

St. Louis City Ordinance 62497

FLOOR SUBSTITUTE

BOARD BILL NO. [91] 129

INTRODUCED BY ALDERMAN DANIEL MCGUIRE

An ordinance pertaining to Forest Park; authorizing and directing the execution of a lease reviewed and recommended by the Board of Public Service and approved by the City Counselor as to form and as consistent except as expressly noted with Ordinance 59741 of 22.297 acres of land more or less, situated next to the Art Museum in Forest Park, to the Art Museum Subdistrict of the Metropolitan Zoological Park and Museum District of the City of St. Louis and County of St. Louis for an initial period of sixty years; repealing Ordinance 56165 pertaining to parking restrictions and permits for certain parking lots near the Art Museum; repealing Section 149.030 of Ordinance 55072 pertaining to a former Art Museum property tax levy.

WHEREAS, Article XIV of the City Charter authorizes that provisions may be made in accordance with law or ordinance for an Art Museum; and

WHEREAS, Ordinance 19969, approved March 13, 1900, authorized the erection of a city owned building in Forest Park which, "together with the site upon which it is located, shall be devoted to the use of this institution forever for the exhibition of pictures and sculpture and such other means as are usual in such institution for the education of the public in art...to be open free to the public" as often as the financial condition of the institution will permit; and

WHEREAS, in 1904 a building for these purposes was erected by the Louisiana Purchase Exposition Company on Art Hill in Forest Park and eventually presented to the City by said Exposition Company; and

WHEREAS, under authority of the Act of the General Assembly of the State of Missouri approved March 7, 1907 (Laws of Missouri 1907, p.94): the voters of the City of St. Louis at an election on April 2, 1907 approved a "mill-tax" for the establishment, maintenance or extension of a Museum of Art to be "forever free to the use of the inhabitants of the City," pursuant to Ordinance 22903, approved March 19, 1907; the mayor appointed an administrative board of the Art Museum; and Ordinance 26430, approved May 25, 1912, abolished the previous board of control of the City Art Museum established by Ordinance 24195, approved February 23, 1908 as amended by Ordinance 24524, approved July 6, 1909 and directed said board of control to transfer and deliver property

in its possession or under its control belonging to the City to the thereby established City Art Museum administrative board; and

WHEREAS, until January 1, 1972 the City Art Museum facilities in Forest Park were: operated by said administrative board of control pursuant to then Sections 184.020 et seq. of the Revised Statutes of Missouri; expanded, remodeled, repaired and improved by the sale of bonds by the City of St. Louis; and tax supported only by property owners of the City of St. Louis; and

WHEREAS, the Art Museum Subdistrict is successor to said administrative board of control having been duly constituted a subdistrict of the Metropolitan Zoological Park and Museum District of the City of St. Louis and County of St. Louis as of January 1, 1972, pursuant to votes of the qualified voters of the City and County of St. Louis at an election April 6, 1971, pursuant to Section 184.350 of the Revised Statutes of Missouri; and

WHEREAS, the Art Museum Subdistrict has improved the Art Museum facilities in Forest Park; and

WHEREAS, pursuant to Section 184.362 of the Revised Statutes of Missouri, it is provided that the Art Museum facilities shall be forever free and open to the public; and

WHEREAS, the Art Museum Subdistrict desires to improve its existing building and facilities and to expand and make improvements upon the property adjacent to its existing facilities as an integral part of the operations of the Art Museum Subdistrict; and

WHEREAS, the Board of Aldermen finds that it is in the best interest of the City of St. Louis and the Art Museum Subdistrict to authorize and direct the Mayor and the Comptroller to execute and enter into a lease of an area adjacent to the Art Museum in Forest Park to the Art Museum Subdistrict, as hereinafter provided.

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

SECTION ONE. The Mayor and the Comptroller of the City of St. Louis shall be and hereby are authorized and directed to enter into the following Lease with the Art Museum Subdistrict of the Metropolitan Zoological Park and Museum District of the City of St. Louis and County of St. Louis of 22.297 acres of land, more or less, in Forest Park, as described in such Lease, for

purposes as set forth in such Lease, which is hereby made a part of this ordinance; and shall be in the following form, to wit:

LEASE

This Lease ("this Lease"), made and entered into this day of , 199 (the "Date of this Lease") between the City of St. Louis, Missouri (the "City") and the Art Museum Subdistrict of the Metropolitan Zoological Park and Museum District of the City of St. Louis and County of St. Louis (the "Subdistrict") witnesses that:

WHEREAS, the Mayor and Comptroller of the City, acting for and on behalf of the City pursuant to the City Charter and Ordinance (B.B. 129) have been authorized and directed to lease to the Subdistrict 22.297 acres, more or less, of land situated in Forest Park described in Exhibit A and depicted in Exhibit B hereto, subject to and in accordance with the terms, covenants and conditions set forth in this Lease; and

WHEREAS, this Lease has been reviewed and favorably recommended in writing by the Board of Public Service, and approved by the City Counselor as to form and as in all respects consistent with Ordinance 59741, except as otherwise expressly noted herein, prior to the adoption of Ordinance (B.B.# 129); and

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

WHEREAS, Section 5.f. of Ordinance 59741 to the contrary notwithstanding, the City's Heritage and Urban Design Ordinance is by its terms inapplicable to property controlled by the Art Museum Board of Control to which the Subdistrict is the successor;

NOW, THEREFORE, in consideration of the premises and of the mutual promises, undertakings and agreements hereinafter set forth, the parties hereto agree as follows:

1. LEASED PREMISES. The City hereby leases, lets and rents to Page 4 of 31. the Subdistrict and the Subdistrict hereby leases, rents and hires from the City, subject to all the provisions of this Lease, that certain tract of land ("the Leased

Premises") described in Exhibit A and depicted on Exhibit B hereto, which are incorporated herein by this reference.

2. TERM. The initial term of this Lease shall be sixty (60) years from the Date of this Lease. Section 5.e. of Ordinance 59741 to the contrary notwithstanding, at the end of the initial term, and at the end of each subsequent renewal term, this Lease shall automatically be renewed, forever, upon the same terms and conditions hereof, for successive renewal terms of twenty (20) years each unless the Subdistrict shall give written notice to the City at least one year prior to the expiration of such initial or renewal term of its election not to renew the term of this Lease; provided, however that the Subdistrict shall continue to use the Leased Premises for Subdistrict purposes as required under Section 4.

3. RENT. As and for rent throughout the initial term and any renewal term hereof, the Subdistrict shall pay to the City rent in the amount of One Dollar (\$1.00) per year, the receipt of such payment for the entire initial term hereof is hereby acknowledged by the City. Such payment shall be held by the Comptroller in the Special Park Fund created by Ordinance 51336 for use pursuant to that Ordinance. As and for additional rent, the Subdistrict shall, at its sole cost and expense, when and as required by Section 21:

a. Improve the Leased Premises in a manner substantially consistent with the plan described and depicted in Exhibit C, which is incorporated herein by this reference, pursuant to plans and specifications approved by the City's Board of Public Service in writing, such approval not Page 5 of 31. to be unreasonably withheld, including but not limited to, construction of a pedestrian plaza adjacent to the north facade of the Art Museum building, construction of promenades and overlooks on the crest of Art Hill, relocation and improvement of the parking facilities at the east and west sides of Art Hill, removal of an existing gravel parking area east of the Art Museum, removal of an existing connector road east of the Art Museum between Fine Arts Drive and the existing south parking facility, construction of two (2) new connector roads between Valley Drive and Fine Arts Drive, and enhancement and improvement of the landscape environment of the Leased Premises (the "Development");

b. Remove and restore for park purposes certain roads in the area near the Leased Premises in order to promote the development of open space in Forest Park pursuant to plans and specifications approved by the City's Board of Public Service in writing, to wit: Fine Arts and Valley Drives between the west curb line of Government Drive to the east curb line of the proposed east connector road; and Government Drive between the east curb line of Valley Drive at its western intersection with Government Drive to the northern

prolongation of the St. Louis Zoological Park's western boundary line, provided that the Subdistrict shall not be required to expend for such removal and restoration of said portion of Fine Arts Drive more than the sum of seventy five thousand dollars (\$75,000) adjusted for changes in the Consumer Price Index accruing after the Date of this Lease, and further provided that the Subdistrict shall not be required to expend for such removal and restoration of said portion of Government Drive more than the sum of one hundred eighty thousand dollars (\$180,000) adjusted for changes in the Consumer Price Index accruing after the Date of this Lease. Upon acceptance of the restored park area, the City shall be solely responsible for all maintenance, repair and expenses associated with said restored park area.

c. Relocate and improve that portion of the existing bicycle path affected by the proposed development of the Leased Premises prior to the removal or closing of any portion of said bicycle path, and pursuant to plans and specifications approved by the City's Board of Public Service in writing, such approval not to be unreasonably withheld. That part of the bicycle path south of the proposed south parking facility shall be relocated between said south parking facility and the existing wooded area with continuous canopy and understory, and in no event shall encroach upon the existing drip line of said wooded area. Upon acceptance of the relocated bicycle path, the City shall be solely responsible for all maintenance, repair and expenses associated with said relocated bicycle path.

d. Maintain and preserve the City owned Statue of the Apotheosis of Saint Louis and its pedestal located north of the Art Museum building.

4. USE. The Leased Premises shall be held and maintained by the Subdistrict solely for the use and benefit of the citizens of the Subdistrict and the public generally for Subdistrict purposes only, as provided in Section 184.352.(1) RSMo, or for the purposes of collection and exhibition of pictures, statuary and other works of art and whatever else may be of artistic interest and appropriate for exhibition in an art gallery or museum for instruction in art and in general for the promotion by all proper means of aesthetic or artistic education, whichever is more restrictive, as well as, parking, bookstore, gift shop, concession, restaurant, food service or other Page 7 of 31. facilities ancillary thereto.

5. OPERATION OF LEASED PREMISES.

a. Any structure, work of art, fence, fixture, roadway or facility constructed, erected or renovated pursuant to this Lease shall be and remain the property of

the Subdistrict. Upon removal of any structure, work of art, fence, fixture, roadway or facility constructed, erected or renovated pursuant to this Lease, the surface of the Leased Premises shall be restored for park purposes at the expense of the Subdistrict, pursuant to specifications approved by the City's Board of Public Service in writing, such approval not to be unreasonably withheld.

b. In no event shall any tree or trees not approved for removal as provided in Exhibit C be removed without prior written approval of the City's Director of Parks, Recreation and Forestry.

c. In no event shall any vehicular parking or vehicular parking facility be allowed, constructed or maintained within the Leased Premises except as provided in Exhibit C hereof.

d. The Subdistrict at any time during the term of this Lease shall have the right to erect works of art upon the Leased Premises and to construct upon the Leased Premises additional wings or other structures to the east and west of the original Art Museum building, for Art Museum purposes, subject only to the provisions of Section 16 hereof; provided however, that prior to the approval of any such permit by the City's Board of Public Service, that an architectural peer review committee, convened jointly by the President of the St. Louis Chapter of the American Institute of Architects and the Dean of the School of Architecture of Washington University or, if one or both of these persons is unwilling or unable to act, then by the Mayor of the City, has reviewed and commented upon any future proposals for such construction of additional wings or other structures.

e. Except as described or provided for in Exhibit C or in Section 5.d., no construction or improvements of any kind shall be built on the Leased Premises by Lessee.

f. The Subdistrict shall not have the right to exclude others from those areas of the Leased Premises listed below:

(i) Valley Drive;

(ii) The proposed two (2) connector roads between Valley Drive and Fine Arts Drive;

(iii) Fine Arts Drive, west of the east curb line of the entrance to the relocated parking facility at the west side of Art Hill at its intersection with Fine Arts Drive; and

(iv) That portion of the Leased Premises north of the north curb line of Fine Arts Drive, except for the plaza area consisting of approximately 6,100 square feet more or less surrounding the statue of the Apotheosis of Saint Louis as shown in Exhibit C and the relocated parking facility at the east side of Art Hill.

6. LIABILITY INSURANCE. During the term of this agreement, the Subdistrict shall at no cost or expense to the City, maintain public liability insurance, naming the City as an assured on forms and with companies satisfactory to the City, against claims for personal injury, death, or property damage occurring upon, in, or about the Leased Premises. Such insurance shall afford protection to the limits of not less than \$300,000 in respect to injury to or death of a single person, not less than \$1,000,000 in Page 9 of 31. respect to any single occurrence, and not less than \$100,000 in respect to property damage for any single occurrence. The policies for such insurance may be for the mutual benefit of the Subdistrict and the City, or for the benefit of the City alone.

The coverage amounts required under this Section shall be subject to review during every tenth calendar year ("review year") after the Date of this Lease, beginning in 2001. Such reviews shall be conducted as follows. If the City's Comptroller does not notify the Subdistrict by February 15 of the review year that a review is required, no review shall occur. If by such date the Comptroller notifies the Subdistrict that a review is required, he shall in such notification designate a person (who may or may not be a City employee) to act as his representative for purposes of the review. Thereafter the Subdistrict may within thirty (30) days designate a person as its representative for purposes of the review and notify the Comptroller of the designation.

The representatives of the City and Subdistrict shall endeavor to agree on appropriate coverage amounts. If they have not done so by May 15, they shall by June 1 jointly appoint an insurance broker doing business in the City to determine appropriate coverage amounts. If they cannot agree on such a broker, they may each nominate one such broker and choose one of their nominees by lot. If either of them fails to nominate such a broker, the other may do so. The broker so selected may determine appropriate coverage amounts which shall be applicable until the next review year.

At any time the Subdistrict may propose to the City, and the Comptroller may agree on behalf of the City, to appropriate alternative means of meeting the Subdistrict's obligations under this Section, including, for example, self insurance or cash deposits of the coverage amounts.

If at any time any of the insurance policies required by this Section 6 shall be or become unsatisfactory to the City, as to form or substance or issuer, the Subdistrict shall, upon notice to that effect from the City, promptly obtain a new policy, and submit the same for approval to the City's Comptroller, provided, however, that within ten days of receipt of notice to such effect from the City, the Subdistrict may notify the City that it disputes the content of such notice. In that event, such issue shall be resolved within 45 days by a panel consisting of the City's Comptroller or his designee, a designee of the Subdistrict, and an insurance broker doing business in the Metropolitan Saint Louis Area jointly selected by the City's designee and the Subdistrict's designee within 10 days after the Subdistrict's notice under this paragraph.

Copies of certificates of all such policies of insurance (or the renewals thereof) showing the City as a "named insured" shall be maintained on file at all times with the City's Comptroller, accompanied by evidence that the premiums thereon have been paid.

All policies of insurance issued pursuant to this Section shall contain an agreement by the insurer that such policies shall not be cancelled without at least thirty (30) days prior written notice to the City.

7. RESPONSIBILITY.

a. Except as provided in section 7.b., the maintenance of all grass, trees, shrubbery and other landscaping from time to time on the Leased Premises, shall be effected by or at the expense of the Subdistrict and all buildings, structures, works of art, fences, fixtures, roadways, parking and other facilities and all other improvements erected within the Leased Premises pursuant to this Lease shall be properly maintained and kept in good repair by the Subdistrict. The Subdistrict shall be solely responsible for all expenses and costs related to the Leased Premises (including solely by way of example and not by way of limitation, snow removal), except as provided in Section 7.b., and agrees to indemnify and hold the City harmless from any and all claims, costs, expenses, damages, judgments, or liabilities of any kind whatever asserted, incurred, rendered or arising by reason of any event or omission (other than negligent or deliberate acts or omissions of the City, its employees, or its agents) occurring on or after the Date of this Lease with respect to the Leased Premises. No City

funds shall be appropriated for any maintenance, expenses and costs related to the Leased Premises.

b. Upon acceptance of the reconstructed streets, roadways and parking facilities listed below, the City shall be solely responsible for all maintenance, repair, and other expenses associated with all such streets, roadways and parking facilities within the Leased Premises, including maintaining, repairing and supplying electricity to existing and additional standard street lighting, to wit:

(i) Valley Drive;

(ii) the proposed two (2) connector roads between Valley Drive and Fine Arts Drive;

(iii) Fine Arts Drive, west of the east curb line of the entrance to the relocated parking facility at the west side of Art Hill at its intersection with Fine Arts Drive; and

(iv) the relocated parking facility at the west side of Art Hill, north of the north curb line of Fine Arts Dr.

8. EXPENSES. Charges for all utilities, including but not limited to, water, electricity (except as provided in Section 7.b. above), telephone, power, heat, refrigeration, sewage and waste disposal within the Leased Premises shall be paid at the sole cost and expense of the Subdistrict.

9. INSPECTION. From time to time during the term of this Lease, authorized personnel of the City shall at all reasonable hours (with reasonable advance notice to the Subdistrict) be permitted to enter upon and inspect the Leased Premises in order to ascertain that the Leased Premises are being properly maintained and kept in repair and good order by the Subdistrict.

10. TERMINATION. Notwithstanding Section 5.d. of Ordinance 59741 to the contrary, only

a. in the event of the Subdistrict's material breach of its obligation under Section 4 to use the Leased Premises only for Subdistrict purposes, or

b. in the event of the Subdistrict's material breach of its obligations under Sections 3.a. and 21 to complete the Development, and the continuation of any such material breach for sixty (60) days after written notice of such material breach from the City's Board of Estimate and Apportionment to the Subdistrict (by registered or certified mail, return receipt requested), or, if the said material

breach is of such a character as cannot reasonably be cured within a sixty (60) day period, then upon failure by the Subdistrict within such sixty (60) day period to undertake such action as reasonably can be taken toward curing same, or failure thereafter diligently to prosecute such action to completion as promptly as reasonably possible after such action is initiated, then such material breach shall constitute a default entitling the City, at the option of the City's Board of Estimate and Apportionment, to terminate this Lease, upon written notice of such determination delivered to the Subdistrict. No material breach other than the two (2) expressly stated in this Section 10 shall constitute a default entitling the City to terminate this Lease.

11. ABANDONMENT OF PREMISES BY SUBDISTRICT. The only cause of termination other than the two (2) causes specified in Section 10 hereof shall consist in the Subdistrict's abandonment of the Leased Premises for a period of time exceeding one (1) year; in such event, this Lease shall be deemed terminated at the option of the City, and the provisions of Section 12 of this Lease shall be applicable.

12. RE ENTRY. If this Lease shall be terminated pursuant to Sections 10 or 11 hereof, the City or its agent and servants may immediately or at any time thereafter, re enter the Leased Premises and remove therefrom the Subdistrict, its agents, employees, or other persons, and thereupon the Subdistrict may at its option remove all or any of its property therefrom (which property shall remain the property of the Subdistrict), including any personal property or any structure or portions thereof which it has placed on the Leased Premises; provided that any such property or structure not so removed within two (2) years after said termination shall become the property of the City.

13. NON ASSIGNABILITY. Without the prior written consent of the other party first obtained, neither party shall assign, lease or transfer, in whole or in part, this Lease or such party's interest in the Leased Premises, provided, however, that the City's prior consent shall not be required for any contract with, or sublease of the Leased Premises to a person operating a parking facility, bookstore, gift shop, concessions, restaurant, food service or other facility available to the public which is consistent with the purposes stated in Section 4 hereof. Except as expressly provided by this Section 13, any assignment of this Lease shall be null and void and of no effect.

14. AUTHORITY. The City and Subdistrict warrant, each to the other, that the City, Subdistrict and their representative signatories each has full power and authority under its charter and the statutes of the State of Missouri, to enter into and execute this Lease.

15. **SUCCESSORS AND ASSIGNS.** The covenants and agreements contained in this Lease shall bind and inure to the benefit of the City, its successors and assigns, and the Subdistrict, its successors and assigns.

16. **CONSTRUCTION WORK.** Any and all construction or work on the Leased Premises by the Subdistrict, shall be done in complete compliance with all applicable City, State, and Federal Codes and pursuant to plans and specifications approved by the City's Board of Public Service, and subject to approval by or permit of any other City department or agency whose approval or permission may be required under the St. Louis City Charter or St. Louis City Ordinance prior to the commencement of any such construction or work.

17. **ANNUAL REPORT.** The Subdistrict shall submit to the Director of Parks, Recreation and Forestry, a written annual report, no later than June 30 each year, which includes a description of the activities on the Leased Premises in the preceding calendar year.

18. **COMMERCIAL ADVERTISEMENTS OR IDENTIFICATION.** No commercial advertisements or identification shall be visible to the public on the Leased Premises from outside the Leased Premises.

19. **PARKING FACILITIES.** The Subdistrict may charge and collect a reasonable parking fee for the use of the relocated parking facility at the east side of Art Hill and the proposed parking facility south of Valley Drive; provided however, that any such parking fee or any subsequent parking fee increase must be approved by the City's Board of Estimate and Apportionment upon the favorable recommendation of the City's Director of Parks, Recreation and Forestry prior to the collection of any such fee or subsequent fee increase.

20. **RIGHT OF ENTRY.** The City reserves the right in the future to enter the Leased Premises for the construction, reconstruction or location of any public utilities through the Leased Premises; provided that if as a result any building, fixture, roadway, pathway or other facility then being used by the Subdistrict shall be required to be removed, relocated or damaged, then in such event such removal, relocation or damage shall be at the City's expense.

21. **FAILURE TO COMMENCE AND COMPLETE DEVELOPMENT AND ROAD REMOVAL.** The development of the Leased Premises required by Section 3.a. (the "Development") of this Lease shall commence within two (2) years of the Date of this Lease and shall be substantially completed within five (5) years of the Date of Commencement. The Date of Commencement shall be determined by the date the Board of Public Service permit is issued approving

such Development. The performance obligation of removal of certain roads and their restoration to park purposes required by Section 3.b. of this Lease shall be substantially completed within five (5) years from the Date of Commencement of the Development; provided however, that Fine Arts Drive between the west curb line of Government Drive to the east curb line of the proposed east connector road shall only be removed and restored for park purposes if and when the Board of Aldermen so directs the Subdistrict by Resolution within five (5) years from the Date of Commencement of the Development; and provided further, that in such event said performance obligation shall be substantially completed within two (2) years from the date said Resolution is adopted or within five (5) years from the Date of Commencement of the Development, whichever is later. The time periods provided for commencement or completion of Development of the Leased Premises, or for other performance obligations, shall be extended for delays beyond the Subdistrict's reasonable control upon notice to and approval by the City's Board of Public Service. For example, the Subdistrict shall not be responsible for any delays caused by legal authority, strikes, lockouts, labor disputes, riots, fire or other casualties, tornadoes, cyclones, floods, acts of God, war, invasion or acts of a public enemy, accidents, governmental restrictions or priorities regarding acquisition or use of material, unanticipated or unusual site conditions, failure to obtain necessary permits of any governmental agency following proper and timely application therefore, litigation challenging any right of the Subdistrict, its successors or assigns with respect to the project, or other inability upon the part of the Subdistrict to obtain materials or labor or to perform not growing out of its own fault, or for delays caused by the City, state or federal government. Furthermore, upon the application, before or after the expiration date of any time limit, by the Subdistrict to the Board of Aldermen, said Board, by Resolution, shall have the authority to relieve entirely or in part, or to Page 17 of 31. extend the time limits for commencement or completion of any portion of Development or other performance obligation of the Subdistrict to a time certain upon finding that:

- a. Subdistrict, its successors or assigns have exercised reasonable care to insure commencement or completion of the matter in question, or
- b. The delay in commencing or completing performance was not caused by an unreasonable act or failure to act on the part of the Subdistrict, its successors or assigns.

22. **NONDISCRIMINATION.** The Subdistrict agrees that in the use of the Leased Premises or in the use of any premises, it will not exclude or discriminate against any person solely because of race, color or creed, or for

any reason not sanctioned by law and not applicable alike to persons generally in the use of said Leased Premises.

23. MINORITY PARTICIPATION. As specified in Exhibit D hereto, which is incorporated herein by this reference, the Subdistrict agrees to maximum utilization of minority business enterprises in construction within the Leased Premises; further, the Subdistrict agrees to conform to all applicable federal, state and local equal opportunity laws. The Subdistrict shall make provisions to monitor the level of disadvantaged business enterprises participation for the Development. The level of disadvantaged business enterprises participation shall be reported to the City on a periodic basis through completion of the Development.

24. NOTICES AND ADDRESSES. All notices, demands, requests or replies provided for or permitted by this Lease shall be in writing and may be delivered by any one of the following methods: (1) by personal delivery; (2) by deposit with the United States Postal Service as certified or registered mail, return receipt request, postage prepaid to the addresses stated below; (3) by prepaid telegram; or (4) by deposit with an overnight express delivery service. Notice deposited with the United States Postal Service in the manner described above shall be deemed effective three (3) business days after deposit with the Postal Service. Notice by telegram or overnight express delivery service shall be deemed effective one (1) business day after transmission to the telegraph company or after deposit with the express delivery service. Notice by personal delivery shall be deemed effective at the time of personal delivery.

For purposes of notice, demand, request, rely or repayment, if to the City, delivery of such shall be to the City's Comptroller at the following address:

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

If to the Subdistrict, delivery shall be to:

Director
St. Louis Art Museum
#1 Fine Arts Drive
Forest Park
St. Louis, Missouri 63110

with a copy to:

Christian B. Peper, Sr.
Peper, Martin, Jensen, Maichel and Hetlage
720 Olive Street, 24th Floor
St. Louis, Missouri 63101

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

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

IN WITNESS WHEREOF, this Lease is executed the day and year first above written. CITY OF ST. LOUIS, MISSOURI

By:
Mayor

By:
Comptroller

(SEAL)

City Register

APPROVED AS TO FORM:

City Counselor

ART MUSEUM SUBDISTRICT OF THE
METROPOLITAN ZOOLOGICAL PARK AND
MUSEUM DISTRICT OF THE CITY OF
ST. LOUIS AND COUNTY OF ST. LOUIS

By:

(SEAL)

EXHIBIT A

A Tract of land in Section 13, Township 45 North Range 6 East, City of St. Louis, Missouri, and being more particularly described as:

Beginning at a point reached by the following courses and distances:

Beginning at the Southeast corner of Lot 33 of "Catlin Tract", a City of St. Louis subdivision in City Block 5539 E; said point being also a point in the North line of Lindell Boulevard, 50 feet wide; thence South 40 degrees 22 minutes 21 seconds West 2922.34 feet to the actual point of beginning; thence South 47 degrees 58 minutes 00 seconds East 166.20 feet to a point; thence South 63 degrees 39 minutes 25 seconds East 150.21 feet to a point; thence North 89 degrees 23 minutes 07 seconds East 172.00 feet to a point; thence North 58 degrees 16 minutes 11 seconds East 200.00 feet to a point; thence South 34 degrees 40 minutes 59 seconds East 290.50 feet to a point; thence South 55 degrees 05 minutes 36 seconds West 144.46 feet to a point; thence South 69 degrees 32 minutes 19 seconds West 102.08 feet to a point; thence South 74 degrees 44 minutes 58 seconds West 177.85 feet to a point; thence South 50 degrees 02 minutes 08 seconds West 353.01 feet to a point; thence South 39 degrees 05 minutes 50 seconds West 150.00 feet to a point; thence South 65 degrees 32 minutes 45 seconds West 129.03 feet to a point; thence North 69 degrees 16 minutes 52 seconds West 119.59 feet to a point; thence North 43 degrees 00 minutes 15 seconds West 316.55 feet to a point; thence North 83 degrees 15 minutes 26 seconds West 104.12 feet to a point; thence South 49 degrees 05 minutes 07 seconds West 188.00 feet to a point; thence South 87 degrees 08 minutes 43 seconds West 82.19 feet to a point; thence North 42 degrees 18 minutes 05 seconds West 81.39 feet to a point; thence North 48 degrees 17 minutes 50 seconds West 161.21 feet to a point; thence North 41 degrees 54 minutes 15 seconds West 104.58 feet to a point; thence North 57 degrees 56 minutes 59 seconds West 103.58 feet to a point; thence North 23 degrees 03 minutes 14 seconds West 65.19 feet to a point; thence North 35 degrees 37 minutes 59 seconds East 154.36 feet to a point; thence North 58 degrees 06 minutes 29 seconds East 355.47 feet to a point; thence North 39 degrees 38 minutes 41 seconds East 194.36 feet to a point; thence North 13 degrees 25 minutes 05 seconds East 200.96 feet to a point; thence North 43 degrees 32 minutes 28 seconds East 101.36 feet to a point; thence North 23 degrees 35 minutes 36 seconds East 287.54 feet to a point; thence North 71 degrees 04 minutes 20 seconds East 89.66 feet to a point; thence South 63 degrees 22 minutes 12 seconds East 163.66 feet to a point; thence South 21 degrees 28 minutes 08 seconds West 204.09 feet to a point; thence South 03 degrees 16 minutes 40 seconds East 161.54 feet to a point; thence South 25 degrees 31 minutes 20 seconds East 124.49 feet to a point; thence South 47 degrees 58 minutes 00 seconds East 201.80 feet to the actual point of beginning and containing

27.509 acres according to calculations by Volz Engineering & Surveying, Inc. on April 3, 1991.

EXCEPTING THEREFROM THE FOLLOWING PROPERTY, TOGETHER WITH BUILDING AND FACILITIES THEREON USED FOR ART MUSEUM PURPOSES ON JANUARY 1, 1972:

A tract of land, with all improvements thereon, located in Section 13, Township 45 North Range 6 East, City of St. Louis, Missouri and being more Page 21 of 31. particularly described as:

Beginning at a point reached by the following courses and distances:

Beginning at the Southeast corner of Lot 33 of "Catlin Tract", a City of St. Louis subdivision in City Block 5539 E; said point being also a point in the North line of Lindell Boulevard, 50 feet wide; thence South 40 degrees 22 minutes 21 seconds West 3,055.40 feet to the actual point of beginning; said point of beginning being a point in the Southwest line of Fine Arts Drive (average face of curb line); thence Southwestwardly along said Southwest line of Fine Arts Drive (average face of curb line) South 47 degrees 58 minutes 00 seconds East 162.34 feet to a point; then South 45 degrees 13 minutes 37 seconds East 77.12 feet to a point in the Southwest line of Fine Arts Drive (average face of curb line); thence continuing along said Southwest line of Fine Arts Drive South 44 degrees 14 minutes 41 seconds East 1.06 feet to a point; thence leaving said Southwest line of Fine Arts Drive; thence along a curve to the left whose radius point bears South 45 degrees 45 minutes 19 seconds West 24.50 feet from the last mentioned point, a distance of 40.01 feet to a point; thence South 42 degrees 11 minutes 28 seconds West 138.80 feet to a point; thence along a curve to the left whose radius point bears South 47 degrees 48 minutes 32 seconds East 12.50 feet from the last mentioned point, a distance of 22.99 feet to a point; thence South 63 degrees 11 minutes 57 seconds East 20.46 feet to a point; thence South 42 degrees 13 minutes 28 seconds West 23.30 feet to a point; thence South 47 degrees 46 minutes 32 seconds East 12.50 feet to a point; thence along a curve to the right whose radius point bears North 49 degrees 05 minutes 31 seconds West 250 feet from the last mentioned point, a distance of 183.24 feet to a point; thence South 56 degrees 29 minutes 55 second West 48.45 feet to a point; thence North 81 degrees 12 minutes 12 seconds West 78.64 feet to a point in the Northeast line of Valley Drive (average face of curb line); thence Northwestwardly along said Northeast line of Valley Drive (average face of curb line and its prolongation) North 42 degrees 36 minutes 10 seconds West 306.76 feet to a point; thence leaving Valley Drive, along a curve to the right whose radius point bears North 47 degrees 23 minutes 50 seconds East 18 feet from the last mentioned point, a distance of 26.50 feet to a point; thence North 41 degrees 45 minutes 40 seconds East 249.21 feet to a point; thence North 42 degrees 03 minutes

00 seconds East 234.80 feet to a point; thence along a curve to the right whose radius point bears South 47 degrees 57 minutes 00 seconds East 25 feet from the last mentioned point, a distance of 39.26 feet to a point in the aforesaid Southwest line of Fine Arts Drive (average face of curb line); thence Southeastwardly along said Southwest line of Fine Arts Drive (average face of curb line) South 47 degrees 58 minutes 00 seconds east 175.01 feet to the actual point of beginning and containing 5.212 acres, according to calculations by Volz Engineering & Surveying, Inc. dated June 6, 1991;

Excepting further therefrom any property subject to the Lease to American Golf Corporation authorized by Ordinance 60284, unless and until released from such Lease by a duly authorized amendment thereto executed by the City and American Golf Corporation.

The Art Museum Subdistrict proposes a new site enhancement plan designed to improve the park environment around the Art Museum in Forest Park, restore the historical vision for the Art Museum building and grounds, and provide greater accessibility to the site for people of all ages and interests.

This enhancement program will lay the foundation for the Museum's future for the next century with new landscaping, improved traffic flow, and substantially increased off-street parking for the Art Museum and nearby park areas.

The plan is designed to fulfill the original vision of famed architect Cass Gilbert, whose concept for the building and grounds for the Palace of Fine Arts was left unfinished following the 1904 World's Fair. Incorporating improvements to the front entrance of the Art Museum, the crest of Art Hill, and the park areas immediately surrounding the Art Museum, the plan includes new scenic walkways with overlooks flanking the Statue of Saint Louis, improved roadways, sidewalks and bicycle paths for better traffic flow, pedestrian safety and recreation; increased lighting for better security; expanded parking to make the site more accessible for the general public, and increases the number of parking spaces for the handicapped. All improvements have been designed to enhance the entire site while improving accessibility to the Art Museum and to the recreational activities on Art Hill and in the nearby park area.

Key elements of the original Cass Gilbert design for the Museum and Art Hill were used to produce an historically accurate and architecturally appropriate entrance area and scenic overlook.

During the World's Fair, the present Art Museum building was only a part to a much larger structure, which included two massive wings on either side of today's Museum,

as well as the Colonnade of the States along the crest of Art Hill, and the Festival Hall, directly in front of where the statue of Saint Louis now stands.

Fulfilling the original vision, the new plan calls for the Art Museum's main entrance to be unified and expanded into a striking new front entrance plaza for the Statue of Saint Louis, the traditional symbol of the City.

The plaza (about 6,100 square feet) will feature high quality materials, (such as stone), for paving surfaces, balustrades and retaining walls. New lighting will illuminate the statue of Saint Louis, the plaza, and the Art Museum facade. The front entrance plaza of the Museum has been designed to comfortably accommodate pedestrians, and while parking will be restricted in front of the Museum and the new plaza, visitor drop-off will be expanded.

From the new entrance plaza, two pedestrian scenic walkways will extend east and west (each about 600 feet long) along either side of the crest of Art Hill in a double row of linden trees. Benches will be placed about every sixty feet along the walks, to encourage enjoyment of the view from the Hill, and new light fixtures of traditional design will be added to illuminate the plaza scenic walkways and certain areas close to the building. The linden tree arcades will end in open, circular overlooks about sixty feet in diameter with seating and a turn-of-the-century statue in each. This plan calls for reorganized and landscaped parking areas at the two sides of Art Hill (east side expected to accommodate no more than 180 cars and west side expected to accommodate no more than 120 cars), in place of the present, awkward loop drives, as well as a new parking area to the south, between the Art Museum and Kennedy Forest (expected to accommodate no more than 325 cars). All parking areas are designed to have shade trees, as well as plantings around their perimeters to limit their visual impact. Existing bicycle path through the Art Museum site would be improved and rerouted, as shown.

All roadways within the leased premises will be replaced and improved, and on-street parking will be substantially eliminated, and designated to carefully landscaped lots. Parking lots will have new sidewalks and new lighting to provide substantially increased visitor safety and security. To the east of the Art Museum, an un-named connecting road will be removed, which presently connects Fine Arts Drive to the Museum's existing parking lot, near its south (auditorium) entrance. An adjacent gravel covered lot will also be removed. Both areas will be restored to park use.

To the east and west of the Art Museum, new connecting roads would be added linking Fine Arts Drive to Valley Drive. The western connecting road, alongside the edge of the golf course, will provide a new route toward Wells Drive and Skinker

Boulevard, and thus reduce dangerous congestion at the front entrance of the Art Museum itself.

A survey of all trees on the leased premises including designation of those trees proposed to be removed and a tree protection strategy for the remaining trees will be considered and designed, and upon the approval of the City's Board of Public Service in writing, implemented prior to any construction activity. Extensive efforts will be made to preserve every existing oak tree. Lawns will be reseeded, and new trees will be planted to shade and screen roadways. From 500-560 new trees will be added on roadways, and from 1,200 to 1,500 new shrubs will be planted to improve landscaping, especially for the purpose of screening parking lots from external view. New flowering varieties of trees and shrubs will be selected to complement the environment. In all, this project is designed to provide beautification and ecological improvement to the Art Museum area, and to improve traffic flow, parking and visitor access for the Museum and surrounding park areas both. Page 26 of 31.

EXHIBIT D

POLICY STATEMENT OF ST. LOUIS ART MUSEUM REGARDING DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

It is the policy of the St. Louis Art Museum ("Museum") to ensure the maximum utilization of qualified minority business enterprises ("MBEs") and qualified women's business enterprises ("WBEs") in the proposed Museum Improvement Project, while the same time achieving a competitive contract price for goods and services of high quality.

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

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

Maximum utilization means, with respect to the proposed improvement project, that the general contractor shall take all reasonable steps: (i) to provide MBEs

and WBEs (collectively referred to as Disadvantaged Business Enterprises or "DBE") with the maximum opportunity to compete for all construction contracts and subcontracts, and to furnish supplies and labor ("Subcontracts"); and (ii) to provide, as reference points, that at least twenty-five percent (25%) of all work for the project as a whole will be performed by MBEs and that at least five percent (5%) of all work on the project will be performed by WBEs.

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

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

Each general contract shall make adequate provision to compensate the Page 27 of 31. Museum for damages in the event the actual dollar amount paid to DBE falls short of the amount to be paid as set forth in the bid as awarded. The foregoing policy shall be implemented, and DBE utilization shall be evaluated in the context of the dollar value of the following factors:

- a. A contract or subcontract awarded to DBEs.
- b. A subcontractor with a joint venture eligible under the DBE standards equal to the percentage of the ownership and control of the DBE partner in the joint venture.
- c. Expenditures to DBEs who perform a commercially useful function in the contract. A DBE is considered to perform a commercially useful function when responsible for the execution of a distinct element of the work of a contract and the carrying out of the responsibilities by actually performing, managing and supervising the work involved.
- d. Expenditures to a DBE manufacturer.
- e. Expenditures for materials and supplies required under a contract and obtained from a DBE regular dealer.

1) A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business and in its own name, the purchase and sale of products in question.

2) A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section (i.e., a truck hauler is a regular dealer when the firm owns, operates, maintains, or leases, operates and maintains, the distribution equipment for the delivery of the above products to the public in the usual course of business; ad hoc performance for one contractor or select group of contractors does not qualify as a regular dealer).

3) A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor (i.e., a supplier who produces goods from raw materials or substantially alters them before resale).

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

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

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

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

3. Provided written notice to a reasonable number of specific DBEs that their interest in the contract is solicited, in sufficient time to allow the DBEs to participate effectively;
4. Followed up on initial solicitations of interest by contracting DBEs to determine with certainty whether the DBEs were interested;
5. Selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
6. Provided interested DBEs adequate information about plans, specifications and requirements of the contract;
7. Negotiated in good faith with interested DBEs not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
8. Made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the Museum or by the bidder; and
9. Made effective use of the services of available disadvantaged business trade organizations, minority contractors' group, local, state and federal disadvantaged business assistance offices and other organizations that provide assistance in the recruitment and placement of DBEs.

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

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

less the amount actually paid to the DBEs for performing a commercially useful function will be deducted from the contractor's payments as liquidated damages. No such deduction will be made when, for reasons beyond the reasonable control of the contractor, the stated DBE participation is not met.

SECTION TWO. Ordinance 56165, approved March 27, 1972, which is codified as Sections 22.16.150 through 22.16.180 of the Revised Code of the City of St. Louis, pertaining to parking restrictions and permits for a certain parking lot near the Art Museum, and Section 149.030 of Ordinance 55072, approved June 4, 1968, which is codified as Section 5.26.040 of the Revised Code of the City of St. Louis, pertaining to a former Art Museum property tax levy, are hereby repealed.

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
06/14/91	06/14/91	PARK	06/19/91	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
12/20/91			06/19/91	01/17/91
ORDINANCE	VETOED		VETO OVR	
62497				