

ORDINANCE #65940
Board Bill No. 102

An Ordinance recommended by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City the "First Amendment To The Lambert-St. Louis International Airport (the "Airport") Agency Agreement (Advertising)" (hereinafter referred to as the "First Amendment") to the Airport Agency Agreement for Advertising (AL-290) between the City and The Directory Graphics, L.L.C., a Missouri Limited Liability Company, dated August 10, 1998, and authorized by City Ordinance No. 64385, approved June 25, 1998 (the "Agreement"); the First Amendment to the Agreement, which is attached hereto as **ATTACHMENT "1"** and made a part hereof, was approved by the City's Airport Commission, and its terms are more fully described in Section One of this Ordinance; providing that the provisions set forth in this Ordinance shall be applicable exclusively to the Agreement as amended by the First Amendment; containing a severability clause; and containing an emergency clause.

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

SECTION ONE. The Director of Airports and the Comptroller of the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City the "First Amendment To The Lambert-St. Louis International Airport (the "Airport") Agency Agreement (Advertising)" (hereinafter referred to as the "First Amendment") to the Airport Agency Agreement for Advertising (AL-290) between the City and The Directory Graphics, L.L.C., a Missouri Limited Liability Company, dated August 10, 1998, and authorized by City Ordinance No. 64385, approved June 25, 1998 (the "Agreement"); the First Amendment to the Agreement, which was approved by the City's Airport Commission, is to read in words and figures as set out in **ATTACHMENT "1"** and is attached hereto and made a part hereof.

SECTION TWO. The terms, covenants, and conditions set forth in this Ordinance shall be applicable exclusively to the Agreement as amended by the First Amendment and shall not be applicable to any other existing or future agreements, documents, or instruments unless specifically authorized by an ordinance 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, 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 FOUR. This being an Ordinance for the preservation of public peace, health, or safety, it is hereby declared to be an emergency measure as defined in Article IV, Section 20 of the City Charter and shall become effective immediately upon its approval by the Mayor of the City.

ATTACHMENT "1"

AIRPORT NUMBER.....

**FIRST AMENDMENT
TO
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT
AGENCY AGREEMENT
(ADVERTISING)**

THIS FIRST AMENDMENT, entered into this _____ day of _____, 2003, by and between the CITY OF ST. LOUIS, a municipal corporation of the State of Missouri ("City"), and THE DIRECTORY GRAPHICS, L.L.C. ("Agent"), a Missouri Limited Liability Company, hereinafter the "**First Amendment**".

WITNESSETH THAT:

WHEREAS, City and Agent are parties to an Agency Agreement for Advertising dated August 10, 1998 ("**Agreement**") authorized by Ordinance 64385, approved June 25, 1998; and,

WHEREAS, the parties desire to revise certain terms and conditions of the Agreement to provide for the design,

manufacture, installation and maintenance of Customer Service Directories by Concessionaire, extend the term for amortization of these costs, and increase the Gross Revenue Percentage Fee.

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

- 1. Section 101. Definitions. The following Definitions are added or substituted as stated:

The Definition for "Contract Year" is deleted in its entirety and the following is substituted:

"Contract Year" shall mean one of ten (10) consecutive twelve month periods commencing August 1, 1998, exclusive of the interim holdover period commencing July 31, 2003 and ending upon installation of the Customer Service Directories.

The Definition for "Customer Service Directories" is inserted as follows:

"Customer Service Directories" shall mean those Airport owned terminal directory fixtures that serve Airport users by easily identifying and locating concessions.

The Definition for "Directories" is hereby deleted in its entirety and the following is substituted:

"Directories" shall mean those Airport owned terminal way-finding directory fixtures that serve Airport users in locating Airport facilities.

The Definition for "Gross Revenue" shall be amended to add the following exclusion:

"- payment for services performed in the routine maintenance of Customer Service Directories and Directories."

- 2. Section 201. Premises. Effective upon the execution of this First Amendment, the City and Agent agree that Exhibit "A", which is referred to in Section 201 of the Agreement and describes the Premises under the Agreement, is hereby deleted and substituted in its place is the revised Exhibit "A". The Director, on behalf of the City and Agent, shall in good faith finalize and attach a copy of the revised Exhibit "A" to this First Amendment and the Agreement.

- 3. Section 301. Rights. is hereby deleted in its entirety and the following is substituted:

City hereby grants to Agent, subject to and in accordance with all of the terms, covenants and conditions of this Agreement, the non-exclusive right, license and privilege to operate Reservation Centers and maintain the Airport owned Directories and Customer Service Directories within the Premises. Agent is not granted the right to offer for sale any other services or products. City does not envision, during the term hereof, to grant Advertising Agency rights to any other entity that would be in direct competition with Agent.

- 4. Section 401. Term. is hereby deleted in its entirety and the following is substituted:

The original term of this Agreement consists of five (5) years commencing on August 1, 1998 and ending on July 31, 2003, unless sooner terminated in accordance with other provisions of the Agreement.

The Agreement is hereby extended for a period of five (5) years following completion of installation of the Customer Service Directories, unless sooner terminated in accordance with other provisions of the Agreement. Upon determination, the commencement and expiration dates for this five (5) year extension period shall be written in the spaces below.

Commencement Date _____

Expiration Date _____

- 5. Section 502. Agency Fees. is hereby deleted in its entirety and the following is substituted:

Agent agrees to pay, for each Contract Year, a sum equal to the greater of the Minimum Annual Guarantee or the Gross Revenue Percentage Fee (Gross Revenue multiplied by the Percentage set out below).

<u>Contract Years</u>	<u>Minimum Annual Guarantees</u>	<u>Percentage</u>
Contract Year One	\$ 240,000.00	57%
Contract Year Two	\$ 240,000.00	57%
Contract Year Three	\$ 240,000.00	57%
Contract Year Four	\$ 240,000.00	57%
Contract Year Five	\$ 240,000.00	57%
Contract Year Six	\$ 240,000.00	60%
Contract Year Seven	\$ 240,000.00	60%
Contract Year Eight	\$ 240,000.00	60%
Contract Year Nine	\$ 240,000.00	60%
Contract Year Ten	\$ 240,000.00	60%

6. Section 610. Operation (A) is hereby deleted in its entirety and the following is substituted:

- A. Agent shall be responsible for all aspects of the management and operation of this Agency Agreement. Agent shall regularly monitor all Reservations Centers, Directories, and Customer Service Directories to insure that they are in like new condition, operating properly, and contain up-to-date information. Further, Agent will provide and is responsible for all employees and necessary components of the operation, including inventory, fixtures, equipment and supplies.

Any modification to the existing Directories or to the Customer Service Directories after initial installation will be charged to the Tenant necessitating the change. Agent shall provide a schedule of fees for such modifications, for approval by the Director, within 30 days of installation completion.

7. Section 701. Construction by Agent is hereby deleted in its entirety and the following is substituted:

- A. Agent takes the Premises "as is" and shall, at Agent's sole cost and expense, renovate the Premises in accordance with plans prepared by Agent and approved by the Director subject to the requirements of this Article VII.
- B. Agent shall renovate existing Reservation Centers and Directories as required by the Director. The renovations shall include but not be limited to:
1. Install new telephone systems for the Reservation Centers by 12/31/2002.
 2. Bring all Main Terminal Reservation Centers up to ADA standards to include, but not limited to Braille lettering, handicapped accessibility and TDD access by 12/31/2002.
 3. Completely renovate Main Terminal Reservation Centers to include replacement of finishes and up to date and innovative design by 12/31/2002.
 4. Renovate all Airport owned Directories to include new stainless steel frames and new Plexiglas faces by 12/31/2000. Agent shall not be required to renovate any directories purchased for installation in the new East Terminal.

The total cost of these improvements shall be a minimum of \$120,000.00. All equipment and installation shall be approved by the Director.

- C. Agent agrees to efficiently manage and perform the design, manufacture, installation and maintenance of Customer Service Directories throughout the Airport, according to the following procedures:
1. In accordance with a Letter of Understanding dated March 20, 2002, by and between City and Agent, Agent has employed a design firm and a manufacturer to design and build a prototype Customer Service Directory, which will be presented to the Airport Commission, upon completion and

acceptance by the Airport Properties Department. The Airport Properties Department will recommend the Airport Commission approve the design of the Customer Service Directory, and the installation of same at selected locations throughout the Airport.

2. Upon Airport Commission approval to proceed with manufacture and installation, Agent will contract for the manufacture and installation of approximately twenty Customer Service Directories at sites determined by the Airport Properties Department. Installation must be complete 180 days following receipt of the Airport Properties Tenant Construction or Alteration Approval letter.
3. Agent shall provide to City for approval, a pricing structure defining proposed charges to Airport Tenants for any required changes or updates to the Customer Services Directories.

Agent agrees to invest \$240,000.00 (Two Hundred and Forty Thousand Dollars) for the design, manufacture, and installation of the Customer Service Directories. Agent shall furnish the Director with satisfactory evidence of the costs associated with the design, manufacture and installation within sixty (60) days following completion of installation. This evidence must include, at a minimum, an itemized account of all included costs, supported by invoices and other proof of payment including, without limitation, canceled checks and/or lien waivers, and all such costs must be certified as accurate by an independent Certified Public Accountant. The Agent shall provide to the Director any other evidence as requested in writing. The Agent is hereby obliged by City to productively spend the entire amount of \$240,000.00 (Two Hundred and Forty Thousand Dollars) in the costs of the design, manufacture and installation of the Customer Service Directories.

- D. Agent 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.
- Agent shall submit a signed Tenant Construction or Alteration Application (TCA) including complete construction drawings and specifications, as required by Section 702, to the Airport Properties Department.
 - Agent 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 the TCA can be approved.)
 - Agent shall submit the contractor's liability insurance certificates and Performance and Payment Bonds, required by Sections 704 and 705, to the Airport Properties Department not more than 45 days following the TCA approval by the Airport Properties Department and prior to beginning of work.
 - Agent shall submit a certificate of completion to the Airport Properties Department, as required by Section 706, not more than 60 days following completion of the work.

8. Section 802. Repairs and Maintenance. (B) is hereby deleted in its entirety and the following is substituted:

Perform all maintenance and repair of the Reservation Centers, Directories, and Customer Service Directories.

9. Section 1201. Compliance. (D) is hereby deleted in its entirety and the following substituted:

Agent shall operate its Reservation Centers, Directories, and Customer Service Directories services 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, and the St. Louis Airport Authority DBE Program. Agent shall also comply with any City of St. Louis executive order, resolution or ordinance 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, City shall have the right to terminate this Agreement and to re-enter and repossess the Premises thereon and hold the same as if this Agreement had never been made or issued.

10. All other terms and conditions of the Agreement not inconsistent with this First Amendment are unchanged and shall remain in full force and effect.

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

successors and assigns.

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

AGENT

ATTEST

Title: _____

Title: _____

Date: _____

Date: _____

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

The foregoing Amendment to Agreement was approved by the Airport Commission at its meeting on _____, 2003.

Commission Chairman and Director of Airports

Date _____

The foregoing Amendment was approved by the Board of Estimate and Apportionment at its meeting on _____, 2003.

Secretary, Board of Estimate and Apportionment

Date: _____

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

City Counselor, City of St. Louis

Comptroller, City of St. Louis

Date _____

Date: _____

ATTESTED TO BY:

Register, City of St. Louis

Date: _____

Approved: July 15, 2003