: 314.345.6409

If to the City: Barbara A. Geisman  
Executive Director for Development  
Office of the Mayor  
Room 200 City Hall  
1200 Market Street  
St. Louis, Missouri 63103  
Facsimile: 314.622.3240  
Telephone: 314.622.3201

With a copy to: City Counselor  
314 City Hall  
1200 Market Street  
St. Louis, Missouri 63103  
Facsimile: 314.622.4956  
Telephone: 314.622.3361

(b) Either party may change the address to which any such notice, report, demand, request or other instrument or communications to such party is to be delivered or mailed, by giving written notice of such change to the other parties, but no such notice of change shall be effective unless and until received by such other parties.

(c) The attorneys for the respective parties hereto have the authority to send any notice that may be sent by any party hereto.

9. **Miscellaneous.**

(a) **Exhibits.** Each of the Exhibits attached hereto is hereby incorporated by reference into this Agreement.

(b) **Entire Agreement.** The terms of this Agreement (together with the Exhibits attached hereto) constitute the entire agreement between the Foundation and the City concerning the transaction contemplated herein. This Agreement supersedes any and all other agreements concerning the transaction, whether oral or written between the Foundation and the City.

(c) **Binding Effect.** This Agreement shall be binding upon the parties and their respective heirs, legal representatives, successors and assigns.

(d) **Nonwaiver.** Failure of either party to insist on the strict performance of any provision of this Agreement shall not be construed or deemed to be a waiver of that provision or any other provision of this Agreement. Any waivers must be in writing and signed by the party waiving.

(e) **Amendments.** Any amendment to this Agreement must be in writing and signed by the Foundation and the City.

(f) **No Personal Liability.** No alderman, alderwoman, commissioner, director, officer, board member, employee, or other agent or representative of the Foundation or the City shall be personally liable under or in connection with this Agreement.

(g) **Applicable Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Missouri, without regard to principles of conflicts of law.

(h) **Severability.** If any provisions of this Agreement are held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement, provided that both parties may still effectively realize the complete benefit of the transaction contemplated hereby.

(i) Business Day; Calculation of Time. A “business day” shall be any day other than a Saturday, Sunday or legal holiday in the State of Missouri. When any period of time stated in this Agreement would end on a day that is not a business day, such period shall be deemed to end on the next business day.

(j) Limitation of Liability. Under no circumstances shall either the Foundation or the City be liable to the other in connection with this Agreement under any theory of tort, contract, strict liability or other legal or equitable theory for any punitive, special, incidental, indirect or consequential damages, each of which is excluded by agreement of the parties regardless of whether or not any of the parties have been advised of the possibility of such damages.

(k) Counterpart Execution. This Agreement and any companion documents, deeds, or instruments referred to herein, may be executed in one or more counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all of which, taken together, shall constitute one and the same agreement, document, deed or instrument.

*[Signatures follow on the next page.]*

**IN WITNESS WHEREOF**, the Foundation and the City have hereunto set their hands and seals to this Agreement as of the Date Hereof.

**THE FOUNDATION:**

GATEWAY FOUNDATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE CITY:**

The foregoing Cooperation Agreement was approved by the City of St. Louis by Ordinance No. \_\_\_\_\_, approved \_\_\_\_\_, 2007.

THE CITY OF ST. LOUIS, MISSOURI

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Director of Parks, Recreation & Forestry

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Director of the Board of Public Service

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Comptroller

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: City Counselor

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Register

Date: \_\_\_\_\_

**ACKNOWLEDGED AND CONSENTED TO:**

ST. LOUIS MUNICIPAL FINANCE CORP.

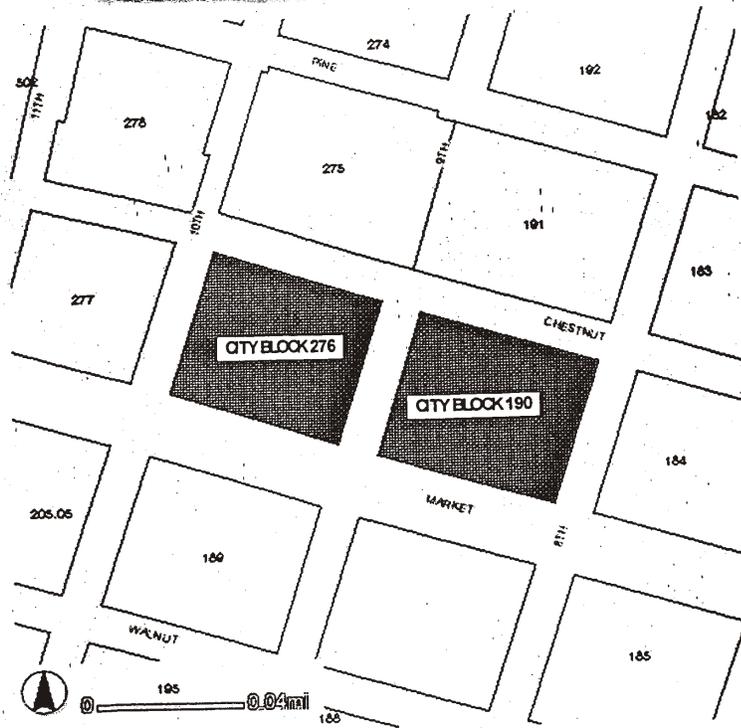
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
(Depiction of City Blocks 190 and 276)

67591

Exhibit A to Board Bill #

(Depiction of City Blocks 190 and 276)



**EXHIBIT B**

## (MBE/WBE Policy)

It is the policy of Gateway Foundation (the "**Foundation**") to ensure the maximum utilization of qualified minority business enterprises ("**MBEs**") and qualified women's business enterprises ("**WBEs**") in the proposed permanent improvements upon City Blocks 190 and 276 while at the same time achieving a competitive contract price for goods and services of high quality.

An "**MBE**" is defined as a sole proprietorship, partnership or corporation that is at least fifty-one percent (51%) owned, operated and controlled by minority group members. "**Controlled**" means that the minority group member(s) must have and exercise actual day-to-day operational and managerial control and receive an interest in capital and earnings commensurate with the member(s)' percentage of ownership. Minority groups covered by this policy include Black-Americans, Hispanic-Americans, Native-Americans, and Asian-Pacific Americans legally residing in the United States.

A "**WBE**" is defined as sole proprietorship, partnership or corporation that is at least fifty-one percent (51%) owned, operated and controlled by a woman or women. "**Controlled**" means that the woman or women must have and exercise actual day-to-day operational and managerial control and receive an interest in capital and earnings commensurate with the member(s)' percentage of ownership.

"**Certified**" is defined as recognized and certified by the City as an legitimate MBE and/or WBE.

"**Maximum utilization**" means, with respect to the proposed improvement project, that the general contractor shall take all reasonable steps: (i) to provide MBEs and WBEs with the maximum opportunity to compete for all construction contracts and subcontracts, and to furnish supplies and labor ("**Subcontracts**"); and (ii) to award the maximum possible dollar volume of contracts to Certified MBEs and WBEs while at the same time achieving a competitive contract price for goods and services of high quality. The goals for maximum utilization are that at least twenty-five percent (25%) of the dollar volume of all contracts let for the project be awarded to Certified MBEs and that at least five percent (5%) of the dollar volume of all contracts let for the project be awarded to Certified WBEs. Participation by MBE and WBE firms located outside the St. Louis Metropolitan Statistical Area shall not count towards the goals established in this Policy. All MBEs and WBEs to which contracts are awarded shall perform commercially useful functions commensurate with the dollar amount of the contract. Joint venture, manufacturer and supplier participation shall be counted in the manner such participation is typically counted by the City. A MBE and/or WBE shall be considered to perform a commercially useful function when the MBE and/or WBE is responsible for the execution of a distinct element of the work of a contract and the carries out such responsibility by actually performing, managing and supervising all of the work involved.

Following the selection of a general contractor for the project, the Foundation and the general contractor shall work with the City to formulate a plan for maximum utilization of Certified MBEs and WBEs. If a bid or proposal provided by an MBE or WBE is rejected, the general contractor shall provide a legitimate and non-discriminatory reason for rejecting the bid or proposal. Prior to the commencement of construction, the Foundation shall cause the general contractor to submit to the City an M/WBE Utilization Plan, which Plan shall be reasonably acceptable to the City. During the construction process, the Foundation shall also cause the general contractor to submit Monthly M/WBE Utilization Reports to the City, which Reports shall document the actual utilization of and payments to MBEs and WBEs during the course of the construction process.

If following the award of any contract to an MBE or WBE, the MBE or WBE is unable to perform the work in a satisfactory manner in accordance with the required schedule, the general contractor shall make a good faith effort to replace such MBE or WBE with another Certified MBE or WBE

Each general contract shall make adequate provision to compensate the Foundation for damages in the event the actual utilization of and payments to MBEs and WBEs do not meet or exceed the utilization and payment amounts set forth in the M/WBE Utilization Plan approved by the City.

A general contractor's good faith efforts to meet the MBE and/or WBE goals may include, but are not limited to, such items as the following:

(a) Worked throughout the bidding, planning and execution of the construction process with the City to ensure that available MBEs and WBEs are appropriately matched to contracting opportunities commensurate with such MBEs' and WBEs' skills, experience and capacity;

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

(c) Provided written notice to a reasonable number of specific MBEs and/or WBEs that their interest in the contract is solicited, in sufficient time to allow the MBEs and/or WBEs to participate effectively;

(d) Followed up on initial solicitations of interest by contracting MBEs and/or WBEs to determine with certainty whether the MBEs and/or WBEs were interested;

(e) Selected portions of the work to be performed by MBEs and/or WBEs in order to increase the likelihood of meeting the MBE and/or WBE goal (including, where appropriate, breaking down contracts into economically feasible units to

facilitate MBE and/or WBE participation);

(f) Provided interested MBEs and WBEs adequate information about plans, specifications and requirements of the contract;

(g) Negotiated in good faith with interested MBEs and WBEs not rejecting MBEs and/or WBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;

(h) Made efforts to assist interested MBEs and WBEs in obtaining bonding, lines of credit, or insurance required by the Foundation or by the bidder; and

(i) 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 MBEs and WBEs.

The general contract for the Urban Garden project shall provide a reasonable retainage to be withheld until the date of substantial completion. Pending completion of the contract, amounts paid to MBEs and WBEs shall be reported to the Foundation and the City on a monthly basis. Prior to the release of the retainage, the general contractor shall file a list with the Foundation showing the MBEs and WBEs used, the work performed, and the dollar amount paid to each Certified MBE and WBE. The general contract shall provide that in the event the actual dollar amount paid to MBEs and WBEs falls short of the amount to be paid as set forth in the M/WBE Utilization Plan approved by the City, the Foundation 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 MBEs and/or WBEs as set forth in the Plan as approved less the amount actually paid to the MBEs and/or WBEs 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 MBE and/or WBE participation set forth in the Plan is not met. Any amount so deducted will be donated to organizations offering scholarship and/or internship programs for disadvantaged or disabled youth. The Foundation shall report to the City the occurrence and amount of any such deduction and the organization to which the money is donated or the use made thereof by the Foundation for scholarship and/or internship programs.

**Approved: July 9, 2007**

**ORDINANCE #67592**  
**Board Bill No. 124**  
**Committee Substitute**

An ordinance prohibiting the operation of any vehicle on a street, alley, roadway, highway or parking lot open to the public by any person while that person's drivers license or driving privilege has been canceled, suspended or revoked by the State of Missouri and containing an emergency clause.

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

**SECTION ONE:** No person shall operate any motor vehicle on a street, alley roadway, highway or parking lot open to the public while that person's drivers license or driving privilege has been canceled, suspended or revoked by the State of Missouri, whether that person's license and driving privilege is that of a resident or a nonresident, with knowledge or constructive knowledge of the fact his driving privilege has been canceled, suspended or revoked.

**SECTION TWO:** Any person who actually knows or who was mailed an official notice, delivered to his last address on file with the Director of Revenue of the State of Missouri, that his/her drivers license or driving privilege has been canceled, suspended or revoked by the Director of Revenue of the State of Missouri shall be deemed to have knowledge or constructive knowledge that his/her drivers license or driving privilege has been canceled, suspended or revoked for purpose of this ordinance.

**SECTION THREE:** Every person who pleads guilty to or is found guilty for the first time of a violation of this ordinance shall be punished by a fine of not less than \$200 nor more than \$500 and/or imprisonment for a term not to exceed 90 days. Every person who pleads guilty to or is found guilty for a second or subsequent violation of this ordinance shall be punished by a fine of not less than \$500 and/or imprisonment for a term not to exceed 90 days. A judge may suspend the execution of the jail term but not the fine. A judge may not enter a "suspended imposition" of any sentence.

**SECTION FOUR:** Emergency Clause. The passage of this Ordinance being deemed necessary for the immediate preservation of the public health, moral, safety, and general welfare, shall be and is hereby declared to be an emergency measure within the meaning of Article IV, Sections 19 and 20, of the Charter of the City of St. Louis, and, as such, this Ordinance shall take effect immediately upon its approval by the Mayor.

**Approved: July 9, 2007**

**ORDINANCE #67593**  
**Board Bill No. 79**

An ordinance approving the Petition to Establish the Flora Place Community Improvement District, establishing the Flora Place Community Improvement District, and containing a severability clause and an emergency clause.

**WHEREAS**, Mo. Rev. Stat. § 67.1400 et seq. (the “Act”) authorized the Board of Aldermen to approve the petition of property owners to establish a Community Improvement District; and

**WHEREAS**, a petition signed by property owners in the Flora Place Area, hereinafter described, has been filed with the City, requesting formation of a Community Improvement District; and

**WHEREAS**, the Register of the City of St. Louis did review and determine that the petition substantially complies with the requirements of the Act; and

**WHEREAS**, the Board of Aldermen did, on May 4, 2007, introduce Resolution Number 20 declaring its intention to establish a Community Improvement District in the Flora Place Area and calling for a public hearing on the matter; and

**WHEREAS**, such public hearing, duly noticed, was held at \_\_\_\_\_ a.m. on \_\_\_\_\_, \_\_\_\_\_, 2007 by the Board of Aldermen; and

**WHEREAS**, this Board of Aldermen hereby finds that the adoption of this ordinance is in the best interest of the City of St. Louis and that the property owners, residents and persons engaging in business or visiting the Flora Place Area, and the public in general will benefit by the establishment of said Community Improvement District.

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

**SECTION ONE.**

(a) A Community Improvement District, to be known as the “Flora Place Community Improvement District” (hereinafter referred to as the “District”), is hereby established within the Flora Place Area, hereinafter described, to receive services, benefits, and assessment as set forth in the petition.

(b) The District boundaries are set forth on the map in Appendix A and are described as follows:

The “Flora Place Area” is all of the property located within the City of St. Louis abutting the roadway commonly known as Flora Place together with any rear parcels that abut parcels abutting on Flora Place and bounded on the east by Grand Boulevard, on the west by Tower Grove Avenue, on the north by the east-west alleyways located in CB 4935, CB 4940, CB 4941, CB 4946, CB 4947, and CB 4952 (and excluding those properties north of such alleyways abutting Russell Boulevard), and on the south by the east-west alleyways located in CB 4934, CB 4929, CB 4920, CB 4919, CB 2117, and CB 2118 (and excluding those properties south of such alleyways abutting Flad Avenue).

**SECTION TWO.**

(a) The District is authorized by the Act to use any one or more of the assessments or other funding methods specifically authorized by the Act to provide funds to accomplish any power, duty or purpose of the District; provided, however, the District shall not have the authority to impose any such assessment on any real property located in a special business district authorized pursuant to Mo. Rev. Stat. § 71.790 et seq. or on any business or individual doing business in such special business district until the taxes imposed by such special business district have been repealed, or the rates therefor have been reduced to zero, by such special business district.

(b) The District is authorized by the Act to establish different classes of real property within the District for purposes of special assessments. The levy rate for special assessments may vary for each class or subclass based on the level of benefit derived from services or improvements funded, provided or caused to be provided by the District.

(c) (i) The District is authorized by the Act and the petition to assess and collect annual yearly assessments not to exceed the rates described as follows:

\$0.00 for unimproved real property;

\$0.00 for improved real property that does not include a residence; and

\$500.00 for improved real property upon which a residence is located.

(As defined in the petition, “residence” means a single-family dwelling.)

(ii) Special assessments shall be levied in advance, beginning in the fall of 2007 and continuing through the fall of 2011, so that funds will be available for operations from January 1, 2008 through December 31, 2012.

(d) Notwithstanding anything to the contrary, the District shall have no power to levy any tax but shall only have the power to levy special assessments in accordance with the Act.

**SECTION THREE.** The District is authorized by the Act, at any time, to issue obligations for the purpose of carrying out any of its powers, duties or purposes. Such obligations shall be payable out of all, part of any combination of the revenues of the District and may be further secured by all or any part of any property or any interest in any property by mortgage or any other security interest granted. Such obligations shall be authorized by resolution of the District, and if issued by the District, shall bear such date or dates, and shall mature at such time or times, but not more than 20 years from the date of issuance, as the resolution shall specify. Such obligations shall be in such denomination, bear interest at such rate or rates, be in such form, be payable in such place or places, be subject to redemption as such resolution may provide and be sold at either public or private sale at such prices as the District shall determine subject to the provisions of Mo. Rev. Stat. § 108.170. The District is also authorized to issue such obligations to refund, in whole or in part, obligations previously issued by the District.

**SECTION FOUR.**

(a) Pursuant to the petition, the District shall be administered by the Flora Place Community Improvement District, a not-for-profit corporation.

(b) Pursuant to the Act, the fiscal year for the District shall begin on July 1.

(c) No earlier than 180 days and no later than 90 days prior to the first day of each fiscal year, the Flora Place Community Improvement District shall submit to the Board of Aldermen a proposed annual budget for the District, setting forth expected expenditures, revenues, and rates of assessments, if any, for such fiscal year. The Board of Aldermen may review and comment on this proposed budget, but if such comments are given, the Board of Aldermen shall provide such written comments no later than 60 days prior to the first day of the relevant fiscal year; such comments shall not constitute requirements but shall only be recommendations.

(d) The Flora Place Community Improvement District shall hold an annual meeting for the District and adopt an annual budget no later than 30 days prior to the first day of each fiscal year.

**SECTION FIVE.** The District is authorized by the Act to use the funds of the District for any of the improvements and activities authorized by the Act.

**SECTION SIX.** Pursuant to the Act, the District shall have all the powers necessary to carry out and effectuate the purposes of this ordinance and the petition as set forth in the Act.

**SECTION SEVEN.** Within 120 days after the end of each fiscal year, the District shall submit a report to the Register of the City and the Missouri Department of Economic Development stating the services provided, revenues collected and expenditures made by the District during such fiscal year, and copies of written resolutions approved by the board of the District during the fiscal year. The Register shall retain this report as part of the official records of the City and shall also cause this report to be spread upon the records of the Board of Aldermen.

**SECTION EIGHT.** The District will continue to exist and function for a term of approximately five (5) years beginning on the date of this ordinance and ending at the end of the fifth full calendar year thereafter (i.e., December 31, 2012). Special assessments shall be levied in advance beginning in 2007 so that funds will be available for operations on January 1, 2008.

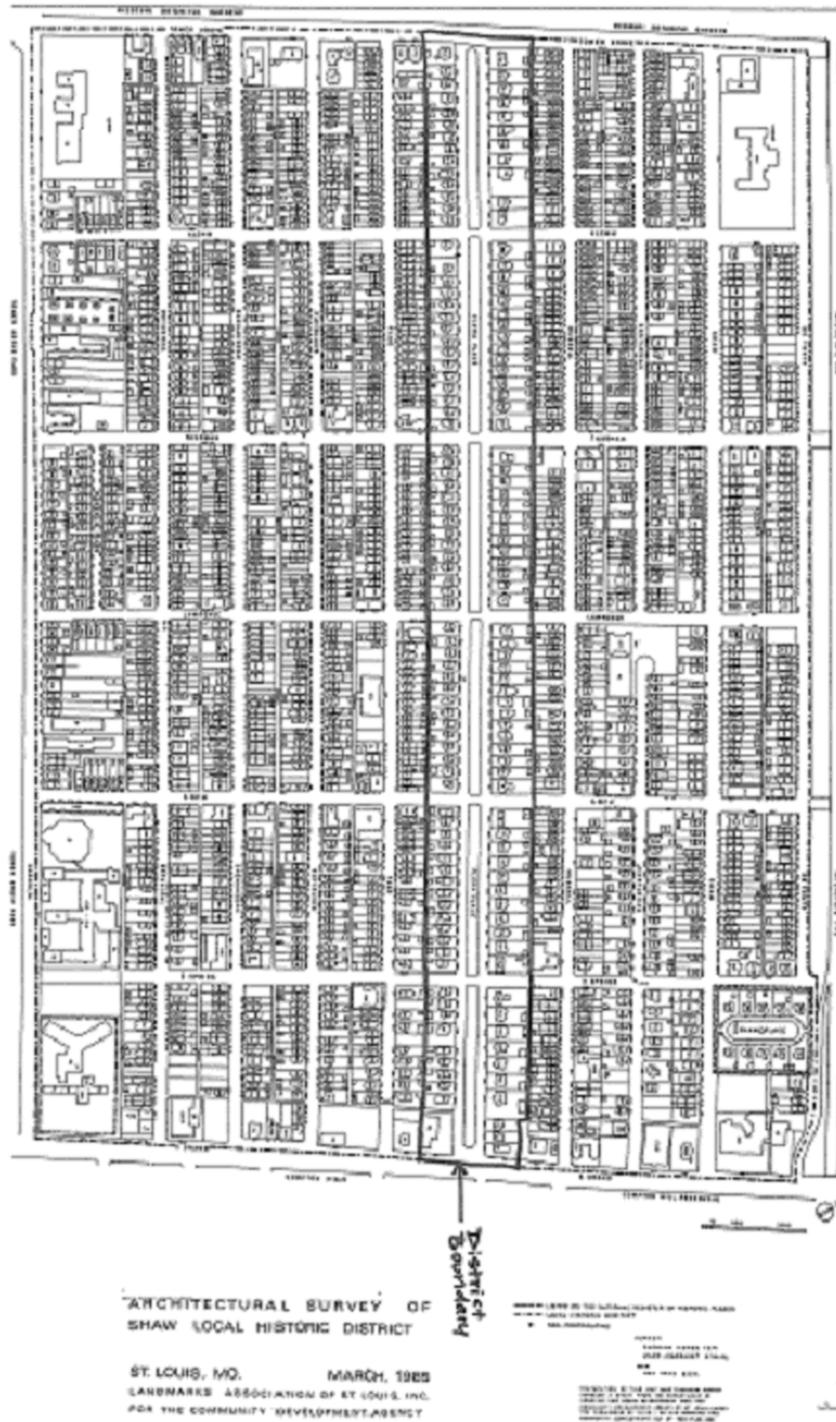
**SECTION NINE.** Pursuant to the Act, the Board of Aldermen shall not decrease the level of publicly funded services in the District existing prior to the creation of the District or transfer the financial burden of providing the services to the District unless the services at the same time are decreased throughout the City, nor shall the Board of Aldermen discriminate in the provision of the publicly funded services between areas included in the District and areas not so included.

**SECTION TEN.** The Register shall report in writing the creation of the Flora Place Community Improvement District to the Missouri Department of Economic Development.

**SECTION ELEVEN.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional, or unlawful for any reason, by any court of competent jurisdiction, such portion shall be deemed and is hereby declared to be a separate, distinct and independent provision of this ordinance, and such holding or holdings shall not affect the validity of the remaining portions of this ordinance.

**SECTION TWELVE.** Being necessary for the immediate preservation of the public health, welfare and safety, it is declared to be an emergency measure within the Charter of the City of St. Louis and shall become effective immediately upon its passage and approval by the Mayor.

**Appendix A**  
**(District Boundary Map)**



Approved: July 10, 2007

**ORDINANCE #67594**  
**Board Bill No. 159**

An ordinance recommended and approved by the Airport Commission and the Board of Estimate and Apportionment, ratifying and adopting the actions of the Mayor and the Comptroller of the City of St. Louis (the "City"), the owner and operator of Lambert-St. Louis International Airport® (the "Airport"), in accepting and executing on behalf of the City a certain grant agreement offered by the United States of America (the "Grant Agreement"), acting through the Federal Aviation Administration of the United States Department of Transportation, the Grant Agreement being for Project Number 3-29-0085-109-2007, dated May 8, 2007, for a maximum federal obligation of One Million Eight Hundred Forty Nine Thousand Seven Hundred One Dollars (\$1,849,701), which is filed in the Office of the City Register [Comptroller Document No. 55575], for the reimbursement of direct costs associated with improving runway safety area 12L-30R (Phase 2); and containing an emergency clause.

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

**SECTION ONE.** The actions of the Mayor and the Comptroller of the City of St. Louis (the "City"), the owner and operator of Lambert-St. Louis International Airport® (the "Airport"), in accepting and executing on behalf of the City a grant agreement offered by the United States of America (the "Grant Agreement"), acting through the Federal Aviation Administration of the United States Department of Transportation, the Grant Agreement being for Project Number 3-29-0085-109-2007, dated May 8, 2007, for a maximum federal obligation of One Million Eight Hundred Forty Nine Thousand Seven Hundred One Dollars (\$1,849,701), which is filed in the Office of the City Register [Comptroller Document No. 55575], for the reimbursement of direct costs associated with improving runway safety area 12L-30R (Phase 2) is hereby ratified and approved.

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

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

67594



---

Approved: July 10, 2007