

**ORDINANCE #68477
Board Bill No. 212**

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® Concession Agreement (Banking) AL-147 (the "Agreement"), between the City and U.S. Bank (the "Concessionaire"), a corporation organized and existing under the laws of the State of Kentucky, granting to the Concessions the non-exclusive right, license, and privilege to operate, manage, and maintain a Banking Concession within the premises as described in the 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 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® Concession Agreement (Banking AL-147 (the "Agreement"), between the City and U.S. Bank (the "Concessionaire"), a corporation organized and existing under the laws of the State of Kentucky, granting to the Concessionaire the non-exclusive right, license, and privilege to operate, manage, and maintain a Banking Concession within the premises as described in the Agreement, subject to and in accordance with the terms, covenants, and conditions of the 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 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®**



**U.S. BANK
BANKING
CONCESSION AGREEMENT
NO. AL#-147**

TABLE OF CONTENTS

INTRODUCTION Page 1
ARTICLE I DEFINITIONS Page 2
ARTICLE II PREMISES Page 5

ARTICLE III CONCESSION RIGHTS Page 5

ARTICLE IV CONCESSION TERM Page 6

ARTICLE V FEES AND RENTALS Page 6

ARTICLE VI CONCESSIONAIRE’S OPERATIONS Page 10

ARTICLE VII IMPROVEMENTS AND ALTERATIONS Page 14

ARTICLE VIII USE OF PREMISES Page 17

ARTICLE IX INSURANCE, DAMAGE AND INDEMNIFICATION Page 19

ARTICLE X ASSIGNMENT AND SUBCONTRACTING Page 28

ARTICLE XI TERMINATION OF AGREEMENT IN ENTIRETY Page 29

ARTICLE XII AIRPORT CONCESSIONAIRE DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION Page 31

ARTICLE XIII LIQUIDATED DAMAGES Page 32

ARTICLE XIV ENVIRONMENTAL REQUIREMENTS Page 33

ARTICLE XV MISCELLANEOUS PROVISIONS Page 35

SIGNATURES Page 43

EXHIBIT "A" PREMISES 1 Page

EXHIBIT "B" LIVING WAGE ADJUSTMENT BULLETIN 1 Page

AIRPORT NUMBER AL#-147

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
 CONCESSION AGREEMENT
 (Banking)

THIS AGREEMENT, made and entered into as of the ____ day of _____ 2009, by and between the CITY OF ST. LOUIS (“City”), a municipal corporation of the State of Missouri and U.S. Bank (“Concessionaire”), a corporation organized and existing under the laws of the State of Kentucky.

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 Banking Concession at the Airport is desirable for proper accommodation of the public;

WHEREAS, the City has determined that it is in the public’s best interest for the following objectives to be met in the provision of a Banking Concession:

- Provide a first-class, full-service Banking facility that meets Airport user needs and adds value to other Airport and Airline services;
- Provide passengers with access to their accounts via Automated Teller Machines (ATM) at assigned locations throughout the Airport terminals and concourses;

- Provide excellent customer service by operating the Banking Concession with well-trained, efficient, courteous and pleasant staff;
- Provide a Banking Concession with equipment that is reliable, easy to use and well maintained;
- Be responsive to the Federal Aviation Administration (FAA) and City goals for Airport Concession Disadvantaged Business Enterprise (“ACDBE”) participation in concessions; and

WHEREAS, the City has advertised and received bids for the right to manage and operate a Banking Concession at the Airport, and by this process the City has determined that the Concessionaire is a qualified bidder for this business and has submitted a responsive Bid deemed advantageous to the public and the City.

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 a Banking Concession and any amendments thereto, duly approved by the City.

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

“**Airport Concession Disadvantaged Business Enterprise (ACDBE)**” shall mean a concession that is a for-profit small business concern:

- 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
- 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.

“**ATM Transaction Fee**” shall mean a fixed percentage of the surcharge for each Foreign ATM Transaction.

“**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/or construction of new Improvements to the Premises, including furnishings, fixtures and finishes including Removable Fixtures, costs of architectural design and engineering fees, permits, insurance and construction bonds; but excluding the costs of interest during construction; and overhead of the Concessionaire.

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

“**Commencement Date**” shall mean December 1, 2009 (see Article IV).

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

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

“**Contract Year**” shall mean a period of twelve (12) consecutive calendar months commencing on the Commencement Date and each 12-month period thereafter (see Article IV).

“**Director**” shall mean the Director of Airports of the City of St. Louis Airport Authority, and incorporates the granting of approval requirements of Article XV hereof.

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

“**Environmental Permit**” shall mean any and all permits, licenses, approvals, authorizations, consents, or registrations required by Environmental Laws, whether federal, state or local, which pertain to the production, use, treatment, generation, transportation, processing, handling, disposal, or storage of Hazardous Materials. (See Article XIV)

“**Foreign ATM Transaction**” shall mean a transaction made with an ATM card not issued by Concessionaire for which a surcharge is administered.

“**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’s requirement.

“**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 unperformed services purchased at the Airport;
- receipts in the form 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.

“**Hazardous Materials**” shall mean 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.

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

“**Premises**” shall mean a location or locations described in Article II that have been designated by the City for the sale of Concessionaire’s services, and for other uses provided specifically herein, together with all Improvements thereon.

“**Remediation Costs**” shall mean any reasonable losses, expenses, or costs incurred by the City in connection with environmental remediation: (i) required by the appropriate governmental agency responsible for enforcing Environmental Laws or Environmental Permits, and (ii) attributable to Hazardous Materials left on City property in violation of Environmental Laws or Environmental

Permits, and caused by, or arising out of, Concessionaire's operations at the Airport or the Concessionaire's use of the City's property. Remediation Costs include investigation and evaluation costs, costs to implement institutional controls or restrictive covenants, sampling and analysis costs, reporting costs, planning and design costs, consultant and contractor costs, labor costs, equipment costs, construction costs, access costs, disposal costs, transportation costs, reasonable administrative costs, reasonable attorneys' fees and other legal fees and litigation expenses, permit fees and costs, monitoring costs, oversight and inspection costs, claims, demands, causes of action, suits, judgments, damages, compensation, debts, costs, expenses, losses, penalties, fines, stipulated penalties, punitive damages, and other similar liabilities arising out of Concessionaire's violation of Environmental Laws or Environmental Permits.

"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.

ARTICLE II PREMISES

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

- A. 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.
- B. The City shall have the right to provide reasonable replacement Premises.
- C. The City shall be responsible for the direct, actual and reasonable relocation costs incurred for relocation.
- D. The relocation costs shall not include lost profits.

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 any implied or expressed warranty for a particular purpose and any expressed or implied warranty with 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, licensees and invitees.

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 and to operate, manage and maintain a Banking Concession and shall provide the minimum services described in Article VI within the Premises.

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 shall cease and desist from any further sale or provision thereof immediately and no later than upon receipt of written notice from the Director.

Concessionaire shall not engage in advertising or provide an area for the distribution of advertisements on behalf of any company other than itself. City shall be the sole judge as to 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.

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

ARTICLE IV
CONCESSION TERM

Section 401. Term. The term of this Agreement shall consist of five Contract Years as written below:

Commencement Date: December 1, 2009

Expiration Date: November 30, 2014

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 under this Agreement, 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 Fee as set forth herein, unless different fees shall be agreed upon in writing 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 other fees and charges as set forth in this Agreement including, without limitation, in Sections 502, 503, 505, 509 and 510, the utilities described in Article VIII, and the liquidated damages described in Article XIII, without demand, during the term of this Agreement.

Section 502. Concession Fee Payments. During each Contract Year or portion thereof, the Concessionaire agrees to pay to City the "**Concession Fee**" as set out below:

- A. The Concessionaire agrees to pay to City a space rental fee of 100% of the annual, non-airline square footage rate for the West Terminal Bank branch for the Premises described in Exhibit "A" (currently 1,022 sq.ft. X \$53.97 = \$55,157.34 ÷ 12). Each time the annual, non-airline square footage rental rate is adjusted by the City, the space rental fee for the Premises will also be adjusted in like manner; and
- B. An ATM Transaction Fee consisting of 53% of the surcharge for all Foreign ATM Transactions.

Section 503. Payment. Payments for each month of each Contract Year for part A of the Concession Fee shall consist of a payment as billed, in advance on or before the first day of each month. Payments for part B of the Concession Fee shall consist of an amount equal to an ATM Transaction Fee applied to the preceding month's Foreign ATM Transactions to be paid on or before the 15th day of the second and each succeeding month. See Article V and Article XIII for the amount of any applicable service charge or liquidated damages.

Section 504. Reports.

- A. Concessionaire shall submit to the City, by the 15th day of the second and each succeeding month of each Contract Year hereof, two copies of an accurate statement of Gross Receipts as it pertains to ATM surcharges. Concessionaire shall document in a manner satisfactory to the Director a report listing the ATM Transaction Fee and amount due to the Airport, total number of ATM transactions and number of Foreign ATM Transactions subject to surcharge and amount of surcharge, and be certified as accurate by an officer of the Concessionaire. The final statement of ATM Transaction Fees shall be due 120 days after completion of the fifth Contract Year. The City reserves the right to use these statements as a source of information to bidders in a future SFB or Request for Proposals for this Concession.
- B. Concessionaire shall submit an audited report of ATM Transaction Fees within 120 days following the conclusion of each Contract Year. This audit report must be prepared by an independent Certified Public Accountant. The audit report shall, at a minimum, certify the accuracy of: 1) reported total accumulated ATM

Transactions; 2) the calculation of the total amount payable to the City based upon the Foreign ATM Transaction Fee; and 3) the aggregate amount of goods and services attributable to ACDBE participants. The audit report shall also include a schedule showing the total of actual payments to the City during the Contract Year and shall state an opinion as to the correctness of the computation of ATM Transaction Fees without exception.

- C. 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 Article XI herein.
- D. 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 day of the month in which said payments are due; and 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 Fifty Thousand Dollars (\$50,000) 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 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 60 days prior to the expiring bond's expiration date. Such bond shall guarantee the payment of all fees and performance of all other terms, covenants and conditions of this Agreement. The Performance and Payment Bond shall be in the form of standard commercial guaranty bond running to City, written by a surety company authorized to do business in Missouri: having a "Best" key rating of not less than A and with a "Best" Financial Size Category of not less than Class VIII; and 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 shall be kept in full force and effect during the term hereof. City may agree to another form of deposit which shall 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 15 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 year following the expiration or early termination of this Agreement. These records shall be accessible during usual business hours to the City or its 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 its duly appointed agents or auditors, at the Concessionaire's place of records.

Section 509. Audit. City, or its duly appointed agents or auditors, reserves the right to audit Concessionaire, its subcontractors (or others doing business under this Agreement) books, records and receipts at any time for the purpose of verifying the ATM Transaction Fees hereunder. If by the results of the audit(s) it is established that additional fees are due the City, the Concessionaire shall pay such fees to the City not later than 15 days after completion of such audit and written notice by the Director. If the results of the audit(s) reveal a discrepancy of more than 5% between ATM Transaction Fees reported by Concessionaire and ATM Transaction Fees determined by the audit, the cost of the audit shall be borne by Concessionaire.

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

- If the City has paid any sum(s) or has incurred any obligations or expenses for which Concessionaire has agreed

to pay or reimburse the City for; or

- If the City is required or elects to pay any sum(s) 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(s) 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 Director of Airports' 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.

ARTICLE VI CONCESSIONAIRE' S OPERATIONS

Section 601. Standards of Service.

- A. The Concessionaire warrants, represents, covenants and agrees to meet the City's objectives as set out in the preamble hereof. The Concessionaire shall furnish a first-class Banking Concession serving the needs of all users of the Airport. Concessionaire shall ensure that each customer receives prompt, efficient and courteous service. In conjunction with this requirement, Concessionaire shall ensure that adequate staff is available to provide such service. Concessionaire shall use reasonable efforts to employ an adequate number of bilingual personnel to serve non-English-speaking patrons as demand may warrant.
- B. Concessionaire shall provide, as a minimum, the following services at the bank at all times during which the branch is open: savings accounts; checking accounts; loans; change for tenants and the public; sale and cashing of Traveler's Checks; night depository; foreign currency; wire transfer; ATMs and four coin and dollar bill change machines to be filled and operational at all times (see Exhibit "A" for locations).
- C. Deliveries of supplies, cash and coin to the Premises shall be made at such times, by such routes/modes and at such locations as the City may reasonably approve.
- D. Premises shall be kept clean, neat, 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.
- E. Concessionaire shall submit to the City for approval, on or before commencement date, detailed written operating and security procedures in conjunction with the Airport's Security Operations Division.
- F. Concessionaire shall assure that its agents and employees do not engage in solicitation or pressure sales tactics for products offered on or about the Airport.
- G. Operations shall fully comply with all 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. Concessionaire agrees to provide banking services to the public five days per week, excluding normal banking holidays. The minimum hours of operation for serving the public shall be 8:00 a.m. to 5:00 p.m., Monday through Friday. Concessionaire may not change the hours of operation without written request to and 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 banking facility must be physically secured by Concessionaire during non-banking operation.

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 or 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 ensure that Concessionaire's customers receive prompt and efficient service at all times. Concessionaire shall require its employees (except managerial and supervisory employees) to wear appropriate uniforms and/or badges to indicate the fact and nature of their employment. 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 shall provide proper training of all employees including on-going customer service training and for the certification and/or licensing of employees in all areas of service as their duties might legally require. Concessionaire's employees shall be trained to have sufficient knowledge of the Airport to be able to give clear and accurate directions to the public. 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.
- B. 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.
- C. 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 TSA 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.

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. At the time of Bid, Concessionaire submitted a transition plan and development schedule, subject to the approval of the Director, for the efficient transition of service from any previous concessionaire. Concessionaire shall be responsible to coordinate the execution of the transition, in accordance with the approved transition plan and replacement schedule, with the previous concessionaire to assure a smooth transition of service with the minimum amount of disruption of service to the traveling public and other Airport users.

Section 606. Pricing.

- A. Concessionaire shall charge fair, reasonable and nondiscriminatory prices that are attractive to the public and substantially similar to the prices charged at 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 Bank branch.
- B. Concessionaire submitted at the time of Bid a complete list of all services proposed to be offered and fees for said services in conjunction with paragraph (A) of this section. The Director reserves the right to independently compare Concessionaire's prices to off-Airport branches and require Concessionaire to reduce prices based upon its comparison.
- C. Concessionaire shall have discretionary authority to adjust ATM Transaction Fees proportionate to overhead costs and operating expenses. However, the City will retain the right to review these charges and the Concessionaire will provide the Airport with annual documentation demonstrating that their rates are comparable to those of other local financial institutions.

Section 607. Manager. Concessionaire shall at all times retain one or more qualified, competent and experienced manager(s) who is thoroughly trained to provide and teach excellent customer service and who shall manage and supervise the operations and facilities and represent and act for Concessionaire. The manager(s) shall ordinarily be available during regular business hours. The

manager or a responsible subordinate shall be available for emergencies on a 24-hour basis.

Section 608. Conflicts. Concessionaire shall monitor the movement of its vehicles or equipment to minimize conflict with other functions and Airport users 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. 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 Banking 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. 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 damage to such items resulting from flood, fire, explosion, vandalism or other causes outside the control and responsibility of the City.

Section 612. Communication.

- A. Concessionaire's local manager shall schedule monthly or quarterly meetings (at the City's discretion) with the appropriate representative of the Airport Properties Department to discuss sales; and the DBE Program Office to discuss ACDBE participation; and any other relevant issues which may affect Concessionaire's operation at the Airport. 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 Complaints. Concessionaire shall establish procedures for handling all customer complaints. Concessionaire shall respond in writing to every complaint, written or oral, within seven calendar days of the complaint and shall make good faith efforts to explain, resolve or rectify the cause of the complaint. Concessionaire shall provide the Director with a copy of each such complaint and its written response thereto.

Section 614. Deliveries. Concessionaire shall monitor the movement of deliveries to avoid conflict with other functions and Airport users and shall coordinate its use of the receiving dock with other users. All deliveries are the responsibility of Concessionaire and not the City.

ARTICLE VII IMPROVEMENTS AND ALTERATIONS

Section 701. Construction by Concessionaire. The design should be sophisticated yet provide a comfortable and inviting atmosphere. Storefronts, if applicable, must be upscale and dynamic while complementing the design of the surrounding terminal space. The materials should provide the highest level of fit and finish yet must be durable enough to survive in the high volume airport environment. Finishes should be easy to maintain and keep clean. Passenger flow must be addressed to eliminate queuing into the public areas. The design must meet the criteria of the ADA along with all similar state and local requirements. Design of the Concession will be subject to the review and approval of the Airport Properties and Planning and Engineering Departments of the Airport. Drawings must be submitted to the Airport Properties Department along with a completed Tenant Construction or Alteration Application ("TCA"). Building permits will be required from St. Louis County. Fire protection drawings must be sealed by a licensed fire protection contractor and are subject to review and approval by the Airport's insurance carrier. No work can begin until drawings have been approved by the City; building permits have been submitted to the City; and a pre-construction conference has been held.

- A. Concessionaire takes the Premises “**AS IS**” as provided for in Article II 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 Banking 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 TCA including complete sealed construction drawings and specifications, as required by Section 702 hereof, to the Airport Properties Department for its initial and any future construction. The TCA shall be submitted not more than 30 days following full execution of the Agreement by City. Concessionaire will be asked to submit 30% design drawings for review and comment to expedite the approval of final plans and specifications.
 - 2) Concessionaire shall submit a St. Louis County building permit number not more than 30 days following submission of the TCA to the Airport Properties Department. (A building permit number is required before construction can begin.)
 - 3) 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 45 days following the TCA approval and prior to commencement of work.
 - 4) Concessionaire shall complete all construction and open all Premises fully fixtured and operational no later than 180 days after full execution of the Agreement by the City, subject to the provisions of Article XIII.
 - 5) Failure to open and operate in accordance with this Section 701 will result in Concessionaire being assessed liquidated damages in the amount of **Five Hundred Dollars (\$500) per day** for each day beyond the 180 days after full execution by the City.
 - 6) 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 706 hereof.

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. 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 from the Director.

Section 703. 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 Two Million Dollars (\$2,000,000) as to any one person, and Two Million Dollars (\$2,000,000) as to any one occurrence, and with property damage limits of not less than Two Million Dollars (\$2,000,000) as to any one occurrence. Said insurance shall be in a form acceptable to the City.

Section 704. Performance and Payment Bonds. Concessionaire shall require each of its contractors and suppliers of construction materials to furnish a Performance Bond and 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 the Performance Bond and Payment Bond shall be used for the completion of said construction and/or the payment of laborers

and material suppliers, as the case may be.

Section 705. Mechanics' and Materialmen's Liens. Concessionaire agrees not to permit any mechanics' or materialmen's or any other lien or encumbrance to be attached or 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 706. 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. Concessionaire will provide the City with sealed as-built drawings within 90 days of opening.

Section 707. 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 Banking Concession as contemplated hereunder. Concessionaire shall comply with all rules promulgated by the Director regarding the placement of signs and advertising in the Premises. A blade sign, if applicable, installed in accordance with the Airport's blade sign specification must be installed as part of Concessionaire's initial construction.
- 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 Banking Concession or place any signs outside of the Premises.

Section 708. 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 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 60 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 Improvements and structures and restore the Premises to their original condition at the time Concessionaire took possession of the Premises. Concessionaire agrees to bear all costs of such removals and restorations.

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:

- The structural components of the building.
- 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.
- 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:

- Perform custodial services daily.
- Keep all its equipment and fixtures in good repair and appearance.
- Keep the Premises free from all fire and other hazards to persons and property and furnish and maintain adequate portable fire protection equipment.
- Repair all damage to the Premises and the Airport when such damage results from the careless or negligent acts of Concessionaire or its agents or employees.
- Provide for complete, sanitary handling and disposal of all trash, garbage and refuse (liquid or solid) in accordance with standards established by the Director applicable to all Airport tenants. 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.
- Confine all handling and holding of Concessionaire's property to the Premises.
- Keep all papers and debris picked up daily from the Premises.
- Keep the Premises free of all pests, providing such pest control services as required.
- No storage will be permitted on the exterior areas of the Premises.

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, incidental, consequential or special damages.

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 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 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, studies and assessments during normal business hours.

Section 804. Utilities. City shall provide electricity for the ATM(s). Concessionaire shall provide and pay for other utilities it requires, including telephone and/or data line connections. If dedicated circuits are required, the installation is the Concessionaire's responsibility.

If service outlets are not available where needed, Concessionaire shall be responsible for bringing electrical service to 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; connection charges; telephone and/or data lines it requires; 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.

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 FAA, 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 Two Million Dollars (\$2,000,000). Such coverage shall be single limit liability with no annual aggregate.
 - 2) Automobile Liability Insurance. Concessionaire shall provide in an amount not less than Two Million Dollars (\$2,000,000) 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 Two Million Dollars (\$2,000,000) to Concessionaire's 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 Fifty Thousand Dollars (\$50,000) 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 norm 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 and 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 a 30-day 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 15% administrative charge, from Concessionaire.

- 9) **Proof of Insurance.** Within 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 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 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 airline industry 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 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 any policy of insurance for the Airport, or that may cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If such Concessionaire's act, or failure to act, causes cancellation of any 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 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.
- 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 months after the date of such damage or destruction, Concessionaire shall have the right, upon giving the City a 30-day 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 Banking Concession at the Airport.
- 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 a 30-day 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 Banking Concession at the Airport.

B. 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 Sections 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 Sections 903 A and 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. 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 pay the amount of such additional costs to the City.

Section 904. Indemnification. 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 the Concessionaire, 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:

- A. The acts or omissions of Concessionaire, its agents, employees, contractors, or suppliers;
- B. Concessionaire's use or occupancy of the Airport and the Premises; and
- C. Any violation by Concessionaire in the conduct of Concessionaire's Banking 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. 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. 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.

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.

If a prohibited incursion into the air operations area occurs, or if the AOA 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.

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.

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.

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 there from. 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.

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.

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 50% liable due to contributory negligence.

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 90 days after written notice thereof, to exercise the City's option hereby given to terminate this Agreement no sooner than 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 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: strict compliance with all provisions of this Agreement; a provision that the sublessee or subcontractor will use the facilities solely for the purposes identified in this Agreement; and a provision ensuring that all Concession services are available during the hours of operation required by Article VI.

- C. 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 Concession Fee payable to the City during any such period of change-out or vacancy of a subcontractor or sublessee.
- D. 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 Article XI. 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.

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 unpaid after the date the same shall become due.
- 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 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 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.

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 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 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: cannot by the nature of the default cure it within such 45-day period; commences to diligently correct such default within such 45-day period; and corrects such default as is reasonably practicable. Notwithstanding the foregoing, the effective date for termination shall be 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 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 XI 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 15% participation in the ownership, management and control of the business by the methods of participation allowed by 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.

Concessionaire submitted at the time of the Bid, evidence that it completed the applicable Good Faith Efforts procedure specified in the SFB for a Banking Concession.

- B. If Good Faith Efforts resulted 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 months following the loss of ACDBE participation and continue at intervals of not less than 12 months, or until the ACDBE goal is reached by Concessionaire.

- C. If 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 months following commencement of the term of this Agreement and continue at intervals of not less than 12 months, or until the ACDBE goal is reached by Concessionaire.
- D. This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations 49 CFR Part 23. Concessionaire or contractor 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, management contract or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. Concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract that it enters and cause those businesses to similarly include the statements in further agreements.
- E. Concessionaire shall operate its Banking 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.

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 plus an additional 100%. Such liquidated damages shall be due and payable by the Concessionaire within 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 in equity. 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.

BREACH OR DEFAULT	SECOND BREACH	THIRD BREACH
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

ARTICLE XIV
ENVIRONMENTAL REQUIREMENTS

Section 1401. Environmental Laws. Concessionaire warrants and covenants that in conducting any activities or business at the Airport, including any activities directly related or incidental to this Agreement, Concessionaire shall comply with any and all applicable Environmental Laws.

Section 1402. 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.

Section 1403. 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.

Section 1404. 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.

Section 1405. Access for Environmental Inspection. Upon reasonable notification to Concessionaire, the City shall have reasonable access to the Premises to inspect the same in order to confirm that Concessionaire is using the 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.

Section 1406. 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 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 Section 1404, 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 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.

Section 1407. 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 Premises, and which would be discoverable in litigation.

Section 1408. 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.

ARTICLE XV
MISCELLANEOUS PROVISIONS

Section 1501. 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 Division 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:

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 1502. Non-Discrimination and Affirmative Action Program.

- A. Concessionaire hereto understands and agrees that the City in the operation and use of the 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 D) 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 days.
- G. Concessionaire shall 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 regulation, 49 CFR Part 23. The Concessionaire or contractor agrees that it will not discriminate against any business owner because of owner's race, color, national origin or sex in connection with the performance of any concession agreement, management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR 23.
- J. The Concessionaire or contractor agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR 23 that it enters into, and cause those businesses to similarly include the statement in further agreements.

Section 1503. 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 1504. 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 1505. 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 1506. 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 1507. 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 1508. 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 1509. 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 1510. Modifications for Granting FAA Funds. In the event that the FAA 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 FAA funds, provided that in no event shall such changes substantially impair the rights of Concessionaire hereunder.

Section 1511. 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 1512. 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 1513. 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 1514. 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 1515. Required Approvals. When the consent, approval, waiver, or certification (“**Approval**”) 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 Concessionaire is required herein, no such Approval shall be unreasonably requested or withheld.

Section 1516. 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 waiving party.

Section 1517. 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 1518. 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 1519. 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 1520. 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, promotional service or publication without the prior written consent of the Director.

Section 1521. 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 1522. 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 1523. Solicitation for Bids (SFB). Concessionaire's Bid, including all exhibits, schedules, addenda, attachments, policies, bonds, letters of credit and the SFB for a Banking Concession at the Airport dated **July 6, 2009** is hereby made a part of this Agreement and is incorporated herein by reference. If an express provision of this Agreement or the Exhibits attached hereto is in conflict with any provision of Concessionaire's Bid or the SFB referred to above, the provisions of this Agreement shall prevail.

Section 1524. 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 1525. 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 1526. 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 1527. Security Plan and Facilities. Concessionaire hereby acknowledges that the City is required by the TSA regulation 1542 to adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to the 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 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 1528. Environmental Notice. Concessionaire shall promptly notify the Director of 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 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 1529. 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 City Compliance Official, 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 strictly 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 Adjustment 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 Adjustment Bulletin at the time the Living Wage Adjustment Bulletin is issued.
- B. Notification: Concessionaire shall provide the Living Wage Adjustment 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 the execution of this Agreement for existing employees and within thirty (30) days of employment for new employees.
- C. Posting: Concessionaire shall post the Living Wage Adjustment 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 this Agreement.
- D. Subconcessionaires/Sublessees: Concessionaire hereby agrees to require Subconcessionaires/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 Subconcessionaires/Sublessees. Concessionaire shall include these Living Wage Compliance Provisions in any contract with such Subconcessionaires/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 this Agreement, and to submit the reports required by the Regulations for each calendar year or Portion thereof during which this 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 this 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.

(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: _____

Title: _____

Date: _____

Date: _____

FEDERAL TAX ID# _____

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT® pursuant to City Ordinance # _____ approved the _____ day of _____, 2009:

The foregoing Agreement was approved by the Airport Commission at its meeting on the _____ day of _____, 2009.

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 _____, 2009.

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 ADJUSTMENT BULLETIN

ST. LOUIS LIVING WAGE ORDINANCE

LIVING WAGE ADJUSTMENT BULLETIN

NOTICE OF ST. LOUIS LIVING WAGE RATES EFFECTIVE APRIL 1, 2009

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:

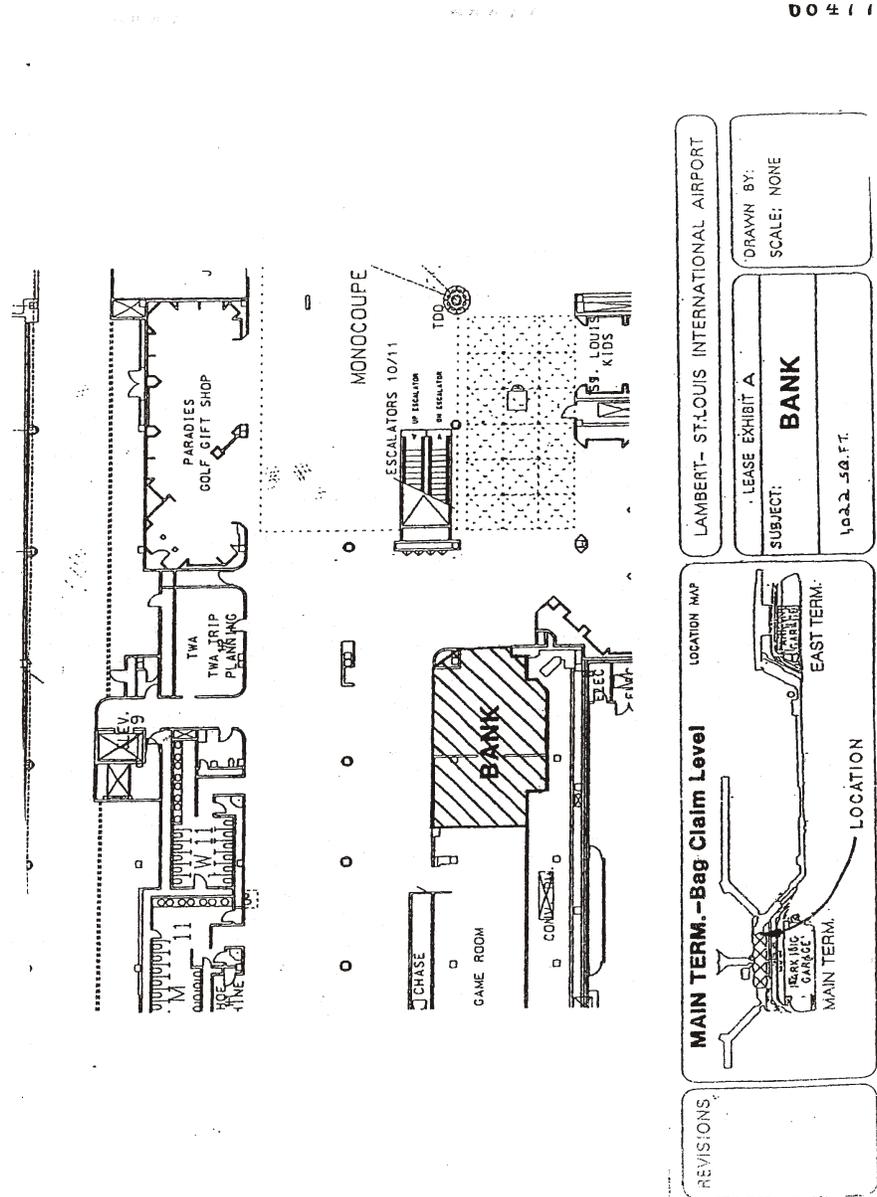
- 1) Where health benefits as defined in the Ordinance are provided to the employee, the living wage rate is \$11.33 per hour (130% of the federal poverty level income guideline for a family of three); and
2) Where health benefits as defined in the Ordinance are not provided to the employee, the living wage rate is \$14.57 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: \$3.24 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, 2009. 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
P.O. Box 10212
St. Louis, MO 63145
(314) 426-8111

Dated: February 14, 2009



00411

REVISIONS:	<p>MAIN TERM. - Bag Claim Level</p> <p>LOCATION MAP</p> <p>LOCATION</p>	<p>LAMBERT - ST. LOUIS INTERNATIONAL AIRPORT</p> <p>LEASE EXHIBIT A</p> <p>SUBJECT: BANK</p> <p>1022.50.F.T.</p>	<p>DRAWN BY:</p> <p>SCALE: NONE</p>
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AIRPORT CHANGE MACHINE LOCATIONS

- 1. Main Terminal Mid Level at escalator across from Bagel Shop, between columns 18 and 19.
 - 2. Concourse A Locker alcove across from "B" Lounge, between columns 37 and 38.
 - 3. Concourse C Vending alcove adjacent to C-25 holdroom, at column line 110.
 - 4. East Terminal Locker alcove across from Chili's Too, between column lines 229 and 230.
-

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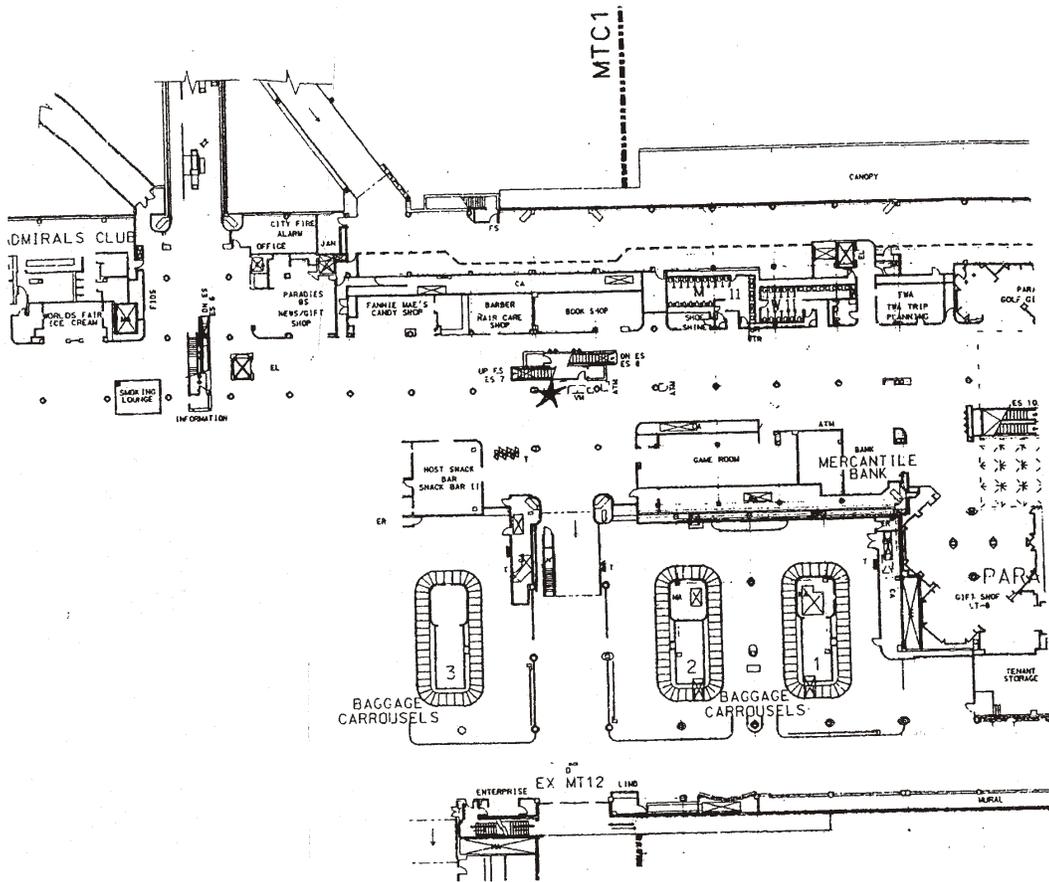


EXHIBIT A
CHANGE MACHINE LOCATIONS
LOCATION 1

68477

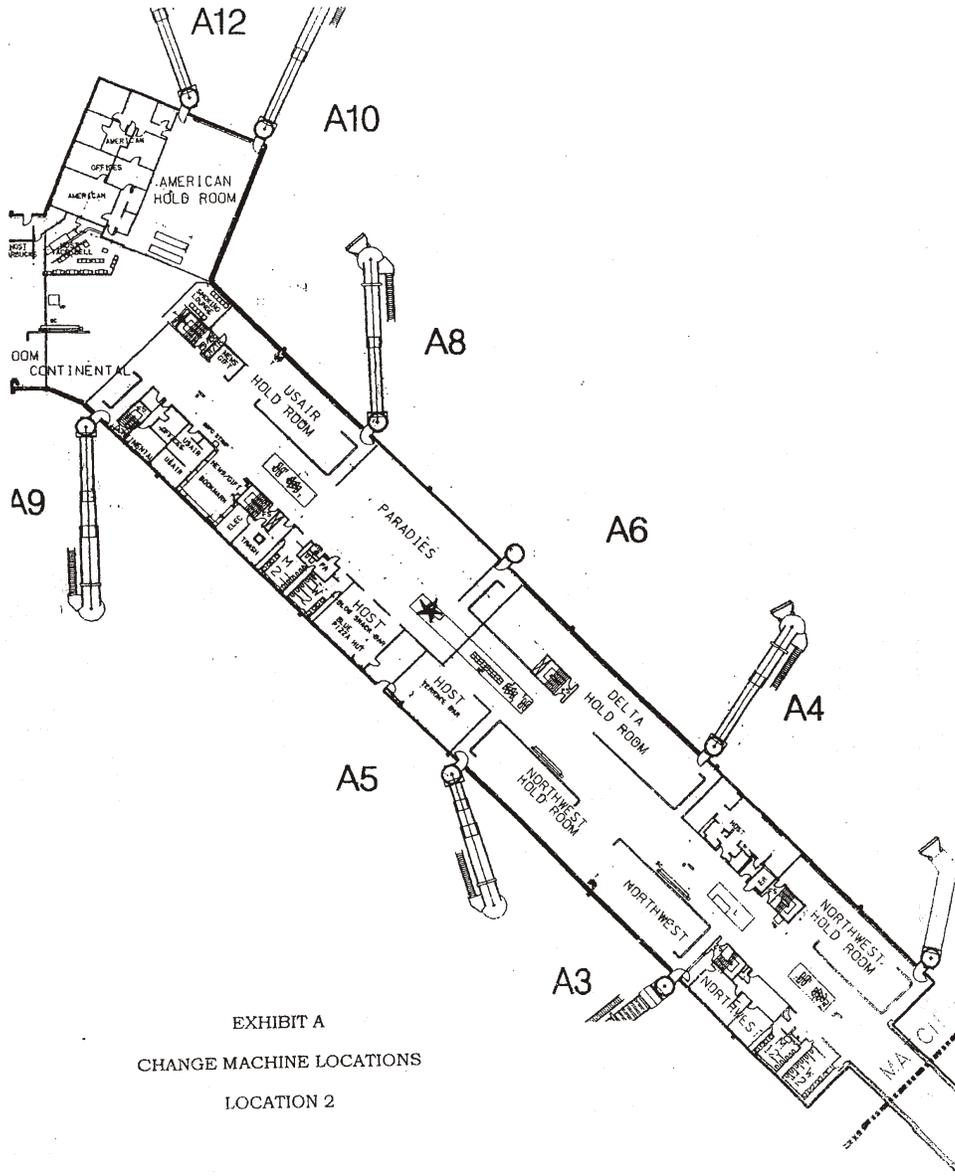


EXHIBIT A
CHANGE MACHINE LOCATIONS
LOCATION 2

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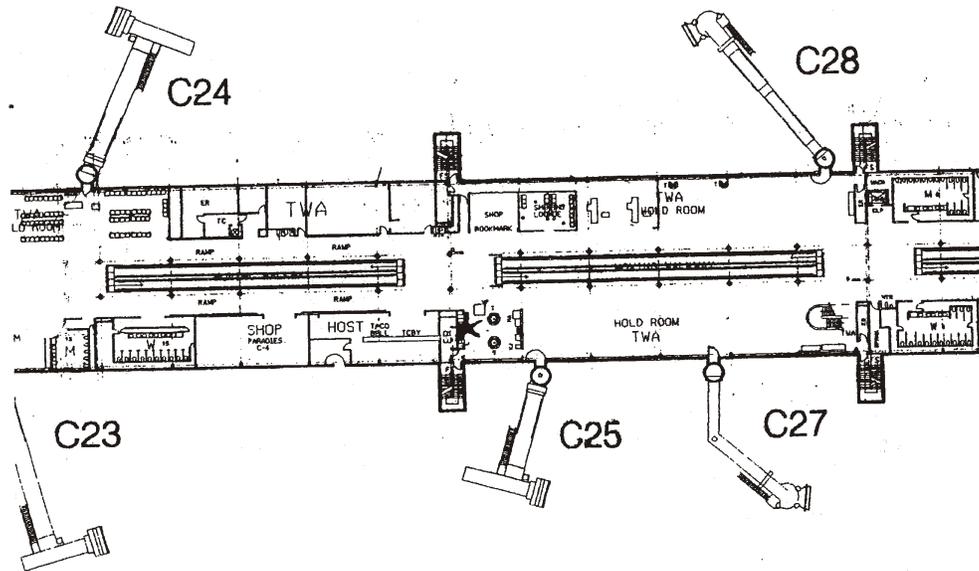


EXHIBIT A
CHANGE MACHINE LOCATIONS
LOCATION 3

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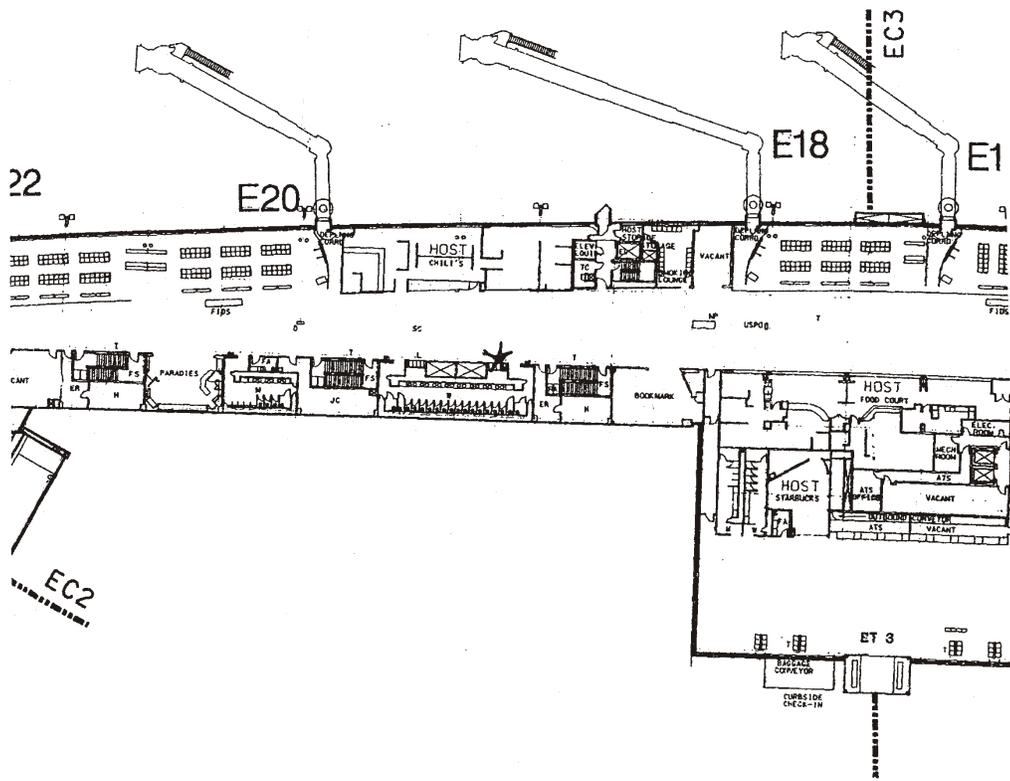


EXHIBIT A
CHANGE MACHINE LOCATIONS
LOCATION 4

68477

CONCOURSE ATM LOCATIONS

1. Concourse A Locker alcove between columns 23 and 24 in the center of the concourse.
 2. Concourse B Locker alcove between columns 19 and 20 in the center of the concourse.
 3. Concourse C Initial installation between doors between columns 64 and 78, south side of concourse.
 4. Concourse C Secondary installation under stairway between columns 115 and 116, south side of concourse.
 5. Concourse D Initial installation in alcove across from D6 between columns 112 and 113.
 6. Concourse D Secondary installation in alcove between columns 165 and 166, south side of concourse.
 7. Concourse E Locker alcove between columns 228 and 229, across from Chili's Too.
 8. Main Terminal On North exterior wall of bank location.
 9. East Terminal Baggage Claim Level across from exit ET12.
-

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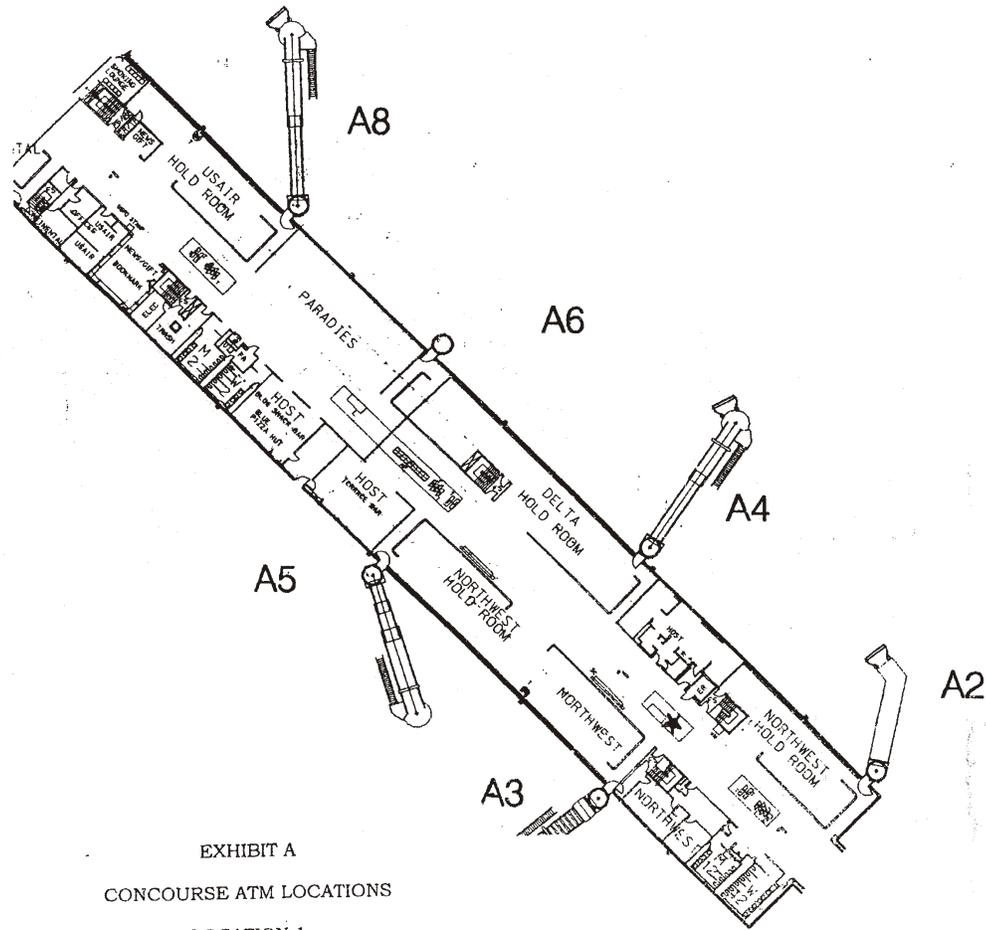


EXHIBIT A
CONCOURSE ATM LOCATIONS
LOCATION 1

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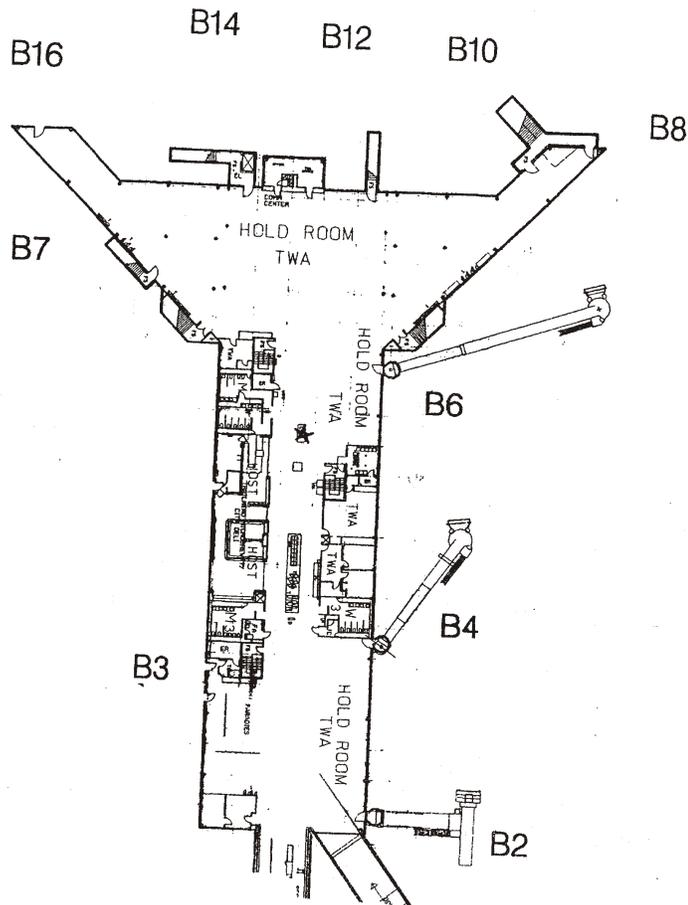


EXHIBIT A
CONCOURSE ATM LOCATIONS
LOCATION 2

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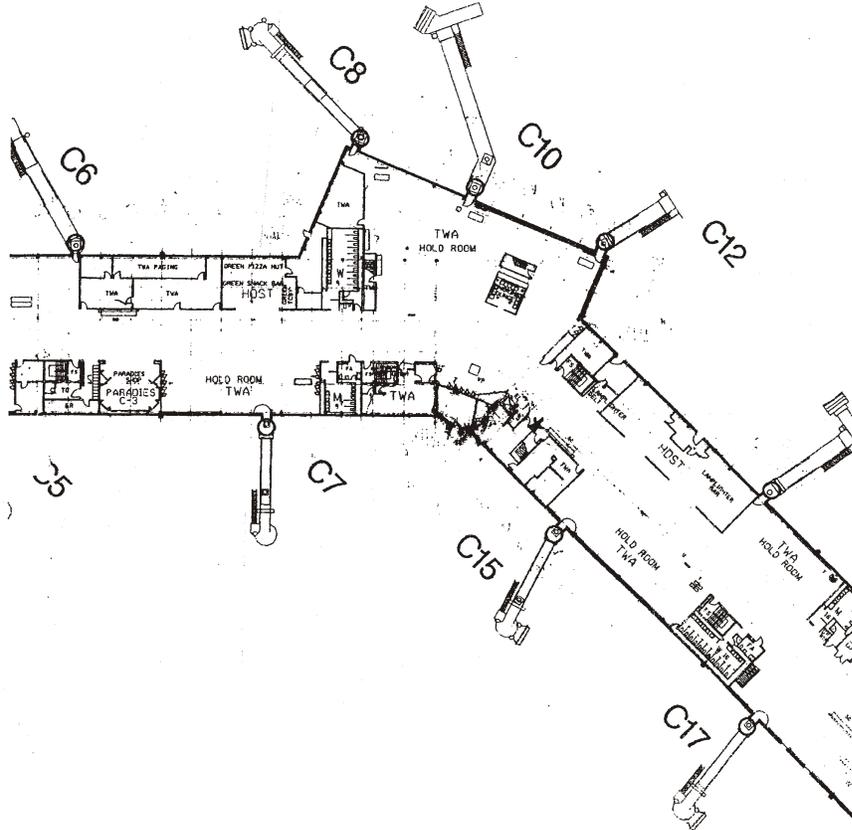


EXHIBIT A
CONCOURSE ATM LOCATIONS
LOCATION 3

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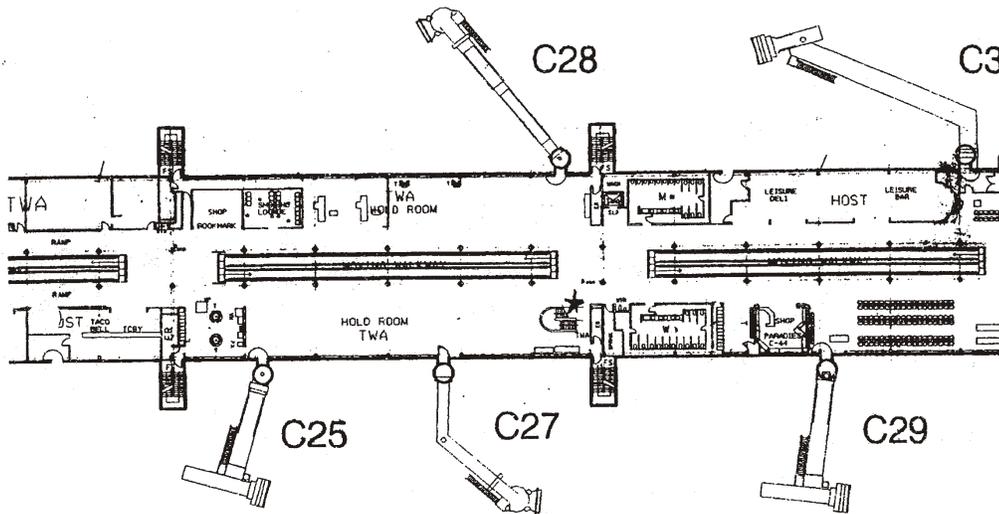


EXHIBIT A
CONCOURSE ATM LOCATIONS
LOCATION 4

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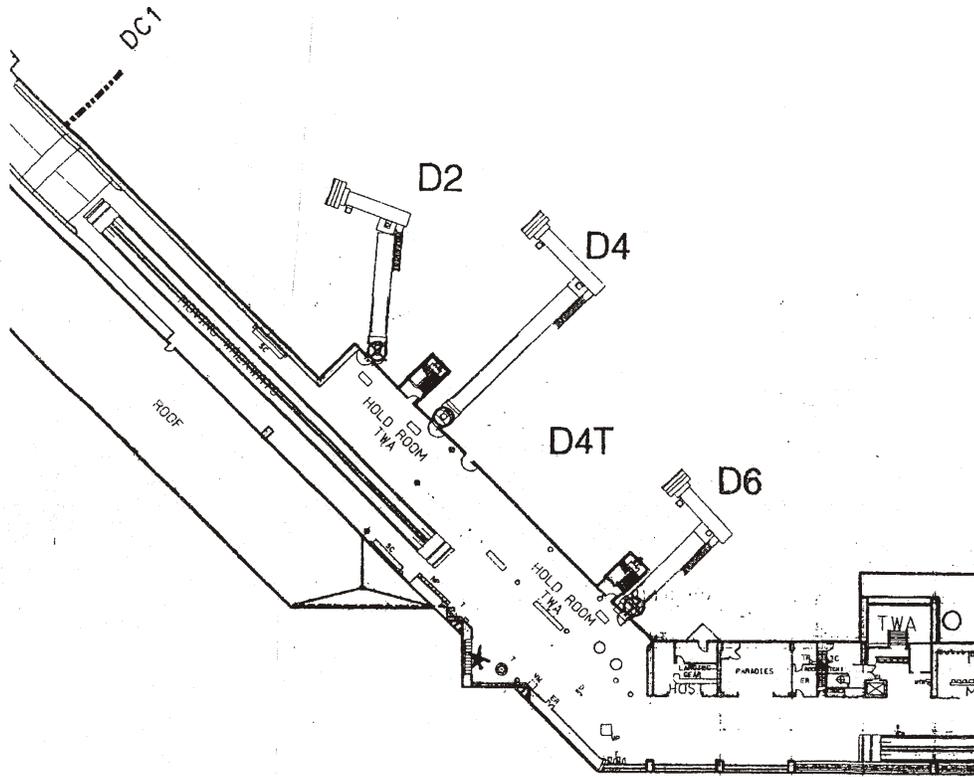


EXHIBIT A
CONCOURSE ATM LOCATIONS
LOCATION 5



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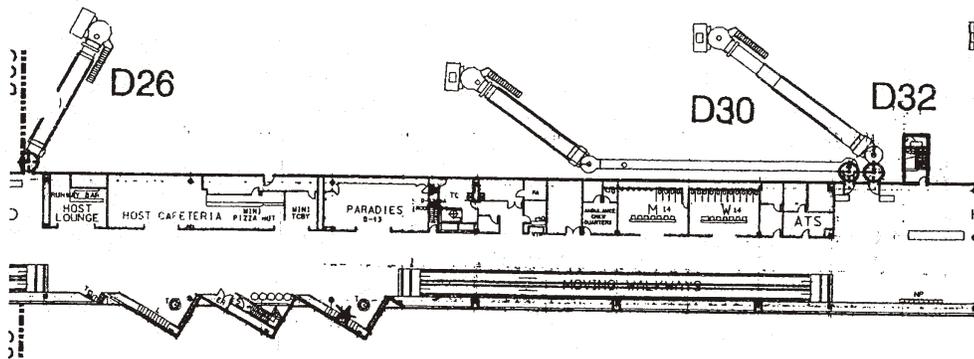


EXHIBIT A
CONCOURSE ATM LOCATIONS
LOCATION 6

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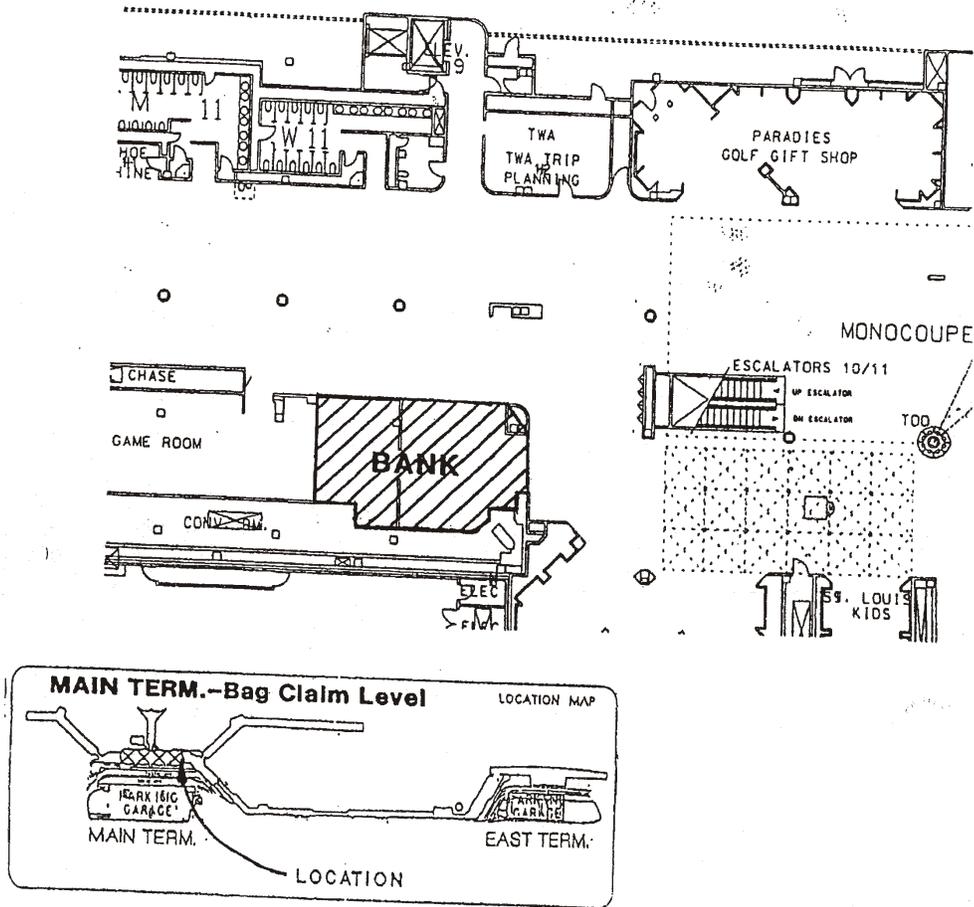


EXHIBIT A
CONCOURSE ATM LOCATIONS
LOCATION 8

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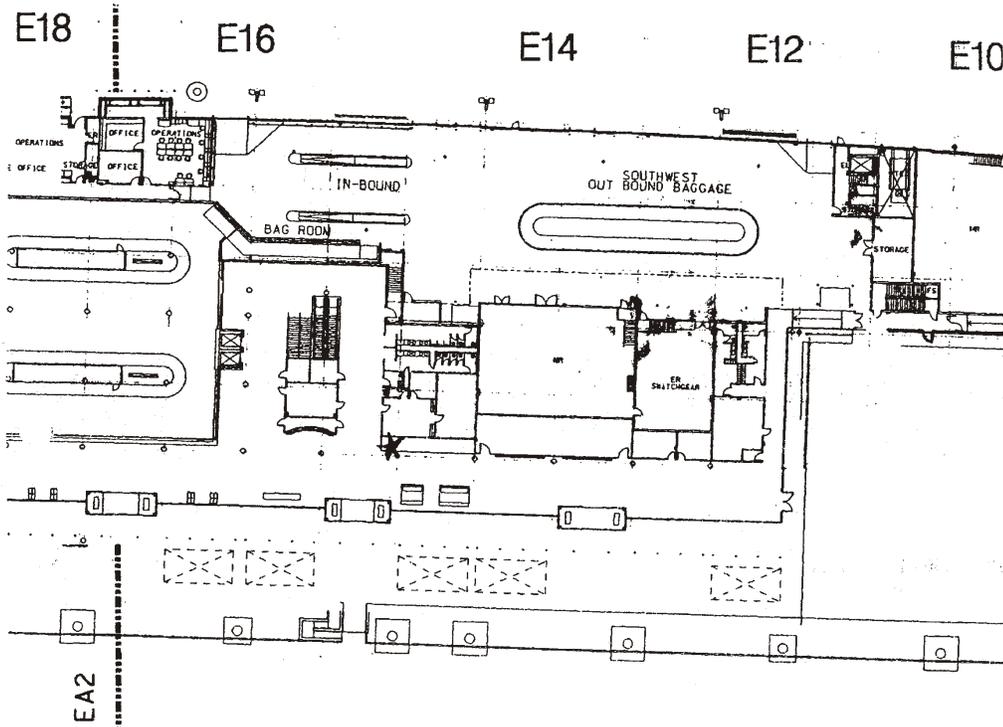


EXHIBIT A
CONCOURSE ATM LOCATIONS
LOCATION 9

Approved: November 6, 2009

ORDINANCE #68478
Board Bill No. 213

An Ordinance recommended and approved by the Airport Commission and the Board of Estimate and Apportionment that provides for financial incentives for passenger air service at Lambert St. Louis International Airport® (the "Airport"); determines and finds that it is in the best of interests of the City of St. Louis, Missouri (the "City"), the Airport and others to encourage service at the Airport by new passenger and/or cargo airlines and to stimulate passenger service by airlines currently using the Airport by the adoption of programs providing for financial incentives for new airlines and new air service at the Airport; ratifies and adopts an Air Service Incentive Program (the "Program") for the Airport; authorizes and directs the Director of Airports to implement the Program; authorizing transfers of funds in the total amount not to exceed One Million Six Hundred Seventy Three Thousand Dollars (\$1,673,000) from the Airport Contingency Fund to the Airport Revenue Fund as are required for the purposes of making funds available for the Program adopted by this Ordinance; containing a severability clause; and containing an emergency clause.

WHEREAS, The City of St. Louis, Missouri (the "City") owns an airport known as the Lambert-St. Louis International Airport® (the "Airport") which is operated by the Airport Authority of the City;

WHEREAS, it is in the best interests of the City, the Airport, the traveling public using the Airport and the residents of the St. Louis metropolitan area to encourage new passenger and/or cargo airlines to provide air service at the Airport, and to stimulate passenger and/or cargo air service to domestic and international destinations not currently served from the Airport by the airlines currently using the Airport;

WHEREAS, the City desires to broaden passenger and/or cargo activity at the Airport; attract new/additional passenger and/or cargo air service to the St. Louis market; increase the number of non-stop destinations served from the Airport; increase the number of passengers traveling through the Airport; increase the amount of cargo processed at the Airport; increase non-airline revenues generated at the Airport; and, over time, reduce the airlines' unit cost to operate at the Airport; and

WHEREAS, in order to accomplish the foregoing the City intends to ratify and adopt the Passenger Air Service Incentive Program, attached hereto as ATTACHMENT A, with an effective date for air service commencing at the Airport in Fiscal Year 2010 and remaining in effect through Fiscal Year 2012.

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

SECTION ONE. The Board of Aldermen of the City of St. Louis, Missouri (the "City") hereby determines and finds that it is in the best interests of the City, Lambert St. Louis International Airport® (the "Airport"), the traveling public using the Airport, and the residents of the St. Louis metropolitan area to encourage new passenger and/or cargo airlines to provide air service at the Airport, and to stimulate passenger and/or cargo air service to domestic and international destinations not currently served from the Airport by airlines currently using the Airport by the adoption of a program of financial incentives for new airlines and new air service.

SECTION TWO. The City hereby ratifies and adopts the Air Service Incentive Program (the "Program") granting the Director of Airports the authority to waive certain Airport fees and charges associated with qualifying flights operated by eligible airlines, as provided for in the Program as set out in ATTACHMENT A, which was approved and previously adopted by the City's Airport Commission and the City's Board of Estimate and Apportionment.

SECTION THREE. The Director of Airports is authorized and directed to implement the terms of the Program including, without limitation: securing appropriations necessary to fund the Program; accepting applications from airlines interested in participating in an incentive program; determining airline eligibility and flight qualifications; approving or rejecting applications based on the standards set forth in the Program; monitoring compliance with the terms and conditions for participation, and, if necessary, terminating an airline's eligibility for participation; and any and all other actions necessary to implement and administer the Program.

SECTION FOUR. There is hereby authorized the transfers as are required of sufficient funds or moneys on deposit in the Airport Contingency Fund, as provided for in Ordinance 67505, approved May 31, 2007, in the total amount not to exceed One Million Six Hundred Seventy Three Thousand Dollars (\$1,673,000) from the Airport Contingency Fund to the Airport Revenue Fund (established under Ordinance 59286, Section 13, approved October 26, 1984) for the purposes of making funds available for the Program adopted by this Ordinance.

SECTION FIVE. 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 contained herein is held invalid by a court of competent

jurisdiction, such holding shall not invalidate the remaining sections, conditions, or provisions or portion thereof of this Ordinance unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

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

ATTACHMENT A

**City of St. Louis
Lambert-St. Louis International Airport®**

AIR SERVICE INCENTIVE PROGRAM

The City of St. Louis, Missouri, is adopting this Passenger Air Service Incentive Program (individually, "Program I," "Program II," "Program III," "Program IV," "Program V," and "Program VI," collectively the "Incentive Program") to stimulate passenger and cargo air service at the Airport.

SECTION 101: GENERAL

A. Overall Goals

The goals of the Incentive Program are to:

1. broaden passenger and/or cargo airline activity at the Airport;
2. attract new/additional passenger and/or cargo air service to the St. Louis market;
3. increase the number of non-stop destinations served from St. Louis;
4. increase the number of passengers traveling through the Airport;
5. increase the amount of cargo processed at the Airport;
6. increase non-airline (concessions, parking, etc.) revenues to the Airport; and
7. over time, reduce the airlines' unit cost to operate at the Airport.

B. Term

The Incentive Program shall become effective for air service at the Airport commencing in Fiscal Year 2010 and shall remain in effect through Fiscal Year 2012.

C. Funding

Subject to the availability of funds and appropriations by the City, the Incentive Program shall be funded solely from the Airport's Contingency Fund. Financial benefits conferred through the Incentive Program shall not exceed \$1,700,000.00 during Fiscal Year 2010, \$1,700,000.00 during Fiscal Year 2011, and \$1,700,000.00 during Fiscal Year 2012; provided, however, that any appropriated amounts in excess of actual financial benefits conferred in each Fiscal Year shall be carried over to the immediately-following Fiscal Year to be used in accordance with the Incentive Program. If necessary, the available annual funding shall be prorated among the Incentive Programs' participants.

Waivers of Landing Fees and Terminal Building Rents offered by the City under this Incentive Program shall not have the effect of increasing the rentals, fees, or charges imposed on other aeronautical users of the Airport, including other airlines.

D. Compliance with Federal Obligations

The terms and implementation of this Incentive Program shall be, at all times, subordinated to applicable state and federal laws and

regulations, and the provisions of any existing or future agreement between the City and the United States Government or governmental authority, relating to the operation or maintenance of the Airport. The Incentive Program may be terminated, in whole or in part, if it is determined to violate applicable laws, regulations, or any assurance made by the City to the United States Government in connection with the receipt of federal grants-in-aid or the approval of Passenger Facility Charges.

E. Incentive Program Definitions

The words and phrases defined below have the following meaning when used elsewhere in this Incentive Program:

Airport Use and Lease Agreement: means the agreement first adopted by Ordinance No. 66926, approved on December 14, 2005, as it may be amended from time to time or a successor agreement.

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

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

Airport Operating Agreement and Terminal Building Space Permit: means that agreement with the City providing for the use of the Airport by an airline that is not a party to an Airport Use and Lease Agreement.

City: means The City of St. Louis, Missouri.

Direct Flight: means a flight served on a one-stop, same aircraft basis.

Essential Air Service (EAS): means flights to the Airport from rural areas pursuant to the Essential Air Service Program administered by the U.S. Department of Transportation.

Fiscal Year: means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as the City may establish by ordinance.

Landing Fees: means the fees payable in accordance with Section 503 of the Airport Use and Lease Agreement, or similar fees in other agreements for the use of the Airport, as may be applicable.

Seasonal Flight: means a flight that operates from the airport less than 12 consecutive months.

Terminal Building Rents: means the charges payable in accordance with Sections 502 and 504 of the Airport Use and Lease Agreement, or similar charges in other agreements for the use of the Airport, as may be applicable.

Transoceanic Destinations: means a destination outside of North/Central America and the Caribbean.

SECTION 102: PROGRAM I– NEW ENTRANT AIRLINES (PASSENGER)

A. Program I Goals

1. Attract new passenger airlines to, and increase competition among passenger airlines in, the St. Louis air service market.
2. Help mitigate the financial impact to new entrant passenger airlines when beginning passenger air service at the Airport.
3. Compete with other airports seeking to attract new entrant passenger airlines.

B. Program I Definitions

Eligible Airline: an airline that has not provided passenger air service at the Airport in the previous 12 months, and that begins new scheduled passenger air service at the Airport and commits to maintain such service for a period of 24 consecutive months, is eligible to participate in Program I, *except*:

1. An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger service begins; or
2. An airline that consolidates with, or merges into, another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger service begins.

To become an Eligible Airline, an airline must commit to enter into, and comply with all the terms of, an Airport Use and Lease Agreement, provided, however, that if an airline has been selected by the U.S. Department of Transportation to provide, and will provide, service at the Airport under the Essential Air Service program, such airline may also become an Eligible Airline if it commits to enter into, and comply with all the terms of an Airport Operating Agreement and Terminal Building Space Permit.

Qualifying Flight: a regularly scheduled passenger non-stop roundtrip flight at the Airport (designated by a particular flight number or numbers) that is first operated by an Eligible Airline during that airline's initial 30 days of operations at the Airport qualifies for the purposes of Program I.

C. Program I Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program I, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees incurred by that airline's Qualifying Flights beginning on the date in which each Qualifying Flight is first operated, and continuing for a period of up to 12 consecutive months thereafter for each such Qualifying Flight; and
2. Terminal Building Rents associated with the space assigned to an Eligible Airline up to the first 12 consecutive months of operations by that airline at the Airport.

SECTION 103: PROGRAM II – NEW AIRPORT-WIDE NON-STOP DESTINATIONS (PASSENGER)

A. Program II Goals

1. Stimulate the introduction of passenger air service to new Airport-wide non-stop destinations from the Airport.
2. Ease the economic risk associated with beginning passenger air service to new Airport-wide non-stop destinations.
3. Help mitigate the financial impact of starting new passenger air service to a new Airport-wide non-stop destination from the Airport.

B. Program II Definitions

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 24 consecutive months is eligible to participate in Program II; *except*:

An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is providing non-stop roundtrip flights between the Airport and such other airport on, or discontinued such service within the 12 months prior to, the date on which the Qualifying Flights begin.

To become an Eligible Airline, an airline must have entered into, and be in compliance with all the terms of, an Airport Use and Lease Agreement, or must have been designated as an Affiliate in accordance with the terms of such agreement, provided, however, that if an airline has been selected by the U.S. Department of Transportation to provide, and will provide, service at the Airport under the Essential Air Service Program, such airline may also become an Eligible Airline if it commits to enter into, and comply with all the terms of an Airport Operating Agreement and Terminal Building Space Permit.

An airline participating in Program I that is also an Eligible Airline under Program II may request to participate in Program II for any Qualifying Flight for which the airline is not receiving an incentive under Program I.

Qualifying Flight: a new regularly scheduled passenger non-stop roundtrip flight (designated by a particular number or numbers) between the Airport and an airport that:

1. is not being served by any other airline; and
2. has not been served from the Airport by the Eligible Airline during the previous 12 months.

C. Program II Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program II, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees associated with that airline's Qualifying Flights and incurred up to the first 12 consecutive months of operations of that service.
2. Incremental Terminal Building Rents, if any, associated with that airline's Qualifying Flights and incurred up to the first 12 consecutive months of operations of that service.

SECTION 104: PROGRAM III – NEW AIRLINE-SPECIFIC NON-STOP DESTINATIONS (PASSENGER)

A. Program III Goals

1. Stimulate the introduction of passenger air service to new airline-specific non-stop destinations from the Airport.
2. Ease the economic risk associated with beginning passenger air service to new airline-specific non-stop destinations.
3. Help mitigate the financial impact of starting new passenger air service to a new airline-specific non-stop destination from the Airport.

B. Program III Definitions

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 24 consecutive months is eligible to participate in Program III; *except*:

An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is providing non-stop roundtrip flights between the Airport and such other airport on, or discontinued such service within the 12 months prior to, the date on which the Qualifying Flights begin.

To become an Eligible Airline, an airline must have entered into, and be in compliance with all the terms of, an Airport Use and Lease Agreement, or must have been designated as an Affiliate in accordance with the terms of such agreement, provided, however, that if an airline has been selected by the U.S. Department of Transportation to provide, and will provide, service at the Airport under the Essential Air Service Program, such airline may also become an Eligible Airline if it commits to enter into, and comply with all the terms of an Airport Operating Agreement and Terminal Building Space Permit.

An airline participating in Program I that is also an Eligible Airline under Program III may request to participate in Program III for any Qualifying Flight for which the airline is not receiving an incentive under Program I.

Qualifying Flight: a new regularly scheduled passenger non-stop roundtrip flight (designated by a particular flight number or numbers) between the Airport and an airport that has not been served from the Airport by the airline operating such new service during the previous 12 months qualifies for the purposes of Program III.

C. Program III Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program III, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees associated with that airline's Qualifying Flights and incurred up to the first 9 consecutive months of operations of that service.

2. Incremental Terminal Building Rents, if any, associated with that airline's Qualifying Flights and incurred up to the first 9 consecutive months of operations of that service.

SECTION 105: PROGRAM IV – NEW DIRECT DESTINATIONS (PASSENGER)

A. Program IV Goals

1. Stimulate the introduction of passenger air service to new direct destinations from the Airport.
2. Ease the economic risk associated with beginning passenger air service to new direct destinations.
3. Help mitigate the financial impact of starting new passenger air service to a new direct destination from the Airport.

B. Program IV Definitions

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 12 consecutive months is eligible to participate in Program III; *except*:

An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is providing direct roundtrip flights between the Airport and such other airport on, or discontinued such service within the 12 months prior to, the date on which the Qualifying Flights begin.

To become an Eligible Airline, an airline must have entered into, and be in compliance with all the terms of, an Airport Use and Lease Agreement, or must have been designated as an Affiliate in accordance with the terms of such agreement, provided however, that if an airline has been selected by the U.S. Department of Transportation to provide, and will provide, service at the Airport under the Essential Air Service Program, such airline may also become an Eligible Airline if it commits to enter into, and comply with all the terms of an Airport Operating Agreement and Terminal Building Space Permit.

An airline participating in Program I that is also an Eligible Airline under Program IV may request to participate in Program IV for any Qualifying Flight for which the airline is not receiving an incentive under Program I.

Qualifying Flight: a new regularly scheduled passenger bi-directional Direct Flight (designated by a particular flight number or numbers) between the Airport and an airport that has not been served from the Airport by the airline operating such new service during the previous 12 months that results in increased departures at the Airport for the airline qualifies for the purposes of Program IV.

C. Program IV Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program IV, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees associated with that airline's Qualifying Flights and incurred up to the first 6 consecutive months of operations of that service.
2. Incremental Terminal Building Rents, if any, associated with that airline's Qualifying Flights and incurred up to the first 6 consecutive months of operations of that service.

Upon the Airport Director's determination that during the initial 12 consecutive months following the beginning of a Qualifying Flight under Program IV the service has become a Qualifying Flight under Program II or Program III (i.e. a Direct Flight has become a new Airport-wide non-stop destination flight or a new airline-specific non-stop destination flight), the Airline shall be eligible to receive Program II or Program III Incentives less any Program IV Incentives received prior to such determination and is subject to Program II or Program III eligibility requirements.

SECTION 106: PROGRAM V—NEW TRANSOCEANIC DESTINATIONS (PASSENGER AND CARGO)

A. Program V Goals

1. Stimulate the introduction of new air service—passenger and/or cargo—at the Airport to Transoceanic

Destinations.

2. Help mitigate the financial impact of beginning passenger and/or cargo service at the Airport to Transoceanic Destinations.
3. Compete with other airports seeking to attract similar air service to Transoceanic Destinations.

B. Program V Definitions

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service for a period of 24 consecutive months is eligible to participate in Program IV; *except*:

1. An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger and/or cargo service begins; or
2. An airline that consolidates with, or merges into, another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior to, the date on which the new scheduled passenger and/or cargo service begins.

To become an Eligible Airline, an airline must commit to enter into and comply with all of the terms of the Airport Use and Lease Agreement.

Qualifying Flight: a new regularly scheduled passenger and/or cargo flight (designated by a particular flight number or numbers) between the Airport and a Transoceanic Destination served by the same aircraft on a one-stop or less basis for a passenger flight and a two-stop or less basis for a cargo flight and listed as non-stop or direct service for a passenger flight, is a Qualifying Flight for the purposes of Program V.

C. Program V Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program V and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Landing Fees associated with that airline's Qualifying Flights and incurred up to the first 18 consecutive months of operations of that service.
2. Terminal Building Rents or incremental Terminal Building Rents, if associated with an airline's Qualifying Flights or assigned to an Eligible Airline and incurred up to the first 18 consecutive months of operations by that service.

SECTION 107: PROGRAM VI—NEW SEASONAL AIR SERVICE (PASSENGER)

A. Program VI Goals:

1. Stimulate the introduction of passenger Seasonal Flights to new non-stop destinations from the Airport.
2. Ease the economic risk associated with beginning passenger Seasonal Flights to new non-stop destinations from the Airport.
3. Help mitigate the financial impact of starting passenger Seasonal Flights to new non-stop destinations from the Airport.

B. Program VI Definitions:

Eligible Airline: an airline that introduces Qualifying Flights and commits to maintain such service until a time agreed upon by the Airport Director, *except*:

1. An airline that operates for the benefit of, or under the same or substantially similar name and/or livery as another airline that is serving the Airport on, or discontinued service at the Airport within the 12 months prior

to, the date on which the new scheduled passenger service begins; or

2. An airline that consolidates with, or merges into, another airline that is serving the Airport on or discontinued service at the Airport within the 12 months prior to the date on which the new Seasonal Air Service begins.

To become an Eligible Airline, an airline must commit to enter into and comply with all the terms of the Airport Use and Lease Agreement or an Airport Operating Agreement and Terminal Building Space Permit.

Qualifying Flight: A new regularly scheduled passenger non-stop round trip Seasonal Flight between the Airport and an airport that has not been served from the Airport by the airline operating such new service during the previous 12 months is a qualifying scheduled service for purposes of Program VI.

C. Program VI Incentives

Upon the Airport Director's determination that an airline is eligible to participate in Program VI, and subject to the provisions of this Incentive Program, the following fees shall be waived:

1. Thirty percent (30%) of the Landing Fees associated with that airline's Qualifying Flights and incurred during the first season of service of such Qualifying Flights.
2. Thirty percent (30%) of the Terminal Building Rents or incremental Terminal Building Rents, if any, associated with that Airline's Qualifying Flights and incurred during the first season of such Qualifying Flights.

SECTION 108: PROCEDURES

A. Application Process

1. Before commencing new service that may qualify for any Incentive Program, an airline desiring to participate must petition in writing to the Airport Director. A petition should include sufficient information to demonstrate eligibility to participate in the desired program and flight qualifications, including, without limitation: the type of new service to be offered, the destination airport, the date on which the new service will begin, and the type of aircraft to be used for the new service. If applicable, a petition to participate in Programs II - VI also should include evidence that the airline would incur incremental Terminal Building Rents as a result of operating the applicable Qualifying Flights.
2. The Airport Director may request any additional information as may be necessary to consider an application.
3. An application must be approved by the Airport Director before an airline is eligible to participate, and its flights qualify for participation, in the Incentive Program.
4. The Airport Director may reject an application if the Airport Director determines that:
 - a. the airline is not eligible to participate in the Incentive Program;
 - b. the proposed service does not qualify for an incentive; or
 - c. the proposed service does not meet the Incentive Program's goals.
5. The Airport Director may terminate an airline's eligibility to participate if that airline fails to meet or maintain any of the requirements for participation.

B. Reports

An airline participating in the Incentive Program may be required to provide operational reports to show it is meeting the applicable requirements.

C. Year-End Settlement

Contemporaneously with the year-end accounting, recalculation and settlement of fees and charges payable by airlines operating at

the Airport, Airport staff shall calculate the aggregate actual financial benefits conferred in the form of fee and rent waivers to all the airlines that participated in the Incentive Program during the previous Fiscal Year. If the amount of aggregate actual financial benefits conferred exceed the authorized amount for that Fiscal Year, the financial benefits shall be prorated among all the airlines participating in the Incentive Program based on the percentage that results from dividing the total aircraft landed weight of each Eligible Airline for its Qualifying Flights during that Fiscal Year, by the aggregate landed weight of all Eligible Airlines for their Qualifying Flights during such period.

Any benefits actually conferred to an airline participating in the Incentive Program in excess of that airline's prorated authorized amount, if any, shall be paid by the airline to the City upon demand.

D. Retroactive payment of waived fees

If the eligibility of an airline that is participating in the Incentive Program is terminated by the Airport Director for failure to meet or maintain the requirements for participation, including withdrawal of service prior to completion of any commitment period, such airline shall pay to the City an amount equal to the applicable Landing Fees and/or Terminal Building Rents that were waived in accordance with the Incentive Program.

Approved: November 6, 2009

ORDINANCE #68479
Board Bill No. 214

An ordinance authorizing and directing the Mayor by and through the Acting Director of Health-City of St. Louis Department of Health (hereinafter "City Health Department"), on behalf of the City of St. Louis, Missouri, to submit all necessary applications and to enter into all necessary agreements and contracts with the Missouri Department of Health and Senior Services-Center for Emergency Response and Terrorism (hereinafter "DHSS") for the Public Health emergency Response (hereinafter "PHER") Phase I, II and III contracts.

WHEREAS, The PHER, Phase I, II and III, funding contracts will be let through and passed down from the Centers for Disease Control (hereinafter "CDC") and Prevention on a national level to DHSS on a state level and then to the City of St. Louis on the local level and shall be used for planning for a potential of pandemic influenza event.

WHEREAS, these grant monies will be used to identify potential locations and staffing requirements for mass vaccinations; estimating priority populations for vaccinations; developing plans for private providers; estimating the amount of vaccines to be stored and administered; entering into Memoranda of Understanding ("MOU") with private providers; defining vaccine ship dates and allocations; ensuring providers are educated and aware of adverse event reporting requirements; communication, planning, exercising and implanting certain vaccination plans required to protect citizens from an pandemic influenza event.

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

SECTION ONE: the Mayor by and through the City Health Department, is hereby authorized and directed to submit all necessary applications and to enter into all necessary agreements and contracts with DHSS and PHER or any other agency for the Phase I, II and III contracts Federal Award TP000360-01 Missouri Public Health Emergency Response) utilized for pandemic influenza planning, prevention, and implementation and authorizing the Mayor and City Health Department, upon approval of the Board of Estimate and Apportionment, to expend any funds received by said contracts, agreements, and grants to fulfill the obligations of the Phase I, II, and III contracts pursuant to the goals and requirements of DHSS and PHER for pandemic planning.

SECTION TWO: Phase I, II and III contracts for the planning of and for a potential pandemic influenza event is estimated to be nearly 1.1 Million dollars. The PHER project is estimated to be for a period of three (3) years with a budget period of twelve (12) months.

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

Approved: November 6, 2009

ORDINANCE #68480
Board Bill No. 216

An ordinance, recommended by the Board of Estimate and Apportionment, authorizing the Mayor of the City of St. Louis, on behalf of the City, to submit a 2010 Consolidated Plan and Annual Plan to the United States Department of Housing and Urban Development ("HUD") as required to apply for funding under the Federal Community Development Block Grant ("CDBG"), HOME Investment Partnership ("HOME"), Emergency Shelter Grant ("ESG") and Housing Opportunities for Persons with AIDS ("HOPWA") Entitlement Programs; authorizing and directing the Mayor and the Comptroller on behalf of the City to enter into and execute agreements with HUD for the receipt of 2010 CDBG, HOME, ESG and HOPWA funds; appropriating the sum of Twenty-One Million Eight Hundred Thousand Two Hundred Ninety-Nine Dollars (\$21,800,299) which the City estimates will be available for the 2010 CDBG Program Year; appropriating the sum of Four Million Six Hundred Forty-Nine Thousand Four Hundred Seventeen Dollars (\$4,649,417) which the City estimates will be available for the 2010 HOME Program Year; appropriating the sum of Eight Hundred Twenty Thousand Dollars (\$820,000) which the City estimates will be available for the 2010 ESG Program Year; and appropriating the sum of One Million Two Hundred Sixty-Four Thousand Nine Hundred Dollars (\$1,264,900) which the City estimates will be available for the 2010 HOPWA Program Year, authorizing and directing the Director of the Community Development Administration ("CDA") to contract with municipal agencies, non-profit corporations and other entities, as necessary for the expenditure of CDBG and HOME funds, to establish and implement a lump sum drawdown procedure for the purpose of financing property rehabilitation activities, to establish and implement a program to guarantee in whole or in part construction loans from private financial institutions, and/or to establish and implement a procedure for providing financial assistance to CDBG-eligible undertakings through float loan financing; authorizing and directing the Director of the Department of Human Services ("DHS") to contract with municipal agencies, non-profit corporations and other entities, as necessary for the expenditure of ESG funds; authorizing and directing the Director of Health and Hospitals to contract with municipal agencies, non-profit corporations and other entities, as necessary for the expenditure of HOPWA funds; directing the Comptroller to issue warrants thereon upon the City Treasury; and containing an emergency clause.

WHEREAS, 2010 CDBG, HOME, ESG and HOPWA funding will become available on January 1, 2010; and

WHEREAS, in order to receive these funds, the City of St. Louis must submit to HUD a 2010 Consolidated Plan and Annual Plan by November 15, 2009; and

WHEREAS, it is estimated that the 2010 CDBG Entitlement, together with previous year CDBG funds available for re-allocation, CDBG Program Income generated by activities conducted with previous year CDBG funds that have not yet been appropriated for any purpose and CDBG Program Income estimated to be generated by activities conducted in 2010 with CDBG funds, will amount to the sum of Twenty-One Million Eight Hundred Thousand Two Hundred Ninety-Nine Dollars (\$21,800,299); and

WHEREAS, the City has identified certain known appropriation needs as summarized in Exhibit A, and the City desires to appropriate the CDBG Entitlement and Program Income Funds for these needs, to establish and implement a lump sum drawdown procedure to finance and facilitate property rehabilitation activities, to establish and implement a program to guarantee in whole or in part construction loans from private financial institutions, and to establish and implement a procedure for providing financial assistance to CDBG-eligible undertakings through float loan financing, and

WHEREAS, it is estimated that the 2010 HOME Entitlement, together with previous year HOME funds available for allocation, HOME Program Income generated by activities conducted with previous year HOME funds that have not yet been appropriated for any purpose and HOME Program Income estimated to be generated by activities conducted in 2010 with HOME funds, will amount to the sum of Four Million Six Hundred Forty-Nine Thousand Four Hundred Seventeen Dollars (\$4,649,417); and

WHEREAS, the City has identified certain known appropriation needs as summarized in Exhibit A, and the City desires to appropriate the HOME Entitlement and Program Income Funds for these needs and to establish and implement a program to guarantee in whole or in part construction loans from private financial institutions; and

WHEREAS, it is estimated that the 2010 ESG Entitlement, together with previous year ESG funds available for allocation, will amount to the sum of Eight Hundred Twenty Thousand Dollars (\$820,000); and

WHEREAS, the City desires to appropriate the ESG Entitlement for needs related to the purpose of the ESG program; and

WHEREAS, it is estimated that the 2010 HOPWA Entitlement, together with previous year HOPWA funds available for

allocation, will amount to the sum of One Million Two Hundred Sixty-Four Thousand Nine Hundred Dollars (\$1,264,900); and

WHEREAS, the City desires to appropriate the HOPWA Entitlement for needs related to the purpose of the HOPWA program.

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

Section One. The Mayor of the City of St. Louis, on behalf of the City, is hereby authorized and directed to submit a Consolidated Plan and Annual Plan to the Department of Housing and Urban Development in order to make application for the 2010 CDBG, HOME, ESG and HOPWA Entitlement Programs.

Section Two. There is hereby appropriated the sum of Twenty-One Million Eight Hundred Thousand Two Hundred Ninety-Nine Dollars (\$21,800,299) of CDBG funds for the purposes described in Exhibit A incorporated herein by reference. The Director of CDA is hereby authorized to make, negotiate and execute any and all contracts or other documents, including disbursing agreements and/or other agreements associated with lump sum drawdowns intended to facilitate property rehabilitation activities, including agreements associated with guarantees in whole or in part of construction loans from private financial institutions, and including agreements associated with the establishment and implementation of a procedure for providing financial assistance to CDBG-eligible undertakings through float loan financing, on behalf of the City, which are necessary to carry out the City's CDBG and HOME programs and to expend said funds for the purposes and in the amounts specified in Exhibit A attached hereto, and the Comptroller is authorized and directed to issue warrants upon the City Treasury for payment thereon. The Director of CDA is further authorized and directed to transfer funds among the purposes described in Exhibit A when requested by the Alderperson in whose ward the funds were budgeted pursuant to this Ordinance with the approval of the Board of Estimate and Apportionment, to transfer funds among the other purposes described in Exhibit A with the approval of the Board of Estimate and Apportionment, to substitute HOME funding for CDBG funding budgeted pursuant to this ordinance with the approval of the Board of Estimate and Apportionment, and, to the extent that additional Tax Increment Financing Revenue, program income and/or other funds become available that reduce the amount of new CDBG funds required to make the Section 108 loan payment, to add the amount of the CDBG Section 108 loan payment reduction to the Citywide housing production allocation, provided that the Board of Estimate and Apportionment shall approve the expenditure of such funds.

Section Three. There is further hereby appropriated the sum of Four Million Six Hundred Forty-Nine Thousand Four Hundred Seventeen Dollars (\$4,649,417) of HOME Funds for the purposes described in Exhibit A incorporated herein by reference. The Director of CDA is hereby authorized to make, negotiate and execute any and all contracts or other documents including agreements associated with guarantees in whole or in part of construction loans from private financial institutions, on behalf of the City, which are necessary to carry out the City's HOME programs and to expend said funds, and the Comptroller is authorized and directed to issue warrants upon the City Treasury for payment thereon. The Director of CDA is further authorized and directed to transfer funds among the purposes described in Exhibit A when requested by the Alderperson in whose ward the funds were budgeted pursuant to this Ordinance with the approval of the Board of Estimate and Apportionment, to transfer funds among the other purposes described in Exhibit A with the approval of the Board of Estimate and Apportionment, and to substitute CDBG funding for HOME funding budgeted pursuant to this ordinance with the approval of the Board of Estimate and Apportionment. At least fifteen percent of the aforesaid 2010 HOME funds, or Six Hundred Ninety-Seven Thousand Four Hundred Thirteen Dollars (\$697,413), must be committed to projects to be undertaken by certified Community Housing Development Organizations (CHDOs).

Section Four. There is further appropriated the sum of Eight Hundred Twenty Thousand Dollars (\$820,000) of 2010 ESG Funds. The Director of the Department of Human Services is hereby authorized to make, negotiate and execute any and all contracts or other documents on behalf of the City which are necessary to carry out the City's ESG programs and to expend said funds, and the Comptroller is authorized and directed to issue warrants upon the City Treasury for payment thereon.

Section Five. There is further appropriated the sum of One Million Two Hundred Sixty-Four Thousand Nine Hundred Dollars (\$1,264,900) of 2010 HOPWA Funds. The Director of Health and Hospitals is hereby authorized to make, negotiate and execute any and all contracts or other documents on behalf of the City which are necessary to carry out the City's HOPWA programs and to expend said funds, and the Comptroller is authorized and directed to issue warrants upon the City Treasury for payment thereon.

Section Six. This being an ordinance necessary for the immediate preservation of the public peace, health and safety and making appropriations for the payment of principal and interest on public debt and for the current expenses of the City government, an emergency is hereby declared to exist within the meaning of Section 20, Article IV, of the Charter and this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Board Bill 216
October 16, 2009

**EXHIBIT A
COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAMS
2010 BUDGET**

A-1

PROGRAM/OPERATING AGENCY	TOTAL AMOUNT	CDBG AMOUNT	HOME AMOUNT	ADDI AMOUNT	UDAG AMOUNT
<i>Public Services (Citywide):</i>					
Community Education Centers St. Louis Board of Education (CDBG)	\$800,000	\$800,000	\$0	\$0	\$0
Community Health-in-Partnership Services Community Health-in-Partnership Services (CDBG)	\$62,500	\$62,500	\$0	\$0	\$0
Contractors Assistance Program Contractors Assistance Program (CDBG)	\$143,000	\$143,000	\$0	\$0	\$0
Elderly Services St. Louis Area Agency on Aging (CDBG)	\$295,000	\$295,000	\$0	\$0	\$0
Elmer Hammond Day Care Vaughn Tenant Association (CDBG)	\$20,000	\$20,000	\$0	\$0	\$0
Expanded Recreation Program Department of Parks, Recreation and Forestry (CDBG)	\$400,000	\$400,000	\$0	\$0	\$0
Housing Resource Center Catholic Charities (CDBG)	\$350,000	\$350,000	\$0	\$0	\$0
LRA Property Maintenance/Board-Up St. Louis Development Corporation (CDBG)	\$700,000	\$700,000	\$0	\$0	\$0
McElroy Day Care Carr Square Tenant Management Corporation (CDBG)	\$29,000	\$29,000	\$0	\$0	\$0
Operation Brightside Clean-Up Department of Parks, Recreation & Forestry (CDBG)	\$289,000	\$289,000	\$0	\$0	\$0
Operation Brightside Graffiti Eradication Operation Brightside, Inc. (CDBG)	\$0	\$0	\$0	\$0	\$0
Problem Property Team Program City Counselor's Office (CDBG)	\$276,000	\$276,000	\$0	\$0	\$0
Problem Property Team Program Municipal Courts (CDBG)	\$24,000	\$24,000	\$0	\$0	\$0
Problem Property Team Program Public Safety (CDBG)	\$19,000	\$19,000	\$0	\$0	\$0
Equal Housing Opportunity Council Equal Housing Opportunity Council (CDBG)	\$40,000	\$40,000	\$0	\$0	\$0
Public Services (Citywide) Subtotal:	\$3,447,500	\$3,447,500	\$0	\$0	\$0

Board Bill 216
October 16, 2009

EXHIBIT A
COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAMS
2010 BUDGET

A-2

PROGRAM/OPERATING AGENCY	TOTAL AMOUNT	CDBG AMOUNT	HOME AMOUNT	ADDI AMOUNT	UDAG AMOUNT
Public Services (Specific Geographic Areas):					
Adult Medicine Family Care Center of Carondelet (CDBG)	\$45,000	\$45,000	\$0	\$0	\$0
Bevo Senior Services Bevo Area Community Improvement Corp. (CDBG)	\$30,000	\$30,000	\$0	\$0	\$0
Carondelet Family Literacy Program Carondelet Community Betterment Federation (CDBG)	\$12,500	\$12,500	\$0	\$0	\$0
Hyde Park Outreach Hyde Park Outreach Program (CDBG)	\$25,000	\$25,000	\$0	\$0	\$0
Harambee Program Human Development Corporation (CDBG)	\$60,000	\$60,000	\$0	\$0	\$0
Hi-Pointe Center Hi-Pointe Center, Inc. (CDBG)	\$41,000	\$41,000	\$0	\$0	\$0
St. Elizabeth Adult Day Care Center St. Elizabeth Adult Day Care Center (CDBG)	\$18,000	\$18,000	\$0	\$0	\$0
Union Sarah Senior Center Services Union Sarah Senior Center Services, Inc. (CDBG)	\$20,000	\$20,000	\$0	\$0	\$0
Better Family Life Urban Rhythms Better Family Life, Inc. (CDBG)	\$20,000	\$20,000	\$0	\$0	\$0
Youth and Family Center Youth and Family Center (CDBG)	\$25,000	\$25,000	\$0	\$0	\$0
Public Services (Specific Geographic Areas) Subtotal:	\$296,500	\$296,500	\$0	\$0	\$0
TOTAL PUBLIC SERVICES:	\$3,744,000	\$3,744,000	\$0	\$0	\$0
Public Facilities and Improvements:	\$0	\$0	\$0	\$0	\$0
TOTAL PUBLIC FACILITIES AND IMPROVEMENTS:	\$0	\$0	\$0	\$0	\$0
Housing (Specific Geographic Areas):					
Special Activities by Community Based Development Organizations (Specific Geographic Areas):					
Carondelet Community Based Development Organization Carondelet Community Betterment Federation (CDBG)	\$240,000	\$190,000	\$50,000	\$0	\$0
Central Corridor Community Based Development Organization Central West End-Midtown Community Development (CDBG)	\$100,000	\$100,000	\$0	\$0	\$0
DeSales Community Based Development Organization DeSales Community Housing Corporation (CDBG)	\$52,500	\$52,500	\$0	\$0	\$0

Board Bill 216
October 16, 2009

**EXHIBIT A
COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAMS
2010 BUDGET**

A-3

PROGRAM/OPERATING AGENCY	TOTAL AMOUNT	CDBG AMOUNT	HOME AMOUNT	ADDI AMOUNT	UDAG AMOUNT
Dutchtown South Community Based Development Organization Dutchtown South Community Corporation (CDBG)	\$80,000	\$80,000	\$0	\$0	\$0
North Newstead Association Community Based Development Organization North Newstead Association (CDBG)	\$100,000	\$100,000	\$0	\$0	\$0
Forest Park Southeast Stabilization Program To Be Determined (CDBG)	\$90,000	\$90,000	\$0	\$0	\$0
Grand Oak Hill Home Improvement Services Grand Oak Hill Community Corporation (CDBG)	\$243,000	\$243,000	\$0	\$0	\$0
Hamilton Heights Community Based Development Organization Hamilton Heights Neighborhood Organization (CDBG)	\$161,000	\$161,000	\$0	\$0	\$0
UJAMAA Community Based Development Organization UJAMAA and the Black Family Land Trust (CDBG)	\$28,000	\$28,000	\$0	\$0	\$0
McRee Town Community Based Development Organization McRee Town Neighborhood Association (CDBG)	\$35,000	\$35,000	\$0	\$0	\$0
North 7 Star Revitalization Administration To Be Determined (CDBG)	\$90,000	\$90,000	\$0	\$0	\$0
Old North St. Louis Community Based Development Organization Old North St. Louis Restoration Group (CDBG)	\$60,000	\$60,000	\$0	\$0	\$0
Riverview-West Florissant Community Based Development Organization Riverview-West Florissant Housing Corporation (CDBG)	\$100,000	\$100,000	\$0	\$0	\$0
Shaw Neighborhood Revitalization and Development Program St. Margaret of Scotland Housing Corporation (CDBG)	\$66,000	\$66,000	\$0	\$0	\$0
Skinker DeBaliviere Community Based Development Organization Skinker DeBaliviere Community Council (CDBG)	\$52,000	\$52,000	\$0	\$0	\$0
Southwest Community Based Development Organization Southwest Neighborhood Improvement Assoc. (CDBG)	\$48,000	\$48,000	\$0	\$0	\$0
Third Ward Revitalization Administration To Be Determined (CDBG)	\$155,000	\$155,000	\$0	\$0	\$0
Vashon/JVL Renaissance Community Based Development Organization St. Louis Community Empowerment Foundation (CDBG)	\$50,000	\$50,000	\$0	\$0	\$0
Greater Ville Preservation Commission CBDO Greater Ville Preservation Commission (CDBG)	\$100,000	\$100,000	\$0	\$0	\$0
Better Family Life CBDO Better Family Life, Inc. (CDBG)	\$97,000	\$97,000	\$0	\$0	\$0
Community Based Development Organization Subtotal:	\$1,947,500	\$1,897,500	\$50,000	\$0	\$0

Board Bill 216
October 16, 2009

EXHIBIT A
COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAMS
2010 BUDGET

A-4

PROGRAM/OPERATING AGENCY	TOTAL AMOUNT	CDBG AMOUNT	HOME AMOUNT	ADDI AMOUNT	UDAG AMOUNT
Home Repair & Rental Prop. Repair (Specific Geographic Areas):					
Targeted Management Assistance To be determined (CDBG)	\$300,000	\$300,000	\$0	\$0	\$0
Management Assistance and Repair Program DeSales Community Housing Corporation (CDBG)	\$62,500	\$62,500	\$0	\$0	\$0
Home Repair Program Loan Pool: Beyond Housing/Neighborhood Housing Services (CDBG/HOME)	\$2,025,000	\$687,000	\$1,338,000	\$0	\$0
Home Repair Program Administration Home Repair Education & Intake (CDBG & HOME) (To be determined)	\$181,500	\$118,000	\$63,500	\$0	\$0
City of St. Louis Building Division (CDBG)	\$337,000	\$337,000	\$0	\$0	\$0
Home Repair Construction Administration (CDBG) (To be determined)	\$468,803	\$468,803	\$0	\$0	\$0
Home Repair/Rental Prop. Repair (Specific Geographic Areas) Subtotal:	\$3,374,803	\$1,973,303	\$1,401,500	\$0	\$0
Housing Production/Acquisition (Specific Geographic Areas):					
Housing Production/Acquisition--Ward Pool: Community Development Administration (CDBG/HOME)	\$4,190,000	\$2,557,024	\$1,632,976	\$0	\$0
Citywide Housing Production: Community Development Administration (HOME)	\$0	\$0	\$0	\$0	\$0
Major Residential/Commercial Development Initiatives: Community Development Administration (CDBG/HOME)	\$2,205,000	\$1,105,000	\$1,100,000	\$0	\$0
Housing Production/Acquisition (Specific Geographic Areas) Subtotal:	\$6,395,000	\$3,662,024	\$2,732,976	\$0	\$0
TOTAL HOUSING (Specific Geographic Areas):	\$11,717,303	\$7,532,827	\$4,184,476	\$0	\$0
Economic Development:					
Commercial District Public Improvements & Façade (Specific Geographic Areas):					
Neighborhood Commercial District Program Managers: St. Louis Development Corporation (CDBG)	\$550,000	\$550,000	\$0	\$0	\$0
Commercial District Incentives St. Louis Development Corporation (CDBG)	\$1,200,000	\$1,200,000	\$0	\$0	\$0
Commercial District Public Imp. & Façade (Specific Geographic Areas) Subtotal:	\$1,750,000	\$1,750,000	\$0	\$0	\$0
Other Economic Development:					
Business Development Support Programs St. Louis Local Development Company (CDBG)	\$850,000	\$850,000	\$0	\$0	\$0

Board Bill 216
October 16, 2009

**EXHIBIT A
COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAMS
2010 BUDGET**

A-5

PROGRAM/OPERATING AGENCY	TOTAL AMOUNT	CDBG AMOUNT	HOME AMOUNT	ADDI AMOUNT	UDAG AMOUNT
SLDC Major Project Administration St. Louis Local Development Company (CDBG)	\$395,000	\$395,000	\$0	\$0	\$0
Accessible Businesses Lead Everywhere Office on the Disabled (CDBG)	\$25,000	\$25,000	\$0	\$0	\$0
Other Economic Development Subtotal:	\$1,270,000	\$1,270,000	\$0	\$0	\$0
TOTAL ECONOMIC DEVELOPMENT:	\$3,020,000	\$3,020,000	\$0	\$0	\$0
<i>Historic Preservation (Citywide):</i>					
Planning for Preservation To be determined (CDBG)	\$60,000	\$60,000	\$0	\$0	\$0
TOTAL HISTORIC PRESERVATION:	\$60,000	\$60,000	\$0	\$0	\$0
Housing (Citywide):					
<i>Low/Mod Homeowner Assistance Program (Citywide):</i>					
Consolidated Homebuyer Assistance Program Community Development Administration (HOME/ADDI)	\$0	\$0	\$0	\$0	\$0
Senior Home Security Home Services, Inc. (CDBG)	\$600,000	\$600,000	\$0	\$0	\$0
Low/Mod Homeowner Assistance (Citywide) Subtotal:	\$600,000	\$600,000	\$0	\$0	\$0
<i>Housing Production/Acquisition (Citywide):</i>					
City-Wide Housing Development Acquisition Pool Land Reutilization Authority (CDBG)	\$0	\$0	\$0	\$0	\$0
Citywide Housing Development/Acquisition Pool Community Development Administration (CDBG)	\$0	\$0	\$0	\$0	\$0
Housing Production/Acquisition (Citywide) Subtotal:	\$0	\$0	\$0	\$0	\$0
TOTAL HOUSING (Citywide):	\$600,000	\$600,000	\$0	\$0	\$0
<i>Section 108 Loan Repayment:</i>					
Section 108 Loan Repayment Community Development Administration (CDBG)	\$1,731,473	\$1,731,473	\$0	\$0	\$0
TOTAL SECTION 108 LOAN REPAYMENT:	\$1,731,473	\$1,731,473	\$0	\$0	\$0

Board Bill 216
October 16, 2009

EXHIBIT A
COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAMS
2010 BUDGET

A-6

PROGRAM/OPERATING AGENCY	TOTAL AMOUNT	CDBG AMOUNT	HOME AMOUNT	ADDI AMOUNT	UDAG AMOUNT
<i>Rehabilitation Administration:</i>					
CDA Rehabilitation Administration Community Development Administration (CDBG/HOME)	\$1,092,000	\$752,000	\$340,000	\$0	\$0
TOTAL REHABILITATION ADMINISTRATION:	\$1,092,000	\$752,000	\$340,000	\$0	\$0
<i>Planning and Administration (Citywide):</i>					
CDA Administration Community Development Administration (CDBG/HOME)	\$1,527,780	\$1,402,839	\$124,941	\$0	
Federal Grants Administrative Support Office of the Comptroller - Federal Grants Section (CDBG)	\$338,000	\$338,000	\$0	\$0	
Internal Audit Fiscal Monitoring Administrative Support Office of the Comptroller - Internal Audit Section (CDBG)	\$124,160	\$124,160	\$0	\$0	
Legal Services Support Program City Counselor's Office (CDBG)	\$260,000	\$260,000	\$0	\$0	
Capacity Development/Assistance for Minority Contractors To be determined (CDBG)	\$135,000	\$135,000	\$0	\$0	
PDA Administration Planning and Urban Design Agency (CDBG)	\$1,570,000	\$1,570,000	\$0	\$0	\$0
SLDC Administration St. Louis Development Corporation (CDBG)	\$530,000	\$530,000	\$0	\$0	\$0
TOTAL PLANNING & ADMINISTRATION:	\$4,484,940	\$4,359,999	\$124,941	\$0	\$0
TOTAL BUDGET:	\$26,449,716	\$21,800,299	\$4,649,417	\$0	\$0

Approved: November 6, 2009

ORDINANCE #68481
Board Bill No. 46
Floor Substitute

An ordinance relating to smoking; defining, applicability to city-owned facilities, prohibiting, regulating the act of smoking, where not regulating smoking, declaration of establishment as nonsmoking, posting of signs, nonretaliation and enforcement; and containing a penalty clause, severability clause, effective date and an elimination of exception..

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

WHEREAS, the St. Louis Board of Aldermen does hereby find that the protection of the public health in the City of St. Louis will be greatly enhanced by promoting a smoke free city through the elimination of the presence of secondhand smoke in public places and in the workplace; and

SECTION ONE. Title

This ordinance shall be known as the St. Louis City Smoke Free Air Act of 2009.

SECTION TWO. Definitions.

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this Section:

1. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
2. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs located in the City of St. Louis.
3. "Casino gaming area" means the area of a state-licensed gambling facility where gaming is allowed for those 21 years of age or older, including any VIP lounge, accessible only through the game floor, whether or not gaming is allowed in the VIP lounge.
3. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
4. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity located in the City of St. Louis that employs the services of one or more individual persons.
5. "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
6. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
7. "Place of Employment" means an area under the control of a public or private employer in the City of St. Louis that employees normally frequent during the course of employment, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
8. "Private Club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.
9. "Public Place" means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private club is a "public place" when being used for a function to which the general public is invited. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.
10. "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
11. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
12. "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

13. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe in any manner or in any form.

14. "Sports Arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

15. "Retail Tobacco Store" means a retail store used primarily for the sale of smoking materials and where more than fifty percent (50%) of the volume of trade or business carried on is that of the blending of tobaccos or sales of tobaccos, cigarettes, pipes, cigars or smoking sundries and in which the sale of other products is incidental and where smoking is permitted within the public place.

SECTION THREE. Application of Ordinance to City-Owned Facilities.

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the City of St. Louis, shall be subject to the provisions of this Ordinance.

SECTION FOUR. Prohibitions of Smoking in Enclosed Public Places.

Smoking shall be prohibited in all enclosed public places within the City of St. Louis, including but not limited to, the following places:

1. Aquariums, galleries, libraries, and museums.
2. Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.
3. Bars, except where smoking is not regulated as defined in Section Seven.
4. Bingo facilities.
5. Child care and adult day care facilities.
6. Convention facilities.
7. Educational facilities, both public and private.
8. Elevators.
9. Gaming facilities, except casino gaming areas as outlined in Section Seven.
10. Health care facilities.
11. Hotels and motels.
12. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
13. Polling places.
14. Private clubs when being used for a function to which the general public is invited.
15. Public transportation vehicles, including buses and taxicabs, under the authority of the City of St. Louis, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
16. Restaurants.
17. Restrooms, lobbies, reception areas, hallways, and other common-use areas.

18. Retail stores.
19. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City of St. Louis or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City of St. Louis.
20. Service lines.
21. Shopping malls.
22. Sports arenas, including enclosed places in outdoor arenas.
23. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

SECTION FIVE. Prohibition of Smoking in Places of Employment

1. Smoking shall be prohibited in all enclosed facilities within places of employment in the City of St. Louis except where smoking is not regulated as defined in Section Seven. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
2. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Ordinance and to all prospective employees upon their application for employment.

SECTION SIX. Prohibition of Smoking in Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

1. All private and semi-private rooms in nursing homes.
2. At least eighty percent (80%) of hotel and motel rooms that are rented to guests.

SECTION SEVEN. Where Smoking Not Regulated

Notwithstanding any other provision of this Ordinance to the contrary, the following areas shall be exempt from the provisions of Sections Four and Five:

1. Private residences, except when used as a licensed childcare, licensed adult day care, or licensed health care facility.
2. Not more than twenty percent (20%) of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
3. Private clubs that have no employees, except when being used for a function to which the general public is invited; provided that smoke from such clubs does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance. This exemption shall not apply to any organization that is established for the purpose of avoiding compliance with this Ordinance.
4. Outdoor areas of places of employment.
5. Tobacco retail stores as defined by this Ordinance.
6. Casino gaming areas as defined by this Ordinance.
7. Bars in existence on the effective date of this ordinance in which only persons aged twenty one (21) years old or older are permitted to enter the premises, the square footage of the entire floor area of the level of the building on which the bar establishment is located is two thousand (2000) square feet or less. The square footage shall not include kitchen areas, storage areas and bathrooms. The bar shall prominently displays outside of the premises at each entrance and above the bar the following sign in lettering that is

black bold Arial font at (ninety-eight) 98 point size: "WARNING : SMOKING ALLOWED HERE". This exemption for bars shall expire five (5) years after the effective date of this ordinance.

SECTION EIGHT. Declaration of Establishment as Nonsmoking

Notwithstanding any other provision of this Ordinance, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section Nine is posted.

SECTION NINE. Posting of Signs

1. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Ordinance, by the owner, operator, manager, or other person in control of that place.
2. Every public place and place of employment where smoking is prohibited by this Ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited. Every vehicle that constitutes a place of employment under this Ordinance shall have at least one conspicuous sign, visible from the exterior of the vehicle, clearly stating that smoking is prohibited.
3. All ashtrays shall be removed from any area where smoking is prohibited by this Ordinance by the owner, operator, manager, or other person having control of the area.

SECTION TEN. Nonretaliation; Nonwaiver of Rights

1. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Ordinance or reports or attempts to prosecute a violation of this Ordinance. Violation of this Section shall be a misdemeanor, punishable by a fine not to exceed \$500 for each violation.
2. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

SECTION ELEVEN. Enforcement

1. This Ordinance shall be enforced by the Department of Health or an authorized designee.
2. Notice of the provisions of this Ordinance shall be given to all applicants for a business license in the City of St. Louis.
3. Any citizen who desires to register a complaint under this Ordinance may initiate enforcement with the Department of Health.
4. The Health Department, Fire Department, or Building Division or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Ordinance.
5. An owner, manager, operator, or employee of an establishment regulated by this Ordinance shall inform persons violating this Ordinance of the appropriate provisions thereof.
6. Notwithstanding any other provision of this Ordinance, an employee or private citizen may bring legal action to enforce this Ordinance.
7. In addition to the remedies provided by the provisions of this Section, the Department of Health or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Ordinance may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

SECTION TWELVE. Penalty for Violation.

1. A person who smokes in an area where smoking is prohibited by the provisions of this Ordinance shall be guilty of an

infraction, punishable by a fine not exceeding fifty dollars (\$50).

2. Except as otherwise provided in Section Ten (1), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Ordinance shall be guilty of an infraction, punishable by:

- A. A fine not exceeding one hundred dollars (\$100) for a first violation.
- B. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
- C. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

3. In addition to the fines established by this Ordinance, violation of this Ordinance by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

4. Violation of this Ordinance is hereby declared to be a public nuisance, which may be abated by the Department of Health by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City may take action to recover the costs of the nuisance abatement.

5. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.

SECTION THIRTEEN. Other Applicable Laws

This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

SECTION FOURTEEN. Severability Clause.

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

SECTION FIFTEEN. Effective Date

This Ordinance shall be effective on such date that the Saint Louis County enacts Smoke Free Air legislation, or on January 1, 2011, whichever date is later.

SECTION SIXTEEN. Elimination of Exemption.

In the event that St. Louis County, and St. Charles County or the City of St. Charles, or the State of Missouri pass ordinances prohibiting smoking in casino gaming areas, the exemption to the smoking regulation contained in Section Seven herein shall be rescinded. Provided, however, that if and when smoking is allowed in casino gaming areas in either Madison or St. Clair Counties, in Illinois, the exemption to the smoking regulation contained in Section Seven herein shall be allowed.

Approved: November 9, 2009

ORDINANCE #68482 Board Bill No. 206

An Ordinance directing the Director of Streets to temporarily close, barricade, or otherwise impede the flow of traffic on Maffitt Avenue at the east curb line of Sarah Street and containing an emergency clause.

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

SECTION ONE. The Director of Streets is hereby authorized to temporarily close, barricade, or otherwise impede the flow of traffic Maffitt Avenue at the east curb line of Sarah Street for a period of six months beginning the effective date of the passage of this ordinance.

SECTION TWO: EMERGENCY CLAUSE: This being an Ordinance for the preservation of public peace, health, and

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

Approved: November 9, 2009

**ORDINANCE #68483
Board Bill No. 207**

An Ordinance directing the Director of Streets to temporarily close, barricade, or otherwise impede the flow of traffic on Cabanne Avenue at the east line of library parking lot east of Union Boulevard and containing an emergency clause.

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

SECTION ONE. The Director of Streets is hereby authorized to temporarily close, barricade, or otherwise impede the flow of traffic on Cabanne Avenue at the east line of library parking lot east of Union Boulevard for a period of six months beginning the effective date of the passage of this ordinance.

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

Approved: November 9, 2009