

ORDINANCE #67973
Board Bill No. 23

An Ordinance, recommended by the Board of Public Service of the City of St. Louis (the "Board of Public Service"), authorizing the Comptroller of the City of Saint Louis to execute an easement agreement with the Metropolitan Saint Louis Sewer District to allow for the maintenance of a public sewer to be built on City owned property.

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

SECTION ONE. There is hereby authorized a public works and improvement project for the construction of public sewer to provide storm drainage in the vicinity of 4300 South First Street in the City of Saint Louis

SECTION TWO. The City of St. Louis (the "City"), acting by and through its Board of Public Service (the "Board of Public Service"), is hereby authorized and directed to let contracts and provide for the design, construction, materials, and equipment, for the public sewer in the vicinity of 4300 South First Street with any contracts containing sections for: description of the work, material guarantees, estimated expenditure allocations, fund reversion authorization, applicable federal and state wage rate requirements, equal opportunity provisions, the Mayor's Executive Orders, and contract advertising statutes.

SECTION THREE. The work provided for herein shall be carried out in accordance with detailed plans and specifications to be adopted and approved by the Board of Public Service before bids are advertised therefor.

SECTION FOUR. All construction contracts let under authority of this Ordinance shall provide that no less than the prevailing hourly rate of wages in the City, as determined in accordance by the Department of Labor and Industrial Relations of the State of Missouri (Sections 290.210 through 290.340 RSMo. 2000, as amended,) for each craft or type of work needed in the actual labor on the jobs herein authorized, as well as the general prevailing rate of pay for legal holidays and overtime work shall be paid to all workers on the project. All contracts let in connection with the construction provided for herein shall be subject to, and in conformance with all applicable statutes of the State of Missouri and the City Charter and Revised Code of the City, as amended.

SECTION FIVE. All specifications approved by the Board of Public Service and contracts let under the authority of this Ordinance shall provide for compliance with the Mayor's Executive Orders on Equal Opportunity and maximum MBE/WBE/DBE utilization goals, except when otherwise superseded or prohibited by federal or state law or regulation.

SECTION SIX. All advertisement for bids pursuant to this Ordinance shall be subject to Section 8.250 RSMo. 2000, as amended.

SECTION SEVEN. The Comptroller of the City is hereby authorized and directed to execute the easement agreement attached hereto as Exhibit 1.

SECTION EIGHT. This being an ordinance providing for public work and improvement, it is hereby declared to be an emergency measure as defined in Article IV, Sections 19 and 20 of the City Charter and shall become effective immediately upon its passage and approval by the Mayor of the City.

Approved: May 21, 2008

ORDINANCE #67974
Board Bill No. 25

An ordinance recommended by the Board of Estimate and Apportionment of the City of St. Louis, Missouri (the "City") amending Ordinance No. 67969 and authorizing and directing the issuance and sale by the St. Louis Municipal Finance Corporation (the "Corporation") of its Tax-Exempt Public Safety Sales Tax Leasehold Revenue Bonds (City of St. Louis, Missouri, Lessee), Series 2008A (the "Series 2008A Bonds"), its Tax-Exempt Juvenile Detention Center Leasehold Revenue Bonds (City of St. Louis, Missouri, Lessee), Series 2008C (the "Series 2008C Bonds" and, together with the Series 2008A Bonds, the "Tax-Exempt Bonds"), in order to fund the construction, installation, rehabilitation, and improvement of certain capital improvements, and/or its Taxable Public Safety Sales Tax Leasehold Revenue Bonds (City of St. Louis, Missouri, Lessee), Series 2008B (Pension Funding Project) (the "Taxable Bonds") in order to pay certain actuarially required contributions coming due in the City's current fiscal year ("Fiscal Year 2008") in connection with the City of St. Louis Police Retirement System (the "PRS"), the City of St. Louis Firemen's Retirement System (the "FRS"), and/or the City of St. Louis Employees' Retirement System (the "ERS" and together with the PRS and FRS, the "Retirement Systems"), in an aggregate principal amount not to exceed \$45,000,000 (collectively, the "Series 2008 Bonds"), for the general welfare, safety, and benefit of the citizens of the City; authorizing and directing the Corporation to execute

and deliver, as necessary or desirable to facilitate the transactions contemplated hereby, any of the Indenture, the Base Lease, the Lease Purchase Agreement, the Leasehold Deed of Trust, the Interest Rate Exchange Agreement, the Tax Compliance Agreement, the Official Statement, and the Bond Purchase Agreement (all as defined herein); authorizing the City to execute and deliver, as necessary or desirable to facilitate the transactions contemplated hereby, any of the Base Lease, the Lease Purchase Agreement, the Tax Compliance Agreement, the Continuing Disclosure Agreement (as defined herein), any Interest Rate Exchange Agreement to which the City is a party, the Official Statement, and the Bond Purchase Agreement; providing for a debt service reserve fund or funds, if any, for the Series 2008 Bonds; authorizing the Corporation and the City to obtain credit enhancement for a portion or all of the Series 2008 Bonds from a Credit Provider (as defined herein); authorizing the payment of any obligations due to a Credit Provider, if any; and authorizing the Comptroller and any other appropriate City officials to execute the Credit Agreement (as defined herein) and other documents related thereto, if any; authorizing participation of appropriate City officials in preparing the Official Statement; authorizing the acceptance of the terms of the Bond Purchase Agreement and the taking of further actions with respect thereto; authorizing the payment of certain costs of issuance of the Series 2008 Bonds; authorizing and directing the taking of other actions and approval and execution of other documents as necessary or desirable to carry out and comply with the intent hereof; and superseding provisions of prior ordinances of the City to the extent inconsistent with the terms hereof; and containing an emergency clause.

WHEREAS, on February 5, 2008, under and by the authority of Section 92.500 RSMo, the qualified voters of the City of St. Louis approved a one-half of one percent sales tax on all retail sales made in the City of St. Louis (the "Public Safety Sales Tax") for the purpose of providing revenues for the operation of public safety departments, including police and fire departments; and

WHEREAS, pursuant to Ordinance No. 67794, the Board of Aldermen of the City has required that all revenues from the Public Safety Sales Tax be deposited in the Public Safety Protection Sale Tax Fund to be used for various public safety purposes, and in particular has required that certain amounts deposited in the Public Safety Pension Trust Sub-Account of the Public Safety Protection Sale Tax Fund and all interest earned thereon shall be used for the purpose of funding (i) first, that portion of the debt service of the Corporation's Taxable Leasehold Revenue and Refunding Bonds (City of St. Louis, Missouri, Lessee), Series 2007 (Pension Funding Project) (the "Series 2007 Pension Bonds") or any subsequent bonds issued, or any subsequent series of bonds refunding or refinancing any of the foregoing bonds, that is allocable to the payment from bond proceeds of actuarially required contributions to PRS or FRS, and (ii) second, any additional actuarially required contributions to PRS and FRS; and

WHEREAS, pursuant to Ordinance No. 67815, the Board of Aldermen of the City has required that revenues from the City's gross receipts tax on telephone companies (the "Gross Receipts Tax") and all interest earned thereon shall be used for the purpose of funding (i) first, that portion of the debt service of the Series 2007 Pension Bonds or any subsequent bonds issued, or any subsequent series of bonds refunding or refinancing any of the foregoing bonds, that is allocable to the payment from bond proceeds of actuarially required contributions to ERS, and (ii) second, any additional actuarially required contributions to ERS; and

WHEREAS, during Fiscal Year 2008, revenues from the Public Safety Sales Tax and the Gross Receipts Tax will not be received by the City in amounts sufficient to timely pay the actuarially required contributions to the Retirement Systems due in Fiscal Year 2008; and

WHEREAS, pursuant to Ordinance No. 67969 approved March 14, 2008, the Board of Aldermen directed the Corporation to issue and sell the Taxable Bonds for the purposes of paying such current actuarially required contributions in connection with the Retirement Systems; and

WHEREAS, the City has determined that it is in the best interests of the City to direct the Corporation to issue and sell the Tax-Exempt Bonds for the purposes of funding the construction, installation, rehabilitation, and improvement of certain capital improvements; and

WHEREAS, in connection with the issuance of the Series 2008 Bonds, it is necessary and desirable for the City and/or the Corporation to execute and deliver certain documents and take certain other actions as herein provided.

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

Section 1. Definitions. Capitalized terms used herein and not otherwise defined in this Ordinance or the preambles hereto shall have the meanings ascribed to such terms in the Indenture. As used in this Ordinance, the following words shall be defined as follows:

"**Additional Rentals**" shall have the meanings ascribed to such term in the Lease Purchase Agreement.

“Base Lease” means the Base Lease, if any, between the City, as lessor, and the Corporation, as lessee, as may be amended and supplemented in accordance with the terms thereof, pursuant to which the City conveys a leasehold interest in the Leased Property to the Corporation.

“Bond Purchase Agreement” means one or more Bond Purchase Agreements related to the issuance and sale of the Series 2008 Bonds.

“Bonds” means the Series 2008 Bonds and any and all other bonds issued by the Corporation pursuant to and under the Indenture.

“City Documents” means the Base Lease, if any, the Lease Purchase Agreement, if any, the Tax Compliance Agreement, if any, the Credit Agreement, if any, the Continuing Disclosure Agreement, the Bond Purchase Agreement, any Interest Rate Exchange Agreement to which the City is a party, and such other documents, certificates, and instruments as may be necessary or desirable to facilitate the issuance of the Series 2008 Bonds and to carry out and comply with the intent of this Ordinance.

“Continuing Disclosure Agreement” means one or more Continuing Disclosure Agreements memorializing the City’s and/or the Corporation’s continuing disclosure obligations with respect to the Series 2008 Bonds.

“Corporation Documents” means the Indenture, the Base Lease, if any, the Lease Purchase Agreement, if any, the Leasehold Deed of Trust, if any, the Tax Compliance Agreement, if any, the Bond Purchase Agreement, the Interest Rate Exchange Agreement, if any, and such other documents, certificates, and instruments as may be necessary or desirable to facilitate the issuance of the Series 2008 Bonds and to carry out and comply with the intent of this Ordinance.

“Credit Agreement” means any agreement by and between the Credit Provider and the City providing for Credit Enhancement, if any.

“Credit Enhancement” means one or more standby letters of credit, standby bond purchase agreements, irrevocable direct pay letters of credit, and other liquidity facilities, surety bonds, or bond insurance policies issued by a Credit Provider guaranteeing, providing for, or insuring the payment of all or a portion of the principal of and interest on and/or the purchase price of one or more series of Bonds as provided therein.

“Credit Provider” means the issuer or issuers of the Credit Enhancement, if any, pursuant to or identified in the Indenture.

“Financial Advisor” means P.G. Corbin & Company, Inc., the financial advisor to the City with respect to the Series 2008 Bonds.

“Indenture” means the Trust Indenture between the Corporation and the Trustee, as may be further amended or supplemented pursuant to the terms thereof, pursuant to which the Series 2008 Bonds and any additional series of bonds are issued.

“Interest Rate Exchange Agreement” means any agreement entered into by the City and/or the Corporation and a counterparty in connection with the Series 2008 Bonds and providing for payments based on levels of or changes in interest rates, including without limitation such agreements commonly referred to as interest rate swaps, hedges, caps, floors, and collars.

“Juvenile Detention Center” means the City Juvenile Detention Center located on the real property described on **Exhibit A** to the Lease Purchase Agreement, and situated in the City and any other real or personal property hereafter acquired by the Corporation and leased by the Corporation to the City pursuant to any supplemental Lease Purchase Agreement with respect to the Juvenile Detention Center and appurtenant easements, rights-of-way, improvements, paving and personal property necessary, convenient and appurtenant thereto, and any modifications, alterations or changes in, on or to the foregoing or any repairs thereto or thereof.

“Lease Purchase Agreement” means the Lease Purchase Agreement, if any, between the Corporation, as lessor, and the City, as lessee, as may be amended or supplemented pursuant to the terms thereof, pursuant to which the Corporation conveys a leasehold interest in the Leased Property to the City, and the City leases the Leased Property, together with any improvements thereon, from the Corporation and agrees to pay Rentals and Additional Rentals, subject to annual appropriation to the extent required by applicable law, equal to the principal of and interest due on the Bonds secured thereby.

“Leased Property” means the Juvenile Detention Center, the capital improvements made thereon, and any related property leased in the Lease Purchase Agreement.

“Leasehold Deed of Trust” means the Leasehold Deed of Trust, Security Agreement, and Fixture Filing pursuant to which the Corporation grants the Trustee a lien on and a security interest in the Corporation’s leasehold interest in the Leased Property pursuant to the Base Lease.

“Official Statement” means the Preliminary Official Statement or Statements, the final Official Statement or Statements, and any other disclosure materials prepared in connection with the issuance, sale, and delivery of the Series 2008 Bonds.

“Rentals” shall have the meanings ascribed to such term in the Lease Purchase Agreement.

“Retirement Systems” means the City of St. Louis Police Retirement System, the City of St. Louis Firemen’s Retirement System, and the City of St. Louis Employees’ Retirement System.

“Series 2008 Bonds” means the Tax-Exempt Bonds and/or the Taxable Bonds.

“Series 2008A Bonds” means the Corporation’s Tax-Exempt Public Safety Sales Tax Leasehold Revenue Bonds (City of St. Louis, Missouri, Lessee), Series 2008A, authorized pursuant to the Indenture.

“Series 2008C Bonds” means the Corporation’s Juvenile Detention Center Leasehold Revenue Bonds (City of St. Louis, Missouri, Lessee), Series 2008C, authorized pursuant to the Indenture.

“Taxable Bonds” means the Corporation’s Public Safety Sales Tax Leasehold Revenue Bonds (City of St. Louis, Missouri, Lessee), Series 2008B (Pension Funding Project), authorized pursuant to the Indenture.

“Tax-Exempt Bonds” means the Series 2008A Bonds and the Series 2008C Bonds.

“Tax Compliance Agreement” means the Tax Compliance Agreement entered into by the Corporation, the City, and/or the Trustee with respect to the Tax-Exempt Bonds.

“Trustee” means the trustee appointed pursuant to the Indenture or any successor thereto under the Indenture.

“Underwriters” means the underwriters with respect to the Series 2008 Bonds.

Section 2. Findings and Determinations. The Board of Aldermen hereby finds and determines that it is necessary and in the best interests of the City:

(a) to authorize and direct the Corporation to issue, as market conditions warrant, the Tax-Exempt Bonds (i) to fund the construction, installation, rehabilitation, and improvement of certain capital improvements, and any capital expenditures reasonably necessary, in the opinion of bond counsel, to adequately secure the Series 2008 Bonds, (ii) to fund one or more debt service reserve funds, if any, and/or the purchase of Credit Enhancement for the Series 2008 Bonds, and (iii) to pay reasonable expenses incurred by the Corporation and the City in connection with the transactions contemplated hereby; and

(b) to authorize and direct the Corporation to issue, as market conditions warrant, the Taxable Bonds (i) to pay certain actuarially required contributions in connection with any or all of the Retirement Systems for Fiscal Year 2008, and any capital expenditures reasonably necessary, in the opinion of bond counsel, to adequately secure the Series 2008 Bonds, (ii) to fund one or more debt service reserve funds, if any, and/or the purchase of Credit Enhancement for the Series 2008 Bonds, and (iii) to pay reasonable expenses incurred by the Corporation and the City in connection with the transactions contemplated hereby; and

(c) to authorize and direct the Corporation to enter into a negotiated sale of the Series 2008 Bonds to the Underwriters.

Section 3. Authority and Direction to Issue the Series 2008 Bonds. The City hereby authorizes and directs the Corporation, as market conditions warrant, to issue the Series 2008 Bonds in an aggregate principal amount not to exceed \$45,000,000 on behalf of the City for the purposes set forth in Section 2 hereof. The Series 2008 Bonds (i) shall have final maturities not more than 30 years from their date of issuance, (ii) shall bear fixed rates of interest of not more than 10% and/or variable rates of interest not to exceed the maximum amount allowable under Missouri law, and (iii) may be sold at a premium and/or at a discount with such discount not to exceed the maximum discount allowable under Missouri law. The terms and provisions of the Series 2008 Bonds shall be as provided in the Indenture.

Section 4. Limited Obligations. The Series 2008 Bonds, the interest thereon, and any Interest Rate Exchange

Agreement shall be limited obligations payable by the Corporation solely from (i) proceeds of the Series 2008 Bonds, (ii) Rentals and Additional Rentals received by the Corporation from the City or by the Trustee on behalf of the Corporation and reasonably expected to be used to pay debt service on the Series 2008 Bonds pursuant to the Lease Purchase Agreement or to make payments with respect to any Interest Rate Exchange Agreement, (iii) amounts available in the debt service reserve fund or funds, if any, (iv) amounts payable by any Credit Provider in connection with any Credit Enhancement on the Series 2008 Bonds, if any, and (v) any amounts received under any Interest Rate Exchange Agreement. The Series 2008 Bonds, the Interest Rate Exchange Agreement, if any, and the interest thereon do not and shall not constitute an indebtedness of the City or the State of Missouri or any instrumentality thereof within the meaning of any constitutional or statutory debt limitation or restriction. The obligation of the City to make payments of Rentals and Additional Rentals and other amounts under the Lease Purchase Agreement and the Interest Rate Exchange Agreement, if any, is subject to annual appropriation to the extent required by applicable law as provided therein. None of the obligation of the City to make such payments under the Lease Purchase Agreement, and the Interest Rate Exchange Agreement, if any, or the Series 2008 Bonds shall constitute a debt of the City. The issuance of the Series 2008 Bonds will not directly or contingently obligate the City to make any payments beyond those appropriated for its then current fiscal year.

Section 5. Authority and Direction to Execute and Deliver Corporation Documents. In connection with the issuance of the Series 2008 Bonds, the City hereby authorizes and directs the Corporation to execute and deliver the Corporation Documents in forms that are consistent with the provisions of this Ordinance, as such Corporation Documents are approved by the Corporation and by the City Counselor as to the form thereof and with the advice of the Underwriters and the Financial Advisor, with the respective signatures thereon of the appropriate officers of the Corporation executing such documents to be evidence of the approval of the Corporation.

Section 6. Authority and Direction to Sell the Series 2008 Bonds in a Negotiated Sale. In connection with the issuance of the Series 2008 Bonds, the City hereby authorizes and directs the Corporation to negotiate the sale thereof with the Underwriters, subject to the provisions of this Ordinance. The City further hereby authorizes and directs the Corporation to prepare, at the request of the Underwriters, the Official Statement; to execute and deliver the final Official Statement; and to execute and deliver the Bond Purchase Agreement, the Continuing Disclosure Agreement and any and all related documents, all in connection with such negotiated sale of the Series 2008 Bonds.

Section 7. Authority and Direction to Obtain Credit Enhancement. The City hereby authorizes the Corporation to obtain Credit Enhancement for the Series 2008 Bonds from a Credit Provider with such credit rating that, in the opinion of the Underwriters and the Financial Advisor, will achieve an economic benefit for the City if the Series 2008 Bonds are secured by such Credit Enhancement. Any Credit Agreement executed in connection therewith may pledge Rentals and Additional Rentals to payment of (i) debt service on the Series 2008 Bonds and (ii) any amounts due and owing to the Credit Provider under the Credit Agreement. The Comptroller is hereby authorized to approve the terms of any such Credit Agreement, and the Comptroller, with the advice of the City Counselor as to form thereof, is hereby authorized and directed to execute such Credit Agreement and other documents in connection therewith as required to obtain the Credit Enhancement.

Section 8. Authority and Direction to Cooperate in Qualification. The City and the Corporation shall furnish such information, execute such instruments, and take such other action in cooperation with the Underwriters as the Underwriters may reasonably request to qualify the Series 2008 Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriters may designate; provided, however, neither the City nor the Corporation shall be required to register as a dealer or broker in any such state or jurisdiction, to subject itself to service of process in any state or jurisdiction in which it is not already so subject, or to comply with any other requirements deemed by the City or the Corporation to be unduly burdensome.

Section 9. Authority and Direction to Execute and Deliver City Documents. The City hereby authorizes and directs the Mayor and the Comptroller of the City to execute and deliver the City Documents in forms that are consistent with the provisions of this Ordinance, as such City Documents are approved by the Mayor and the Comptroller with the advice of the Underwriters and the Financial Advisor, and as are approved as to form by the City Counselor, with the respective signatures of such officials thereon to be evidence of the approval of the City; and the Register of the City is hereby authorized and directed to affix the corporate seal of the City to the City Documents and to attest the same.

Section 10. Authorization with Respect to Sale of the Series 2008 Bonds. The Mayor, the Comptroller, and other appropriate officers, agents, and employees of the City are hereby authorized and directed to participate with the Corporation in the preparation of the Official Statement; the Mayor and the Comptroller are hereby authorized and directed to execute and deliver the final Official Statement in a form that is consistent with the provisions of this Ordinance, as is approved by the Mayor and the Comptroller with the advice of the Underwriters and the Financial Advisor, and as is approved as to form by the City Counselor, with the respective signatures of the Mayor and the Comptroller thereon to be evidence of the approval of the City.

Section 11. Further Authority. The Mayor, the Comptroller, the Treasurer (as to permitted investments only), the Register, and other appropriate officers, agents, and employees of the City are hereby authorized to take such further actions and execute such other documents as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the City with respect to the City Documents and the Official Statement.

Section 12. Severability. If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

Section 13. Superseding of Inconsistent Provisions. The provisions of this Ordinance hereby amend any provision of Ordinance 67969 or any other ordinance of the City inconsistent with the terms hereof, but only to the extent of such inconsistency.

Section 14. Emergency Clause. The passage of this Ordinance 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: May 22, 2008

ORDINANCE #67975
Board Bill No. 26

AN ORDINANCE TO PROVIDE FOR THE BORROWING OF FUNDS IN ANTICIPATION OF THE COLLECTION OF TAX PAYMENTS LEVIED BY THE CITY OF ST. LOUIS, MISSOURI FOR DEPOSIT IN ITS GENERAL REVENUE FUND FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2008, AND REMAINING UNCOLLECTED AND OTHER REVENUES REMAINING TO BE COLLECTED AND DEPOSITED IN THE GENERAL REVENUE FUND FOR FISCAL YEAR ENDING JUNE 30, 2009, ALL SUCH REVENUES FOR THE GENERAL REVENUE FUND IN THE TREASURY OF THE CITY OF ST. LOUIS, MISSOURI THROUGH THE ISSUANCE BY THE CITY OF ST. LOUIS, MISSOURI OF ITS TAX AND REVENUE ANTICIPATION NOTES, AND THE ACQUIRING OF CREDIT ENHANCEMENT IF NECESSARY IN ORDER TO LOWER THE COST OF SUCH BORROWING; PRESCRIBING THE FORM AND DETAILS OF SUCH NOTES; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS AND OTHER ACTIONS; AND CONTAINING AN EMERGENCY CLAUSE.

WHEREAS, it now appears and the Board of Aldermen of The City of St. Louis, in the State of Missouri (the "City"), so finds that the estimate of the total receipts of taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008, and remaining uncollected and other revenues remaining to be collected and deposited in the General Revenue Fund in the fiscal year ending June 30, 2009 is Four Hundred Sixty Million Six Hundred Five Thousand Two Hundred Dollars (\$460,605,200); and

WHEREAS, there have become and will become due and payable on and prior to the 31st day of December, 2008, expenses and obligations of the City, payable from the General Revenue Fund, aggregating not less than the sum of Two Hundred Forty-Nine Million Four Hundred Twenty Thousand Dollars (\$249,420,000); and

WHEREAS, it is the opinion of this Board of Aldermen, and this Board of Aldermen so finds, that sufficient taxes will be collected from the delinquent taxes for the year 2007 and years prior thereto, together with the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected and deposited in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, to provide for such expenditures; and

WHEREAS, this Board of Aldermen finds that sufficient funds are not and will not be available in the General Revenue Fund in the Treasury of the City on or prior to the 31st day of December, 2008, to pay all of such legal obligations chargeable to such Fund as they will become due and payable on and prior to such date and to maintain reasonable reserves in the General Revenue Fund; and

WHEREAS, the Comptroller of the City has informed this Board of Aldermen that a cash flow deficiency amounting to a sum in excess of Forty Million Dollars (\$40,000,000) may be anticipated in the aforesaid General Revenue Fund at a time or times during the remainder of the aforesaid calendar year 2008; and

WHEREAS, this Board of Aldermen deems it desirable to maintain a reasonable reserve in the General Revenue Fund

at all times during the fiscal year ending June 30, 2009; and

WHEREAS, this Board of Aldermen is authorized, under and by the Charter of The City of St. Louis (the "Charter") and the laws of the State of Missouri, to borrow Funds in anticipation of the collection of the sums to be derived from City taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected and deposited in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, provided the amount of such loans at no time shall exceed this Board of Aldermen's estimate of the receipts of taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected and deposited in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009; and

WHEREAS, this Board of Aldermen is authorized, under and by such Charter and other relevant laws to determine the amount of such loans and the terms thereof and to execute and issue notes of the City for all funds so borrowed to the lenders thereof as evidence of such loans and of the terms of the City's obligation to repay the same; and

WHEREAS, this Board of Aldermen does now find and determine that it is necessary and advisable that the City proceed to borrow a sum not to exceed Sixty Million Dollars (\$60,000,000) in anticipation of the collection of the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected and deposited in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, in order to maintain a reasonable reserve in, and to provide funds with which to pay and discharge the expenses and obligations properly payable from the General Revenue Fund of the City in the fiscal year ending June 30, 2009, which expenses and obligations will become due and payable on and prior to the 31st day of December 2008, but for the payment and discharge of which it is hereby estimated that funds will not be available otherwise in such General Revenue Fund; and

WHEREAS, no funds heretofore have been borrowed in anticipation of the collection of such taxes and revenues; and

WHEREAS, this Board of Aldermen does now find and determine that such sum of Sixty Million Dollars (\$60,000,000) will not exceed the aforesaid estimate of the receipts of taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected and deposited in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009; and

WHEREAS, to the end that such sum may be borrowed for such purpose, it is necessary that this Board of Aldermen shall determine the terms and other incidents of such borrowing; and

WHEREAS, this Board of Aldermen hereby finds and determines that credit enhancement (guaranteeing the payment when due of the principal of and interest on the notes issued to evidence the loan hereinafter authorized) may be necessary to improve the marketability of such notes and may decrease the net interest cost of such loan to the City; and

WHEREAS, this Board of Aldermen hereby finds and determines that it may be in the best interests of the City that the City issue its tax and revenue anticipation notes (the "Notes") in order to ease the City's cash flow difficulties for the current calendar year; and

WHEREAS, this Board of Aldermen authorizes the City, upon the approval of the Board of Estimate and Apportionment, to issue the Notes; and

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

SECTION 1. Definitions. Capitalized terms used in this Ordinance and not otherwise defined in this Ordinance shall be as defined in preambles hereto or in the Indenture.

SECTION 2. Findings, Determinations and Declarations. The findings, determinations and declarations set forth in the preambles hereto are incorporated herein by this reference. In addition, the Board of Aldermen hereby finds, determines and declares as follows:

- (a) The issuance of the Notes, the sale and delivery thereof through a negotiated sale to certain underwriters and the use of a portion of the proceeds thereof as set forth in this Ordinance is necessary and desirable for the use and benefit of the City.
- (b) In approving the issuance of the Notes and the sale and delivery thereof, it is the intention of the Board of

Aldermen, that:

- (i) the aggregate principal amount of Notes shall not exceed the amount set forth in this Ordinance; and
 - (ii) no additional notes, bonds or other obligations of any kind or description for such purpose shall be issued or sold without authorization by a subsequent City ordinance; and
 - (iii) this Ordinance authorizes the issuance and sale of the Notes only.
- (c) It is necessary and appropriate in connection with the issuance of the Notes that, in the Indenture, the City agrees to carry out the provisions of the Indenture (as defined below).

SECTION 3. Authorization of Borrowing. In order to maintain a reasonable reserve in, and to provide funds with which to pay and discharge the expenses and obligations properly payable from the General Revenue Fund in the Treasury of the City for the fiscal year ending June 30, 2009, which expenses and obligations will become due and payable on and prior to the 31st day of December, 2008, but for the payment and discharge of which it is estimated that funds will not be available otherwise in such Fund, a principal sum not to exceed Sixty Million Dollars (\$60,000,000), such principal sum to be determined by the Mayor and the Comptroller and evidenced by the execution of the Note Purchase Agreement, shall upon approval of the Board of Estimate and Apportionment be borrowed by the City for such deposit in the General Revenue Fund within the Treasury of the City in anticipation of the revenues derived from taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009.

SECTION 4. Authorization of Notes. Upon approval by the Board of Estimate and Apportionment, the borrowing shall be evidenced by the Notes to be designated "Tax and Revenue Anticipation Notes Payable from the General Revenue Fund, Series 2008," numbered from one upward, of the denomination of Five Thousand Dollars (\$5,000) and any integral multiple thereof. The Notes shall bear interest on either a variable or fixed rate basis at a rate not to exceed ten percent (10%) per annum, as may be determined by the Mayor and Comptroller, subject to the interest rate and par value limitations set forth in Chapter 108.170, Missouri Revised Statutes, as amended, computed on the basis of a three hundred sixty (360) day year comprised of twelve (12) thirty (30) day months, payable on the date of maturity of the Notes, and the Notes shall be dated as of the date of original issue, and shall mature less than three hundred sixty-four (364) days from the date of original issue. The Notes shall be payable, both as to principal and interest, in lawful money of the United States at UMB Bank, N.A., as Registrar and Paying Agent (the "Registrar and Paying Agent"), in The City of St. Louis, State of Missouri.

SECTION 5. Book-Entry System; Appointment of Registrar and Paying Agent. The Notes shall be issuable as book entry notes in the form of fully registered Notes, without coupons, and the Registrar and Paying Agent may treat the person in whose name any Note is registered on the note register as the absolute owner thereof for all purposes and payment of or on account of the principal of or interest on any Note shall be made only to or upon the order of the registered owner thereof or his/her legal representative, and the City and the Registrar and Paying Agent shall not be affected by any notice to the contrary.

UMB Bank, N.A., in the City of St. Louis, State of Missouri, is hereby appointed Registrar and Paying Agent for the Notes. With respect to all Notes registered in the name of The Depository Trust Company or its nominee, the City and the Registrar and Paying Agent shall recognize The Depository Trust Company or its nominee as the owner of the Notes for all purposes under this Ordinance.

SECTION 6. Equality of Benefits, Protection and Security. The covenants and agreements of the City contained herein and in the Notes and any related document (including the pledge contained in Section 11 hereof) shall be for the equal benefit, protection and security of: (a) the holders of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of one Note over any other Note in the application of the funds hereinafter pledged to the payment of the principal of and the interest on the Notes, or otherwise; and (b) the bank, banking institution, insurance company or other provider of credit enhancement, if any, selected by the Mayor and the Comptroller of the City pursuant to Section 13 hereof (collectively, the "Provider") after payment in full by the Provider of the principal of and interest on the Notes pursuant to any credit enhancement agreement (collectively, the "Credit Enhancement") and any related Reimbursement Agreement (the "Reimbursement Agreement") as authorized by Section 13 of this Ordinance.

SECTION 7. Execution of Notes. All Notes issued hereunder shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor, the Comptroller and the Treasurer, and approved as to form by the City Counselor and attested by the manual or facsimile signature of the Register of the City, under the manual or facsimile corporate seal of the City.

SECTION 8. Form of Notes. The Notes and the certificates to be endorsed thereon shall be in substantially the form and executed in the manner as hereinafter set forth, with such changes therein as may be required by the Indenture with such modifications as appropriate relating to determination of whether to utilize credit enhancement, consistent with this Ordinance, all as approved by the officials executing the same:

**UNITED STATES OF AMERICA
STATE OF MISSOURI
THE CITY OF ST. LOUIS
%
TAX AND REVENUE ANTICIPATION NOTE
PAYABLE FROM THE GENERAL REVENUE FUND
SERIES 2008**

No. _____ \$ _____
CUSIP: _____

Registered Owner: _____

The City of St. Louis, in the State of Missouri (the "City"), for value received, hereby promises to pay to the Registered Owner specified above or registered assigns, on the _____ day of June, 2009, the sum of _____ Dollars (\$ _____), in lawful money of the United States of America, but only out of money in the Treasury of the City standing to the credit of the General Revenue Fund, together with interest thereon from the date hereof until the principal hereof shall have been paid, at the rate of _____ percent (____%) per annum, computed on the basis of a three hundred sixty (360) day year, comprised of twelve (12) thirty (30) day months. Both principal of and interest on this Note are payable upon presentation and surrender at UMB Bank, N.A., as registrar and paying agent (the "Registrar and Paying Agent"), in the City of St. Louis, State of Missouri, to the person in whose name this Note is registered on the note register on the Business Day immediately preceding the maturity date thereof.

This Note and the series of which it is one are authorized to be issued by the City in anticipation of the collection of the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009 and are issued under and pursuant to the Charter of the City and the laws of the State of Missouri and pursuant to Ordinance No. ____ adopted by the Board of Alderman of the City on , 2008 and approved by the Mayor of the City on , 2008 (the "Ordinance") and an Indenture of Trust dated as of July 1, 2008 (the "Indenture"), between the City and the Registrar and Paying Agent, as Trustee.

The obligations evidenced by this Note and the series, numbered from one upward, of which it is one (the "Notes"), constitute obligations for a like amount of money borrowed by the City for the General Revenue Fund in anticipation of the collection of the revenues to be derived from taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009 and constitute a first charge upon the incoming taxes and revenues for such General Revenue Fund for such fiscal year ending June 30, 2009.

The Notes are valid and binding, special, limited obligations of the City payable solely out of and secured by a pledge of the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009. The Notes and the interest thereon do not constitute an indebtedness of the City, the State of Missouri or any political subdivision thereof, and the Notes do not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness.

This Note may be transferred only upon the note register upon surrender hereof to the Registrar and Paying Agent duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his/her attorney or legal representative in such form as shall be satisfactory to the Registrar and Paying Agent.

The City may cause to be delivered to the Registrar and Paying Agent credit enhancement (the "Credit Enhancement") issued by [(the selected Credit Enhancement provider)] (the "Provider"). The Registrar and Paying Agent shall be entitled under the Credit Enhancement to receive an amount sufficient to pay the principal of the Notes and the interest due thereon.

Upon the occurrence of the events set forth in that certain agreement (the "Reimbursement Agreement") between such City and the Provider, payment of the principal of and interest on the Notes may be accelerated by declaration made by the Provider to

the City and the Registrar and Paying Agent.

Reference is made hereby to the Ordinance, the Indenture, the Reimbursement Agreement (if utilized) and the Credit Enhancement (if utilized), conformed copies of which are being held by the Registrar and Paying Agent, for the provisions, among others, with respect to the nature and extent of the rights, duties and obligations of the City, the Registrar and Paying Agent, the Provider and the holders of the Notes. The holder of this Note, by acceptance hereof, is deemed to have agreed and consented to the terms and provisions of the Ordinance, the Indenture, the Reimbursement Agreement (if utilized) and the Credit Enhancement (if utilized). The holder of this Note, by acceptance hereof, shall have no right to enforce the provisions of the Ordinance, the Indenture, the Reimbursement Agreement (if utilized) or the Credit Enhancement (if utilized), to institute action to enforce the covenants contained in those documents, to take any action with respect to any failure to perform any act hereinabove set forth, or to institute, appear in, or defend any suit or other proceeding with respect thereto.

It is hereby certified, warranted and represented that all acts, conditions and things required to be done, to happen and to exist, precedent to and in the issuance of this Note and the series of which it is one, in order to make the same legal, valid and binding special obligations of such City, have been done, have happened and do exist in proper form, time and manner, as required by law; that the aggregate principal amount of the borrowing evidenced by this Note and the series of which it is one does not exceed the estimate of the receipts of taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009 or an amount which would alter the tax-exempt status of the interest on this Note; and that the proceeds of the taxes levied and collected in such fiscal year and other revenues for the General Revenue Fund, or so much thereof as may be necessary, and the proceeds of such taxes and revenues are hereby irrevocably pledged to the payment of this Note and the other Notes of which it is one and the interest to accrue thereon.

IN TESTIMONY WHEREOF, The City of St. Louis, in the State of Missouri, has caused this Note to be executed on its behalf by the manual or facsimile signatures of the Mayor, the Comptroller and the Treasurer and, approved as to form by the City Counselor and attested by the manual or facsimile signature of the Register of the City, under the manual or facsimile corporate seal of the City, this day of July, 2008.

THE CITY OF ST. LOUIS, MISSOURI

Francis G. Slay, Mayor

Darlene Green, Comptroller

Larry Williams, Treasurer

Attest:

Parrie L. May, Register

(SEAL)

Approved as to form:

City Counselor

(FORM OF ASSIGNMENT)

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

(Please Print or Typewrite Name, Address and Social Security Number or Taxpayer Identification Number of Transferee)

the within mentioned Note and all rights thereunder, and hereby constitutes and appoints _____ to

transfer the within mentioned Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: No transfer will be registered and no new Note will be issued in the name of the transferee unless the signature(s) to this assignment correspond with the name as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever and the Social Security or Federal Employer Identification Number of the transferee is supplied.

(Name of Eligible Guarantor Institution as defined by SEC Rule 18 Ad-15 (17 CFR 240.17 Ad-15))

By _____

Title: _____

SECTION 9. Registration of Notes. When the Notes shall have been prepared and executed as hereinabove directed, they shall be registered in the office of the Treasurer of the City in a book to be provided for that purpose, showing the number of each Note, the denomination thereof, the interest rate, the place of payment, the due date, and to whom sold and delivered, with the date of such sale and delivery, and there shall be attached to each of such Notes a form of certificate for manual execution by the Treasurer substantially as follows:

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

It is hereby certified that the attached Note has been registered in my office in a book kept for that purpose.

Treasurer, The City of St. Louis, Missouri

SECTION 10. Limited Obligations. The Notes and the interest thereon shall constitute special, limited obligations of the City, payable solely and only from the General Revenue Fund taxes and revenues herein pledged, and such Notes shall be negotiable in all respects in accordance with the Uniform Commercial Code of the State of Missouri, as amended. The Notes and the interest thereon do not constitute an indebtedness of the City, the State of Missouri or any political subdivision thereof, and the Notes do not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness.

SECTION 11. First Charge on Taxes. The Notes herein authorized to be issued and any obligations of the City under any Reimbursement Agreement shall be and the same are established and regarded hereby as a first charge upon the incoming taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, in anticipation of which the Notes are issued, and the incoming taxes and revenues, or so much thereof as may be necessary, shall be and the same are irrevocably pledged hereby for and to the payment of the Notes herein authorized to be issued and to the repayment of any amounts owed under any Reimbursement Agreement.

SECTION 12. Manner of Sale of Notes. The Mayor and the Comptroller of the City shall sell such Notes for the best price obtainable, either at private or public sale, as they may deem most expedient. The Comptroller and the Treasurer of the City shall be and are hereby authorized and directed to sell and deliver the Notes to the purchaser or purchasers of such Notes, upon receipt of payment from such purchaser or purchasers, of the aggregate face value of the Notes. None of the Notes shall be sold for less than par and accrued interest, if any, to the date of delivery.

SECTION 13. Authorization of Credit Enhancement. The Mayor and the Comptroller of the City are hereby authorized to enter into such an agreement with a Provider deemed by them to be appropriate for the purpose and for such a fee deemed by the Comptroller to be reasonable (but not in excess of one and one-half percent (1.50%) of the principal amount of and accrued interest, from original issue date to maturity date, on the Notes issued hereunder), as may be required to induce such Provider to issue the Credit Enhancement in which it agrees to pay the principal of and interest on the Notes issued hereunder when due. The Mayor and the Comptroller also are authorized hereby to enter into such additional concurrent agreement or agreements with any Provider providing the Credit Enhancement as may be required by that Provider in order to provide for the payment of additional

interest (but at an aggregate rate not in excess of fourteen percent (14%) per annum) for each day the obligations under any applicable Reimbursement Agreement remain unpaid should that Provider not be reimbursed promptly or fully for the payment of such principal and interest when due. To the extent that the Mayor and the Comptroller determine not to obtain the Credit Enhancement, then all references to the Credit Enhancement, the Provider and the Reimbursement Agreement shall be deemed to be omitted from this Ordinance.

SECTION 14. Purpose of the Notes. The Notes herein authorized to be issued shall be prepared and executed to provide funds with which to meet and discharge the obligations of the General Revenue Fund in the Treasury of the City as such obligations accrue from time to time.

SECTION 15. Deposit and Use of Proceeds of the Notes. The proceeds received from the sale and delivery of the Notes shall be deposited immediately in the Treasury of the City to the credit of the General Revenue Fund, and the amount so credited, or so much thereof as may be necessary, shall be used and expended only in payment of the expenses and obligations properly payable from such General Revenue Fund for the fiscal year ending June 30, 2009, which have and will become due and payable on or prior to the 31st day of December, 2008.

SECTION 16. Establishment of Sinking Fund. In order to assure the availability of adequate funds on the maturity date of the Notes, with which to pay the Notes or, if applicable, to reimburse the Provider as contemplated by any Reimbursement Agreement, the Comptroller of the City is hereby directed to set aside (into a separate and distinct account called the "Tax and Revenue Anticipation Notes of 2008 Sinking Fund") on her books, out of the incoming taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, the sum of Fifteen Million Dollars (\$15,000,000) on or before April 30, 2009, the additional sum of Fifteen Million Dollars (\$15,000,000) on or before May 31, 2009, and the remainder of the principal outstanding on or before the maturity date of the Notes, plus the interest which then will be due on all of such Notes on the maturity date of the Notes. Any sums on deposit in such Sinking Fund may be invested and reinvested by the Treasurer of the City.

SECTION 17. Authorization of Payment of Fees. The Registrar and Paying Agent herein designated shall be paid the usual and customary fees for its services in connection herewith, which fees shall be paid from the General Revenue Fund in the Treasury of the City, the amount of which fees shall be subject to approval by the Comptroller of the City.

SECTION 18. Tax Law Compliance. The Internal Revenue Code of 1986, as amended, imposes various requirements to maintain the exclusion from gross income for federal income tax purposes of interest on the Notes. Some of these requirements may be complied with only after the issuance of the Notes, and failure so to comply could cause interest on the Notes to be included in gross income for federal income tax purposes retroactive to the date of issuance. The City hereby covenants to comply with all such requirements.

SECTION 19. Approval of Documents.

(a) **Notes.** The Note form, in the form provided in Section 8 herein, is hereby approved on behalf of the City. The proper officials of the City are hereby authorized and directed to execute and deliver the Notes on behalf of the City in the manner provided in this Ordinance and the Indenture in such form and with such changes, modifications or completions thereof, not inconsistent with the provisions of this Ordinance, as the City officials executing the same shall approve, and the signatures of the City officials executing the same shall be conclusive as to their approval of such changes, modifications or completions on behalf of the City. If any of the officials who shall have signed or sealed any of the Notes shall cease to be such officials of the City before the Notes so signed and sealed have been actually authenticated by the Treasurer, or delivered by the City, such Notes nevertheless may be authenticated, issued and delivered with the same force and effect as though the person or persons who signed or sealed such Notes had not ceased to be such official or officials of the City; and any such Notes also may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Notes, shall be the proper officials of the City, although at the date of such Notes any such person shall not have been such official of the City.

(b) **Indenture.** The Indenture, in the form attached hereto as EXHIBIT A, is hereby approved on behalf of the City. The Mayor, the Comptroller, the Treasurer and other appropriate officials of the City, with the approval as to form by the City Counselor and after approval of the Board of Estimate and Apportionment, are hereby authorized and directed to execute and deliver the Indenture in such form and with such changes, modifications or completions thereof, not inconsistent with the provisions of this Ordinance, as the City officials executing the same shall approve, and the Register is hereby authorized and directed to affix the corporate seal of the City thereto and to attest the same, and the signatures of the City officials executing the same shall be conclusive as to their approval of such changes, modifications or completions on behalf of the City.

(c) Note Purchase Agreement. The Mayor, the Comptroller, the Treasurer, and other appropriate officials of the City, with the approval as to form by the City Counselor, are hereby authorized and directed to execute and deliver the Note Purchase Agreement, in such form not inconsistent with the provisions of this Ordinance, as the City officials executing the same shall approve, and to take such further actions and to execute and deliver such other documents as are required by the City thereunder with the signature of the City officials executing the same to be conclusive of such approval by the City.

(d) Official Statement. The Mayor, the Comptroller, the Treasurer and other appropriate City officials are hereby authorized and directed to participate in the preparation of the preliminary official statement and the final official statement for the issuance and sale of the Notes and are further authorized and directed to execute and deliver such documents with their signature thereon to be conclusive of such approval by the City.

(e) The Note Documents. The Mayor, the Comptroller, the Treasurer, and other appropriate officials of the City, with the approval as to form by the City Counselor and after approval of the Board of Estimate and Apportionment, are hereby authorized to execute and deliver the Note documents, including a Reimbursement Agreement, if required, in such form not inconsistent with the provisions of this Ordinance, as the City officials executing the same shall approve, and the Register is hereby authorized to affix the corporate seal of the City thereon and to attest the same, and the signatures of the City officials executing the same shall be conclusive as to their approval of such document on behalf of the City.

(f) The Continuing Disclosure Certificate. The Continuing Disclosure Certificate, in the form attached hereto as EXHIBIT B, is hereby approved on behalf of the City. The Mayor, the Comptroller, the Treasurer, and other appropriate officials of the City, with the approval as to form by the City Counselor and after approval of the Board of Estimate and Apportionment, are hereby authorized and directed to execute and deliver the Continuing Disclosure Certificate in such form and with changes, modifications or completions thereof, not inconsistent with the provisions of this Ordinance, as the City officials executing the same shall approve, and the signatures of the City officials executing the same shall be conclusive as to their approval of the Continuing Disclosure Certificate by the City.

(g) Tax Documents. The Mayor, the Comptroller, the Treasurer and other appropriate officials of the City with the approval as to form by the City Counselor, and other appropriate City officials are authorized and directed to execute and deliver the Tax Documents in such forms, not inconsistent with the provisions of this Ordinance, as the City officials executing the same may approve, with such changes, modifications or completions thereof, as the Mayor, the Comptroller and the Treasurer, with the approval as to form by the City Counselor, shall approve, and the Register is hereby authorized and directed to affix the corporate seal of the City thereto and to attest the same, and the signatures of the City officials executing the same shall be conclusive as to their approval of such documents on behalf of the City.

SECTION 20. Appointment of Disbursing Agent. The Board of Aldermen hereby appoints the Trustee under the Indenture to act as disbursing agent (the "Disbursing Agent") on behalf of the City, and in such capacity, to receive, hold, invest and disburse the proceeds of the Notes on behalf of the City in accordance with the Indenture.

SECTION 21. Further Action. The Mayor, the Comptroller and the Treasurer, and the other appropriate officers, agents and employees of the City, upon approval of the Board of Estimate and Apportionment, are hereby authorized and directed to take such other and further action, and to execute, deliver and file such other and further documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the City with respect to the Notes and the Indenture.

SECTION 22. Amendments. This Ordinance has been adopted to provide for and induce the sale of the Notes and may not be repealed, amended or modified while any Notes are outstanding, except for such amendments which, in the opinion of counsel to the City and nationally recognized bond counsel, (i) shall not materially adversely affect the interests of the holders of the Notes; (ii) are required by existing or future laws; or (iii) are necessary to clarify any ambiguity, inconsistency or defective provision contained herein; provided, however, the City shall obtain the prior consent of the Provider, if any, which consent will not be unreasonably withheld.

SECTION 23. Severability. If any term or provision of this Ordinance, the Notes, or the application thereof for any reason or circumstances shall to any extent be held invalid or unenforceable, the remaining provisions or the application of such term or provision to persons in situations other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof and thereof shall be valid and enforceable to the fullest extent permitted by law.

SECTION 24. Emergency. The passage of this Ordinance and the payment of the obligations to be provided for hereunder are necessary for the immediate preservation of the public peace, health and safety; an emergency is hereby declared to exist under the terms and provisions of Article IV, Sections 19 and 20, of the Charter of The City of St. Louis; and this Ordinance

shall take effect immediately upon its approval by the Mayor.

**EXHIBIT A
INDENTURE OF TRUST**

This INDENTURE OF TRUST (this "Indenture") is dated as of July 1, 2008 from The City of St. Louis, Missouri (the "City") to UMB Bank, N.A., St. Louis, Missouri, as Trustee (the "Trustee").

PREAMBLES:

WHEREAS, the City has found that the estimate of the total receipts of taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the fiscal year ending June 30, 2009 is Four Hundred Sixty Million Six Hundred Five Thousand Two Hundred Dollars (\$460,605,200); and

WHEREAS, there have become and shall become due and payable on and prior to the 31st day of December, 2008, expenses and obligations of the City, payable from the General Revenue Fund, aggregating in excess of Two Hundred Forty-Nine Million Four Hundred Twenty Thousand Dollars (\$249,420,000); and

WHEREAS, the City has determined that sufficient taxes shall be collected from the delinquent taxes for the year 2007 and years prior thereto, together with the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, to provide for the aforesaid expenditures; and

WHEREAS, the City has determined that funds are not and shall not be available in the General Revenue Fund in the Treasury of the City on or prior to the 31st day of December, 2008, to maintain a reasonable reserve in the City's General Revenue Fund and to pay all legal obligations chargeable to the General Revenue Fund as they shall become due and payable on and before such date; and

WHEREAS, the City has determined that a cash flow deficiency amounting to a sum in excess of Forty Million Dollars (\$40,000,000) can be anticipated in the General Revenue Fund at a time or times during the remainder of such calendar year 2008; and

WHEREAS, the City has maintained and intends to maintain in the future as a reasonable reserve a beginning fiscal year cash balance in the General Revenue Fund of an amount in excess of _____ Million Dollars (\$ _____), approximately five percent (5%) of the General Revenue Fund's annual expenditures; and

WHEREAS, the City deems it desirable to maintain a reasonable reserve in the General Revenue Fund at all times during the remainder of the fiscal year ending June 30, 2009; and

WHEREAS, the City is authorized, under and by the Charter of The City of St. Louis and the laws of the State of Missouri, to borrow funds in anticipation of the collection of the sums to be derived from taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, provided the amount of such loans at no time shall exceed the City's estimate of the receipt of taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009; and

WHEREAS, the City is authorized, under and by such Charter and laws to determine the amount of such loans and the terms thereof and to execute and deliver tax and revenue anticipation notes of the City for all funds so borrowed to the lenders thereof as evidence of such loans and of the terms of the City's obligation to repay the same; and

WHEREAS, the City has found and determined that it is necessary and advisable that the City proceed to borrow the sum set forth below in anticipation of the collection of the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, in order to maintain a reasonable reserve in the City's General Revenue Fund and to provide funds with which to pay and discharge the expenses and obligations properly payable from the General Revenue Fund of the City for the fiscal year ending June 30, 2009, which expenses and obligations shall become due and payable on and prior to the 31st day of December, 2008, but for the payment and discharge of which it is hereby estimated that funds shall not be available

otherwise in the General Revenue Fund; and

WHEREAS, the City has not heretofore issued any notes or borrowed in anticipation of the collection of such taxes and revenues; and

WHEREAS, the City has determined that the amount of Sixty Million Dollars (\$60,000,000) shall not exceed the estimate of the receipts of taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009; and

WHEREAS, to the end that the Notes (as herein defined) may be issued for such purpose, it is necessary that the City shall determine the terms and other incidents of such borrowing; and

WHEREAS, the City has determined that it is in the best interest of the City to sell the City's Tax and Revenue Anticipation Notes Payable from the General Revenue Fund, Series 2008 (the "Notes") upon such terms as set forth herein; and

WHEREAS, Ordinance No. _____ authorizing the issuance of the Notes (the "Ordinance") was adopted by the Board of Aldermen of the City on _____, 2008 and was approved by the Mayor of the City on _____, 2008; and

WHEREAS, all things necessary to make the Notes, when authenticated by the Treasurer of the City and issued as in this Indenture provided, the valid, legal and binding special, limited obligations of the City, and to constitute this Indenture a valid, legal and binding pledge and assignment of the property, rights, interests and revenues herein made for the security of the payment of the principal of and interest on the Notes issued hereunder have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Notes, subject to the terms hereof have in all respects been duly authorized;

NOW THEREFORE, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Notes by the owners thereof, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Notes issued and outstanding under this Indenture from time to time according to their tenor and effect and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Notes contained, does hereby transfer, pledge and assign to the Trustee and its successors and assigns in trust forever, and does hereby grant a security interest unto the Trustee and its successors and assigns in trust, in and to all and singular the property described in paragraphs (a) and (b) below (said property being herein referred to as the "Trust Estate"), to wit:

- (a) The incoming taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, in anticipation of which the Notes are issued; and
- (b) All moneys and securities, from time to time held by the Trustee under the terms of this Indenture, and any and all other property (real, personal or mixed) of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby transferred, pledged, assigned and/or granted or agreed or intended so to be, to the Trustee and its successors and assigns in trust forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and pro rata benefit and security of each and every owner of the Notes, without preference, priority or distinction as to participation in the lien, benefit and protection hereof of one Note over or from the others, by reason of priority in the issue or negotiation thereof; or for any other reason whatsoever, except as herein otherwise expressly provided, so that each and all of such Notes shall have the same right, lien and privilege under this Indenture and shall be equally secured hereby with the same effect as if the same had all been made, issued and

negotiated simultaneously with the delivery hereof;

PROVIDED, NEVERTHELESS, and these presents are upon the express condition, that if the City or its successors or assigns shall well and truly pay or cause to be paid the principal of such Notes with interest, according to the provisions set forth in the Notes and each of them or shall provide for the payment of such Notes by depositing or causing to be deposited with the Trustee the entire amount of funds or securities requisite for payment thereof when and as authorized by the provisions hereof, and shall also pay or cause to be paid all other sums payable hereunder by the City, then these presents and the estate and rights hereby granted shall cease, determine and become void, and thereupon the Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the City and upon the payment of the cost and expenses thereof, shall duly execute, acknowledge and deliver to the City such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture of record, and if necessary shall grant, reassign and deliver to the City, its successors or assigns, all and singular the property, rights, privileges and interests by it hereby granted, conveyed and assigned, and all substitutes therefor, or any part thereof; not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force;

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Notes issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective owners from time to time of the Notes, as follows:

ARTICLE I DEFINITIONS

Section 101. Definitions of Words and Terms In addition to words and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

“Beneficial Owner” means, whenever used with respect to a Note, the person in whose name such Note is recorded as the beneficial owner of such Note by a Participant on the records of such Participant, or such person’s subrogee.

“Business Day” means each Monday, Tuesday, Wednesday, Thursday or Friday on which the Paying Agent is open for business.

“Cede & Co.” means Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Notes.

“Charter” means the Charter of The City of St. Louis.

“City” means The City of St. Louis, Missouri, its successors and assigns.

“Code” means the Internal Revenue Code of 1986, as amended or any corresponding provisions of succeeding law, and the applicable temporary, proposed and final regulations and procedures related thereto.

“Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the City and dated as of July 1, 2008, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“DTC” means The Depository Trust Company of New York, New York

“General Revenue Fund” means the General Revenue Fund in the Treasury of the City.

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

“Noteholder,” “Owner,” or “Registered Owner” means the person in whose name a Note is registered on the registration books maintained by the Note Registrar

“Note Registrar” means UMB Bank, N.A., located in St. Louis, Missouri and any successor.

“Notes” means the Tax and Revenue Anticipation Notes Payable from the General Revenue Fund, Series 2008, of the City in the principal amount of Dollars (\$60,000,000) authorized by the Ordinance and this Indenture.

“Ordinance” means Ordinance No. _____ adopted by the Board of Aldermen of the City on _____, 2008 and approved by the Mayor of the City on _____, 2008.

“Outstanding” means, when used with reference to Notes, as of any particular date of determination, all Notes theretofore authenticated and delivered hereunder except the following Notes:

- (a) Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Notes deemed to be paid in accordance with the provisions of Section 1001 hereof; and
- (c) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered hereunder.

“Participant” means any broker-dealer, bank or other financial institution for which DTC holds Notes as securities depository.

“Paying Agent” means UMB Bank, N.A., St. Louis, Missouri, and its successors and assigns.

“Rating Agencies” means Moody’s Investors Service, Inc., Standard & Poor’s Ratings Group (a division of McGraw Hill Companies), Fitch Ratings or any other nationally recognized securities rating agency that will have assigned a rating that is then in effect with respect to the Notes, its successors and their assigns, and “Rating Agency” means each such Rating Agency.

“Representation Letter” means the Representation Letter from the City and from the Paying Agent to DTC with respect to the Notes.

“Rules of Interpretation” means for all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

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

“Trustee” means UMB Bank, N.A., St. Louis, Missouri, and its successors and assigns.

ARTICLE II AUTHORIZATION OF THE NOTES

Section 201. Authorization of the Notes. The Notes are being issued pursuant to and in full compliance with the Constitution and statutes of the State of Missouri, the City’s Charter and the Ordinance.

The Notes are hereby authorized to be issued in the aggregate principal amount of Sixty Million Dollars (\$60,000,000) to maintain a reasonable reserve in the City’s General Revenue Fund and to provide funds to pay and discharge expenses and obligations properly payable from the General Revenue Fund of the City in the fiscal year ending June 30, 2009.

The Notes shall be valid special, limited obligations of the City, payable as to both principal and interest from the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City’s General Revenue Fund for the City’s fiscal year ending June 30, 2009.

Section 202. Description of the Notes. The Notes shall consist of fully registered Notes without coupons, in the

denomination of Five Thousand Dollars (\$5,000) or any integral multiple thereof, numbered from R-1 consecutively upward in the order of issuance. All of the Notes shall be dated the date of their original issuance and delivery, shall become due on June 30, 2009 and shall bear interest from their dated date at a rate of _____ percent (_____%) per annum at a price of _____% per annum.

Interest on the Notes shall be payable at maturity. Interest shall be calculated on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months. The Notes shall be substantially in the form provided in Article IV hereof, and shall be subject to registration, transfer and exchange as provided in Section 205 hereof.

Section 203. Designation of Paying Agent and Note Registrar. The Trustee is hereby designated as the City's paying agent for the payment of principal of and interest on the Notes and the registrar and transfer agent with respect to the registration, transfer and exchange of Notes (the "Paying Agent" and "Note Registrar").

Section 204. Method and Place of Payment of Notes. The principal of and interest on the Notes shall be payable by check or draft to the Registered Owners thereof in lawful money of the United States of America upon presentation and surrender of such Notes as they become due at the principal corporate trust office of the Paying Agent and Note Registrar or such other office as the Paying Agent and Note Registrar shall designate. A Registered Owner of One Hundred Thousand Dollars (\$100,000) or more principal amount of Notes may elect to receive payment of principal and interest by electronic transfer to an account designated by such Owner in writing to the Paying Agent not less than five days prior to the payment date such designation to include the name of the bank, its ABA number and the account number to which such payment shall be deposited.

Section 205. Registration Provisions. The City shall, as long as any of the Notes herein authorized remain outstanding, cause to be kept at the office of the Note Registrar, books for the registration of Notes as herein provided (the "Note Register").

The Notes when issued shall be registered in the names of the Owners thereof on the Note Register to be kept in the principal payment office of the Note Registrar for that purpose.

Each Note shall be made payable to the Registered Owner thereof. Each Note shall be transferable only upon the Note Register maintained by the Note Registrar by the Registered Owner thereof in person or by his/her attorney duly authorized in writing, upon surrender thereof at the principal corporate trust office of the Note Registrar together with a written instrument of transfer and with guarantee of signature satisfactory to the Note Registrar duly executed by the Registered Owner or his/her duly authorized attorney. Upon the transfer of any Note and the payment of any fee, tax or governmental charge, the Note Registrar shall issue in the name of the transferee a Note or Notes of the same aggregate principal amount and maturity as the surrendered Note, registered in the name of the transferee, in any denomination herein authorized.

Notes, upon surrender thereof at the principal payment office of the Note Registrar with a written instrument of transfer and with guarantee of signature satisfactory to the Note Registrar, duly executed by the Registered Owner or his/her duly authorized attorney, may, at the option of the Registered Owner thereof, and upon payment of any fee, tax or governmental charge required to be paid, be exchanged for an equal aggregate principal amount of Notes of the same maturity, in any denomination herein authorized.

The City, the Trustee, the Note Registrar and the Paying Agent may deem and treat the person in whose name any Note shall be registered on the Note Register maintained by the Note Registrar as the absolute owner of such Note, whether such Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal amount and interest on such Note and for all other purposes, and all such payments so made to any such Registered Owner or upon his/her order shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid, and neither the City, the Trustee, the Note Registrar nor the Paying Agent shall be affected by any notice to the contrary, but such registration may be changed as herein provided.

In the event any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent and the Note Registrar, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Registered Owner hereunder or under the Notes.

In all cases in which the privilege of exchanging Notes or transferring Notes is exercised, the Note Registrar shall cause the Treasurer of the City to authenticate and deliver Notes in accordance with the provisions of this Indenture. For every such exchange or transfer of Notes, the Note Registrar may make a charge to the Owner of the Notes sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer. The fees and charges of the Note Registrar for making any exchange or transfer provided for by this Indenture and the expense of any Note printing necessary to effect the subsequent exchange or transfer of any Note shall be paid by the City. The Note Registrar shall not be required to register, transfer

or exchange Notes for a period of fifteen (15) days next preceding the maturity date of Notes.

Section 206. Execution and Delivery of the Notes. The Mayor, the Comptroller, the Treasurer and the Register of the City are hereby authorized and directed to prepare and execute the Notes in the manner hereinbefore specified, with the City Counselor's approval of the form of the Notes, and the Treasurer of the City is hereby authorized and directed to authenticate the Notes in the manner specified in the Ordinance and, when duly executed and authenticated, to deliver the Notes to the Note Registrar with instructions to deliver the Notes to or upon the order of the original purchasers thereof on payment of the purchase price to the City.

The Notes shall be executed in the name and for and on behalf of the City by the manual or facsimile signature of the Mayor, the Comptroller and the Treasurer of the City and attested by the manual or facsimile signature of the Register of the City, and the seal of the City shall be affixed to or imprinted on each Note, with the City Counselor's manual or facsimile signature thereon approving the Notes as to form. In case any official whose signature or facsimile thereof appears on any Notes shall cease to be such official before the delivery of such Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Note may be signed by such persons who at the actual time of the execution of such Note shall be the proper officials to sign such Note although at the date of such Note such persons may not have been such officials.

The Notes shall have endorsed thereon a certificate of authentication substantially in the form provided in Section 401 hereof, which shall be manually executed by the Treasurer of the City. No Note shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Treasurer of the City. Such executed certificate of authentication upon any Note shall be conclusive evidence that such Note has been duly authenticated and delivered under this Indenture.

The Notes signed, sealed and authenticated as herein provided shall be and constitute valid and binding special, limited obligations of the City according to the terms hereof, although the exchange or transfer thereof may be made at a date or dates after any official whose signature is affixed thereto shall have ceased to be the incumbent of his/her office.

Section 207. Mutilated, Lost, Stolen or Destroyed Notes. In the event any Note is mutilated, lost, stolen or destroyed, the City shall execute a new Note of like date and denomination as that mutilated, lost, stolen or destroyed, provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Paying Agent and the Note Registrar, and in the case of any lost, stolen or destroyed Note, there first shall be furnished to the Paying Agent and the Note Registrar evidence of such loss, theft or destruction satisfactory to the Paying Agent and the Note Registrar, together with an indemnity of the City and the Paying Agent and the Note Registrar satisfactory to the Paying Agent and the Note Registrar which indemnity shall, in any event, name the Paying Agent and the Note Registrar as a beneficiary. In the event any such Note shall have matured or is about to mature, the Paying Agent and the Note Registrar, instead of delivering a duplicate Note, may pay the same without surrender thereof, making such requirements as it deems fit for its protection, including a lost instrument bond. The City and the Paying Agent and the Note Registrar may charge the owner of such Note with their reasonable fees and expenses for such service. In executing a new Note, the City may rely conclusively upon a representation by the Paying Agent and the Note Registrar that the Paying Agent and the Note Registrar are satisfied with the adequacy of the evidence presented concerning the mutilation, loss, theft or destruction of any Note.

Section 208. Destruction of Notes. Whenever any Outstanding Note shall be delivered to the Paying Agent and the Note Registrar for cancellation pursuant to this Indenture, or for replacement pursuant to Section 207 hereof, such Note shall be promptly cancelled and thereafter destroyed by the Note Registrar in accordance with then applicable record retention requirements, and counterparts of a certificate of cancellation shall be furnished by the Paying Agent and the Note Registrar to the City.

Section 209. Securities Depository.

(a) The Notes shall be initially issued as one authenticated fully registered note. Upon initial issuance, the ownership of such Notes shall be registered in the Note Register in the name of Cede & Co., as nominee of DTC. The Paying Agent and the Note Registrar and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Notes registered in its name for the purposes of payment of the principal of, premium, if any, or interest on the Notes, selecting the Notes or portions thereof to be redeemed, giving any notice permitted or required to be given to owners of Notes under this Indenture, registering the transfer of Notes, and for all other purposes whatsoever; and neither the Paying Agent and the Note Registrar nor the City shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Notes under or through DTC or any Participant, or any other person which is not shown on the Note Register as being an owner of any Notes, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of, premium, if any, or interest on the Notes, with respect to any notice which is permitted or required to be given to owners of Notes under this Indenture, with respect to any consent given or other action taken by DTC as the owner of the Notes. So long as any Note is registered in the name of Cede & Co., as nominee of DTC, the Paying Agent shall pay all

principal of, premium, if any, and interest on such Notes, and shall give all notices with respect to such Notes, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of, premium, if any, and interest on the Notes to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Note evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Paying Agent of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Notes shall be transferable to such new nominee in accordance with paragraph (d) hereof.

(b) In the event the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Note certificates, the City may notify DTC and the Paying Agent and the Note Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Note certificates. In such event, the Notes shall be transferable in accordance with paragraph (d) hereof. DTC may determine to discontinue providing its services with respect to the Notes at any time by giving notice to the City and the Paying Agent and the Note Registrar and discharging its responsibilities with respect thereto under applicable law. In such event, the Notes shall be transferable in accordance with paragraph (d) hereof. The City and the Paying Agent and the Note Registrar shall be entitled to rely conclusively on the information provided to it by DTC and its Participants as to the names and addresses of and principal amounts held by the Beneficial Owners of the Notes.

(c) The execution and delivery of the Representation Letter to DTC by the Mayor and the Comptroller of the City is hereby authorized, and the execution of the Representation Letter by the Mayor and the Comptroller of the City shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by owners of the Notes and Beneficial Owners and payments on the Notes. The Paying Agent and the Note Registrar shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Indenture.

(d) In the event that any transfer or exchange of Notes is permitted under paragraph (a) or (b) hereof, such transfer or exchange shall be accomplished upon receipt by the Paying Agent and the Note Registrar of the Notes to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this Indenture. In the event Note certificates are issued to holders other than Cede & Co., or its successor as nominee for DTC as holder of all of the Notes, the provisions of this Indenture shall also apply to all matters relating thereto, including, without limitation, the printing of such certificates and the method of payment of principal of and interest on such certificates.

Section 210. Payments Due on Saturdays, Sundays and Holidays. In any case when the date for the payment of the principal of or interest on the Note is not a Business Day, then payment of such 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 such date, and no interest shall accrue for the period after such date.

Section 211. Nonpresentment of Notes. If the Notes are not presented for payment when the principal then becomes due, if funds sufficient to pay the Notes have been made available to the Paying Agent, all liability of the City to the Registered Owner thereof for the payment of the Notes shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Note, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Note. If any Note is not presented for payment within four (4) years following the date when such Note becomes due, the Paying Agent shall repay to the City without liability for interest thereon the funds theretofore held by it for payment of such Note, and such 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 Paying Agent, and the City shall not be liable for any interest thereon and shall not be regarded as a trustee of such moneys.

ARTICLE III REDEMPTION

Section 301. Redemption. The Notes shall not be subject to redemption prior to maturity.

ARTICLE IV FORM OF NOTES

Section 401. Form of Notes. The Notes and the certificate of authentication to be endorsed thereon shall be in substantially the form set forth in the Ordinance, with appropriate variations, omissions and insertions as permitted or required by this Indenture and the Ordinance.

**ARTICLE V
APPLICATION OF NOTE PROCEEDS**

Section 501. Disposition of Note Proceeds. All proceeds derived from the sale of the Notes shall be deposited immediately in the Treasury of the City to the credit of the General Revenue Fund, and the amount so credited, or so much thereof as may be necessary, shall be used and expended only in payment of the expenses and obligations properly payable from the General Revenue Fund of the City, which have and shall become due and payable on or prior to the 31st day of December, 2008, for which the Notes have been authorized, as hereinbefore provided.

Section 502. Sinking Fund Deposits. In order to assure the availability of adequate funds on June 30, 2009, with which to pay the Notes, the Comptroller of the City has been directed pursuant to the Ordinance and is hereby authorized to set aside (into a separate and distinct account called the "Tax and Revenue Anticipation Notes, Series 2008 Sinking Fund") on his/her books, out of the incoming taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, the principal of and interest on the Notes on or before June 30, 2009 including the requirement to set aside certain balances in accordance with Section 16 of the Ordinance. Sums on deposit in the Tax and Revenue Anticipation Notes, Series 2008 Sinking Fund may be invested and reinvested by the Treasurer of the City. The Comptroller may, but is not required to, deposit moneys from such fund with the Trustee hereunder.

**ARTICLE VI
PAYMENT OF THE NOTES**

Section 601. Security for the Notes. The Notes shall be valid and binding special, limited obligations of the City payable solely out of and secured by a pledge of the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009. The Notes and the interest thereon do not constitute an indebtedness of the City, the State of Missouri or any political subdivision thereof and the Notes do not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness.

The Notes herein authorized to be issued shall be and the same are established and regarded hereby as a first charge upon the incoming taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009, in anticipation of which the Notes are issued, and the incoming taxes and revenues, or so much thereof as may be necessary, shall be and the same are irrevocably pledged hereby for and to the payment of the Notes herein authorized to be issued.

Section 602. Equal Benefit, Protection and Security. The covenants and agreements of the City contained herein and in the Notes and any related document (including the pledge contained in Section 601 hereof) shall be for the equal benefit, protection and security of the holders of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of one Note over any other Note in the application of the funds herein pledged to the payment of the principal of and the interest on the Notes, or otherwise.

Section 603. Transfer of Funds for Payment. Notwithstanding any other provisions contained in this Indenture to the contrary, the principal of and interest due on the Notes on June 30, 2009 shall be transferred by the City to the Trustee no later than one (1) Business Day prior to maturity.

**ARTICLE VII
DEPOSIT AND INVESTMENT OF FUNDS**

Section 701. Deposits of Money. Cash moneys held by the City or the Trustee in trust hereunder shall be deposited with a bank or banks located in the State of Missouri which is a member of the Federal Deposit Insurance Corporation, and all such bank deposits shall be continuously and adequately secured by the banks holding such deposits as provided by the laws of the State of Missouri. All moneys held by the Trustee in trust hereunder shall be kept in a trust account separate and apart from all other funds of the City so that there shall be no commingling of such funds with any other funds of the City.

Section 702. Investment of Funds. All moneys and funds held by the City or the Trustee in trust hereunder may be invested by or at the written direction of the Treasurer of the City pursuant to and in compliance with the provisions hereof and as permitted by applicable law in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, or in such other obligations as shall be acceptable to the Rating Agencies; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed to pay the

Notes. All such investments shall be titled in the name of or if held by the Trustee in trust for the account of the "Treasurer of The City of St. Louis, Missouri." All interest on any investments held by the Trustee hereunder shall accrue to and become a part of such investments. Any investment losses on funds held by the Trustee hereunder shall be borne by the City.

Section 703. Tax Covenant. The City covenants that it shall not take any action or permit any action to be taken or omit to take any action or permit the omission of any action reasonably within its control which action or omission shall cause the interest on the Notes to be included in gross income for federal income taxation purposes or otherwise adversely affect the exemption of the interest on the Notes from federal and State of Missouri taxation. This covenant shall survive the payment of the Notes and the termination of this Indenture as provided in Article X of this Indenture.

Section 704. Tax Document. Authorized officials of the City are hereby authorized to execute the Non-Arbitrage Certificate and Tax Agreement on the date of delivery of the Notes, the execution thereof by such officials to be conclusive evidence of such approval.

Section 705. Transfer of Funds Upon Payment of Notes. After payment in full of the principal of, redemption premium, if any, and interest on the Notes (or provision has been made for the payment thereof as specified in this Indenture), and the fees, charges and expenses of the Trustee and any Paying Agent and any other amounts required to be paid under this Indenture, all remaining amounts held by the Trustee or the Paying Agent shall be paid to the City.

ARTICLE VIII DEFAULTS AND REMEDIES

Section 801. Remedies. The provisions of this Indenture, including the covenants and agreements herein contained, shall constitute a contract between the City and the Registered Owners of the Notes. The Trustee on behalf of the Registered Owner or Registered Owners of any of the Notes at the time outstanding shall have the right, for the equal benefit and protection of all Registered Owners of Notes similarly situated:

- (a) By mandamus or other suit, action or proceedings at law or in equity to enforce his, her or their rights against the City and its officials, agents and employees, and to require and compel duties and obligations required by the provisions of this Indenture 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 officials, 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 Registered Owners of the Notes.

Section 802. Limitation on Rights of Registered Owners.

(a) No one or more Registered Owners of the Notes secured hereby shall have any right in any manner whatever by his, her or their 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, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of such outstanding Notes.

(b) The owners of a majority in principal amount of the Notes Outstanding shall have the right, during the continuance of an event of default:

- (i) to require the Trustee to proceed to enforce this Indenture, either by judicial proceedings for the enforcement of the payment of the Notes and the foreclosure of this Indenture, or otherwise; and
- (ii) to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture, provided that:
 - (1) such direction shall not be in conflict with any rule of law or this Indenture,
 - (2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and
 - (3) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the owners

not taking part in such direction.

- (4) indemnity shall have been provided to the Trustee in accordance with Section 901(b) hereof; and
- (5) the Trustee shall have the right to decline to follow any such direction if the Trustee shall in good faith determine that the proceedings so directed would involve the Trustee in personal liability.

Section 803. Remedies Cumulative. No remedy conferred herein upon the Registered Owners of the Notes 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 Registered Owner of any Note 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 any Registered 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 Registered Owners of the Notes by this Indenture may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceedings taken by any registered owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such Registered Owner, then, and in every such case, the City and the Registered Owners of the Notes shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Registered Owners of the Notes shall continue as if no such suit, action or other proceedings had been brought or taken.

Section 804. No Acceleration. Notwithstanding anything herein or in the Ordinance to the contrary, the Notes are not subject to acceleration.

Section 805. Limitation on Suits by Noteholders. No owner of any Note shall have any right to institute any proceeding, judicial or otherwise, under or with respect to this Indenture, or for the appointment of a receiver or trustee or for any other remedy under this Indenture, unless:

- (a) such owner has previously given written notice to the Trustee of a continuing event of default;
- (b) the owners of not less than 25% in principal amount of the Notes Outstanding shall have made written request to the Trustee to institute proceedings in respect of such event of default in its own name as Trustee under this Indenture;
- (c) such owner or owners have offered to the Trustee indemnity as provided in this Indenture against the fees, costs, expenses and liabilities to be incurred in compliance with such request;
- (d) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (e) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the owners of a majority in principal amount of the Outstanding Bonds;

such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the exercise of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more owners of Notes shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the lien of this Indenture or the rights of any other owners of Notes, or to obtain or to seek to obtain priority or preference over any other owners or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all Outstanding Notes.

Notwithstanding the foregoing or any other provision in this Indenture, however, the owner of any Note shall have the right which is absolute and unconditional to receive payment of the principal of and interest on such Note on the respective stated maturity expressed in such Note and nothing contained in this Indenture shall affect or impair the right of any owner to institute suit for the enforcement of any such payment.

ARTICLE IX TRUSTEE, PAYING AGENT AND NOTE REGISTRAR

Section 901. Duties, Immunities and Liabilities of Trustee.

(a) The Trustee, the Paying Agent and the Note Registrar (for purposes of this subsection the "Trustee") shall perform only such duties as are specifically set forth in this Indenture. The Trustee will have no implied duties. The permissive right or power to take any action may not be construed as a duty to take action under any circumstances, and the Trustee will not be liable except in the event of its negligence or willful misconduct.

(b) The Trustee will not be obligated to risk its own funds in the administration of the Trust Estate. Notwithstanding any provision herein to the contrary, the Trustee need not take any action under this Indenture which may involve it in any expense or liability until indemnified to its satisfaction for any expense or liability it reasonably believes it may incur.

(c) The Trustee is not responsible for any recitals contained in this Indenture or in the Notes, or for the filing or refiling of the Indenture or security agreements in connection therewith, or for the sufficiency of the security of the Notes. The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof, or as to the validity or sufficiency of this Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the City of any of the Notes or the proceeds thereof or of any money paid to or upon the order of the City under any provision of this Indenture.

(d) Unless specifically required by this Indenture, the Trustee will not be required to give any bond or surety or report to any court despite any statute, custom or rule to the contrary.

(e) The Trustee may execute any of the duties under this Indenture by or through agents, attorneys, trustees or receivers and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, attorney, trustee or receiver appointed with due care by it hereunder.

(f) The Trustee may consult legal counsel, may conclusively rely on the advice or the opinion of such legal counsel and will not be liable for any act or omission taken or suffered pursuant to the advice or the opinion of such counsel. The fees and expenses of the counsel will be deemed to be a proper expense of the Trustee.

(g) Notwithstanding any other provision of this Indenture to the contrary, any provision intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee shall be interpreted to include any action of the Trustee whether it is deemed to be in its capacity as Trustee, Note Registrar or Paying Agent.

(h) The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Section 702.

(i) The Trustee shall not be responsible for the use of any Notes executed and delivered hereunder.

Section 902. Successor Trustee, Paying Agent and Note Registrar.

(a) Any corporation or association into which the Trustee, Paying Agent and Note Registrar may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, provided that such surviving corporation or association shall maintain an office in the State of Missouri, shall be and become the successor Trustee, Paying Agent and Note Registrar hereunder, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereof, anything herein to the contrary notwithstanding.

(b) The Trustee, Paying Agent and Note Registrar may at any time resign by giving thirty (30) days' notice to the City. Such resignation shall not take effect until the appointment of a successor Trustee, Paying Agent and Note Registrar and acceptance of such appointment pursuant to paragraph (d) below.

(c) The Trustee, Paying Agent and Note Registrar may be removed at any time by an instrument in writing delivered to the Trustee, Paying Agent and Note Registrar by the Treasurer. In no event, however, shall any removal of the Trustee, Paying Agent and Note Registrar take effect until a successor Trustee, Paying Agent and Note Registrar shall have been appointed and accepted such appointment pursuant to paragraph (d) of this Section 902.

(d) In case the Trustee, Paying Agent and Note Registrar shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting as Trustee, Paying Agent and Note Registrar, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor shall be appointed by the City. Every successor Trustee, Paying Agent and Note Registrar appointed pursuant to the provisions of this Section shall be, if there be such an institution willing, qualified and able to accept the duties of the Trustee, Paying Agent and Note Registrar

upon customary terms, a bank or trust company within the State of Missouri, in good standing and having reported capital and surplus of not less than Fifty Million Dollars (\$50,000,000). Written notice of such appointment shall immediately be given by the City to the Owners of the Notes. Any successor Trustee, Paying Agent and Note Registrar shall execute and deliver an instrument accepting such appointment and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all rights, powers, duties and obligations of its predecessor, with like effect as if originally named as Trustee, Paying Agent and Note Registrar and the duties and obligations of the predecessor Trustee, Paying Agent and Note Registrar shall thereafter cease and terminate; but such predecessor and successor shall nevertheless, on the written request of the City, or of the successor or predecessor, execute and deliver such instruments and do such other things as may reasonably be required to more fully and certainly vest and confirm in such successor all rights, powers, duties and obligations of such predecessor. If no successor Trustee, Paying Agent and Note Registrar has accepted appointment in the manner provided above within ninety (90) days after the Trustee, Paying Agent and Note Registrar has given notice of its resignation or has been removed as provided above, the retiring Trustee, Paying Agent and Note Registrar may petition any court of competent jurisdiction for the appointment of a temporary successor Trustee, Paying Agent and Note Registrar; provided that any Trustee, Paying Agent and Note Registrar so appointed shall immediately and without further act be superseded by a Trustee, Paying Agent and Note Registrar appointed by the City as provided above.

ARTICLE X DEFEASANCE

Section 1001. Defeasance. When all of the Notes shall have been paid and discharged, then the requirements contained in this Indenture, except as otherwise provided in Section 703 hereof; and the pledge of the taxes levied by the City for deposit in its General Revenue Fund for the calendar year ending December 31, 2008 and remaining uncollected and other revenues remaining to be collected in the City's General Revenue Fund for the City's fiscal year ending June 30, 2009 made hereunder and all other rights granted hereby shall terminate. Notes shall be deemed to have been paid and discharged within the meaning of this Indenture if there shall have been deposited with the Paying Agent and the Note Registrar, at or prior to the maturity date of the Notes, in trust for and irrevocably pledged thereto, monies and/or direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America or securities which represent an undivided interest in such obligations or securities to the extent that the Treasury of the United States of America is ultimately responsible for payment thereof; which, together with the interest to be earned on any such obligations, shall be sufficient for the payment of the principal of the Notes and interest accrued to the date of maturity or, if default in such payment shall have occurred on such date, then to the date of the tender of such payments. Any monies and obligations which at any time shall be deposited with the Paying Agent and the Note Registrar by or on behalf of the City, for the purpose of paying and discharging any of the Notes, shall be and are hereby assigned, transferred and set over to the Paying Agent and the Note Registrar in trust for the respective Owners of the Notes, and such monies shall be and are hereby irrevocably pledged to the payment and discharge hereof. All monies deposited with the Paying Agent and the Note Registrar shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Indenture.

ARTICLE XI MISCELLANEOUS PROVISIONS

Section 1101. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 1102. Official Statement. The use of the Preliminary Official Statement in substantially the form approved by the Mayor and the Comptroller (the "Preliminary Official Statement") by the City and by Stifel Nicolaus & Co. and Loop Capital Markets, LLC (collectively, the "Underwriters") in connection with the sale of the Notes is hereby authorized and the City hereby approves the preparation and use by the City and by the Underwriters of such Preliminary Official Statement and a final Official Statement in substantially the form of the Preliminary Official Statement (and together with the Preliminary Official Statement, the "Official Statement") in connection with the sale of the Notes and the execution thereof by the Mayor and the Comptroller of the City. The officials of the City have participated in the preparation of the Official Statement and have determined that the Preliminary Official Statement was true, correct and complete in all material respects as of the date thereof. For the purpose of enabling the Underwriters to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission, the City hereby deems the information regarding the City contained in the Preliminary Official Statement to be "final" as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1), and the appropriate officials of the City are hereby authorized, if requested to provide the Underwriters a letter or certification to such effect and to take such other actions or execute such other documents as such officials in their reasonable judgment deem necessary to enable the Underwriters to comply with the requirements of such Rule.

Section 1103. Continuing Disclosure. The City hereby covenants and agrees that it shall comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered a default hereunder; however, any holder of the Notes

may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Section.

Section 1104. Amendment and Modification. This Indenture has been executed and delivered to provide for and induce the sale of the Notes, and may not be repealed, amended or modified while any Notes are outstanding, except for such amendments which, in the opinion of counsel to the City and nationally recognized bond counsel, (i) shall not materially adversely affect the interests of the holders of the Notes, (ii) are required by existing or future laws, or (iii) are necessary to clarify any ambiguity, inconsistency or defective provision contained herein provided, however, that there shall be no amendment or modification of this Indenture which modifies the duties, obligations, rights and privileges of the Trustee without the prior written consent of the Trustee, which consent shall not be unreasonably withheld.

Section 1105. Copy of Indenture to the Treasurer. Immediately upon the execution and delivery of this Indenture, a certified copy hereof shall be filed with the Treasurer of the City for his information and guidance.

Section 1106. Provision of Information and Reports to the Treasurer. The Trustee shall provide a copy of all statements and documentation relating to the purchase or sale of investments held by the Trustee in trust hereunder to the Treasurer of the City as soon as practicable after each such purchase or sale. Monthly reports of the funds and accounts, if any held by the Trustee with respect to the Notes, including investment information with respect thereto, shall be provided by the Trustee to the Treasurer of the City within fifteen (15) days after the end of each month. In addition, the Trustee shall promptly provide the Treasurer with such additional information regarding the Notes, the registration of the Notes and the funds and accounts held by the Trustee with respect to the Notes, including information regarding the investment of such funds and accounts, as shall be reasonably requested by the Treasurer of the City.

Section 1107. Notices. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Indenture shall be in writing and shall be deemed duly given or filed if the same shall be duly mailed by registered or certified mail, postage prepaid, addressed as follows:

- (a) To the City:

City of St. Louis, Missouri
City Hall
1200 Market Street
St. Louis, Missouri 63103
Attention: Comptroller, Room 212

With a copy to the Mayor, Room 200

- (b) To the Trustee:

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

(c) To the Note Owners if the same shall be duly mailed by registered or certified mail addressed to each of the Owners of Notes at the time Outstanding as shown by the bond registration books kept at the principal corporate trust office of the Trustee or such other office as the Trustee shall designate.

All notices given by certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed. The City and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent

Section 1108. Suspension of Mail Service. If, because of the suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient notice.

IN WITNESS WHEREOF, THE CITY OF ST. LOUIS, MISSOURI and UMB BANK, N.A., have caused this Indenture to be executed by their respective duly authorized representatives and their official seals to be affixed hereon as of the date set forth above.

THE CITY OF ST. LOUIS, MISSOURI

Francis G. Slay, Mayor

Darlene Green, Comptroller

Larry Williams, Treasurer

[SEAL]

Attest:

Parrie L. May, Register

Approved as to Form:

City Counselor

UMB BANK, N.A., AS TRUSTEE

By: _____
Vice President

[SEAL]

Attest:

Assistant Secretary

**EXHIBIT B
CONTINUING DISCLOSURE CERTIFICATE**

This Continuing Disclosure Certificate (this "Disclosure Certificate") is executed and delivered by **THE CITY OF ST. LOUIS, MISSOURI** (the "City") in connection with the issuance of \$60,000,000 Tax and Revenue Anticipation Notes Payable from the General Revenue Fund, Series 2008 (the "Notes"). The Notes are being issued pursuant to Ordinance No. _____ adopted by the Board of Alderman of the City on _____, 2008 and approved by the Mayor of the City on _____, 2008 (the "Ordinance") and an Indenture of Trust dated as of July 1, 2008 (the "Indenture"), between the City and UMB Bank, N.A., St. Louis, Missouri, as Trustee (the "Trustee"). The City covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the Holders and Beneficial Owners of the Notes and in order to assist the Participating Underwriters in complying with the Rule. The City has determined that the City is the only "obligated person" with responsibility for continuing disclosure within the meaning of the Rule.

SECTION 2. Definitions. In addition to the definitions set forth in the Ordinance and the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Notes (including persons holding Notes through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Notes for federal income tax purposes.

“Dissemination Agent” shall mean any dissemination agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

“Listed Events” shall mean any of the events listed in Section 3(a) herein.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The National Repositories currently approved by the Securities and Exchange Commission are set forth in Exhibit A hereof.

“Participating Underwriter” shall mean any of the original underwriters of the Notes required to comply with the Rule in connection with the offering of the Notes.

“Repository” shall mean each National Repository and each State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” shall mean the State of Missouri.

“State Repository” shall mean any public or private repository or entity designated by the State as a state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Disclosure Certificate, there is no State Repository.

SECTION 3. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 3, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Notes, if material:

1. principal and interest payment delinquencies;
2. non-payment related defaults;
3. modifications to rights of Noteholders;
4. optional, contingent or unscheduled note calls;
5. defeasances;
6. rating changes;
7. adverse tax opinions or events affecting the tax-exempt status of the Notes;
8. unscheduled draws on the debt service reserves reflecting financial difficulties;
9. unscheduled draws on the credit enhancements reflecting financial difficulties;
10. substitution of the credit or liquidity providers or their failure to perform; or
11. release, substitution or sale of property securing repayment of the Notes.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall as soon as possible determine if such event would be material under applicable federal securities laws.

(c) If knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, the City shall promptly file a notice of such occurrence with (i) the Municipal Securities Rulemaking Board and the State Repository or (ii) each Repository, with a copy to the Trustee and the Participating Underwriters. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(4) and (5) herein need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Holders of affected Notes pursuant to the Ordinance or the Indenture.

SECTION 4. Termination of Reporting Obligation. The City’s obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior to redemption or payment in full of all the Notes. If such termination occurs prior to the final maturity of the Notes, the City shall give notice of such termination in the same manner as for a Listed Event under Section 3(a) herein.

SECTION 5. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice prepared by the City pursuant to this Disclosure Certificate. The Dissemination Agent may resign at any time by providing thirty (30) days’ written notice to the City. The Dissemination Agent shall also have no duty or obligation to determine

the materiality of the Listed Events and shall not be deemed to be acting in any fiduciary capacity for the City, any Beneficial Owner or any other party. If at any time there is not any other designated Dissemination Agent, the City shall be the Dissemination Agent.

SECTION 6. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

- (a) If the amendment or waiver relates to the provisions of Section 3(a) herein, it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Notes, or the type of business conducted;
- (b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Notes, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and
- (c) The amendment or waiver either (i) is approved by the Holders of the Notes in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Notes.

SECTION 7. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future notice of occurrence of a Listed Event.

SECTION 8. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any Holder or Beneficial Owner of the Notes may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance or the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 9. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate and the City, to the extent permitted by law, agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have no responsibility for the City's failure to report a Listed Event. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Notes. No provision of this Disclosure Certificate shall be interpreted to limit, prohibit or affect any right of the City or the Trustee to provide notice to the Holders of the Notes or any other person pursuant to the terms of the Indenture.

SECTION 10. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriters and Holders and the Beneficial Owners from time to time of the Notes, and shall create no rights in any other person or entity.

SECTION 11. Governing Law. This Disclosure Certificate shall be governed by the laws of the State.

This Continuing Disclosure Certificate is dated as of the date set forth above.

THE CITY OF ST. LOUIS, MISSOURI

Francis G. Slay, Mayor

Darlene Green, Comptroller

Larry Williams, Treasurer

(SEAL)

Attest:

Parrie L. May, Registrar

Approved as to form:

City Counselor

EXHIBIT A

Nationally Recognized Municipal Securities Information Repositories approved by the Securities and Exchange Commission as of July 1, 2008:

Bloomberg Municipal Repositories

100 Business Park Drive
Skillman, NJ 08558
Phone: (609) 279-3225
Fax: (609) 279-5962
E-Mail: Munis@Bloomberg.com

Standard & Poor's Securities Evaluations, Inc.

55 Water Street
45th Floor
New York, NY 10041
Phone: (212) 438-4595
Fax (212) 438-3975
E-Mail: nrmsir_repository@sandp.com

DPC Data Inc.

One Executive Drive
Fort Lee, NJ 07024
Phone: (201) 346-0701
Fax: (201) 947-0107
E-Mail: nrmsir@dpcdata.com

FT Interactive Data

Attn: NRMSIR
100 William Street, 15th Floor
New York, NY 10038
Phone: (212) 771-6999
Fax: (212) 771-7390 (Secondary Market Information)
(212) 771-7391 (Primary Market Information)
Email: NRMSIR@interactivedata.com

Approved: May 22, 2008

ORDINANCE #67976
Board Bill No. 20

An ordinance recommended by the Board of Public Service to vacate public surface rights for vehicle, equestrian and

pedestrian travel in the 15 foot wide "T" shaped alley bounded by Mullanphy, 13th St., Cass and East 14th St. in the City of St. Louis, Missouri, as hereinafter described, in accordance with Charter authority, and in conformity with Section 14 of Article XXI of the Charter and imposing certain conditions on such vacation.

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

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

A tract of land being all of the east-west alley and all or the north-south alley in Block 599 of the City of St. Louis, Missouri, and including the two 5' by 5' cutoffs at the alley intersection and being more particularly described as follows:

Beginning at a point in the eastern line of East Fourteenth Street, 60 feet wide, said point being north 15 degrees 05 minutes 00 seconds east 133.75 feet along said eastern line from its intersection with the northern line of Cass Avenue, 80 feet wide; thence continuing northwardly along said eastern line of said Fourteenth Street north 15 degrees 05 minutes 00 seconds east 15.00 feet to a point being the northwestern corner of the east-west alley herein described; thence eastwardly along the northern line of said east-west alley south 74 degrees 59 minutes 41 seconds east 127.63 feet to its intersection with the western line of the north-south alley herein described, said intersection being subject to the aforementioned 5' by 5' cutoff; thence northwardly along said western line of said north-south alley north 15 degrees 03 minutes 51 seconds east 241.12 feet to its intersection with the western line of Thirteenth Street, 98 feet wide, thence southwardly along said western line along a curve to the right having a radius of 291.87 feet an arc distance of 20.17 feet to its intersection with the eastern line of the aforementioned north-south alley; thence southwardly along said eastern line of said north-south alley south 15 degrees 03 minutes 51 seconds west 227.62 feet to its intersection with the aforementioned northern line of the east-west alley herein described, said intersection being subject to the aforementioned 5' by 5' cutoff; thence eastwardly along said northern line of said east-west alley south 74 degrees 59 minutes 41 seconds east 89.37 feet to its intersection with the aforementioned western line of said Thirteenth Street; thence southwardly along said western line of said Thirteenth Street south 15 degrees 05 minutes 00 seconds west 15.00 feet to the southeastern corner of the east-west alley herein described; thence westwardly along the southern line of said east-west alley north 74 degrees 59 minutes 41 seconds west 232.00 feet to the point of beginning and containing in all 6,886.48 square feet or 0.1581 acres more or less.

are, upon the conditions hereinafter set out, vacated.

SECTION TWO: Vacation petitioned by Khaled Salameh, Site Oil, Land Reutilization Authority and City of St. Louis. Vacated area will be used to consolidate property for commercial development.

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

SECTION FOUR: The owners of the land may, at their election and expense remove the surface pavement of said so vacated alley provided however, all utilities within the rights-of-way shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

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

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

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

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

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

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

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

Approved: June 2, 2008

**ORDINANCE #67977
Board Bill No. 15**

An Ordinance recommended by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City the "First Amendment To Lambert-St. Louis International Airport® Parking Facilities Operating Agreement (Public Parking Facilities) (the "First Amendment") to the Parking Facilities Operating Agreement AL-126 between the City and Central Parking Systems of St. Louis, Inc., dated July 2, 2003, and authorized by City Ordinance No. 65882, approved June 12, 2003 (the "Agreement"); the First Amendment to the Agreement, which is attached hereto as **ATTACHMENT "1"** and made a part hereof, was approved by the City's Airport Commission, and its terms are more fully described in Section One of this Ordinance; containing a severability clause; and containing an emergency clause.

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

SECTION ONE. The Director of Airports and the Comptroller of the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City the "First Amendment To Lambert-St. Louis International Airport® Parking Facilities Operating Agreement (Public Parking Facilities)" (the "First Amendment") to the Parking Facilities Operating Agreement AL-126 between the City and Central Parking Systems of St. Louis, Inc., dated July 2, 2003, and authorized by City Ordinance No. 65882, approved June 12, 2003 (the "Agreement"); the First Amendment to the Agreement was approved by the City's Airport Commission and is to read in words and figures substantially as set out in **ATTACHMENT "1"**, which is attached hereto and made a part hereof.

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

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

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®



Central Parking Systems of St. Louis

PARKING FACILITIES OPERATING AGREEMENT FIRST AMENDMENT

AL-126

AIRPORT NUMBER AL-126

**FIRST AMENDMENT
TO
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
PARKING FACILITIES OPERATING AGREEMENT
(PUBLIC PARKING FACILITIES)**

THIS FIRST AMENDMENT, entered into this day of , 2008, by and between the CITY OF ST. LOUIS, a municipal corporation of the State of Missouri ("**City**"), and Central Parking Systems of St. Louis, Inc. ("**Operator**").

WITNESSETH THAT:

WHEREAS, City and Operator are parties to a Operating Agreement (AL-126) for Management and operation of public parking facilities dated July 2, 2003 ("**Agreement**") authorized by Ordinance 65882, approved June 12, 2003; and,

WHEREAS, the parties desire to revise certain terms of the Agreement.

NOW, THEREFORE, for and in consideration of the promises, and of the mutual covenants and agreements herein contained, and other valuable considerations, City and Operator agree to amend the Agreement as follows:

SECTION ONE: The original term of the Agreement consists of three (3) years commencing on June 1, 2003 with two (2) one (1) year option years that City and Operator agreed to, exercised, and presently expires on May 31, 2008, unless sooner terminated in accordance with other provisions of the Agreement. It is hereby agreed that Section 301, Term and Section 302, Option Term of the Agreement are hereby deleted in their entirety and the following is substituted:

Section 301. Term. The term of this Agreement shall consist of five (5) years, and three (3) months unless sooner terminated in accordance with other provisions of this Agreement. The commencement and expiration dates for the Term of this Agreement are written below.

"Commencement Date" June 1, 2003

"Expiration Date" August 31, 2008

At the end of Contract Year five (5), May 31, 2008, City shall have the right to terminate this Agreement without cause or justification upon giving thirty-day written notice to the Operator.

SECTION TWO: All of the terms, covenants, warranties, and conditions of the Agreement not inconsistent with this First Amendment are unchanged and are hereby ratified and approved and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto affixed their hands and seals as set forth below for themselves, their successors and assigns.

Pursuant to City of St. Louis Ordinance _____, approved on _____.

Operator

ATTEST

Title: _____ Title: _____

Date: _____ Date: _____

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT@:

The foregoing First Amendment to Agreement was approved by the Airport Commission at its meeting on _____, 2008.

Commission Chairman and Director of Airports

Date _____

The foregoing First Amendment was approved by the Board of Estimate and Apportionment at its meeting on _____, 2008.

Secretary, Board of Estimate and Apportionment

Date: _____

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

City Counselor, City of St. Louis

Comptroller, City of St. Louis

Date _____

Date: _____

ATTESTED TO BY:

Register, City of St. Louis

Date: _____

Approved: June 9, 2008

**ORDINANCE #67978
Board Bill No. 16**

An Ordinance, recommended and approved by the Airport Commission and the Board of Estimate and Apportionment authorizing a supplemental appropriation and set apart in the total amount of Four Million Two Hundred Thousand Dollars (\$4,200,000) from the Airport Development Fund established under Ordinance 59286 approved October 26, 1984, to the "Annual Budget" established under authority of Ordinance No. 67483 approved June 27, 2007 for the fiscal year beginning July 1, 2007 and ending June 30, 2008, for current expenses of the government as detailed in **EXHIBIT "1"** which is attached hereto and incorporated herein; and containing an emergency clause.

WHEREAS, the "Annual Budget" was established under authority of Ordinance No. 67483 approved on June 27, 2007;

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

recommends same;

WHEREAS, it is now necessary to authorize a supplemental appropriation to the Annual Budget established under authority of Ordinance No. 67483 in the total amount of Four Million Two Hundred Thousand Dollars (\$4,200,000) for current expenses of the government as detailed in **EXHIBIT "1"** which is attached hereto and incorporated herein;

WHEREAS, there is a balance in excess of Four Million Two Hundred Thousand Dollars (\$4,200,000) available for appropriation from the Airport Development Fund established under Ordinance No. 59286 approved October 26, 1984, Exhibit A, Article V, Sections 502 and 510; and

WHEREAS, this Ordinance is recommended by the Airport Commission and the Board of Estimate and Apportionment.

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

SECTION ONE. There is hereby authorized a supplemental appropriation and set apart in the total amount of Four Million Two Hundred Thousand Dollars (\$4,200,000) from the Airport Development Fund established under Ordinance 59286 approved October 26, 1984, Exhibit A, Article V, Sections 501 and 510, to the "Annual Budget" established under authority of Ordinance No. 67483 approved June 27, 2007 for the fiscal year beginning July 1, 2007 and ending June 30, 2008, for current expenses of the government as detailed in **EXHIBIT "1"** which is attached hereto and incorporated herein.

SECTION TWO. In addition to the charter powers granted to the Comptroller to preserve the credit of the City of St. Louis (the "City"), and for that purpose, or in case of any extraordinary emergency of any kind, with the approval of the Board of Estimate and Apportionment, and with or without any ordinance or other authority or appropriations therefore, to draw warrants on the treasurer or effect temporary loans to pay debts and judgments and other liabilities of the City, or to meet any such emergency, charging such warrants to any excess balances in appropriations made by this budget ordinance and then specifically reporting such action to the Board of Aldermen at its first meeting thereafter, the Comptroller is hereby directed to cause to be made transfers:

- a. within departments, divisions of funds, if such transfers are under \$250,000 per occurrence and if they are approved by a majority vote of the Board of Estimate and Apportionment, or
- b. between or among departments, divisions or funds (except Fund 1217-Capital Improvement Projects), if such funds are under \$250,000 per occurrence and if they are approved by a vote of the Board of Estimate and Apportionment.

SECTION THREE. This Ordinance being deemed necessary for the immediate preservation of the public peace, health or safety, it is hereby declared to be an emergency measure pursuant to Article IV, Section 20, of the City Charter and shall become effective immediately upon passage and approval by the City's Mayor.

BOARD BILL NO. 16

**EXHIBIT 1
FY 2008 SUPPLEMENTAL APPROPRIATION
AIRPORT ACCOUNT (FUND 1511)**

Unappropriated Airport Development Funds	\$4,200,000
<u>Airport Contract Snow Removal- Airfield</u>	
420-5638 Facilities and Grounds Services	\$3,700,000
<u>Facilities & Grounds – Deicer</u>	
420-5238 Facilities and Grounds Materials	\$ 500,000
	\$4,200,000

Approved: June 9, 2008

ORDINANCE #67979
Board Bill No. 68

An Ordinance, recommended and approved by the Airport Commission, the Board of Public Service, and the Board of Estimate and Apportionment authorizing a First Amendment to Section One of the Taxiway D Project Ordinance 67249 approved October 3, 2006, which authorized a multi-year public work and improvement program ("Taxiway D Project") at Lambert-St. Louis International Airport® ("Airport"), increasing the total estimated cost of the Taxiway D Project by Three Million Dollars (\$3,000,000) to Eight Million Two Hundred Thousand Dollars (\$8,200,000); authorizing a Second Supplemental Appropriation in the amount of Three Million Dollars (\$3,000,000) from the Series A Commercial Paper Construction Account of the Commercial Paper Construction Fund established and authorized pursuant to Ordinance 66232 approved March 30, 2004, into the Taxiway D Project Ordinance 67249, for the payment of costs for work and services authorized therein, and containing an emergency clause.

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

SECTION ONE. Section One of the Taxiway D Project Ordinance 67249 approved October 3, 2006, is hereby amended by deleting the following words and figures from the last clause of Section One:

"and other necessary and related work or services for the development, implementation, administration, management or monitoring of the Taxiway D Project at a total estimated cost of Five Million Two Hundred Thousand Dollars (\$5,200,000)."

and replacing with the following words and figures:

"and other necessary and related work or services for the development, implementation, administration, management or monitoring of the Taxiway D Project at a total estimated cost of Eight Million Two Hundred Thousand Dollars (\$8,200,000)."

SECTION TWO. There is hereby authorized a Second Supplemental Appropriation in the amount of Three Million Dollars (\$3,000,000) from the Series A Commercial Paper Construction Account of the Commercial Paper Construction Fund established and authorized pursuant to Ordinance 66232 approved March 30, 2004, into the Taxiway D Project Ordinance 67249 approved October 3, 2006, for the payment of costs for work and services authorized therein.

SECTION THREE. This being an ordinance providing for public work and improvement program, it is hereby declared to be an emergency measure as defined in Article IV, Section 20 of the City of St. Louis' Charter and shall become effective immediately upon its approval by the Mayor of the City of St. Louis.

Approved: June 9, 2008

ORDINANCE #67980
Board Bill No. 69
Floor Substitute

An Ordinance, recommended and approved by the Airport Commission and the Board of Estimate and Apportionment authorizing a Second Supplemental Appropriation in the amount of Seven Hundred Twenty Five Thousand Dollars (\$725,000) from the Airport Development Fund established under authority of Ordinance 59286, Section 13, approved October 26, 1984, into the Airport Engineering Assistance Program Ordinance 67100 approved June 5, 2006, for the payment of costs for work and services authorized therein, and containing an emergency clause.

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

SECTION ONE. There is hereby authorized a Second Supplemental Appropriation in the amount of Seven Hundred Twenty Five Thousand Dollars (\$725,000) from the Airport Development Fund established under authority of Ordinance 59286, Section 13, approved October 26, 1984, into the Airport Engineering Assistance Program Ordinance 67100 approved June 5, 2006, for the payment of costs for work and services authorized therein.

SECTION TWO. This being an ordinance providing for public work and improvement program, it is hereby declared to be an emergency measure as defined in Article IV, Section 20 of the City of St. Louis' Charter and shall become effective immediately upon its approval by the Mayor of the City of St. Louis.

Approved: June 9, 2008

**ORDINANCE #67981
Board Bill No. 70**

An Ordinance recommended and approved by the Airport Commission and the Board of Estimate and Apportionment authorizing a Third Supplemental Appropriation in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) from the Airport's FAA Land Sale Account into the Noise Mitigation Program Ordinance 64192 approved November 17, 1997, as amended by Ordinance 65217 approved June 29, 2001, for the payment of costs authorized therein; and containing an emergency clause.

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

SECTION ONE. There is hereby authorized a Third Supplemental Appropriation in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) from the Airport's FAA Land Sale Account into the Noise Mitigation Program Ordinance 64192 approved November 17, 1997, as amended by Ordinance 65217 approved June 29, 2001, for the payment of costs authorized therein.

SECTION TWO. This being an Ordinance providing for a public works and improvement program, it is hereby declared to be an emergency measure as defined in Article IV, Section 20, of the City of St. Louis' Charter and shall become effective immediately upon approval by the Mayor of the City of St. Louis.

Approved: June 9, 2008

**ORDINANCE #67982
Board Bill No. 71**

An Ordinance, recommended and approved by the Airport Commission and the Board of Estimate and Apportionment authorizing a Third Supplemental Appropriation in the amount of Six Million Five Hundred Thousand Dollars (\$6,500,000) from the Series A Commercial Paper Construction Account of the Commercial Paper Construction Fund into the Airport Schedule F CIP Project Ordinance 67357 approved December 19, 2006, for the payment of costs for work and services authorized therein; and containing an emergency clause.

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

SECTION ONE. There is hereby authorized a Third Supplemental Appropriation in the amount of Six Million Five Hundred Thousand Dollars (\$6,500,000) from the Series A Commercial Paper Construction Account of the Commercial Paper Construction Fund established and authorized pursuant to Ordinance 66232 approved March 30, 2004, into the Airport Schedule F CIP Project Ordinance 67357 approved December 19, 2006, for the payment of costs for work and services authorized therein.

SECTION TWO. This being an ordinance providing for public work and improvement program, it is hereby declared to be an emergency measure as defined in Article IV, Section 20 of the City of St. Louis' Charter and shall become effective immediately upon its approval by the Mayor of the City of St. Louis.

Approved: June 9, 2008

**ORDINANCE #67983
Board Bill No. 72**

An Ordinance recommended and approved by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City the Lambert-St. Louis International Airport® Restated and Amended Concession Agreement (Food and Beverage)(AL-415) (the "Concession Agreement"), between the City and Host International, Inc. (the "Concessionaire"), a corporation organized and existing under the laws of the State of Delaware, granting to the Concessionaire the non-exclusive right, license, and privilege to design, construct, operate, manage, and maintain a Food and Beverage Concession within the premises as described in the Concession Agreement, subject to and in accordance with the terms, covenants, and conditions of the Concession Agreement, which was approved by the Airport Commission and is attached hereto as **ATTACHMENT "1"** and made a part hereof; providing that the provisions set forth in this Ordinance shall be applicable exclusively to the Concession Agreement; containing a severability clause; and containing an emergency clause.

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

SECTION ONE. The Director of Airports and the Comptroller for the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City the Lambert-St. Louis International Airport® Restated and Amended Concession Agreement (Food and Beverage) (AL-415) (the "Concession Agreement"), between the City and Host International, Inc. (the "Concessionaire"), a corporation organized and existing under the laws of the State of Delaware, granting to the Concessionaire the non-exclusive right, license, and privilege to design, construct, operate, manage, and maintain a Food and Beverage Concession within the premises as described in the Concession Agreement, subject to and in accordance with the terms, covenants, and conditions of the Concession Agreement, which was approved by the Airport Commission and is to read in words and figures substantially as set out in **ATTACHMENT "1"**, which is attached hereto and made a part hereof.

SECTION TWO. The terms, covenants, and conditions set forth in this Ordinance shall be applicable exclusively to the Concession Agreement approved and authorized by this Ordinance and shall not be applicable to any other existing or future concession agreement or other agreements, documents, or instruments unless specifically authorized by ordinance enacted after the effective date of this Ordinance. All provisions of other ordinances of the City that are in conflict with this Ordinance shall be of no force or effect as to this Ordinance or the agreements, documents, and instruments approved and/or authorized by this Ordinance.

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

SECTION FOUR. This being an ordinance for the preservation of public peace, health, or safety, it is hereby declared an emergency measure as designed in Article IV, Section 20, of the City's Charter and shall become effective immediately upon its approval by the Mayor of the City.

ATTACHMENT "1"

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®



HOST INTERNATIONAL, INC.

FOOD AND BEVERAGE

CONCESSION AGREEMENT

AGREEMENT NO. AL-415

TABLE OF CONTENTS

	INTRODUCTION	Page 1
ARTICLE I	DEFINITIONS	Page 2
ARTICLE II	PREMISES	Page 5
ARTICLE III	CONCESSION RIGHTS	Page 6
ARTICLE IV	CONCESSION TERM	Page 7
ARTICLE V	FEES AND RENTALS	Page 8

ARTICLE VI CONCESSIONAIRE’S OPERATIONS Page 13

ARTICLE VII IMPROVEMENTS AND ALTERATIONS Page 21

ARTICLE VIII USE OF PREMISES Page 26

ARTICLE IX INSURANCE, DAMAGE AND INDEMNIFICATION Page 29

ARTICLE X ASSIGNMENT AND SUBCONTRACTING Page 37

ARTICLE XI TERMINATION OF AGREEMENT IN ENTIRETY Page 38

ARTICLE XII AIRPORT CONCESSIONAIRE DISADVANTAGED BUSINESS ENTERPRISE
(ACDBE) PARTICIPATION Page 41

ARTICLE XIII LIQUIDATED DAMAGES Page 44

ARTICLE XIV MISCELLANEOUS PROVISIONS Page 45

SIGNATURES Page 52

EXHIBIT "A" PREMISES 26 Pages

EXHIBIT "B" LIVING WAGE ANNOUNCE BULLETIN 1 Page

EXHIBIT "C" CONCESSION PLAN 3 Pages

EXHIBIT "D" OPERATIONAL FACILITIES INSPECTION REQUIREMENTS 4 Pages

EXHIBIT "E" HOURS OF OPERATION 1 Page

EXHIBIT "F" ENVIRONMENTAL REQUIREMENTS 3 Pages

AIRPORT NUMBER...AL-415

**LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
RESTATED AND AMENDED CONCESSION AGREEMENT
(FOOD AND BEVERAGE)**

THIS SIXTH AND RESTATED AMENDMENT, made and entered into as of the ____ day of _____ 200_, (**Agreement**) by and between the CITY OF ST. LOUIS (**City**), a municipal corporation of the State of Missouri and HOST INTERNATIONAL, INC. (**Concessionaire**), a corporation organized and existing under the laws of the State of Delaware.

THIS AGREEMENT is a complete restatement of and amendment to the Concession Agreement made the 31st day of January, 1967, and as amended by Addendum to Concession Agreement dated February 1, 1967, (The First Amendment), as further amended by an Extension of Concession Agreement for Food and Beverage Concession dated August 3, 1976, (The Second Amendment), as further amended by an Amendment to Concession Agreement for Food and Beverage dated April 16, 1979, (The Third Amendment), and as further amended by an Amendment to Concession Agreement for Food and Beverage dated April 1, 1987, (The Fourth Amendment), and as further amended by a Restated and Amended Concession Agreement dated January 9, 1997 (The Fifth Amendment) by and between the City of St. Louis, a municipal corporation of the State of Missouri and Host International, Inc., (previously known as Interstate Hosts, Inc.), a Delaware Corporation. Whereas, it is the intent of both parties upon execution of this Agreement, that the terms, covenants and conditions of the January 31, 1967 Concession Agreement as previously amended will no longer be in effect.

WITNESSETH, THAT:

WHEREAS, the City now owns, operates and maintains an international airport known as “Lambert-St. Louis International Airport®” (Airport), located in the County of St. Louis, Missouri;

WHEREAS, a Food and Beverage Concession at the Airport is essential for proper accommodation of the public;

WHEREAS, Concessionaire, since its initiation of operations at Lambert-St. Louis International Airport® under Concession Agreement dated January 31, 1967, has earned the confidence of the City and the traveling public and has demonstrated a high level of service in the food and beverage operations at the Airport;

WHEREAS, a major renovation of the West Terminal will require food and beverage facilities be designed, constructed, relocated, renovated and expanded;

WHEREAS, the City desires to maximize opportunities for disadvantaged, minority and women owned enterprises in the Food and Beverage Concession at the Airport as well as additional revenue and more favorable terms to the City;

WHEREAS, Concessionaire has agreed to enter into various business arrangements including subleases of a portion of the Premises in order to achieve and maintain an ACDBE participation level of forty percent (40%) of Concession Gross Revenue throughout the term of the Agreement;

WHEREAS, design and construction of said facilities and improvements will require Concessionaire to invest or cause to be invested not less than Thirteen Million Dollars (\$13,000,000.00) and Concessionaire has agreed to commit to such investment;

WHEREAS, Concessionaire has further agreed to refurbish the Premises no later than the end of year 2015 and has agreed to expend or cause to be expended not less than Three Million Dollars (\$3,000,000.00);

WHEREAS, BY THIS Agreement, Concessionaire waives all rights to any and all reimbursements and compensation from the City for the depreciated value of existing improvements and non-expendable equipment at the Airport.

NOW, THEREFORE, for and in consideration of the payments, promises and the mutual covenants and agreements herein contained and other valuable considerations, the City and the Concessionaire agree as follows:

ARTICLE I DEFINITIONS

Section 101. Definitions. The following words and phrases shall have the following meanings:

“Agreement” shall mean this concession contract for Food and Beverage service and any amendments thereto, duly approved by the City.

“Airfield Operations Area” shall mean those areas of the Airport used for the landing, taking-off, movement, and parking of aircraft, as the same now exist or as the same hereafter may be added to, modified, changed, or developed.

“Airport” as stated in the preamble hereof.

“Airport Concession Disadvantaged Business Enterprise (ACDBE)” shall mean a concession that is a small business concern (i) that is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one percent (51%) of the stock is owned by one or more such individuals; and (ii) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

“Airport Properties Department” shall mean that department of the City of St. Louis Airport Authority that has as its primary responsibility the administration of all tenant, permittee, concessionaire and other space at the Airport, and shall be the Concessionaire’s point of contact with the Airport on all issues related to this Agreement.

“Applicable Percentage Fee” shall mean the product of (i) the Gross Revenue for each product category sold for the appropriate period multiplied by (ii) the percentage set out in Article V hereof for each product category.

“Authority” shall mean the City of St. Louis Airport Authority, the City department responsible for managing and operating the Airport.

“Build-Out or Build-Out Costs” shall mean costs incurred for the demolition/redevelopment of existing improvements and construction of new Improvements to the Premises, including (but not limited to) furnishings, fixtures and finishes including

Removable Fixtures, costs of architectural design and engineering fees, outside project management, installation and preparation of all assets for their intended use, general contractors, sub-contractors, franchise fees, taxes, permits, insurance and construction bonds; but excluding the costs of interest during construction and internal costs of Concessionaire's employees.

“City” as stated in the preamble hereof.

“**Commencement Date**” shall mean the later of October 1, 2008 or first day of the month following the full execution of the Agreement by the City.

“**Concession**” as stated in the preamble hereof.

“**Concession Plan**” shall mean an agreed upon collection of brands existing or to be constructed in the Premises as agreed upon by Host and the Director and incorporated herein as Exhibit “C”.

“**Concessionaire**” as stated in the preamble hereof.

“**Contract Year**” shall mean a twelve (12) consecutive month period commencing on the Commencement Date, and each twelve (12) month period thereafter.

“**Director**” shall mean the Director of Airports of the City of St. Louis Airport Authority or his designee, and incorporates the granting of approval requirements of Section 1415 hereof.

“**Good Faith Efforts**” shall mean efforts to achieve an ACDBE goal or other requirement that, by their scope, intensity and appropriateness to this objective, can reasonably be expected to meet the program requirements.

“**Gross Receipts**” shall mean the total revenues from all sources and all types at this Airport under the Agreement performed by Concessionaire, its subcontractors, subsidiaries, associated companies or otherwise, regardless of the point of origin or delivery of the order; and, only the following may be excluded or deducted, as the case may be, from Gross Receipts:

- federal, state, county and municipal sales taxes or other sales taxes separately stated and collected from customers;
- cash or credit refunds given to customers for returned products or unperformed services purchased at the Airport;
- receipts in the forms of refunds from or the value of merchandise, supplies or equipment returned to shippers, suppliers or manufacturers;
- sale or trade-in value of any equipment or fixtures that were sold or transferred from the Premises provided the sale or transfer was approved for removal by the Director and the equipment or fixture was owned by Concessionaire.
- Revenues derived from payments received by Concessionaire for loans made to Sublessees, fees charged for services provided Sublessees, or other fees assessed by the Concessionaire for the use of Airport facilities for which Concessionaire has a direct lease, so long as the charge is assessed in accordance with the agreement.

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

“**Improvements**” shall mean all construction and fixtures built or erected by the Concessionaire, and forming a part of and which are permanently affixed or attached to any portion of Airport real property or improvements within the Premises.

“**Local Concept**” shall mean concepts or products that are reflective of the St. Louis metropolitan area that offer high quality products and high levels of customer service that will enhance the Airport's concession program.

“**Minimum Annual Guarantee**” as stated in Article V, Section 502 hereof.

“**Nationally Branded**” shall mean concepts or products that are located geographically across the forty eight (48) contiguous U.S. states and/or participate in nationwide advertising, promotional, and/or marketing campaigns so that they are immediately recognized by a majority of the public.

“**Notice**” shall mean a communication between the parties to this Agreement performed in accordance with the requirements of Section 1401. Notice.

“**Percentage**” shall mean that designated portion of Concessionaire's Gross Receipts that are payable to the City.

“**Percentage Fee**” shall mean the product of (i) Gross Receipts multiplied by (ii) Percentages set out in Article V, Section 502 hereof.

“**Premises**” shall mean a location or locations described in Section 201 that have been designated by the City for the sale of Concessionaire's products or storage spaces, and for other uses provided specifically herein, together with all Improvements thereon.

“**Regionally Branded**” shall mean concepts or products that are representative of any United States region, such as; Midwest, West Coast, East Coast, and so forth, that are immediately recognized by the public living in those areas.

“**Refurbishment**” shall mean to upgrade the Premises and return the Premises to original condition or the conversion of food and beverage units to new concepts, including modernization/redesign by replacement of furnishings, fixtures and finishes and construction of improvements.

“**Refurbishment Costs**” shall mean costs incurred to upgrade the Premises and return the Premises to original condition or convert food and beverage units to new concepts, including modernization/redesign by replacement of furnishings, fixtures and finishes and construction of improvements, costs of architectural design and engineering fees, outside project management, installation and preparation of all assets for their intended use, general contractors, sub-contractors, franchise fees, taxes, permits, insurance and construction bonds; but excluding the costs of interest during construction and the internal costs of Concessionaire's employees.

“**Removable Fixtures**” shall mean all furnishings, equipment and fixtures installed by the Concessionaire that are not permanently affixed to any wall, floor or ceiling in the Premises.

“**Unamortized Investment**” shall mean the undepreciated value of Concessionaire's investment in Build-Out Costs less the cost of Removable Trade Fixtures. The Build-Out Cost shall be fully amortized on a straight line basis over the term of this Agreement.

ARTICLE II PREMISES

Section 201. Premises. City hereby permits the Concessionaire to install, maintain and operate at the locations on Airport property including the Airport terminals and concourses in accordance with rights granted under Section 301. Rights, as described in **Exhibit A**, attached hereto and made a part hereof. The rights granted in Section 301 hereof must only be exercised within the Premises.

The Director shall have the right to add, substitute, relocate or delete portions of the Premises upon reasonable notice to the Concessionaire. The City will not be liable or responsible for any loss whatsoever, including without limitation, any inconvenience or loss by the Concessionaire of work time, profit or business, actual, incidental, consequential or special damages resulting from these changes to the Premises. In the event that the Premises are relocated or reclaimed Concessionaire will be reimbursed the Unamortized Investment of the relocated Premises. In addition, the City will make good faith efforts to find replacement space that is of equal size and value as that of the reclaimed Premises. If replacement space is developed by Concessionaire with less than five years remaining on the contract term then the Build-Out Costs of the replacement space will be amortized on a straight-line basis over a ten year life – with any Unamortized Investment being paid to Concessionaire upon contract termination. If replacement space is not located and developed by Concessionaire the MAG will be proportionately reduced, based upon the percentage of Gross Receipts of the Premises compared to the total Gross Receipts generated throughout the Airport during the prior twelve (12) month period, to reflect the loss of the Premises.

Concessionaire accepts the Premises “**AS IS**” with no warranties or representations of any kind, expressed or implied, either oral or written, made by the City or any of its agents or representatives. City without limitation expressly disclaims and negates as

to the Premises; a) any implied or expressed warranty of merchantability; b) any implied or expressed warranty for a particular purpose; and c) any expressed or implied warranty with the respect to the Premises or any portion thereof.

Section 202. Access. Subject to the terms, covenants and conditions of this Agreement hereof, Concessionaire has the right of free access, ingress to and egress from the Premises for Concessionaire's employees, agents, guests, patrons and invitees.

Section 203. Changes to the Airport. The City reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of the Concessionaire without interference or hindrance.

ARTICLE III CONCESSION RIGHTS

Section 301. Rights. City hereby grants to Concessionaire, subject to and in accordance with all of the terms, covenants, warrants and conditions of this Agreement the nonexclusive right, license and privilege and Concessionaire hereby assumes the obligation to design, construct, operate, manage and maintain a Food and Beverage Concession within the Premises and the sale of such merchandise as has been approved by the Director.

Section 302. Limitation of Rights. Concessionaire is not granted the right to offer for sale any merchandise, products, or services, or engage in any other business or commercial activity on the Airport that is not specifically granted under this Agreement. If any services or products, other than those specifically mentioned in Section 301 are offered for sale by Concessionaire, Concessionaire will cease and desist from any further sale or provision thereof immediately and not later than upon receipt of written notice from the Director. With the consent of the Director, Concessionaire will be permitted to operate food and beverage operations within airline clubs in the Airport provided it has executed an agreement to do so with the appropriate airline that owns and operates the club. With the consent of the Director, Concessionaire will also be permitted to manage and/or operate food and beverage vending machines in the public areas of the Airport. The Airport reserves the right to pursue food and beverage vending as a separate concession.

Concessionaire shall not engage in advertising or provide an area for the distribution of advertisements on behalf of any company other than itself (or the brands which it operates under certain license and/or franchise agreements). City shall be the sole judge whether the conduct of Concessionaire's representative in the solicitation of business constitutes a violation of this paragraph, and upon notice from the City, Concessionaire shall forthwith take all steps necessary to eliminate the undesirable condition. Notwithstanding, Concessionaire may advertise and promote its offerings (including special promotions) in an attempt to maximize Gross Receipts and provide the highest customer satisfaction for Airport passengers.

This Agreement grants no real or implied rights to any concession privileges on the Airport other than in the designated areas.

Section 303. Proprietary Rights. The City reserves the right to enter into any marketing revenue producing agreements which grant exclusive advertising/sponsorship rights for certain products, brands or services ("**official brands**") at the Airport. To the extent permitted by law, Concessionaire shall not sell, serve, advertise, promote or display at the Airport within or outside its Premises any products, brands or services that compete with designated official brands. If the City enters into any marketing revenue producing concession agreement, Concessionaire will agree to sell, advertise, feature, promote and display the official brand or brands covered under the advertising/sponsorship agreement, if permitted by Section 301 above, and no others within the same product category. The above will not require Concessionaire to change any of its corporate supply agreements or violate the terms of any of its franchise, procurement and license agreements. For example, Concessionaire currently has a national agreement to offer and sell Coke products in its facilities and this Section 303 will not impact Concessionaires ability to continue to sell Coke products.

ARTICLE IV CONCESSION TERM

Section 401. Term. The term of this Agreement shall commence on the later of October 1, 2008 or first day of the month following full execution of the Agreement by the City and shall expire on December 31, 2020 unless sooner terminate in accordance with other provisions of this Agreement. The commencement and expiration dates shall be written in the spaces below.

"Commencement Date" _____

"Expiration Date" December 31, 2020

Section 402. Surrender of Possession. No notice to quit possession at the expiration date of the term of this Agreement shall

be necessary. Concessionaire covenants and agrees that at the expiration date of the term of this Agreement, or at the earlier termination hereof, it will peaceably surrender possession of the Premises, in as good condition as that existing at the time of Concessionaire's initial entry upon the Premises, reasonable wear and tear, acts of God, and other casualties excepted, and the City shall have the right to take possession of the Premises with or without due process of law.

Section 403. Holdover Provision. If Concessionaire shall, with the prior written approval of the Director, holdover after the expiration of the term of this Agreement, the resulting tenancy shall, unless otherwise mutually agreed, be a tenant at will on a month-to-month basis. During such month-to-month tenancy, Concessionaire shall pay to City the same Concession Fees as set forth herein, unless different fees shall be agreed upon by the Director on behalf of the City and the Concessionaire, and shall be bound by all terms, covenants and conditions of this Agreement.

ARTICLE V FEES AND RENTALS

Section 501. General. Concessionaire, for and in consideration of the rights and privileges granted herein, agrees to pay the concession fees and the other fees and charges set forth below in Sections 502, 505, 507, 510, and 512 and the utilities described in Section 804 of this Agreement, without demand during the term of this Agreement.

Section 502. Concession Fee Payments.

- A. Concessionaire agrees to pay to City for each Contract Year, a sum equal to the greater of the Minimum Annual Guarantee (hereinafter referred to as MAG) as set forth in paragraph (B) below or the aggregate of the Applicable Percentage Fees for each product category as set out below and which shall be applied to the Gross Receipts, as defined, of Concessionaire and each Sublessee, whether the owner of one or multiple units, separately, for each Contract Year or portion thereof.

FOOD AND NON ALCOHOLIC BEVERAGES

\$0 - \$4 Million	10%
\$4 - \$8 Million	11%
Over \$8 Million	12%
Employee Cafeteria	0%

ALCOHOLIC BEVERAGES

\$0 - \$2 Million	15%
\$2 - \$4 Million	16%
Over \$4 Million	17%

APPROVED MERCHANDISE

Sold in Terminals	20%
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INFLIGHT CATERING

Catering Permit	7%
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OTHER CATERING / MEETING ROOMS / VENDING

Food & Beverage	7%
Room & Equipment Rentals	25%
Vending Commissions	25%

In the event that Host shall become the Vending operator under a separate agreement the terms of that agreement shall prevail.

Catering permit applicable percentage fee will be subject to adjustment based on the prevailing Applicable Percentage Fees negotiated with other in-flight catering companies operating at the Airport.

- B. For Contract Year One the MAG shall be Two Million Seven Hundred Seventy-Five Thousand Dollars (\$2,775,000.00). For Contract Year Two and each remaining Contract Year the MAG shall be of eighty percent (80%) of the preceding Contract Year's Applicable Percentage Fee. In no event will the MAG be reduced below the year one MAG (except as permitted in the Agreement when the Premises are reduced and certain facilities are eliminated).

S Section 503. Payment. Payments for each month of each Contract Year shall consist of (a) an amount equal to 1/12 of the MAG for the applicable Contract Year paid in advance on or before on or before the first day of each month, and (b) an amount equal to the portion of the Percentage Fee applied to the Gross Receipts for the previous month to be paid on or before the 20th day of the second month and each succeeding month during the term of the Agreement. (See Article V, Section 505 Unpaid Fees for the amount of any applicable service charge and Article XIII LIQUIDATED DAMAGES.)

Section 504. Reports.

- A. Concessionaire shall submit to the City by the 20th day of the second and each succeeding month of each Contract Year hereof, two copies of an accurate statement of Gross Receipts. The Director reserves the right to request Concessionaire to provide documentation in a manner satisfactory to the Director, the specifics of all refunds deducted from Gross Receipts. The statement of Gross Receipts shall separately state Gross Receipts by location and be certified as accurate by an officer of the Concessionaire. The final statement of Gross Receipts will be due by the 20th day of the month following expiration of this Agreement. Concessionaire shall report Gross Receipts on a form approved by the Director. The City reserves the right to use these statements of Gross Receipts as a source of information to bidders in a future solicitation for bids or request for proposals for this concession.
- B. Concessionaire shall submit an audited report of Gross Receipts within one hundred twenty (120) days following the conclusion of each Contract Year. These audit reports must be prepared by an independent Certified Public Accountant. The audit reports shall, at a minimum, certify the accuracy of (i) reported total accumulated Gross Receipts; and (ii) the aggregate amount of Gross Receipts and/or goods and services attributable to ACDBE participants. The audit reports shall also include a schedule showing the total of actual Concession Fee payments to the City during the Contract Year and shall state an opinion as to the correctness of the computation of the Concession Fee Payments without exception.
- C. Within thirty (30) days after the close of each Contract Year, except the last Contract Year, Concessionaire shall provide the City with an estimate of projected monthly Gross Receipts for the subsequent Contract Year.
- D. The City is required to report ACDBE utilization to the FAA. Concessionaire shall be required to submit to the City by the 20th day following each calendar quarter (April 20, July 20, October 20 and January 20), two copies of an accurate statement of ACDBE utilization. Concessionaire shall document in a manner satisfactory to the Director the specifics of all Gross Receipts attributable to ACDBEs in addition to purchases from certified ACDBEs. This statement shall be certified as accurate by an officer of the Concessionaire. Concessionaire shall report ACDBE utilization on a form approved by the Director. The City reserves the right to use these statements as a source of information to bidders in a future solicitation for bids or request for proposals for this concession.
- E. Delivery of an audit report containing a qualified opinion, an adverse opinion or a disclaimer of opinion as defined in the Statement on Auditing Standards, or as same may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, shall be deemed to be a default pursuant to Section 1101 (B) (10) herein. In the event the annual audit indicates that there was an underpayment of any fees payable to the City, Concessionaire shall immediately pay the amount of the underpayment to the City. In the event of an overpayment, Concessionaire shall deduct the amount of the overpayment from the next scheduled Concession Fee Payment. If an overpayment occurs during the last contract year, the City will pay the amount of the overpayment to Concessionaire within 30 days of receipt of the audit report.
- F. Concessionaire shall keep, and make available to the City, such records (copies of subcontracts, paid invoices, documentation or correspondence) as are necessary for the City to determine compliance with the ACDBE participation requirement. The City reserves the right to investigate, monitor and/or review records for compliance. Concessionaire shall submit quarterly ACDBE activity reports to the City in a form approved by the Director.

Section 505. Unpaid Fees. All unpaid fee payments due the City hereunder shall bear a service charge of 1½% per month if same is not paid and received by the City on or before the 20th of the month in which said payments are due. Concessionaire agrees that it shall pay and discharge all costs and expenses including attorney fees and litigation cost incurred or expended by the City in collection of said delinquent amounts due, including service charges.

Section 506. Performance and Payment Bond. Concessionaire agrees to furnish a Performance and Payment Bond in a form acceptable to City in the principal amount equal to Two Million Dollars (\$2,000,000.00) prior to execution of this Agreement. Such bond or other form of security agreed to by the City, shall remain in full force and effect throughout the term of this Agreement and shall extend at least one hundred eighty (180) days following the expiration or early termination of this Agreement. In the event that said bond should expire prior to expiration or early termination of this Agreement, Concessionaire warrants, covenants and agrees to provide City a renewal bond sixty (60) days prior to expiration date of the expiring bond. Such bond will guarantee the payment of all fees and performance of all other terms, covenants and conditions of this Agreement. The Performance and Payment Bond will be in the form of standard commercial guaranty bond running to the City, written by a surety company authorized to do business in Missouri and (i) having a "Best" key rating of not less than A and with a "Best" Financial Size Category of not less that Class VIII and (ii) shown on the most recent U.S. Treasury Circular No. 570 as having an "underwriting limitation" of at least the amount of the penal sum of the bond. The bond will be kept in full force and effect during the term hereof. City may agree to another form of deposit which will provide equal protection of City's interest. If City cashes the bond or other form of deposit agreed to by the City, Concessionaire agrees to furnish a replacement Performance and Payment Bond or other form of deposit in the same principal amount within twenty (20) days.

Section 507. Prompt Payment of Taxes and Fees. Concessionaire warrants, covenants and agrees to pay promptly all lawful general taxes or payments in lieu of taxes, special assessments, excises, license fees, permit fees, and utility service charges of whatever nature, applicable to its operation at the Airport, and to take out and keep current all licenses, municipal, state or federal, required for the conduct of its business at and upon the Airport or under this Agreement, and further covenants and agrees not to permit any of said taxes, payments, assessments, fees and charges to become delinquent.

Section 508. Accounting Records and Reports. During the term hereof, Concessionaire shall make available in the St. Louis area true, accurate, complete and auditable records of all business it conducts at the Airport. Concessionaire shall make same records available in the St. Louis area for one (1) year following the expiration or early termination of this Agreement. These records shall be accessible during usual business hours to the City or it's duly appointed agents or auditors. Concessionaire is not required to maintain its records in the St. Louis area, as provided above, if it agrees to pay for all costs associated with conducting audits performed by the City, or it's duly appointed agents or auditors, at the Concessionaire's place of records.

Section 509. Audit.

- A. City, or its duly appointed agents or auditors, reserves the right to audit Concessionaire's, subcontractor's, or others doing business under this Agreement, books, records and receipts at any time for the purpose of verifying the Gross Receipts hereunder. If the results of the audit(s) reveal a discrepancy of more than five percent (5%) between Gross Receipts reported by Concessionaire and Gross Receipts determined by the audit, the cost of the audit shall be borne by Concessionaire.
- B. If as a result of an audit by any governmental entity, Concessionaire is required to restate Gross Receipts as defined herein, Concessionaire will, within thirty (30) days of finalization of the audit, report the change in Gross Receipts to the Airport. If the change in Gross Receipts results in Concessionaire owing additional Concession Fees Concessionaire will, within thirty (30) days, remit to the City the additional Concession Fees.

Section 510. Additional Fees, Charges and Rentals. Concessionaire shall pay additional fees, charges and rentals under the following conditions:

- A. If the City has paid any sum or sums or has incurred any obligations or expenses for which Concessionaire has agreed to pay or reimburse the City for; or
- B. If the City is required or elects to pay any sum or sums or incurs any obligations or expenses because of the failure, neglect or refusal of Concessionaire to perform or fulfill any of the terms, covenants or conditions of this Agreement.

Such payments shall include all interest, costs, damages and penalties in conjunction with such sums so paid or expenses so incurred and may be added to any installment of fees, charges and rentals thereafter due hereunder. Each and every part of such payment shall be recoverable by the City in the same manner and with like remedies as if it were originally a part of the basic fees,

charges and rentals, as set forth herein.

For all purposes under this paragraph, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum or sums by the City for any work done or material furnished shall be prima facie evidence against Concessionaire that the amount of such payment was necessary and reasonable.

Section 511. Notice, Place and Manner of Payment. Payments to the City shall be made to the Airport Administrative Office, at the Airport, or at such other place as the City may hereafter notify Concessionaire and shall be made in legal tender of the United States.

Section 512. Marketing and Promotion. The Airport reserves the right to establish a Marketing Fund to be controlled by the Airport or its designated agent for the purpose of advertising, promotion and other activities appropriate for marketing concessions and services at the Airport. Concessionaire agrees to fully participate in said marketing fund and pay any fees or assessments levied by said Marketing Fund. The amount of annual Marketing Fund contributions will be limited to the lower of the amount charged to other concessionaires at the Airport or 0.25% of Concessionaires Gross Receipts.

ARTICLE VI CONCESSIONAIRE'S OPERATIONS

Section 601. Standards of Service.

- A. Deliveries of supplies, cash and coin to the Concession Premises shall be made at such times, by such routes/modes and at such locations as the City may reasonably approve.
- B. The Premises shall be kept clean, neat, and businesslike and in an orderly condition at all times and Concessionaire shall provide for timely disposal of trash and debris at locations designated by the City.
- C. Concessionaire shall ensure that each customer receives prompt, efficient and courteous service. In conjunction with this requirement, Concessionaire shall ensure that each location has adequate staff to provide this level of service. Concessionaire shall ensure that all food and beverage locations have adequate staff available during normal peak operating hours and during any special or emergency circumstances. Concessionaire shall use reasonable efforts to employ an adequate number of bilingual personnel to serve non-English-speaking patrons as market demand may warrant.
- D. Concessionaire shall assure that its agents and employees do not engage in the solicitation of or use pressure sales tactics for products offered on or about the Airport.
- E. Operations shall fully comply with all Federal Aviation Administration (FAA) regulations including security requirements, Airport rules and regulations and Airport security plan. Employees shall be suitably badged in accordance with Airport security procedures and regulations and shall fully comply with the Transportation Security Administration's (TSA) regulation 1542 regarding conduct and access to the Airfield Operations Area (AOA).

Section 602. Hours of Operation.

- A. The minimum hours of operation for serving the public shall be ninety (90) minutes before departure of the first scheduled flight each day and until the departure of the last flight out each evening in pre-security areas of the terminals. In post security areas of the terminals hours of operation shall be sixty (60) minutes before departure of the first scheduled flight each day until the departure of the last flight out each evening. Concessionaire may not change the hours of operation without written application to, and the written approval of, the Director. The Director may require Concessionaire to change its hours of operation to reflect changing operational circumstances at the Airport. The initial agreed upon hours of operation for each facility are attached and documented in Exhibit "E" titled "Hours of Operation".
- B. Concessionaire will insure that it provides adequate service to accommodate the traveling public in a first class manner.
- C. In the event that scheduled flights are delayed past the normal last scheduled departures due to weather or other causes, Concessionaire will remain continuously open and provide all services as provided for in the Agreement

to accommodate the needs of the public and employees until such time that the delayed flights have departed, been canceled or otherwise directed by the Director.

- D. Concessionaire shall operate, at the minimum, one twenty-four (24) hour food unit each day of the week. The Director may require additional twenty-four (24) hour units to reflect changing operational circumstances at the Airport.
- E. At the time of closing for each food and beverage unit, Concessionaire shall provide, and display, professionally made signs directing customers to the nearest twenty-four (24) hour unit(s). The said signs shall be placed in an area visible to the public inside the Premises.
- F. On or before the fifteenth (15th) day of the second calendar month and each month thereafter, Concessionaire shall submit to the City a report generated from Concessionaire's point-of-sale (POS) system, or by such other means as approved by the Director, showing the time of the first and last Gross Receipts generated in each facility for the specified period.

Section 603. Promotion. Concessionaire warrants, covenants and agrees that it shall take all reasonable measures in every proper manner to maintain, develop and increase the business conducted by it hereunder. Concessionaire shall not divert, cause or allow any business to be diverted from the Airport by referral or any other method. Any action taken by Concessionaire to diminish the Gross Receipts of Concessionaire under this Agreement shall constitute a material breach hereof and a cause for the termination of this Agreement by the City.

Section 604. Personnel.

- A. Concessionaire shall maintain a sufficient number of trained personnel on duty to insure that Concessionaire's customers shall receive prompt and efficient service at all times. All employees will wear name tags or badges so that they may be identified by the public and indicate the fact and nature of their employment. Concessionaire shall require its employees (except managerial and supervisory employees) to wear appropriate uniforms. Uniforms will be clean, neat, and worn according to company standards during the entire time the employee is on Airport property. Concessionaire shall employ only properly trained, efficient, pleasant, neat, clean and courteous personnel, each of whom shall be proficient in the duties to be performed in the operation of this Concession. Concessionaire agrees that it will be responsible for ensuring that its employees abide by all applicable laws, rules and regulations. Concessionaire shall prohibit and restrain its agents, servants and employees from loud, noisy, boisterous or otherwise objectionable behavior. Upon objection from the Director concerning the conduct or appearance of any such persons, Concessionaire shall immediately take all steps necessary to remove the cause of the objection.

Concessionaire, at its cost, acknowledges and agrees that it shall conduct employee background checks of each of its personnel if required by the FAA, TSA and/or the Airport. Concessionaire recognizes, and agrees, that security requirements may change and Concessionaire agrees that it shall comply with all such changes throughout the term of this Agreement.

- B. Concessionaire understands, and agrees, that fines and/or penalties may be assessed by the FAA or the TSA for Concessionaire's noncompliance with the provisions of the Transportation Security Administration's regulation 1542 as amended or other applicable laws or regulations. Concessionaire shall promptly reimburse the City (within 30 days of the City's request) for any fines or penalties paid by the City due to Concessionaire's noncompliance with said laws or regulations.
- C. Employees of Concessionaire are expected to be able to assist Airport users with way-finding within the Airport. Concessionaire shall ensure that each of its employees (i) have information regarding the locations of other concessionaires, restrooms, elevators, airlines, gates, information desks and other facilities within the Airport and provide such information upon request and with courtesy and dispatch, and (ii) have a list of emergency and other important telephone numbers as well as other means through which such employees can respond to customers' requests for information.
- D. City shall have the right to review and comment upon Concessionaire's customer service and other training programs. Each hourly associate of Concessionaire shall be required to complete all of these training programs. Concessionaire shall submit to the City on a quarterly basis, a summary report of all training programs successfully completed by each associate.

- E. Smoking is permitted only in designated smoking lounges. Concessionaire will not permit any employee to smoke in any portion of the Premises. Employees may not use the smoking lounges except during their authorized breaks. Employees may not stop at smoking lounges if they are transporting any property of Concessionaire. If smoking is prohibited in the Airport, Concessionaire will enforce the non-smoking policy.

Section 605. Onset of Service. Concessionaire shall be solely liable and responsible for all costs and expenses pertaining to the design, construction, acquisition, installation, replacement, relocation and maintenance of the Improvements, Removable Fixtures and equipment as is necessary to provide service pursuant to this Agreement. Concessionaire has submitted a Concession Plan and development schedule, subject to the approval of the Director, for the efficient transition of service from any previous concessionaire or concept. Concessionaire shall be responsible to coordinate the execution of the transition, in accordance with the approved development schedule to assure a smooth transition of service with the minimum amount of disruption of service to the traveling public and other users at the Airport.

Concessionaire will be responsible for the cost of removing the old elevator in the ticket level, pre-security kitchen. Concessionaire is also responsible for the cost to purchase and install a new elevator. Concessionaire has completed an environmental assessment and found no immediate indication of contamination. If during installation contamination is found, Concessionaire will perform any needed remediation as required by Exhibit F. Upon installation, the new elevator will become the property and the responsibility of the City. Concessionaire will have the right to use the elevator for the purpose of moving people and products between the lower level and the kitchen area.

Section 606. Pricing.

- A. Concessionaire shall charge fair, reasonable and nondiscriminatory prices that are attractive to the public and no more than ten percent (10%) over the prices charged at street locations. Concessionaire is encouraged to offer the same prices as street locations. For purposes of this Agreement, the term "street location" shall mean the regular price of the product or service at a non-Airport location or comparable location, determined as follows:
- 1) If an entity of the same business, franchise or trade name as Concessionaire operates in a non-Airport location within the greater St. Louis metropolitan area, the price charged for a product shall be no more than 10% over the average price of the same product at three non-Airport locations designated by Concessionaire and approved by the Director. Requests for changes to the comparable location or locations for the determination of street pricing and the reasons for such changes shall be provided to the Director for approval and shall become effective only upon receipt of the Director's approval.
 - 2) If an entity of the same business, franchise or trade name as Concessionaire does not operate within the greater St. Louis metropolitan area, the street price for a product shall be no more than ten percent (10%) over the average price of the product at three non-Airport locations of the same business, franchise or trade name, as agreed to by the Director and Concessionaire.
 - 3) If a product is not available from an entity of the same business, franchise or trade name as stated in A1) and A2) hereof, the street price for such product shall be determined by reference to a range of the regular prices of three (3) separate businesses for such product, of comparable nature, ambiance and product and service lines, within the greater St. Louis metropolitan area as agreed to by the Director and Concessionaire.
 - 4) If Concessionaire is a franchisee or retail outlet of an entity with a national pricing structure identical for all franchisees or outlets, the street price for a product shall be determined in accordance with such pricing structure. Products containing selling prices printed by the manufacturer are excluded and shall not be sold for more than published prices.

Where an identical product is not available at an agreed comparable location, any difference in size or quality shall constitute a price differential. Concessionaire shall submit a menu for each location along with the prices to be offered. Concessionaire shall also submit a list of comparable locations and prices which support the pricing to be charged by Concessionaire. Concessionaire shall not begin operation of a new facility without the Director approving the comparable locations, menus and pricing in accordance with Section 606 A of this Agreement.

- B. No less than one (1) time per Contract Year, Concessionaire shall conduct, or shall cause to be conducted, a price comparison of current products available within the Premises. The price comparison shall compare the price of

current products available at the Airport with the price at non-Airport comparable locations as described in this Section 606. In the event of noncompliance with the street pricing requirements herein, Concessionaire shall bring all products into compliance with the pricing requirements within seven (7) days after such noncompliance is identified. The Director reserves the right to independently compare Concessionaire's prices to the agreed upon comparable non-airport location prices and if prices are determined to be more than 10% above street, require Concessionaire to reduce prices based upon its documented comparison.

- C. Concessionaire shall not increase any prices without prior written approval of the Director. All new products are subject to the pricing requirements of Section 606 hereof and may be proposed at any time.
- D. Concessionaire is permitted, but not required, to offer discounted prices to employees of the City and other Airport employees. Before implementing a discount policy Concessionaire shall first provide thirty (30) days advance notice to the Director. The notice shall provide the details surrounding the discount policy (e.g., who it covers, how much is the discount, what stores participate, etc). The Director will not unreasonably withhold approval to implement the policy. In addition, discounts may be changed, modified or discontinued with thirty (30) days notice to the Director.

Section 607. Manager. Concessionaire shall at all times retain one or more qualified, competent and experienced manager(s) who shall manage and supervise the operations and the facilities and represent and act for Concessionaire. The manager(s) shall be available during regular business hours. A responsible subordinate shall be in charge and available at all times during the manager's absence.

Section 608. Conflicts. Concessionaire shall monitor the movement of its vehicles or equipment to minimize conflict with other functions and users of the Airport and shall coordinate its use of the Airport with other users.

Section 609. Record Keeping. Concessionaire agrees to provide a system for the collection of all monies and provision of accounting, audit and statements of Gross Receipts as required by Article V of this Agreement. This system shall be capable of providing comprehensive records, in a format acceptable to the Director, of daily, monthly and annual sales of Concessionaire and ACDBE participant(s) under this Agreement (these records are to be retained by Concessionaire). Concessionaire must also maintain records that document, in a format acceptable to the Director, the portion of Gross Receipts attributable to ACDBE participants.

Section 610. Transition Period. If applicable, during any future transition of the Food and Beverage Concession to another Concessionaire, the incumbent Concessionaire hereby warrants, represents, covenants and agrees that Concessionaire shall use its best efforts to assure a smooth transition and agrees to closely coordinate the planning and execution of the transition with the Director.

Section 611. Operation.

- A. Concessionaire shall be responsible for all aspects of the management and operation of this concession. Further, Concessionaire shall provide and be responsible for all employees and necessary components of the operation, including inventory, fixtures, equipment and supplies.
- B. Concessionaire shall, no later than the fifteenth (15th) day of each month during the term of the Agreement, provide to the City a report or reports and affiliated records as required, that details the maintenance work performed by or on its behalf, in maintaining the Premises. Reports shall include, but not be limited to, grease trap service, hood and duct cleaning, pest control service and scheduled drain cleaning.
- C. The City shall not be responsible for any equipment, Improvements, supplies or fixtures used, maintained or stored on the Premises, nor will it be responsible for any damage or loss to any such items resulting from any cause whatsoever including, without limitation, flood, fire, explosion, vandalism, casualty, or other causes outside the direct control and responsibility of the City.

Section 612. Communication.

- A. At the Airport Properties Department's discretion, Concessionaire's local manager shall schedule monthly or quarterly meetings with the appropriate representative of the Airport Properties Department and the DBE Program Office to discuss sales, ACDBE participation and any other relevant issues which may affect Concessionaire's operation at the City. Concessionaire shall also be available for meetings at other times as necessary.

- B. Concessionaire shall be responsible for notifying the Airport Properties Department of any problem that reduces service or sales levels or in any way impairs Concessionaire's operation. The Airport will make every reasonable effort to assist in eliminating such problems.

Section 613. Customer Comments. Concessionaire shall establish procedures for handling all customer comments. Concessionaire shall respond in writing to every comment, written or oral, within seven (7) calendar days of the comment and shall make good faith efforts to explain, resolve or rectify the cause of any complaint. Concessionaire shall provide the Airport Properties Department with a copy of such comments and its written response thereto.

Section 614. Deliveries. Concessionaire shall monitor the movement of deliveries to avoid conflict with other functions and users of the Airport and shall coordinate its use of the receiving dock with other users. All deliveries are the responsibility of Concessionaire and not the City. Deliveries of product to the units, whenever possible, will be made through airside doors. Deliveries on the concourses will be made at times of minimum passenger flows. Shippers, carts or other delivery equipment will be unloaded immediately and removed from the concourse. Delivery equipment will never be left unattended. This means that an employee is physically with the delivery equipment at all times. Any unattended delivery equipment will result in Concessionaire being assessed liquidated damages pursuant to Section 1301.

Section 615. Trade Names. The City and Concessionaire have agreed upon a Concession Plan which is attached hereto as **Exhibit C** and is incorporated herein. Concessionaire shall not permit the Premises to be used under any other trade name without the City's written consent, such consent not to be unreasonably withheld. Concessionaire acknowledges and hereby agrees that the identity, skill, experience and reputation of the Concessionaire, the brands set forth in the Concession Plan, the specific character of the Concessionaire's business, the anticipated use of the Premises, potential for payment of concession fees and the relationship between such use and other uses within the Airport were all relied upon by the City for entering into this Agreement with the Concessionaire. Any brand changes or substantial changes to brand offerings/service styles (that was not required by the brand) that have not been approved by the Director shall constitute a default under this agreement.

Section 616. Inspections. Concessionaire will provide the Director a copy of any health inspection, brand inspection or secret shopper report on or before the tenth (10th) day of each month for the prior month's inspection or report for each location. If said inspection does not result in a written report, Concessionaire shall submit a written summary of the nature and findings of such inspection as they were communicated to the Concessionaire. Concessionaire shall also provide the Director with any required corrective actions and timeframes for each corrective action to be implemented. If at any time an inspection or report does not result in the highest grade for any location Concessionaire will be subject to the application of liquidated damages as set forth in Article XIII.

Section 617. Operational Audit. During the entire term of this agreement, Concessionaire shall be subject to regular operational facilities inspections of Concessionaires operations at the Airport. The specific scope of the operational audit is set forth in the attached **Exhibit D** which is incorporated herein and may be amended or adjusted by the Director as circumstances change. A cumulative score of less than ninety percent (90%) for a six (6) month period of the operational facilities inspections will result in the application of liquidated damages as set forth in Article XIII.

Section 618. Menus and Labeling.

- A. Concessionaire shall label and detail the price of product offerings and list product offerings on menu/product/service boards in a manner consistent with street side locations for the same brand, business, franchise or trade name in an area clearly visible to the passenger. Any such menu shall include the use of descriptive terminology that accurately describes the product(s). Any terminology or statement that the Director, in his sole and absolute discretion, determines is false or misleading shall be immediately removed. Menus shall be of excellent quality and sufficient in number to meet peak period demands. If reasonably required by the Director to enhance customer service for international passengers, Concessionaire shall create, execute and maintain on hand an adequate number of menus printed in languages other than English.
- B. For each menu item offered by Concessionaire, Concessionaire shall submit for approval a written description of the menu item or the brand/franchise's description of the item to include the quantity and quality of ingredients, how the item is assembled and serving size. If brand name ingredients are used in the menu item, i.e. Volpi salami, it shall be specified in the description. Each menu item and product offered will be prepared in accordance with the brand approved recipe (to include the approved ingredients, quantity, quality and execution). For any proprietary concepts, each menu item and product offered will be consistent with the approved menu for the facility (including the product ingredients, quantity, quality and execution) and no changes will be permitted without fifteen (15) days notification to the City.

Section 619 Entertainment Systems/Wireless Data: No radio or television or other similar device shall be installed without first obtaining, in each instance, the Director's written consent which will not be unreasonably withheld. No antenna or aerial shall be erected on the roof, interior walls or exterior walls of the Premises or on the Airport without, in each instance, first obtaining the prior written consent of the Director. Any radio, television, or other similar device, antenna or aerial so installed without such prior written consent shall be subject to removal and/or forfeiture without notice at any time. No loudspeakers, televisions, phonographs, radios, or other devices shall be used in a manner so as to be heard outside the Premises without the prior written consent of the Director. Surveillance equipment shall be permitted within the Premise for surveillance within the Premises only (however the City will permit Concessionaire to install surveillance equipment on the exterior of its cash room for the purpose of monitoring cash controls and the safety of its associates). Concessionaire shall not be permitted, nor permit others to use, establish, purchase, sell, or maintain any type of wireless data transmission service or antennae in, on or from the Premises without obtaining the prior written consent of the Director, whose consent may be withheld for any reason whatsoever, or for no reason. The cost removal of any of the foregoing shall be borne by the Concessionaire. It is agreed that all television, radio, antenna, wireless data transmission service, and other similar devices installed and in place prior to the Commencement Date are considered approved by the Director. In addition, wireless transmission of data from Concessionaires point of sales systems to its accounting and other systems will be reasonably permitted.

Section 620. Employee Cafeteria. If so directed by the Director, Concessionaire will operate an Employee Cafeteria. The hours of operation, menu and prices shall be approved in writing by the Director. The City reserves the right to have the Employee Cafeteria operated by others.

Section 621. Economic Performance. If during the term of this Agreement Gross, Receipts for any unit declines by fifteen percent (15%) or more below the base year, which for the purposes of this Section will be Contract Year one of this Agreement, for a period of six (6) months City shall have the right to require Concessionaire to reconcept the unit. If Concessionaire refuses to reconcept the unit, the City shall have the right to recapture the unit at no cost to the City. The City will not enforce the terms of this Section if the reduction in Gross Receipts is caused by the decrease in enforcements of more than fifteen percent (15%) or the development of new food and beverage concession real estate in the immediate area of the unit. Any money spent on reconcepting the units, as required by this section, will be credited against the mid-term refurbishment commitment.

ARTICLE VII IMPROVEMENTS AND ALTERATIONS

Section 701. Construction by Concessionaire.

- A. Concessionaire takes the Premises "AS IS" as provided for in Article II, Section 201 hereof, and agrees, at Concessionaire's sole cost and expense, to design, erect, construct, equip and furnish all necessary Improvements, Removable Fixtures and equipment and make related facility changes as needed to operate a food and beverage concession, pursuant to this Agreement, in accordance with plans prepared by Concessionaire and approved by the Director subject to the requirements of this Article VII.
- B. Concessionaire agrees that all such work shall be completed according to the Tenant Design Standards, which are filed of record in the Office of the Director.
 - 1) Concessionaire shall submit a signed Tenant Construction or Alteration Application (TCA) including complete sealed construction drawings and specifications, as required by Section 702 hereof, to the Airport Properties Department for its initial as well as future construction. The TCA shall be submitted for each location in accordance with the approved phasing and construction schedules as agreed to between the Concessionaire and the City.
 - 2) Concessionaire agrees that all such work, design and construction, shall be completed pursuant to the Mayor's Executive Order #28, as amended. Concessionaire agrees that it shall use their best efforts, as determined by the Director, to achieve thirty percent (30%) MBE participation and ten percent (10%) WBE in the design and construction of the improvements and alterations.
 - 3) Concessionaire shall submit a St. Louis County building permit number not more than thirty (30) business days following City's written approval/acceptance of the TCA submission that was provided to the Airport Properties Department. A building permit number is required before construction can begin.
 - 4) Concessionaire shall submit the contractor's liability insurance certificates and performance and

payment bonds, required by Sections 704 and 705 hereof, to the Airport Properties Department not more than forty-five (45) business days following the TCA approval by the Airport Properties Department and prior to beginning of work.

- 5) Concessionaire shall complete all construction and open all Premises fully fixtured and operational no later than one hundred thirty (130) business days after the receipt of all needed City and municipal approvals including the St. Louis County building permit for each location, subject to the provisions of Article XIII.
- 6) Concessionaire acknowledges, agrees, and stipulates that its failure to open and operate in accordance with this Section 701 shall result in Concessionaire being assessed by the City for liquidated damages in the amount of \$100/day for each day beyond the one hundred thirty (130) business days after the receipt of all needed City and municipal approvals for each location, in addition to any other remedies the City may have under this Agreement or at law or in equity.
- 7) Concessionaire shall submit a certificate of completion and a certified copy of a St. Louis County occupancy permit, to the Airport Properties Department, as required by Section 707 hereof.

- C. Concessionaire has submitted a Concession Plan in accordance with the provisions of Section 1202. Concession Plan. The schedule for Concessionaire's construction shall comply with the schedule set forth in Section 1203. Concession Plan Implementation.

In the event Concessionaire encounters material believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, or specifically identified with method of removal, handling or protection, Concessionaire shall immediately stop work in the affected area and report the condition to the Director in writing. The work in the affected area shall not thereafter be resumed except by written agreement of the Director and Concessionaire, if in fact the material is asbestos or PCB and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or PCB, or when it has been rendered harmless by written agreement of the Director and Concessionaire. Concessionaire shall not be required to perform, without their consent, any work related to asbestos or PCB.

Section 702. Cost of Improvements. In connection with Concessionaire's performance under Section 701 of this Agreement, Concessionaire shall expend or cause to be expended for Build-Out Costs not less than Thirteen Million Dollars (\$13,000,000.00). Concessionaire and its sublessees shall complete or cause to be completed such Improvements in accordance with all requirements of this Article VII. Concessionaire's Build-Out in accordance with the Concession Plan shall be completed no later than December 31, 2011, unless delayed further at the City's direction.

Concessionaire shall furnish the Director with satisfactory proof of Build-Out Costs for each unit within one hundred eighty (180) days following completion of work to the Premises. This proof of costs must include, at a minimum, an itemized account of all included costs, supported by paid invoices (copies to be provided only if specifically requested by the Director) and certified as accurate by an officer of Concessionaire. Upon completion of the Build-Out of the last unit in the Concession Plan, Concessionaire will have the total Build-Out Cost for the Concession Plan certified by an Independent Certified Public Accountant and will supply the resulting audit report to the Director. Concessionaire shall provide to the Director any other proof necessary to satisfy the Director.

Concessionaire is encouraged by City to productively expend the entire amount obligated to Build-Out Costs, but in the event Concessionaire's actual expenditures are less than the total of Thirteen Million Dollars (\$13,000,000.00), the difference shall be an item of additional payment due and payable to City within thirty (30) days after the receipt of an invoice for such difference from City

Section 703. Preparation of Plans and Specifications. Concessionaire shall submit detailed drawings, plans and specifications sealed by an appropriate Missouri registered professional for improving and equipping the Premises. Concessionaire shall begin work on proposed construction only after it has received the written approval of its plans and specifications, including scheduled levels of M/WBE participation, from the Director.

Section 704. Contractor's Liability Insurance. In any contract appertaining to improving and equipping the Premises, Concessionaire shall require the contractor to cause the City, its Board of Aldermen, Airport Commission and their respective officers, agents and employees, to be insured against the risk of claims and demands, just or unjust, by third persons against the City, its Board of Aldermen, Airport Commission and their respective officers, agents and employees, against and from all such claims and demands, with bodily injury limits of not less than three million dollars (\$3,000,000.00) as to any one person, and three million dollars (\$3,000,000.00) as to any one occurrence, and with property damage limits of not less than three million dollars

(\$3,000,000.00) as to any one occurrence. Said insurance shall be in a form acceptable to the City.

Section 705. Performance and Payment Bonds. Concessionaire shall require each of its contractors and suppliers of construction materials to furnish a Performance Bond and a Payment Bond each in the full amount of any contract in a form acceptable to the City. The Payment Bond shall comply with the coverage requirements and conditions of Section 107.170 RSMo (Revised Statutes State of Missouri). Copies of the bonds shall be given to the City for approval before work begins. Any sum or sums derived from said Performance Bond and/or Payment Bond shall be used for the completion of said construction and the payment of laborers and material suppliers, as the case may be.

Section 706. Mechanics' and Materialmen's Liens. Concessionaire agrees not to permit any mechanics' or materialmen's or any other lien to be foreclosed upon the Premises or any part or parcel thereof, or the improvements thereon, by reason of any work or labor performed or materials furnished by any mechanic or materialman or for any other reason.

Section 707. Certificates of Completion. Upon the completion of the Improvements hereunder, Concessionaire shall submit to the Director a copy of its acceptance letter certifying completion and a certified copy of any certificate or permit which may be required by any federal, state or local government or agency in connection with the completion or occupancy thereof by Concessionaire. Sealed as-built drawings shall be submitted within one hundred (100) business days of opening.

Section 708. Signs.

- A. Concessionaire shall not erect, maintain or display any signs on the Premises without the prior written approval of the Director. The term "sign" as used herein, shall mean advertising signs, billboards, identification signs or symbols, posters, displays, logos, or any similar devices. Subject to the foregoing, Concessionaire shall have the right to install such advertising and identification signs as may be necessary for the proper conduct of a food and beverage concession as contemplated hereunder. Concessionaire shall comply with all rules promulgated by the Director regarding the placement of signs and advertising on the Premises.
- B. Concessionaire shall be responsible for the cost of any new signs or modifications to Airport directories and other existing signs, including sign systems required by the Director. All modifications to these signs must be approved by the Director and are subject to all applicable requirements of this Section 707 hereof and the Tenant Design Standards.
- C. Prior to the erection, construction or placement of any sign, Concessionaire shall submit to the Director for approval, all drawings, electrical details, sketches, designs, elevations, mounting details and dimensions of such signs. Any conditions, restrictions or limitations with respect to the use thereof as stated by the Director in writing shall become conditions of the Agreement.
- D. Concessionaire shall not place any advertising matter, displays or other literature not directly pertaining to a food and beverage concession or place any signs (excluding the facility name – e.g., Chili's) outside of the Premises.
- E. As part of the development of any facility, Concessionaire will be required to install an approved blade sign as part of the initial construction.

Section 709. Title to Improvements and Fixtures. All Improvements constructed or placed in the Premises by Concessionaire that are not Removable Fixtures, as well as all alterations, modifications and enlargements thereof shall become part of the Premises with title vesting to the City upon expiration or earlier termination of this Agreement. This vesting of title is subject, however, to Concessionaire's obligation to operate, repair, maintain and replace, and its right of possession, use and occupancy during the term and in accordance with this Agreement.

All Removable Fixtures shall remain the property of Concessionaire, and shall be removed by Concessionaire at date of expiration or early termination of this Agreement. Within one hundred twenty (120) days of the commencement of the operation in the Premises, a list of such Removable Fixtures shall be submitted in writing to the Director by Concessionaire for the Director's approval, and such list shall be periodically updated by Concessionaire.

The City reserves the right, and Concessionaire agrees, that the Director may require Concessionaire to promptly and timely remove any or all proprietary fixtures and restore the Premises to an acceptable condition as approved by the Director. Concessionaire agrees to bear all costs of such removals and restorations.

Section 710. Alterations, Refurbishment and Redecoration.

- A. Concessionaire shall have the right, without cost to City, to construct additional Improvements to or in the Premises, provided however, that they shall be subject to all the requirements of this Article VII.
- B. In connection with Concessionaire's further performance under Section 701 of this Agreement, Concessionaire shall perform Refurbishment of the Premises not later than the end of the year 2015 and expend for Refurbishment Costs not less than Three Million Dollars (\$3,000,000.00). Concessionaire shall complete such Refurbishment in accordance with all requirements of this Article VII, including the proof of costs and the payment of the difference between actual expenditures and obligated expenditures to City as provided in Section 702. The Director reserves the right to participate in and approve the actual extent of all Refurbishment to be performed by Concessionaire to address the requirements of the Premises at that time.
- C. In addition to the Refurbishment requirements stated in Section 710.(B), if it becomes reasonably necessary during the term of this Agreement, as determined by the Director, Concessionaire will, at its own expense, redecorate and paint fixtures and the interior of the Premises and Improvements, and replace fixtures, worn carpeting, curtains, blinds, drapes, or other furnishings to keep the Premises in like new condition.

Section 711. Waterproofing. The City shall require Concessionaire to install, keep and maintain and repair all pipes or lines for water, drainage or sewer within or directly serving the Premises ("plumbing lines") such that they are sealed or protected against leakage or discharge of odors in conformance with the City's requirements whether or not such requirements exceed the minimum requirements of the applicable building codes. In the event that such plumbing lines leak, Concessionaire shall at its sole cost and expense and within one (1) calendar day of receipt of notice from the City (which notice may be by telephone) commence repair such plumbing lines. Any such repair shall be in strict conformance to the Tenant Design Standards. Concessionaire shall promptly reimburse the City or other tenant for any physical damage to any thing, improvement or property resulting from such leakage. Upon the third occasion of a leak from the same plumbing lines during a one year period, the City shall be entitled to hire its own plumbing contractor to correct the problem and the City shall be reimbursed from Concessionaire the cost and expense of the repairs plus fifteen percent (15%) as set forth in Section 803.

For all new Build-Outs, the City shall have the right to require Concessionaire to install, maintain and repair waterproof membrane systems under all floors of the Premises, such that they are sealed or protected against leakage in conformance with the city's requirements whether or not such requirements exceed the minimum requirements of the applicable building codes. In the event that such floors leak, Concessionaire shall at its sole cost and expense and as soon as reasonably practical upon receipt of notice from the City (which notice may be by telephone) repair such waterproof system. Any such repair shall be in strict conformance to the Tenant Design Standards. Concessionaire shall reimburse the City or other tenant for any physical damage to its ceiling tiles or property resulting from such leakage.

ARTICLE VIII USE OF PREMISES

Section 801. Compliance with Laws and Regulations. Concessionaire shall comply with all rules and regulations which the Director may establish from time to time. In addition, Concessionaire shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, City, local and other governmental authorities, now or hereafter applicable to the Premises or to any adjoining public ways, as to the manner of use or the condition of the Premises or of adjoining public ways.

Section 802. USE. Concessionaire shall provide and pay for all repairs and maintenance of the Premises, except the following which shall be the responsibility of the City:

- A. The structural components of the building.
- B. The utility system to the point of Concessionaire's connection to the utility system, except where the utility systems are owned or controlled by the utility companies.
- C. The washing of the exterior of windows in the terminal building.

Concessionaire shall perform the following functions as part of its responsibilities in the repair and maintenance of the Premises. The following list includes certain functions but Concessionaire's responsibilities are not limited to those functions:

- A. Perform custodial services daily.

- B. Keep all its equipment and fixtures in good repair and appearance.
- C. Keep the Premises free from all fire and other hazards to persons and property and furnish and maintain adequate portable fire protection equipment.
- D. Repair all damage to the Premises and the Airport when such damage results from the careless or negligent acts of Concessionaire or Concessionaire's agents or employees.
- E. Provide for complete sanitary handling and disposal of all trash, garbage and refuse (liquid or solid) in accordance with standards established by the Director. Such standards may require the use of special devices including, but not limited to, special containers, compactors and disposal systems. Concessionaire agrees to promptly provide and install same and to abide by such standards.
- F. Confine all handling and holding of Concessionaire's property to the Premises.
- G. Keep all papers and debris picked up daily from the Premises.
- H. Keep the Premises free of all pests, providing such pest control services as required.
- I. No storage will be permitted on the exterior areas of the Premises.
- J. If the City provides or designates a service for picking up refuse and garbage, Concessionaire will be required to use said service.
- K. If the City establishes a recycling program, the Concessionaire will fully participate in said recycling program. Concessionaire must comply with all applicable City, county state and federal regulations regarding recycling.

The Director may temporarily or permanently close any roadway or other right-of-way for access to the Premises, so long as another means of access is provided. Concessionaire understands and agrees that there may be inconveniences caused by construction or renovations of the Airport, and Concessionaire hereby releases and discharges the City from any and all inconvenience claims, liability or causes of action arising out of or incidental to the closing of any right-of-way, including without limitation, loss of profit or business, actual, incidental, consequential or special damages. Notwithstanding, if Concessionaire is negatively impacted the City will make good faith efforts to work with Concessionaire to provide a solution that will offset the negative impact.

Section 803. Right to Enter, Inspect and Make Repairs. The City and its authorized officers, agents, employees, contractors, subcontractors and other representatives shall have the right (at such times as may be reasonable under the circumstances and with as little interruption of Concessionaire's operations as is practicable) to enter upon, and in, the Premises for the following purposes:

- A. To inspect such Premises to determine whether Concessionaire has complied, and is complying, with the terms, covenants and conditions of this Agreement.
- B. To perform maintenance and make repairs Concessionaire is obligated, but has failed to do so after the City has given Concessionaire notice to do so, in which event, Concessionaire shall reimburse the City for the cost thereof, plus a charge of fifteen percent (15%) for overhead, promptly upon demand.
- C. To gain access to the mechanical, electrical, utility and structural systems of the Airport for the purpose of maintaining and repairing such systems.
- D. To perform inspections, testing, reporting, surveys, environmental inspections, remediation, studies and assessments during normal business hours.

Section 804. Utilities. The City shall provide a main electric panel from which Concessionaire shall obtain electricity at a cost based upon metered usage. Concessionaire shall be responsible for the cost of electric meters and sockets and all connections to and within the Premises. Concessionaire shall be responsible for any needed modification or upgrade in electrical supply caused by increased lighting or other changes to the Premises made by Concessionaire.

Concessionaire shall pay for all costs of other utilities, including, but not limited to, deposits, installation costs, cost of upgrading or relocating utility service, connection charges, meter deposits and all service charges for telephone and other utility services metered directly to the Premises, regardless of whether or not such utility services are furnished by the City or a utility

service company.

Concessionaire is required to install and maintain a grease interception system of sufficient size to prevent the release of grease in the waste water. The grease interception system will be serviced at such intervals as necessary to prevent the release of grease in the waste water.

If required by building codes or other regulations, Concessionaire shall pay for the cost of installation of fire detection and suppression distribution equipment in the Premises. Concessionaire shall pay for the connection of fire detection equipment up to City provided z-tie boxes. Concessionaire shall pay for the connection of fire suppression equipment up to City provided sprinkler mains and tamper switches.

The City shall not be liable to Concessionaire for damages or any losses for the interruption of any utility service, or for any delay in the supplying or furnishing of any utility service. Concessionaire does hereby release and discharge the City from any and all inconvenience, claims or cause of actions arising out of or incidental to such interruption, including, without limitation, loss of profit or business, actual or incidental, consequential or special damages.

Section 805. Interference to Air Navigation. Concessionaire warrants, represents and agrees that no obstruction to air navigation, as such are defined from time to time by application of the criteria of Part 77 of the Federal Aviation Regulations or subsequent and additional regulations of the Federal Aviation Administration, will be constructed or permitted to remain in or on the Premises. Any obstructions will be immediately removed by Concessionaire at its expense. Concessionaire warrants, represents and agrees not to increase the height of any structure or objects or permit the growth of plantings of any kind or nature whatsoever that would interfere with the line of sight of the control tower and its operations. Concessionaire further warrants, represents and agrees not to install any structures, objects, machinery or equipment that would interfere with the operation of navigation aides or that would interfere with the safe and efficient operations of the Airport, or interfere with the operations of other tenants and users of the Airport.

ARTICLE IX INSURANCE, DAMAGE AND INDEMNIFICATION

Section 901. Insurance.

- A. General. Concessionaire, at all times during the term hereof, shall cause St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their officers, agents and employees to be insured on an occurrence basis against the risk of all claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of the activities or omissions of Concessionaire, its officers, agents, and employees pursuant to this Agreement both on the Premises and the Airport.
- B. Risks and Minimum Limits of Coverage. Concessionaire shall procure and maintain the following policies of insurance:
 - 1) Commercial General Liability in an amount not less than ten million dollars (\$10,000,000.00). Such coverage shall be single limit liability with no annual aggregate.
 - 2) Automobile Liability Insurance in an amount not less than three million dollars (\$3,000,000.00) combined single limit per occurrence (for automobiles used by Concessionaire in the course of its performance hereunder, including Concessionaire's non-owned and hired autos). In addition, Concessionaire shall carry excess coverage in the amount of seven million dollars (\$7,000,000.00), to Concessionaire automobile liability insurance.
 - 3) Workers' Compensation and Employer's Liability Insurance in accordance with Missouri laws and regulations. With respect to Workers' Compensation Insurance, if Concessionaire elects to be self-insured, Concessionaire shall comply with the applicable requirements of law. Concessionaire shall require that all its subcontractors or licensees similarly provide such coverage (or qualify as a self-insured) for their respective employees. City, its officers, employees, or agents shall not be liable or responsible for any claims or actions occasioned by Concessionaire's failure to comply with the provisions of this subparagraph and that the indemnification provisions hereof shall apply to this Section. It is expressly agreed that the employees of Concessionaire are not employees of the City for any purpose, and that employees of the City are not employees of Concessionaire.

- 4) Contents Insurance. Concessionaire shall be solely responsible for obtaining insurance policies that provide coverage for losses of Concessionaire owned property. The City shall not be required to provide such insurance coverage or be responsible for payment of Concessionaire's cost for such insurance.
 - 5) Builders Risk Insurance. During any period of construction or reconstruction for which Concessionaire contracts, Concessionaire shall carry, or shall require its contractor or contractors to carry, a policy of Builders Risk Insurance in an amount sufficient to insure the value of the work. The City shall be named Loss Payee on Builders Risk coverage to the extent of the City's interest therein (except to the extent coverage relates to Concessionaire's equipment and personal property). Concessionaire may elect to self-insure for individual projects with a total cost of ninety thousand dollars (\$90,000.00) or less.
 - 6) Other Property Coverage. Concessionaire shall provide an "All Risk" insurance policy providing protection from direct loss arising out of any fortuitous cause other than those perils or causes specifically excluded by form and which covers Concessionaire's improvements to the Premises, trade fixtures, and equipment. The City shall be named Loss Payee on such coverage to the extent of the City's interest therein (except to the extent coverage relates to Concessionaire's equipment and personal property).
- C. Issuers of Policies. The issuer of each policy required herein shall be a financially sound insurance company authorized to issue insurance policies in the State of Missouri. Acceptable insurers include insurance companies with an "A.M. Best Company" rating of at least an "A," or other insurers or insurance syndicates of similar recognized responsibility.
- 1) Form of Policies. The insurance may be in one or more policies of insurance.
 - 2) Non-waiver. Nothing the City does or fails to do shall relieve Concessionaire from its duties to provide the required coverage hereunder, and the City's actions or inactions shall not be construed as waiving the City's rights hereunder.
 - 3) Insured Parties. Each policy by endorsement, except those for Workers' Compensation, Employer's Liability, shall name the City, its officers, agents, and employees as "additional insured" on the certificate of insurance, including all renewal certificates, to the extent of Concessionaire's indemnification obligations hereunder. Inclusion as an "additional insured" is not intended to, and shall not, make the City a partner or joint venturer with Concessionaire in its operations.
 - 4) Deductibles. Concessionaire shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against the City, its officers, agents, or employees; provided, however, that nothing herein stated shall diminish Concessionaire's rights or increase Concessionaire's obligations in respect to its undertakings or hold harmless defense and indemnification set forth in Section 904 hereof.
 - 5) Cancellation. Each policy shall expressly state that it may not be cancelled, materially modified or non-renewed unless thirty (30) days advance notice is given in writing to the City by the insurance company, or authorized representative of Concessionaire.
 - 6) Subrogation. Each policy shall contain an endorsement by which the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents, or employees.
 - 7) Endorsement of Primary Insurance. Each policy hereunder, except Workers' Compensation, shall be primary insurance to any other insurance available to the Additional Insured and Loss Payee with respect to claims arising hereunder.
 - 8) Liability for Premium. Concessionaire shall be solely responsible for payment of all insurance premiums required pursuant to this Agreement, and the City shall not be obligated to pay any premiums; provided, however, that if Concessionaire fails to obtain the insurance as required herein or make premium payments, the City may, without further notification, effect such insurance or make such payments on Concessionaire's behalf and, after Notice to Concessionaire, the City may recover

the cost of those payments with the installment of Fees and Charges next due, plus fifteen percent (15%) administrative charge, from Concessionaire.

- 9) **Proof of Insurance.** Within thirty (30) days of the Effective Date of this Agreement and at any time during the term hereof, Concessionaire shall furnish the City with certificates of insurance. At least five (5) days prior to the expiration of any such policy, Concessionaire shall submit to the City a certificate showing that such insurance coverage has been renewed. If such coverage is canceled or reduced, Concessionaire shall, within fifteen (15) days after the date of such notice from the insurer of such cancellation or reduction in coverage, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon reasonable notification by the City to Concessionaire, the City shall have the right to examine Concessionaire's insurance policies.
- D. **Maintenance of Coverage.** Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Concessionaire, continuously and without interruption, maintain in force the required insurance coverages set forth above.
- E. **City Right to Review and Adjust Coverage Limits.** The City reserves the right, at reasonable intervals during the term of this Agreement, to cause the insurance requirements of this Article to be reviewed, at its sole cost, by an independent insurance consultant experienced in insurance for public airports, taking into consideration changes in statutory law, court decisions, or the claims history of the Airport as well as that of Concessionaire, and, based on the written recommendations of such consultant, and in consultation with Concessionaire, to reasonably adjust the insurance coverages and limits required herein but not more often than every twenty-four (24) months.

Section 902. Concessionaire Actions Affecting Insurance. Concessionaire shall not knowingly do or permit to be done anything, either by act or failure to act, that may cause the cancellation or violation of the provisions, or any part thereof, of property insurance policies for the Airport, or that may cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If such Concessionaire's act or failure to act, causes cancellation of any property policy, then Concessionaire shall immediately, upon notification by the City, do whatever is necessary to cause reinstatement of said insurance. Furthermore, if Concessionaire does or permits to be done any act or fails to do any act which causes an increase in the City's property insurance premiums, Concessionaire shall immediately remedy such actions and/or pay the increase in premiums, upon Notice from the City to do so; but in any event, Concessionaire will hold the City harmless for any expenses and/or damage resulting from any such action.

Section 903. Damage to Premises.

- A. **Minor Damage.** If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is partially damaged by fire or other casualty, but said circumstances do not render the Premises untenable as determined by the City, the same shall be repaired to usable condition with due diligence by the City as provided in this Section. In such case, the fees payable hereunder with respect to affected Premises shall be paid up to the time of such damage and shall thereafter be abated ratably in the proportion that the untenable area bears to the total Premises of the same category or type of space. Such abatement in fees will continue until the affected Premises are restored adequately for Concessionaire's use.
- B. **Substantial Damage.** If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is so extensively damaged by fire, or other casualty, as to render any portion of said Premises untenable but capable of being repaired, as determined by the City, the same shall be repaired to usable condition with due diligence by the City as provided in this Section. In such case, the fees payable hereunder with respect to affected Premises shall be paid up to the time of such damage and shall thereafter be abated ratably in the proportion that the untenable area bears to the total Premises of the same category or type of space. Such abatement in fees will continue until the affected Premises are restored adequately for Concessionaire's use. The City shall use its best efforts to provide alternate facilities to continue Concessionaire's operation while repair, reconstruction, or replacement is being completed, at a rental rate not to exceed that provided herein for comparable space, provided that Concessionaire's rental costs shall not increase as a result of any such alternate facilities unless Concessionaire requests additional space and/or space replacement of a classification at higher rental rates concurrent with such reassignment to alternate facilities.
- C. **Total Damage.**

- 1) If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is damaged by fire or other casualty, and is so extensively damaged as to render any portion of said Premises incapable of being repaired, as determined by the City, the City shall notify Concessionaire as soon as practicable under the circumstances after the date of such damage of its decision whether to reconstruct or replace said space. However, the City shall be under no obligation to replace or reconstruct such premises. The fees payable hereunder with respect to affected Premises shall be paid up to the time of such damage and thereafter shall cease until such time as replacement or reconstructed space shall be available for use by Concessionaire.
 - 2) If the City elects to reconstruct or replace affected Premises, the City shall use its best efforts to provide alternate facilities to continue Concessionaire's operation while repair, reconstruction, or replacement is being completed, at a rental rate not to exceed that provided herein for comparable space. However, if such damaged space shall not have been replaced or reconstructed, or the City is not diligently pursuing such replacement or reconstruction, within six (6) months after the date of such damage or destruction, Concessionaire shall have the right, upon giving the City thirty (30) days advance Notice, to delete the affected Premises from this Agreement, but this Agreement shall remain in effect with respect to the remainder of said Premises, unless such damaged or destroyed premises prevent Concessionaire from operating its Food and Beverage Concession at the Airport. In the event certain Premises are deleted from the Agreement the MAG and any other rental payments will be proportionally reduced, based upon the percentage of Gross Receipts of the deleted Premises compared to total Gross Receipts generated throughout the Airport during the prior twelve (12) month period, to reflect the loss of the Premises.
 - 3) If the City elects not to reconstruct or replace affected Premises, the City shall meet and consult with Concessionaire on ways to permanently provide Concessionaire with adequate replacement space for affected Premises. Concessionaire shall have the right, upon giving the City thirty (30) days advance Notice, to delete the affected Premises from this Agreement, but this Agreement shall remain in full force and effect with respect to the remainder of said Premises, unless the loss of such premises prevents Concessionaire from operating its Food and Beverage Concession at the Airport. In the event certain Premises are deleted from the Agreement, the MAG will be proportionally reduced, based upon the percentage of Gross Receipts of the deleted Premises compared to total Gross Receipt generated throughout the Airport during the prior twelve (12) month period, to reflect the loss of the Premises.
- D. Scope of Restoration of Premises.
- 1) The City's obligations to repair, reconstruct, or replace affected Premises under the provisions of this Section shall in any event be limited to using due diligence and best efforts to restore affected Premises to substantially the same condition that existed prior to any such damage and shall further be limited by the provisions of Section 903 A-C. If the City elects to repair, reconstruct, or replace affected premises as provided in this Section, then Concessionaire shall proceed with due diligence and at its sole cost and expense to repair, reconstruct, or replace its signs, fixtures, furnishings, equipment, and other items provided or installed by Concessionaire in or about the Premises in a manner and in a condition at least equal to that which existed prior to said damage or destruction.
 - 2) In lieu of the City's repair, reconstruction, or replacement of the affected premises, as provided in this Section, if Concessionaire requests to perform said function with respect to damage under Section 903 A-B, the City may, in its sole discretion, allow Concessionaire to do so. Any such work by Concessionaire must be done in accordance with the requirements of Article VII and Section 801. The City shall reimburse Concessionaire for the cost of such work performed by Concessionaire. Concessionaire shall be considered to be doing such work on its own behalf and not as an agent or contractor of the City.
- E. Damage from Concessionaire Negligence. Notwithstanding the provisions of this Section, if damage to or destruction of the Premises is due to the negligent or willful acts of Concessionaire, its agents, servants, or employees, or those under its control, there shall be no abatement of fees during the restoration or replacement of said Premises. In addition, Concessionaire shall have no option to delete the affected Premises from this Agreement. To the extent that the costs of repairs pursuant to this Section shall exceed the amount of any insurance proceeds payable to the City by reason of such damage or destruction, Concessionaire shall timely pay the amount of such additional costs to the City.

Section 904. Indemnification.

- A. Concessionaire shall defend, indemnify, and hold harmless St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their respective officers, agents and employees (the **Indemnified Parties**) from and against any and all loss, liability, penalties, damages of whatever nature, causes of action, suits, claims, demands, judgments, injunctive relief, awards, settlements, costs, and expenses, including payments of claims of liability resulting from any injury or death of any person or damage to or destruction of any property including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs and expert fees) of any nature, arising out of and in connection with this Agreement, the conduct of a food and beverage concession, or Concessionaire's use of its Premises or other areas or facilities at the Airport by Concessionaire, its agents, employees, contractors, or subcontractors, including, but not limited to:
- 1) The acts or omissions of Concessionaire, its agents, employees, contractors, or suppliers;
 - 2) Concessionaire's use or occupancy of the Airport and the Premises; and
 - 3) Any violation by Concessionaire in the conduct of Concessionaire's food and beverage concession or its use of its Premises or other areas or facilities at the Airport of any provision, warranty, covenant, or condition of this Agreement

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

- B. Concessionaire shall defend, indemnify, pay, and hold harmless the Indemnified Parties from and against all applicable taxes and assessments for which the City may become liable and which by law may be levied or assessed on the Premises, or which arise out of the operations of Concessionaire or by reason of Concessionaire's occupancy of its Premises except for any taxes or assessments based on the gross or net income or gross or net receipts of the City that are not allocable to concession-related receipts. However, Concessionaire may, at its own risk, cost, and expense, and at no cost to the City, contest, by appropriate judicial or administrative proceedings, the applicability or the legal or constitutional validity of any such tax or assessment, and the City will, to the extent permitted by law, execute such documents as are necessary to permit Concessionaire to contest or appeal the same. Concessionaire shall be responsible for obtaining bills for all of said taxes and assessments directly from the taxing authority and shall promptly deliver to the City, upon request by the City, copies of receipts of payment. If the City receives any tax billings falling within the scope of this paragraph, it will forward said billings to Concessionaire. Concessionaire shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.
- C. Concessionaire shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature associated therewith in any way arising from or based in whole or substantial part upon claim or allegation of a violation of any federal, state, or local laws, statutes, resolutions, regulations, ordinance, or court order affecting the Airport, by Concessionaire, its agents, employees, contractors, or suppliers, in conjunction with Concessionaire's use and/or occupancy of the Premises or its operations at the Airport. Concessionaire will, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not. Concessionaire shall include the substance of this Subsection (C) in every sublease, contract or other agreement which Concessionaire may enter into related to its activities at the Airport, and any such sublease, contract or other agreement shall specifically provide that the City is a third-party beneficiary of this and related provisions. This provision does not constitute a waiver of any other condition of this Agreement prohibiting or limiting assignments, subletting or subcontracting.
- D. If a prohibited incursion into the air operations area occurs, or if the Airfield Operations Area or sterile area security is breached, by or due to the negligence or willful act or omission of any of Concessionaire's employees, agents, contractors, or suppliers, and such incursion or breach results in a civil penalty action against the City, Concessionaire shall assume the defense of any such action and be responsible for any civil penalty or settlement amount required to be paid by the City as a result of such incursion or breach. The City shall notify Concessionaire of any allegation, investigation, or proposed or actual civil penalty sought for such incursion or breach. Civil penalties and settlement and associated expenses reimbursable under this paragraph include but are not limited to those paid or incurred as a result of violation of FAA or TSA regulations or security directives.

- E. Concessionaire's obligation to defend and indemnify past officers, employees, and agents of the City shall apply to such persons only for claims, suits, demands, actions, liability, loss, damages, judgments, or fines arising from events, occurrences, and circumstances during which said officers, employees, and agents held their office or position with the City.
- F. The City shall promptly notify Concessionaire of each claim, action, proceeding, or suit in respect of which indemnity may be sought by the City against Concessionaire hereunder, setting forth the particulars of such claim, action, proceeding or suit; shall furnish Concessionaire with a copy of all judicial filings and legal process and any correspondence received by the City related thereto; and shall tender the defense of same to Concessionaire.
- G. The duty to defend, indemnify, hold harmless, and reimburse shall apply to any claim, demands, or suits made against the City for which Concessionaire is responsible pursuant to this Section. Provided, however, that upon the filing by anyone of a claim with the City for damages arising out of incidents for which Concessionaire herein agrees to indemnify and hold the City harmless, the City shall promptly notify Concessionaire of such claim and, if Concessionaire does not settle or compromise such claim, then Concessionaire shall undertake the legal defense of such claim both on behalf of Concessionaire and on behalf of the City, at Concessionaire's expense; provided, however, that Concessionaire shall immediately notify City if a conflict between the interests of Concessionaire and City arises during the course of such representation. Concessionaire shall use counsel reasonably acceptable to the City Counselor of the City or his or her designee, after consultation with the Director, in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this Agreement. It is specifically agreed, however, that the City, at its option and at its own expense, may participate in the legal defense of any claim defended by Concessionaire in accordance with this Section. Any final judgment rendered against the City for any cause for which Concessionaire is liable hereunder shall be conclusive against Concessionaire as to amount upon the expiration of the time for appeal therefrom. Nothing in this Article IX shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim of legal liability against the City. This Section shall not be construed as a waiver of the City's sovereign or other immunity.
- H. The City, at its own expense except as otherwise provided herein, shall be invited to attend and participate in all meetings (including those related to settlement) and to appear and participate in all judicial proceedings and to the extent of its interests, approve, in writing, the terms of any settlement related to any claim, action, proceeding or suit set forth in this Section.
- I. Notwithstanding the provisions of this Section, Concessionaire shall have no obligation to defend, indemnify, or hold harmless the City for any consequential damages or for any amounts to be paid in connection with losses, liabilities, penalties, damages of whatever nature, causes of action, suits, claims, demands, injunctive relief, judgments, awards and settlements if the City is conclusively determined to be more than fifty percent (50%) liable due to contributory negligence.
- J. This Section shall survive the expiration or early termination of this Agreement. Concessionaire understands and agrees that any insurance protection furnished by Concessionaire pursuant to Section 901 shall in no way limit Concessionaire's responsibility to indemnify and hold harmless the City under the provisions of this Agreement.

Section 905. City Not Liable. Unless otherwise expressly provided for in this Agreement, the City shall not in any event be liable to Concessionaire for:

- A. Any acts or omissions of Concessionaire, its officers, directors, employees, agents, contractors, or suppliers, or for any conditions resulting from the operations or activities of Concessionaire's directors, officers, employees, agents, contractors, or suppliers;
- B. Concessionaire's failure to perform any of the obligations hereunder or for any delay in the performance thereof;
- C. Any environmental condition in existence at the Airport, or any part thereof, which condition may interfere with Concessionaire's business or other operations or activities, or which might otherwise cause damages to Concessionaire through loss of business, destruction of property, or injury to Concessionaire, its officers, directors, employees, agents, contractors, suppliers, passengers, invitees, or licensees except to the extent such conditions are caused by the City, its employees or agents; or

- D. Bodily injury or any loss or damage to real or personal property or business income occasioned by flood, fire, smoke, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, vandalism, malicious mischief, or acts of war or terrorism, or for any injury, loss or damage not caused by the negligence, willful misconduct, or bad faith of the City.

**ARTICLE X
ASSIGNMENT AND SUBCONTRACTING**

Section 1001. Assignment and Subcontracting.

- A. Concessionaire shall not assign or transfer this Agreement. In the event there is an assignment of this Agreement by operation of law, the City shall be entitled within ninety (90) days after written notice thereof to exercise the City's option hereby given to terminate this Agreement no sooner than thirty (30) days after the date of such determination by the City. An assignment by operation of law, as the term is used herein, shall include but not be limited to the vesting of Concessionaire's right, title and interest in the Concessionaire's furnishings, Removable Fixtures, or Concessionaire's interest in this Agreement, as a trustee in bankruptcy or as an assignee for the benefit of creditors or in a purchase thereof at a judicial sale or other involuntary or forced sale. It is the purpose of the foregoing provision to prevent the vesting in any such purchaser, referee, trustee, or assignee, any rights, title or interest in the City premises or any of the Removable Fixtures, except subject to the City's right to terminate this Agreement.
- B. Concessionaire shall not sublet the Premises and/or subcontract or transfer any part of the services to be performed hereunder, except as may be necessary to comply with the ACDBE participation goal in Article XII of this Agreement. At least sixty (60) days prior to any contemplated subletting of the Premises or subcontracting of this Agreement, Concessionaire must submit a written request to the Director. This request must include a copy of the proposed subcontract or sublease. Any sublease for space or subcontract or granting of rights acquired hereunder shall be subject to the review and written approval of the Director. Such sublease or subcontract, however, must require at a minimum: (i) strict compliance with all provisions of this Agreement; (ii) a provision that the sublessee or subcontractor will use the facilities solely for the purposes identified in this Agreement; (iii) a provision ensuring that all concession services are available during the hours of operation required in Section 602 of this Agreement; (iv) a provision providing that all terms of the sublease are subject to and subordinate to the provisions of this Agreement; and (v) a provision that the term of the sublease shall expire immediately at the expiration or early termination of this Agreement.

The parties understand and agree that Concessionaire is responsible for the performance of its assignees, sublessees, and subcontractors under this Agreement. Concessionaire agrees to initiate and take all corrective action should a subcontractor or sublessee fail to comply with its contract with the Concessionaire or any provision of this Agreement. There will be no reduction of the Minimum Annual Guarantee payable to the City during any such period of change-out or vacancy of a subcontractor or sublessee.

- C. No subcontract, sublease, or other agreement shall be effective as it pertains to the City until such time as the City receives a fully executed copy of the approval, subcontract, sublease or agreement as provided for above. Any such assignment or transfer or subcontract of services or the subletting of the Premises without the consent of the City, as provided for above, shall constitute a default on the part of Concessionaire under this Agreement, and the City may terminate this Agreement as provided for in Section 1103. No action or failure to act on the part of any officer, agent or employee of the City shall constitute a waiver by the City of this provision.
- D. The City acknowledges that Concessionaire already has multiple sublease agreements in effect at the Airport. Concessionaire will make good faith efforts to amend those subleases to include the terms and conditions of this Restated and Amended Agreement.

**ARTICLE XI
TERMINATION OF AGREEMENT IN ENTIRETY**

Section 1101. City's Right to Terminate. The City, acting by and through its Director, may declare this Agreement terminated in its entirety, in the manner provided in Section 1103 hereof, upon the happening of any one or more of the following events. By example, but not by way of limitation, the following acts or omissions shall constitute a material breach thereby justifying the termination of this Agreement in its entirety:

- A. If the fees, charges, or other money payments which Concessionaire herein agrees to pay, or any part thereof, shall be of a material amount (defined for this section as an amount in excess of \$5,000.00) and shall remain unpaid after the date the same shall become due and Concessionaire does not satisfy the obligation after written notice and a reasonable cure period.
- B. If during the term of this Agreement, Concessionaire shall:
- 1) Apply for, or consent to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets;
 - 2) File a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they come due;
 - 3) Make a general assignment for the benefit of creditors;
 - 4) File a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of an insolvency law;
 - 5) File an answer admitting the material allegations of a petition filed against any said assignee or sublessee in any bankruptcy, reorganization or insolvency proceedings; or if during the term of this Agreement, an order, judgment or decree shall be entered by any court of competent jurisdiction; or the application of a creditor, adjudicating Concessionaire as bankrupt or insolvent; or approving a petition seeking a reorganization of Concessionaire, and such order, judgment or decree, shall continue unstayed and in effect for any period of ninety (90) consecutive days;
 - 6) Fail to maintain the quality of services and prices to the satisfaction of the Director as required hereunder;
 - 7) Fail to prevent cessation or deterioration of service for a period which, in the opinion of the Director, materially and adversely affects the overall performance of Concessionaire under this Agreement;
 - 8) Allow a lien to be filed against Concessionaire or any of the equipment or furnishings therein because of or resulting from any act or omission of Concessionaire that is not removed or enjoined within thirty (30) days;
 - 9) Desert, vacate or discontinue all or a portion of its operation of the Premises that in the opinion of the Director results in a failure to provide the public and others the service contemplated hereunder;
 - 10) Fail in the performance of any term, covenant or condition herein required to be performed by Concessionaire when not cured upon written notice and a reasonable cure period.

On the date set forth in the notice of termination, the term of this Agreement and all right, title and interest of Concessionaire shall expire, except as otherwise provided in Section 1103 hereof.

Failure of the City to take any authorized action upon default of any term, covenant or condition required to be performed, kept and observed by Concessionaire shall not be construed to be or act as a waiver of default or in any subsequent default of any term, covenant or condition herein contained to be performed, kept and observed by Concessionaire. The acceptance of monies by the City from Concessionaire for any period or periods after a default by Concessionaire of any term, covenant or condition herein required to be performed, kept and observed by Concessionaire shall not be deemed a waiver or estopping of any right on the part of the City to terminate this Agreement for failure by Concessionaire to so perform, keep or observe any said term, covenant or condition.

Section 1102. Concessionaire's Right to Terminate. Concessionaire, at its option, may declare this Agreement terminated in its entirety, in the manner provided in Section 1103 hereof for the following causes:

- A. If a court of competent jurisdiction issues an injunction or restraining order against the City preventing or restraining the use of the Airport for Airport purposes in its entirety or in substantial entirety.
- B. If the City shall have abandoned the Airport for a period of at least sixty (60) days and shall have failed to

operate and maintain the Airport in such manner as to permit landings and takeoffs of planes by scheduled air carriers.

- C. If the City shall have failed in the performance of any specific covenant constituting a material breach within the control of the City and required by this Agreement to be performed by the City.

Section 1103. Procedures for Termination. No termination declared by either party shall be effective unless and until not less than forty-five (45) days have elapsed after written notice by either party to the other specifying the date and cause of termination. No such termination shall be effective if the party at default (i) cannot by the nature of the default cure it within such forty-five (45) day period; (ii) commences to diligently correct such default within such forty-five (45) day period; and (iii) corrects such default as is reasonably practicable. Notwithstanding the foregoing, the effective date for termination shall be thirty (30) days after written notice by City to Concessionaire for failure to make any payment when due, or for failure to provide the security for performance as specified in Article V or for failure to provide any insurance coverage as specified in Article IX unless cured in such thirty (30) days after written notice by City to Concessionaire.

Section 1104. Rights Cumulative. It is understood and agreed that the rights and remedies of the City and Concessionaire specified in this Article are not intended to be and shall not be exclusive of one another or exclusive of any common law right of either of the parties hereto or any other remedies otherwise available to the parties at law or in equity.

ARTICLE XII AIRPORT CONCESSIONAIRE DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

Section 1201. Compliance.

- A. Concessionaire agrees, as a condition hereunder, to meet a minimum ACDBE participation goal of not less than forty percent (40%) participation in the ownership, management and control of the business by the methods of participation allowed by Department of Transportation (DOT) 49 CFR Part 23. The goal shall be measured as a percentage of total Gross Receipts. The goal remains in effect throughout the term of the Agreement and credit toward the ACDBE goal will only be given for the use of Missouri Regional certification Committee (MRCC) certified ACDBEs. The City anticipates seeking an independent consultant to conduct a disparity study. Upon completion of the study, the City will consider revising the ACDBE goals to a level consistent with the study's identification of available ACDBEs or potential ACDBEs in the St. Louis marketplace.
- B. If these good faith efforts result in the fulfillment of the ACDBE goal, Concessionaire will not be required to perform additional good faith efforts, except in the event that Concessionaire's ACDBE participation fails to continue to meet the goal or comply with the applicable federal regulations. In the event Concessionaire's ACDBE participation fails to continue to meet the goal or comply with applicable federal regulations, Concessionaire will be required to perform the good faith efforts procedure specified in the applicable federal regulations for the type of participation sought within three (3) months following the loss of ACDBE participation and continue at intervals of not less than twelve (12) months, or until the ACDBE goal is reached by Concessionaire.
- C. If these good faith efforts did not result in fulfillment of the ACDBE goal, Concessionaire must again complete the good faith efforts procedure specified in the applicable federal regulations for the type of participation sought within three (3) months following commencement of the term of this Agreement and continue at intervals of not less than twelve (12) months, or until the ACDBE goal is reached by Concessionaire.
- D. In the event that any ACDBE Sublessee defaults, Concessionaire agrees to immediately take steps to obtain a replacement certified ACDBE through good faith efforts. Notwithstanding, if ACDBE goes over the Personal Net Worth limitation, their participation will still count until the end of the lease term as per FAA/DOT regulations. It is the intent of City to have a certified ACDBE Sublessee replace any ACDBE Sublessee that has defaulted. Replacement ACDBE's must be approved in writing by the Director. If a replacement ACDBE cannot be located, Concessionaire must make good faith efforts to sublease other rights of Concessionaire to secure ACDBE participation. The Director will determine if Concessionaire has made acceptable good faith efforts. Concessionaire must immediately operate the food and/or beverage unit(s) in lieu of an ACDBE that has failed to perform due to default of its sublease until such time as a replacement ACDBE sublessee begins operation. The loss of an ACDBE does not relieve Concessionaire of its obligation to maintain the minimum participation goal. The Airport DBE Office will provide Concessionaire assistance in locating ready, willing, able ACDBE

firms.

- E. This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations 49 CFR Part 23. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, creed, color, religion, sex, national origin or ancestry in connection with the award or performance of any concession agreement covered by 49 CFR Part 23. Concessionaire agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements.
- F. Concessionaire shall operate its food and beverage concession in compliance with all other requirements imposed by or pursuant to 49 CFR Part 23, as applicable, and as said regulations may be amended or new regulations promulgated. Concessionaire shall also comply with any City of St. Louis executive orders, resolutions or ordinances enacted, now or in the future, to implement the foregoing federal regulations, as applicable. In the event of breach of any of the above covenants, the City shall have the right to terminate this Agreement.

Section 1202. Concession Plan. Concessionaire has submitted for City's review and approval a Concession Plan (**Concession Plan**) for the food and beverage concession at the Airport. Such Concession Plan shall be based upon quantitative and qualitative research conducted in St. Louis by Concessionaire. The Concession Plan shall become the conceptual plan which Concessionaire and its Sublessees shall be obligated to implement. The Concession Plan will feature Local Concepts and Regionally Branded concepts whenever possible. Nationally Branded concepts may be used to complete the Concession Plan. Any deviations in the implementation of the Concession Plan shall require City's prior approval in writing. The Concession Plan is included herewith as Exhibit "C"

Section 1203. Concession Plan Implementation.

- A. Concessionaire shall enter into various business relationships including sublease to qualified ACDBE enterprises a portion of the locations shown on Exhibit A. Concessionaire shall make good faith efforts to assure that sales in the ACDBE subleased units are equal to forty percent (40%) of the Concession Gross Revenue. Concessionaire will conduct assessments periodically to assess patterns to determine what adjustments are needed to maintain the participation goal. Any adjustments needed shall be in compliance with the Concession Plan.
- B. Concessionaire will recommend a specific implementation schedule for sublessees to City for its review and approval. The implementation schedule for sublessees will be completed as expeditiously as possible, but shall be totally realized on or before January 1, 2010.
- C. Subject to approval by City of the Concession Plan, ACDBE sublessees may begin operation as soon as the following conditions have been fulfilled: sublessees have been ACDBE certified by City; a sublease with Concessionaire has been signed; the sublease has been approved by the Director; the ACDBE sublessee is fully certified for the brand which it is to sell, assuming such certification is required; and the facility after construction by the sublessee's contractor receives all the necessary permits and approvals including required approvals from governmental bodies or franchisors.

Section 1204. Overhead Fee. Concessionaire may assess sublessees with certain fees as follows:

- A. Administrative Fee - This fee will be assessed on all Sublessees at a rate of 1.5% of Gross Revenues to compensate Concessionaire for activities relating to contract management, performance monitoring and enforcing standards.
- B. Training Fee - This fee will be assessed at a rate of 1.125% of Gross Revenues for all Sublessees having less than two (2) years of experience operating an Airport concession or less than five years operating a similar business in a non-Airport environment. The fee will not be charged to an ACDBE Sublessee once the Sublessee has operated at the Airport for a two year period. The fee is being assessed to compensate Concessionaire for providing regular training sessions focusing on topics such as how to operate a successful Airport business, effective hiring, training and management techniques, effective merchandising and other related topics.
- C. Service Fee - This fee will be assessed at a rate of 1.125% of Gross Revenues for all Sublessees having less than two (2) years experience operating an Airport concession. The fee will compensate Concessionaire for counsel, advice, accounting assistance and other technical assistance, so long as the assistance is not covered by the

Administrative or Training Fee. This fee will be charged to the ACDBE Sublessee for a period not to exceed one (1) year.

- D. Tenant Support Fee - For any Tenant receiving a certain number of performance citations as listed below within a one (1) year period, Concessionaire, after approval by the Director, will provide either training and/or technical support. The Tenant Support Fee will be charged for a period not to exceed one (1) year at a rate of 2.25% of Gross Revenues. If other fees are in effect at the time the Tenant Support Fee is implemented, the total of all fees may not exceed 3.75% of gross sales.

The Tenant Support Fee may be imposed if Tenant, during any twelve (12) month period receives: three notices of default from Concessionaire; fails two (2) audits by the Tenant’s franchisor (if a franchise); receives four (4) written customer complaints; or a combination of any three (3) of the above items; or fails one (1) formal health inspection.

**ARTICLE XIII
LIQUIDATED DAMAGES**

Section 1301. Liquidated Damages. Concessionaire recognizes and hereby agrees and stipulates that the City will lose revenue and/or incur certain cost or expense, the amounts of which are difficult to ascertain, if Concessionaire defaults or breaches any of the terms, covenants or conditions enumerated below. Therefore, the Concessionaire agrees and stipulates that the Director, on behalf of the City, may elect after written notice to the Concessionaire of said default or breach to impose the charges set forth below as liquidated damages on the basis of each default or breach. The first default or breach in any category will result in a warning letter. The second default or breach will require Concessionaire to pay liquidated damages in the amount listed below. For the third default or breach in the same category, Concessionaire will pay City liquidated damages in the amount listed below. For the fourth and each subsequent cumulative default or breach, Concessionaire shall pay to City the third default or breach amount. Such liquidated damages shall be due and payable by the Concessionaire within thirty (30) days of the City's request or notice. The stated defaults or breaches in this Section 1301 are cumulative over the term of this Agreement and are in addition to any other remedies City may have under this Agreement or at law or integrity. For any defaults or breaches specified in this section with associated liquidated damages, the City agrees to provide immediate written notice via facsimile and overnight courier of any such default or breach and the amount of liquidated damages due and payable to the City.

LIQUIDATED DAMAGES FOR BREACH OF OPERATING STANDARDS

BREACH OR DEFAULT	SECOND VIOLATION	THIRD VIOLATION
A. Unapproved equipment or placement of equipment in areas not authorized by City.	\$500.00	\$750.00
B. Late monthly reporting of gross receipts in breach of Article V.	\$25.00 per day	\$50.00 per day
C. Failure to deliver on time required items such as reports, schedules, manuals or other materials as specified in this Agreement.	\$200.00	\$300.00
D. Other non-monetary defaults that disrupt operations, traffic in terminal or customer service.	\$500.00	\$750.00
E. Inoperable equipment or equipment not repaired within 15 days of notice to Concessionaire.	\$200.00	\$300.00
F. Late annual financial reporting in breach of Article V.	\$50.00 per day	\$100.00 per day

Section 1302. Continuing Operations. The continuous operation of all concession premises is essential to the provision of excellent customer service to the traveling public. If Concessionaire shall fail to operate any of the Premises set forth in Exhibit “A” for more than five (5) consecutive days, except in the case of damage or destruction of the Premises, Concessionaire shall either return the Premises to the City without cost to the City or pay to the City an amount equal to the non-airline square footage rental rate then applicable as Liquidated Damages to compensate the City for the failure to earn Concession Fees.

**ARTICLE XIV
MISCELLANEOUS PROVISIONS**

Section 1401. Notice. Except as herein otherwise expressly provided, all notices required to be given to the City hereunder shall be in writing and shall be sent by certified mail, return receipt requested, to the Director of Airports, St. Louis Airport Authority, 10701 Lambert International Boulevard, P.O. Box 10212 Lambert Station, St. Louis, MO 63145. **A copy of all notices shall also be mailed to the Airport Properties Manager at the same address.** All notices, demands and requests by the City to Concessionaire shall be sent by certified mail, return receipt requested addressed to:

HMSHost Corporation _____
Attn: Law Dept. General Counsel _____
6905 Rockledge Drive _____
Bethesda, Maryland 20817 _____

With a copy to – VP Development - STL Airport

Either or both parties may designate in writing from time to time any changes in addresses or any addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notice shall be the date such notice is mailed to Concessionaire or said Director.

Section 1402. Non-Discrimination and Affirmative Action Program.

- A. Concessionaire hereto understands and agrees that the City in the operation and use of Lambert-St. Louis International Airport® will not, on the grounds of race, creed, color, religion, sex, national origin or ancestry, discriminate or permit discrimination against any person or group of persons in a manner prohibited by Part 21 of the Federal Aviation Regulations of the Office of the Secretary of Transportation. Concessionaire hereby agrees that his premises shall be posted to such effect as required by said regulations.
- B. Concessionaire agrees that in performing under this Agreement, neither he nor anyone under his control will permit discrimination against any employee, worker or applicant for employment because of race, creed, color, religion, sex, national origin or ancestry. Concessionaire will take affirmative action to insure that applicants are employed and that employees are treated fairly without regard to race, creed, color, religion, sex, national origin or ancestry. Such action must include, but shall not be limited to the following: actions to bar, employ, upgrade or recruit, expel, discharge, demote or transfer, layoff, terminate or create intolerable working conditions, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- C. Concessionaire will, in all printed or circulated solicitations or other advertisement or publication for employees placed by or on behalf of the Concessionaire, state that all qualified applicants shall receive meaningful consideration for employment without regard to race, creed, color, religion, sex, national origin or ancestry. All advertisements or solicitations for applicants for employment must contain the phrase "An Equal Opportunity Employer". Concessionaire shall not make inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination because of race, creed, color, religion, sex, national origin or ancestry.
- D. Concessionaire will permit reasonable access by the City to such persons, reports and records as are necessary for the purpose of ascertaining compliance with fair employment practices.
- E. Concessionaire further agrees that these clauses (B through E) covering discrimination and equal opportunity practices in all matters of employment and training for employment will be incorporated by Concessionaire in all contracts or agreements he enters into with suppliers of materials or services, contractors and subcontractors, including all labor organizations who may furnish skilled, unskilled and craft union skilled labor, or who may perform any such labor or service in connection with this Agreement.
- F. Whenever Concessionaire is sued by a subcontractor, vendor, individual, group or association as a result of compliance with the clauses (A through E) of these provisions relating to fair employment practices, Concessionaire shall notify the City Counselor in writing of such suit or threatened suit within ten (10) days.
- G. Concessionaire will establish and maintain for the term of this Agreement an affirmative action program according to the Mayor's Executive Order on Equal Opportunity in Employment. The City reserves the right to

take such action as the City of St. Louis and the United States Government may direct to enforce the above covenants.

- H. Concessionaire assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, religion, sex, national origin or ancestry be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Concessionaire assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Concessionaire assures that it will require that its covered sub organizations provide assurances to the City that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.
- I. This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin or sex in conjunction with the award or performance of any concession agreement, management contract or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23.
- J. The Concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and causes those businesses to similarly include the statements in further agreements.

Section 1403. No Personal Liability. No Alderman, Commissioner, Director, officer, agent or employee of either party shall be personally liable under or in connection with this Agreement.

Section 1404. Force Majeure. Neither the City nor Concessionaire shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, act of superior governmental authority, weather conditions, riots, rebellion, or sabotage, or any other circumstances for which it is not responsible and which is not within its control.

Section 1405. Successors and Assigns. All of the terms, provisions, covenants, stipulations, conditions and considerations of this Agreement shall extend to and bind the legal representatives, successors, sublessees and assigns of the respective parties hereto.

Section 1406. Quiet Enjoyment. Subject to the terms, covenants and conditions of the Agreement, the City covenants that Concessionaire, on paying the fees and otherwise performing its covenants and other obligations hereunder, shall have quiet and peaceable possession of the Premises.

Section 1407. Operation and Maintenance of the Airport. The City shall at all times operate the Airport properly and in a sound and economical manner; and the City shall use reasonable effort to maintain, preserve and keep the same or cause the same to be maintained, preserved and kept with the appurtenances in good repair, working order and condition, and shall from time to time use reasonable effort to make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Airport may be properly and advantageously conducted in conformity with standards customarily followed by municipalities operating airports of like size and character.

Section 1408. Title to the Site. The Premises from the date hereof until the expiration or early termination of this Agreement shall be owned in fee simple title by the City or in such lesser estate as in the opinion of the City Counselor is sufficient to permit the letting thereof by the City as herein provided for the full term provided in this Agreement.

Section 1409. Agreements with the United States. This Agreement is subject and subordinate to the provisions of any agreements heretofore made between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of Federal rights or property to the City for Airport purposes, or to the expenditure of Federal funds for the extension, expansion, or development of the Airport, including the expenditure of Federal funds for the development of the Airport in accordance with the provisions of the Airport and Airway Development Act as it has been amended from time to time.

Section 1410. Modifications for Granting FAA Funds. In the event that the Federal Aviation Administration requires, as a condition precedent to granting of funds for the improvement of the Airport, modifications or changes to this document, Concessionaire agrees to consent to such reasonable amendments, modifications, revisions, supplements, deletions of any of the

terms, conditions, or requirements of this Agreement, as may be reasonably required to enable the City to obtain said Federal Aviation Administration funds, provided that in no event shall such changes substantially impair the rights of Concessionaire hereunder.

Section 1411. Governing Law. This Agreement shall be deemed to have been made in and be construed in accordance with the laws of the State of Missouri, and is subject to the City's Charter and ordinances, as they may be amended from time to time.

Section 1412. Headings. The headings of the Articles and Sections of this Agreement are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Section 1413. Amendments. This Agreement may be amended from time to time by written agreement, duly authorized and executed by representatives of all the parties hereto.

Section 1414. Previous Agreements. It is expressly understood that the terms and provisions of this Agreement shall in no way affect or impair the terms, obligations or conditions of any existing or prior agreement between Concessionaire and the City.

Section 1415. Required Approvals. When the consent, approval, waiver, or certification of other party is required under the terms of this Agreement, such approval must be in writing and signed by the party approving. Whenever the approval of the City or the Director is required, the approval must be from the Director or his/her authorized or designated representative. The City and Concessionaire agree that extensions of time for performance may be made by the written mutual consent of the Director and Concessionaire or its designee. Whenever the approval of the City, or the Director, or of Concessionaire is required herein, no such approval shall be unreasonably requested, delayed, or withheld.

Section 1416. Waivers. No waiver of default by either party of any of the terms, covenants and conditions hereto to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party. Any waiver must be in writing and signed by the party waiving.

Section 1417. Invalid Provisions. In the event any term, covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such term, covenant, condition or provision does not materially prejudice either the City or Concessionaire in its respective rights and obligations contained in the valid terms, covenants, conditions and provisions of this Agreement.

Section 1418. Entire Agreement. This Agreement, together with all exhibits attached hereto, constitutes the entire Agreement between the parties hereto and all other representations or statements heretofore made, verbal or written, are merged herein and this Agreement may be amended only in writing and executed by duly authorized representatives of the parties hereto.

Section 1419. Not a Lease. This Agreement is not a lease, and the right to use the Premises is entirely dependent upon the rights and privileges granted hereunder. Concessionaire will in no instance be deemed to have acquired any possessory rights against the City or the Premises or be deemed to be a tenant of the City.

Section 1420. Advertising. Concessionaire shall have no right to use the trademarks, symbols, trade names or name of the Airport or Premises, either directly or indirectly, in connection with any production, promotion service or publication without the prior written consent of the Director.

Section 1421. Conflicts Between Tenants. In the event of a conflict between Concessionaire and any other tenant, licensee or concessionaire, as to the respective rights of the others, the Director shall review the applicable agreements and by reasonable interpretation thereof determine the rights of each party, and Concessionaire agrees to be bound by such decision. All determinations by the Director are final and binding.

Section 1422. Prevailing Wage. Concessionaire shall, as a condition of the Agreement, include in all service contracts pertaining to the Premises, language specifying the minimum prevailing wages to be paid and fringe benefits to be provided by the service contractor to employees of said service contractor. This section is in accordance with and is subject to City Ordinance No. 62124.

Section 1423. Solicitation for Bids. This Section is deleted.

Section 1424. Americans with Disabilities Act (ADA). Concessionaire shall be responsible for compliance with the Federal

ADA, plus any federal, state, or local laws or regulations and City Ordinances pertaining to the disabled individual having access to Concessionaire's services.

Section 1425. Time is of the Essence. Time is of the essence in this Agreement. The parties agree that time shall be of the essence in the performance of each and every obligation and condition of this Agreement.

Section 1426. Acknowledgment of Terms and Conditions. The parties affirm each has full knowledge of the terms, covenants, conditions and requirements contained in this Agreement. As such, the terms of this Agreement shall be fairly construed and the usual rule of construction, if applicable, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed in the interpretation of this Agreement or any amendments, modifications or exhibits thereto.

Section 1427. Security Plan and Facilities. Concessionaire hereby acknowledges that the City is required by the Transportation Security Administration's (TSA) regulation 1542 to adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to Airfield Operations Areas (AOA). The City has met said requirements by developing a master security plan for the Airport, and Concessionaire covenants and agrees to be fully bound by and immediately responsive to the requirements of the plan in connection with Concessionaire's exercise of the privileges granted to Concessionaire hereunder. Concessionaire will, within thirty (30) days of the City's request, reimburse the City for all fines or penalties imposed upon City by the TSA or the FAA resulting from Concessionaire's negligence or failure to act in relation to TSA regulation 1542 or any other applicable airport security regulations.

Section 1428. Environmental Notice. Concessionaire shall promptly notify the Director of (i) any change in the nature of the Concessionaire's operations on the Premises that will materially and/or substantially change the Concessionaire's or City's potential obligations or liabilities under the environmental laws; or (ii) the commencement by any governmental entity of a formal administrative proceeding before an administrative law judge or a civil or criminal action before a judicial tribunal alleging a violation of any environmental law in connection with Concessionaire's operations on the Premises.

Section 1429. Living Wage Compliance Provisions. This Agreement is subject to the St. Louis Living Wage Ordinance No. 65597 (**Ordinance**) and the Regulations associated therewith, as may be amended from time to time. Copies of Ordinance and Regulations may be obtained by contacting Mr. Jack Thomas, Assistant Airport Director, M/W/DBE Certification and Compliance Office, P.O. Box 10212, St. Louis, Missouri, 63145-0212 and are incorporated herein by reference. The Ordinance and Regulations require the following compliance measures, and Concessionaire hereby warrants, represents, stipulates and agrees to comply with these measures:

- A. Minimum Compensation: Concessionaire hereby agrees to pay an initial hourly wage to each employee performing services related to this Agreement in an amount no less than the amount stated on the attached Living Wage Bulletin (**Exhibit B**), which is incorporated herein. The initial rate shall be adjusted each year no later than April 1, and Concessionaire hereby agrees to adjust the initial hourly rate to the adjusted rate specified in the Living Wage Bulletin at the time the Living Wage Bulletin is issued.
- B. Notification: Concessionaire shall provide the Living Wage Bulletin to all employees, together with a "Notice of Coverage", in English, Spanish and other languages spoken by a significant number of Concessionaire's employees within thirty (30) days of Agreement execution for existing employees and within thirty (30) days of employment for new employees.
- C. Posting: Concessionaire shall post the Living Wage Bulletin, together with a "Notice of Coverage", in English, Spanish and other languages spoken by a significant number of Concessionaire's employees, in a prominent place in a communal area of each worksite covered by the Agreement.
- D. Subcontractors and Sublessees: Concessionaire hereby agrees to require Subcontractors and Sublessees, as defined in the Regulations, to comply with the requirements of the Living Wage Regulations, and hereby agrees to be responsible for the compliance of such Subcontractors and Sublessees. Concessionaire shall include these Living Wage Compliance Provisions in any contract with such Subcontractors and Sublessees.
- E. Term of Compliance: Concessionaire hereby agrees to comply with these Living Wage Compliance Provisions and with the Regulations for the entire term of the Agreement, and to submit the reports required by the Regulations for each calendar year or portion thereof during which such Agreement is in effect.
- F. Reporting: Concessionaire shall provide the annual reports and attachments required by the Ordinance and Regulations.

- G. Penalties: Concessionaire acknowledges and agrees that failure to comply with any provision of the Ordinance and/or Regulations and/or providing false information may result in the imposition of penalties specified in the Ordinance and/or Regulations. These penalties, as provided in the Ordinance and Regulations, may include, without limitation, suspension or termination of the Agreement, disbarment, and/or the payment of liquidated damages, as provided in the Ordinance and Regulations.
- H. Concessionaire hereby acknowledges receipt of a copy of the Ordinance and Regulations.

Notwithstanding the preceding, all of the provisions of this Section 1429, or any part thereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. (See Sec. 3(G) of City Ordinance 65597).

(The balance of this page is intentionally blank.)

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

CONCESSIONAIRE BY:

ATTESTED TO BY:

 Title: _____
 Date: _____
 FEDERAL TAX ID# _____

 Title: _____
 Date: _____

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
 pursuant to City Ordinance # _____ approved the _____ day of _____, 200_:

The foregoing Agreement was approved by the Airport Commission at its meeting on the _____ day of _____, 200_.

BY: _____
 Commission Chairman and Director of Airports Date

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on the _____ day of _____, 200_.

BY: _____
 Secretary, Board of Estimate and Apportionment Date

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

 City Counselor Date
 City of St. Louis

 Comptroller Date
 City of St. Louis

ATTESTED TO BY:

 Register, City of St. Louis Date

**EXHIBIT "A"
PREMISES**

**EXHIBIT "B"
LIVING WAGE ANNOUNCEMENT BULLETIN**

ST. LOUIS LIVING WAGE ORDINANCE

LIVING WAGE ADJUSTMENT BULLETIN

**NOTICE OF ST. LOUIS LIVING WAGE RATES
EFFECTIVE APRIL 1, 2008**

In accordance with Ordinance No. 65597, the St. Louis Living Wage Ordinance ("Ordinance") and the Regulations associated therewith, the City Compliance Official for the City of St. Louis has determined that the following living wage rates are now in effect for employees of covered contracts:

- 1) Where health benefits as defined in the Ordinance are provided to the employee, the living wage rate is **\$11.00** per hour (130% of the federal poverty level income guideline for a family of three); and
- 2) Where health benefits as defined in the Ordinance are not provided to the employee, the living wage rate is **\$14.16** per hour (130% of the federal poverty level income guideline for a family of three, plus fringe benefit rates as defined in the Ordinance).
- 3) Wages required under Chapter 6.20 of the Revised Code of the City of St. Louis: **\$3.16** per hour.

These rates are based upon federal poverty level income guidelines as defined in the Ordinance and these rates are effective as of **April 1, 2008**. These rates will be further adjusted periodically when the federal poverty level income guideline is adjusted by the U.S. Department of Health and Human Services or pursuant to Chapter 6.20 of the Revised Code of the City of St. Louis.

The Ordinance applies to employers who are covered by the Ordinance as defined in the Ordinance, where the contract or grant is entered into or renewed after the effective date of the Ordinance, which is November 3, 2002. A copy of the Ordinance may be viewed online at <http://www.stlouiscity.com/livingwage> or obtained from:

City Compliance Official
DBE Program Office -4th Floor
11495 Navaid Road
St. Louis, MO 63044
(314) 551-5000

Dated: February 14, 2008

**EXHIBIT "C"
CONCESSION PLAN**

**EXHIBIT "C"
CONCESSION PLAN**

LOCATION	CONCEPT/SCOPE	SQ. FT. *
Main Terminal (upper)	Brioche Doree	2,552
Main Terminal (upper)	Wine Bar	2,928
Main Terminal (upper)	Conference Room w/ new 1 Stall Restroom	1,400
Main Terminal (upper)	Pre-Function Area for Conf Room	1,800
Main Terminal (upper)	Kitchen Area / Support Space	<u>5,238</u>
	Host Space	13,918
Main Terminal (upper)	Remodel of Existing City Restrooms	448
Main Terminal (upper)	New Freight Elevator	<u>n/a</u>

City Space 448

Description of work: Host will demo existing facilities to include Burger King, Rib Café and back of house kitchen area. Kitchen and bar area will be waterproofed prior to installation of new flooring. Host will develop the following: Brioche Doree, Wine Bar, Conference Room, new one stall ladies and men's restroom and back of house kitchen and support area. In addition, Host will provide a minor facelift (new sinks, stalls and paint) to the City's existing restrooms in this area. These restrooms will remain responsibility of the City and are not part of Host's leased premises. Also, Host will replace the Freight Elevator.

Main Terminal (lower)	Starbucks Renovation	1,191
Main Terminal (lower)	Pasta House	<u>2,038 **</u>
		3,229

Description of work: Host will upgrade the existing Starbucks facility to include the latest brand equipment and image package. The existing Blues & Brews facility will be expanded and converted to a Pasta House restaurant/bar.

Concourse A	Brioche Doree	1,180
Concourse A	Re-Theme Budweiser (front of house)	2,643
Concourse A	Relocate US Airways Office Space & Replace With a New Starbucks	579
Concourse A	Relocate Continental Office Space (1,105 sq. ft.) to Vacant Office Space (998 sq ft).	n/a
Concourse A	Sandwich kiosk at Gate A17 center of Concourse if released by United	200
Concourse A	Mosaic Restaurant/Bar	<u>2,343</u>
		6,945

Description of work: Host will replace the CPK with a Brioche Doree (floor to be waterproofed)

* Square Footage amounts listed are estimates and will need to be trued-up based on actual unit size/dimensions.

** The capital cost related to this project will not count toward the \$13M minimum capital investment requirement.

EXHIBIT "C CONCESSION PLAN

LOCATION	CONCEPT/SCOPE	SQ. FT. *
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in kitchen area). Budweiser Bar/Restaurant will have an upgrade completed to the front of house seating and bar area. A local sandwich offering will be added to the menu. Host will either buyout the existing book vendor or relocate the existing US Airways office space to a new space TBD. Host will develop a new Starbucks Coffee facility in the existing book store location or the vacated office space. Host will relocate the existing Continental Airlines offices to the currently vacant offices adjacent to the old offices. For both the US Airways and Continental office space – the new office space will be of the same quality and condition as the existing office space (i.e., it is not the intent that Host upgrade the standard and/or condition of the offices). The existing Starbucks, Jody Maroni's and Continental offices will be demolished and replaced with a local bar/restaurant called Mosaic. This work will include waterproofing the bar and kitchen area.

Concourse B	Upgrade Schlafly's	1,700
Concourse B	Quizno's	<u>367 **</u>
		2,067

Description of work: Host will replace the existing deli with a Quiznos deli and will perform minor refurbishments (e.g., paint, lighting, décor enhancements) in the existing Schlafly's microbrew pub.

Concourse C	Café Seating and To Go modifications to Jose Cuervo Tequileria.	2,371 **
Concourse C	Budweiser Stadium Club Upgrades	2,109
Concourse C	Freshens	396 **
Concourse C	Quizno's	400
Concourse C	Burger King	<u>1,173</u>
		6,449

Description of work: Host will open up the front wall of the Tequileria, add a café seating area and modify the orientation of the To Go window. Host will also perform minor refurbishments to the Budweiser Stadium Club. The existing TCBY will be closed and a Freshens will be developed in the vacant office space between gate 16 and 18. Host will plan to seek an ACDBE operator to demolish the exiting TCBY and Raving Wraps facilities to develop and operate a Burger King. Host will also seek to have the existing ACDBE operator that runs the Pretzel Time expand the location and convert it to a Quizno's Sub.

* Square Footage amounts listed are estimates and will need to be trued-up based on actual unit size/dimensions.

** The capital cost related to this project will not count toward the \$13M minimum capital investment requirement.

EXHIBIT "C"
CONCESSION PLAN

LOCATION	CONCEPT/SCOPE	SQ. FT. *
East Terminal	Chili's Renovations	3,279
East Terminal	Starbucks Renovations (post)	759
East Terminal	Starbucks Renovations (pre)	842
East Terminal	Food Court Seating Area Renovations	800
East Terminal	Freshens	500 **
East Terminal	Close off Units Near Charter Flight Gates	<u>n/a</u>
		6,179

Description of work: Host will upgrade the Chili's restaurant as well as both Starbucks locations – renovations to include the latest brand equipment and image packages. Food court seating area renovations to include: new paint, selected new signage, new ceiling tiles and new furniture. TCBY is to be converted to Freshens. Installation of a wall to professionally close off the old bar facility located across from gate E31. The wall is to include graphics informing passengers of the Chili's and food court locations.

Commissary	Upgrade Commissary	2,000
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Description of work: Host will upgrade the Commissary to first class working condition.

Concourse C/D	Convert Cheers Seating to Storage	1,200
Concourse C/D	Cheer's Renovations	1,516
Concourse C/D	Upgrade Seating Area (food court)	2,093
Concourse C/D	New Burger King (food court)	1,000
Concourse C/D	National QSR (possible Baja Fresh)	1,000
Concourse C/D	Local QSR (possible Imo's Pizza)	1,000
Concourse C/D	Local QSR (possible Fitz)	<u>1,000</u>
		8,809

Description of work: Host will convert a portion of the Cheers seating area to storage (needed to adequately stock the Concourse C / D facilities). Host will also complete a minor refurbishment to the Cheers facility (new carpet, seating, paint). Renovation of the food court seating area is to include new tables and chairs, new flooring, new trash cans and new condiment stand(s). Food court concepts will be replaced with a new Burger King, a new nationally branded QSR concept, and two new local QSR concepts (currently contemplated to be a Fitz's Root Beer stand and an Imo's Pizza).

* Square Footage amounts listed are estimates and will need to be trued-up based on actual unit size/dimensions.

** The capital cost related to this project will not count toward the \$13M minimum capital investment requirement.

EXHIBIT "D"
OPERATIONAL FACILITIES INSPECTION
REQUIREMENTS

EXHIBIT "D"
OPERATIONAL FACILITIES INSPECTION
REQUIREMENTS

Failure to meet the following operational requirements, will subject Concessionaire to the provisions of Article XIII, Section 1301, Liquidated Damages.

I. PREMISES

A. SIGNAGE

1. All necessary licenses, permits, notices and inspection certificates shall be on the premises and/or posted as required.
2. Promotional/informational signs, menu/menu boards and displays shall clearly identify menu items available in the unit and shall be clean and current.
3. All signage shall be professionally designed and produced—no homemade signs are permitted.
4. Illuminated signage shall be fully illuminated at all times.

B. CLEANLINESS/MAINTENANCE

1. Entrances shall be clean and free from obstruction and debris.
2. Doors, windows, walls and fixtures shall be clean, free of smudges, dirt, grime and/or chipped or peeling paint.
3. Appearance of floor surfaces shall be clean and swept at all times.
4. Walls, ceilings, glass surfaces, awnings, blade signs, ceilings and facades shall be clean and free of dirt and dust at all times.
5. Refuse containers and refuse areas shall be available in the unit, adequate to handle volume of unit, wiped clean and not overflowing.
6. Ceiling lights and vents shall be kept dust free and operational.
7. All cardboard shall be disposed of properly in the cardboard dumpsters provided on the ramp level.
8. Grease traps shall be cleaned on a regular schedule and/or as needed.
9. Grease shall be transported to and from a unit via a sealed container in which the grease is pumped into and out of the container in a safe and clean manner so as to lessen the occurrence of a "spill" and/or tracking grease on Airport surfaces.
10. Equipment in the unit shall be clean, operational and maintained to ensure proper and safe food handling and storage.
11. Hand washing sinks, soap/sanitizer dispensers and hand drying devices shall be available and operational.
12. Cooking ventilation hoods, filters and related ductwork shall be cleaned and maintained on a regular basis to prevent health or safety issues.
13. Pest control shall be practiced on a regular schedule within the assigned Premises so as to prevent any health or safety issue.
14. Counter, condiment and register areas shall be clean, orderly and free of excessive signage.

15. All lights and light fixtures shall be clean and operational.

C. CONVENIENCE/ACCESSIBILITY

1. Hours of operation shall be adhered to in accordance with the most recent version of Exhibit "E".
2. Store managers shall be present and/or accessible during operating hours.
3. Shippers shall be emptied and removed from the unit in a timely fashion and/or properly stored out of sight of customers.
4. No shippers shall be left unattended, unless porter is actively loading or unloading.
5. An adequate number of porters shall be available to clean floor and bus tables so that the restaurant is inviting and appealing at all times.
6. Operating hours shall be adjusted to accommodate any flight delay.

II. PRODUCT

A. PRODUCT QUALITY/PRESENTATION

1. All menu items shall be available for customers.
2. Menu items shall be presented attractively in a timely fashion manner creating a satisfactory dining experience for the customer.
3. The unit shall maintain an "A" health rating at all times.
4. All menu items shall be prepared according to brand specification.

B. PRICES

1. Prices of all items shall be available prior to customer selection.
2. Prices shall adhere to the Agreement for street pricing.

III. PERSONNEL

A. CUSTOMER SERVICE

1. Wait staff and cashiers shall demonstrate customer service and product knowledge by presenting a pleasant greeting and smile upon customer's arrival, having excellent product knowledge and providing prompt service.
2. Wait staff and cashiers shall cease any personal conversations and promptly assist the customer from order placement through delivery of order, and shall practice "customer comes first."
3. Staffing levels shall be adequate to provide excellent customer service at all times.
4. Staff shall be knowledgeable about and adhere to customer service policies for redemption of gift certificate and/or airline vouchers.

B. PROFESSIONALISM: Personnel shall act in a courteous and helpful manner at all times with customers and fellow employees. Employees are expected to behave in businesslike and professional manner at all times while in uniform and on Airport property.

1. Employees shall provide a friendly and professional greeting to customers whenever and wherever contact is made.

2. Employees shall display a positive attitude toward passengers and fellow employees.
3. English shall be spoken by staff, except when necessary to accommodate customer.
4. The use of foul or inappropriate language in public areas at any time is prohibited.
5. Employees shall smile and use a pleasant tone of voice when conversing with the customers.
6. Employees shall be actively working while on duty and refrain from gathering and “chatting” in groups while on duty, unless necessary.
7. Employees shall refrain from the use of cell phones while on duty.
8. Employees shall not nap or sleep in public areas while in uniform.
9. Employees shall be attentive to customers.

C. APPEARANCE/CLEANLINESS

1. Personnel shall be dressed in a proper, clean uniform with a name tag, security ID and any other Airport required promotional pins displayed at all times while on duty.
2. Employees shall present a well-groomed, neat, clean and conservative professional appearance.
3. All uniforms and related items shall be worn properly and within company standards.

D. POINT OF SALE OPERATIONS

1. Cashiers and sales staff shall record each individual sale on the register.
2. Sale totals shall be visible to the customer.
3. Itemized register receipts shall be offered with every transaction.
4. Sale shall be rung up efficiently and effectively.
5. Cashier and sales staff shall be proficient with the operation of cash register and credit card machines.
6. An appropriate number of registers shall be open to meet sales volume.
7. All locations shall provide cash and credit card transactions.

IV. OPERATIONAL

- A. Managers shall take ownership of their units and adopt the policy that if it is unacceptable at home, it is unacceptable at Lambert.
- B. All employees shall adopt the Airport’s Very Important Passengers theme as their own.
- C. Busing tables is a priority; customers should not have to clean their own table.
- D. All maintenance issues shall be corrected within 10 days of notification or as soon as possible.

Cleanliness issues shall be corrected immediately

Facilities Inspection Scoring/Acceptability Rating
3/12/08

The Airport Authority expects all cleanliness issues to be corrected immediately, designated by (C) on the facilities inspection report.

All maintenance issues shall be repaired within ten (10) days of inspection date, designated by (M) on the report. If a maintenance repair requires replacement of equipment or ordering of a part that may delay the repair date, it is HMSHost’s responsibility to provide the approximate repair date or the 10-day repair date shall apply.

The following deficiencies shall warrant any one unit as unacceptable:

1. Three (3) or more cleanliness issues on a given inspection date; or
2. One (1) or more uncorrected cleanliness issues from a previous inspection; or
3. One (1) or more uncorrected maintenance issue from a previous inspection; or
4. An unauthorized closed unit.

The Acceptability Rating is equal to the ratio of the number of units inspected earning an acceptable grade versus the total number of units inspected on a given inspection date.

Any pattern of unacceptable behavior observed in any unit by Airport Properties during facilities inspections shall be called out as a “Note” in the beginning of the report to be used on future inspections of all units. An observance of the unacceptable behavior during a future inspection shall render an automatic unacceptable grade for a unit.

**EXHIBIT “E”
HOURS OF OPERATIONS**

Concourse	Tenant	Concept	Location	Mon-Fri Opening	Mon-Fri Closing	Sat Opening	Sat Closing	Sun Opening	Sun Closing
UM	Host	Burger King	MT6	500	2000	500	1900	500	2000
UM	Host		MT2						
UM	Host	Rib Café	MT6	1100	1930	1100	1700	1100	1930
MM	Host	Pretzel Time	B Connector	700	2100	700	1830	700	2100
MM	Host	Starbucks	B Connector	500	2000	500	1800	500	2000
MM	Host	Carvel Ice Cream	B Connector	800	1930	800	1730	800	1930
MM	Host	Pasta House Pronto	B Connector	900	2100	900	2100	900	2100
MM	Host	Gr Amer Bagel		24 Hour					
MM	Host	Food Court	D Connector	500	2000	500	1830	500	2000
MM	Host	Cheers	D Connector	1000	1830	1000	1730	1000	1830
ML	Host	Employee Café		600	1600	600	1330	600	1600
A	Host	CPK	A4	800	2000	800	1800	800	2000
A	Host	"B" Lounge	A5	600	2000	600	1900	900	2000
A	Host	Jody Maroni	A14	500	2000	500	1700	500	2000
A	Host	Starbucks	A14	500	2000	500	1700	500	2000
B	Host	Schlaflys	B3	1100	1800	1100	1600	1100	1800
B	Host	Quizno's	B3	600	1800	600	1600	600	1800
B/C	Host	Gourmet Bean	Connector						
C	Host	Jose' Cuervo	C1	600	2000	600	1830	600	2000
C	Host	Starbucks	C2	500	2030	500	1930	500	2030
C	Host	Wolfgang Puck	C7	600	2000	600	1830	600	2000
C	Host	Chili's Too	C15	600	2030	600	2000	600	2030
C	Host	Pretzeltime	C16	700	2100	700	1830	700	2100
C	Host	Starbucks	C17	500	2000	500	1800	500	2000
C	Host		C25						
C	Host	Freshens	C16	600	2000	600	1830	600	2000
C	Host	Bud Stadium Club	C30	900	1900	900	1800	900	1900
E	Host	Chili's Too	E20	630	2100	630	1830	630	2100
E	Host	Starbucks	E16	500	2100	500	1930	500	2100
E	Host	CPK	E16	900	2000	900	1900	900	2000
E	Host	Burger King	E16	500	2100	500	1900	500	2100
E	Host	Freshens	E16	730	2100	730	1900	730	2100
E	Host	Bud Stadium Club	E10	800	2100	800	2000	900	2100
E	Host	Great Am Bagel	E8	500	2130	500	2130	500	2130
E	Host	Starbucks	ET3	500	1900	500	1900	500	1900

EXHIBIT "F"
ENVIRONMENTAL REQUIREMENTS

EXHIBIT "F"
ENVIRONMENTAL REQUIREMENTS

Concessionaire warrants and covenants that in conducting any activities or business at the Airport, including any activities directly related or incidental to its food and beverage concession, Concessionaire shall comply with any and all applicable Environmental Laws. Concessionaire further covenants and warrants as follows:

(a) Environmental Permits.

Concessionaire shall obtain and maintain any and all Environmental Permits required by applicable Environmental Laws to conduct the activities in which Concessionaire engages at the Airport.

Concessionaire shall comply with any requirement imposed by an Environmental Permit obtained by the City that is applicable to Concessionaire or Concessionaire's activities at the Airport; provided, however that the City shall adequately notify Concessionaire of such Environmental Permit and associated requirements, including all applicable deadlines for compliance.

The City and Concessionaire shall cooperate to ensure compliance with the terms and conditions of any Environmental Permit to insure safety and to minimize cost of compliance.

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

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

(d) Access for Environmental Inspection. Upon reasonable notification to Concessionaire, the City shall have reasonable access to the Leased Premises to inspect the same in order to confirm that Concessionaire is using the Leased Premises in accordance with all applicable Environmental Laws and Environmental Permits. Concessionaire shall cooperate fully with any such inspections provided that such inspections shall not unreasonably interfere with Concessionaire's operations. If the City's inspection results in any type of written report, the City shall provide Concessionaire a reasonable opportunity to timely review and comment on a draft of the report. Concessionaire shall provide to City for its review and comment copies of: any and all notices of alleged non-compliance issued by governmental agencies responsible for enforcing Environmental Laws or Environmental Permits; draft official submittals (proposed final drafts) prepared by, or on behalf of, Concessionaire responding to such alleged

non-compliance; and any and all consent orders or administrative determinations, whether preliminary or final, issued by such governmental agencies. The City agrees to maintain the confidentiality of the documents produced in accordance with this Subsection to the extent consistent with the City's legal obligations.

(e) **Corrective Action by City.** If Concessionaire fails to comply with any applicable Environmental Laws or Environmental Permits governing its activities at the Airport, or if Concessionaire fails to conduct necessary Remediation Work in a timely manner as required under this Section, the City, as required by applicable Environmental Laws and Environmental Permits, in addition to the rights and remedies described elsewhere herein and any other rights and remedies otherwise available to the City, may enter the Leased Premises and take all reasonable and necessary actions to conduct Remediation Work to remove Hazardous Materials or other contaminants and insure such compliance with such Environmental Laws and Environmental Permits. All Remediation Costs incurred by the City shall be paid or reimbursed by Concessionaire. Remediation Work, if necessary, shall be performed in accordance with the provisions of Subsection 1002(C), but only after first having provided Notice to Concessionaire of such failure to comply, and 30 days within which Concessionaire may demonstrate why no such alleged failure is present, or to timely remedy such alleged failure that may be present. If Concessionaire's compliance reasonably requires more than 30 days to complete, the City may enter the Leased Premises and take such reasonable and necessary measures to achieve compliance only upon Concessionaire's failing to timely begin curing such noncompliance within such 30 day period and to continue diligently working to achieve compliance thereafter.

(f) **Review of Environmental Documents.** At the reasonable request of the City, Concessionaire shall make available for inspection and copying, at reasonable times, any and all non-privileged documents and materials Concessionaire has prepared pursuant to any applicable Environmental Laws or Environmental Permits, or submitted to any governmental agency, which documents and materials relate to environmental issues, Environmental Laws or Environmental Permits and which pertain to the Airport or the Leased Premises, and which would be discoverable in litigation.

(g) **Cumulative Remedies.** All remedies of the City as provided herein with regard to environmental pollution, contamination, damage, or any actual or threatened violations of any Environmental Laws or Environmental Permits are deemed to be cumulative in nature. The City's right to indemnification as provided under this Section shall survive the expiration or early termination of this Agreement.

Approved: June 9, 2008

ORDINANCE #67984
Board Bill No. 11
Committee Substitute

An ordinance repealing Section Three of Ordinance 67598 pertaining to the issuance of any package or drink liquor licenses for premises within the boundaries of the Third Ward Liquor Control District and in lieu thereof containing the following supplementary exemptions: renewal of an existing license and the establishment of an Entertainment District; and containing an emergency clause.

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

SECTION ONE. Section Three of Ordinance 67598 is hereby repealed and in lieu thereof a new section is enacted to read as follows:

Section Three. Notwithstanding the provisions of Section Two of this ordinance, the Excise Commissioner shall have the 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 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.
- (4) Issue a drink license for premises which lie in an Entertainment District to include Salisbury Street

from Eleventh Street to Natural Bridge Avenue; Fourteenth Street from Farrar Street to Destrehan Avenue; Nineteenth Street from Salisbury Street to Destrehan Avenue; and Natural Bridge Avenue from Bremen Avenue to Salisbury Street.

SECTION TWO. 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: June 16, 2008

ORDINANCE #67985
Board Bill No. 18

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 Eighty-Two Thousand Eight Hundred Dollars (\$82,800.00) and other good and valuable consideration, a Quit Claim Deed to remise, release and forever quit-claim unto Rose A. Clark, certain City-owned property located in City Blocks 4627-W, and 4809, which property is an irregular parcel of land containing 1.73 acres more or less, 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 Eighty-Two Thousand Eight Hundred Dollars (\$82,800.00) and other good and valuable consideration, a Quit Claim Deed, attached hereto as Exhibit A, to remise, release and forever quit-claim unto, Rose A Clark, certain City-owned property located in City Blocks 4627-W, and 4809, which property is an irregular parcel of land containing 1.73 acres more or less, 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 _____ 2008, 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 Rose A. Clark whose address is 7 Westwood Country Club, St. Louis, Missouri 63131, (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)

ROSE A. CLARK
(Grantee)

Book 11-07-2003 number 175, with the Southeast corner of a tract of land conveyed by deed to Baltic Properties LLC, recorded in Deed Book 01-20-2004 number 281; thence Southeasterly leaving said North line South 45 degrees 27 minutes 51 seconds East a distance of 100.00 feet to a point on the South line of said vacated Rail Road Right of Way; thence Southwesterly along said South line South 44 degrees 32 minutes 09 seconds West a distance of 168.18 feet to a point on the North line of aforementioned City of St. Louis tract, recorded in Deed Book 05-18-1992 number 91; thence Southeasterly leaving the South line of said vacated Rail Road Right of Way, South 31 degrees 03 minutes 29 seconds East a distance of 106.92 feet to a point on the North line of Missouri Pacific Rail Road Right of Way assumed to be 120 feet wide; thence Southwesterly along said North line being a curve to the left, having a Radius of 2616.41 feet, a Chord which bears South 62 degrees 10 minutes 11 seconds West, a Chord distance of 460.70 feet and an Arc length of 461.29 feet to a point on the East line of said McCausland Avenue; thence Northerly along said East line, North 16 degrees 37 minutes 37 seconds West a distance of 48.86 feet to a point of curvature; thence Northerly along said curve, being a curve to the right, having a Radius of 562.00 feet, having a Chord which bears North 15 degrees 22 minutes 41 seconds West, a Chord distance of 24.50 feet and an Arc length of 24.50 feet to the point of beginning, containing 75,335 square feet or 1.73 acres more or less.

The above described tract is shown graphically on the attached exhibit "A"

Approved: June 16, 2008

ORDINANCE #67986
Board Bill No. 41

An ordinance recommended by the Board of Estimate and Apportionment, relating to Soulard Market; designating Soulard Market as part of the park known as Soulard Playground; providing for certain duties of the Director of Parks, Recreation and Forestry with respect to Soulard Market; with an emergency provision.

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

Section One. Soulard Market, being the area bounded by the south line of an east-west alley south of Julia Street, Carroll Street, Seventh Street and Ninth Street, together with improvements thereon, is hereby designated as part of the park known as Soulard Playground; provided, however, that Soulard Market shall continue to be maintained and operated as a public market, rather than as a public park.

Section Two. On and after the effective date of this ordinance, the Director of Parks, Recreation and Forestry shall have all the powers, duties and functions with respect to Soulard Market and its personnel which were assigned to the Director of Public Utilities by Ordinance 34284, approved September 30, 1925, and Ch. 11.44, Revised Code, City of St. Louis 1994. Anno.

Section Three. This ordinance being necessary for the preservation of the public health and safety is declared an emergency ordinance pursuant to Article Four, Sections 19 and s20 of the City Charter.

Approved: June 16, 2008