

07 &CCO Form: RW14
Approved: 09/91 (TWJ)
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ROUTE: I-64
COUNTY: City of St. Louis
JOB NO.:
PARCEL: SL-0107 & SL-0111
LEASE ID: 713

LEASE OF PREMISES

THIS INDENTURE is between the Missouri Highways and Transportation Commission, hereinafter referred to as "Lessor" and _____, hereinafter referred to as "Lessee":

WITNESSETH, that the Lessor for and in consideration of the covenants, conditions, agreement and stipulations of the Lessee expressed, does hereby lease to the Lessee and the Lessee hereby leases from the Lessor, the ground surface of the hereinafter described portion of the Lessor's right of way situated in St. Louis City, Missouri, more particularly described as follows:

PARCEL SL-0107:

A parcel of land in the Subdivision in partition of Henry Chouteau's Estate and in City Block 437 of the City of St. Louis, Missouri and described as beginning at the intersection of the Western line of Eleventh Street and the Northern Line of Poplar Street; thence North along said Western line of Eleventh Street a distance of 150 feet to a point; thence West at right angles to said Western line of Eleventh Street a distance of 10 feet to a point; thence Southwardly and Westwardly along the arc of a curve to the right, having a radius of 138 feet to the Eastern line of an alley 25 feet wide in said City Block; thence South along the Eastern line of said alley to a point 11 feet North of said Northern line of Poplar Street, said point being the most Northern corner of a triangular parcel of land conveyed to the Endicott Johnson Corporation by deed recorded in Book 3897, Page 309 of the City of St. Louis Records; thence Southeastwardly along the Northeast line of said triangular parcel of land a distance of 29.15 feet, more or less, to a point on said Northern line of Poplar Street; thence East along said northern line of Poplar Street a distance of 125.50 feet to the point of beginning containing 7,297 square feet, more or less. Commencing at a point in the intersection of the South line of Spruce Street with the west line of Eleventh Street; thence Easterly along the South line of Spruce Street a distance of 40.88 feet to a point; thence Southerly and parallel with said West line of Eleventh Street a distance of 185 feet to the point of beginning; thence continuing Southerly and parallel with said West line of Eleventh Street a distance of 105 feet to a point; thence Southwesterly to a point in the West line of Eleventh Street, said point being 11 feet North of the North line of Poplar Street as measured along said West line of Eleventh Street; thence Northerly along the West line of Eleventh Street to a point 185 feet South of the south line of Spruce Street; thence Easterly a distance of 40.88 feet to the point of beginning and containing 5,927 square feet, more or less.

PARCEL SL-0111:

A parcel of land located In City Block 216E and 437 in the City of St. Louis, Missouri, and land including those portions, if any, of city streets and alleys vacated or not vacated, in whole or in

part, in the City of St. Louis, State of Missouri and lying within the following described tract being more particularly described as COMMENCING at the Northeast corner of City Block 215W; thence South 28 degrees 17 minutes 49 seconds East for a distance of 576.09 feet to a point on the Western right of way line of 12th Street (80 feet wide); and being also a point 23 feet North of the South line of vacated Poplar Street (60 feet wide and vacated by ordinance no. 54734 and ordinance no. 38872); and said point being also THE POINT OF BEGINNING; thence South 84 degrees 49 minutes 44 seconds East for a distance of 81.79 feet to a point; thence South 72 degrees 49 minutes 55 seconds East for a distance of 177.60 feet to a point; thence South 73 degrees 01 minutes 49 seconds East for a distance of 224.05 to a point; thence South 72 degrees 35 minutes 43 seconds East for a distance of 760.85 feet to a point; thence South 17 degrees 36 minutes 44 seconds West for a distance of 50.00 feet to a point; thence North 72 degrees 35 minutes 43 seconds West for a distance of 754.71 feet to a point; thence North 73 degrees 48 minutes 36 seconds West for a distance of 37.30 feet to a point; thence North 72 degrees 49 minutes 57 seconds West for a distance of 370.00 feet to a point; thence South 17 degrees 10 minutes 05 seconds West for a distance of 56.00 feet to a point; thence North 79 degrees 19 minutes 45 seconds West for a distance of 80.53 feet to a point; thence North 17 degrees 10 minutes 05 seconds East for a distance of 98.00 feet to THE POINT OF BEGINNING, and containing 66,300 square feet, more or less.

WHEREFORE, IT IS AGREED AS FOLLOWS:

(1) **LEASE TERM:** The term of this lease is for five (5) years, beginning on the 1st day of March, 2024 and ending on the 28th day of February, 2029 for a total rent of \$_____, payable in one installment of \$_____, upon the execution of the lease, and four (4) subsequent installments of \$_____ each, payable to the Lessor on or before each succeeding anniversary date of the lease.

(2) **MANNER OF PAYMENT:** The Lessee will pay rent thereon in the manner and at the time stated above.

(3) **USE OF PREMISES:** The Lessee will use the premises for vehicular parking and no other purpose. Parking near or under roadway drainage facilities is discouraged.

(4) **OBSERVANCE OF LAWS:** The Lessee will observe and abide by all federal, state and local laws and regulations pertaining to the use and occupancy of said premises.

(5) **PROTECTION AGAINST DAMAGE:** The Lessee will protect and defend the premises against damage.

(6) **NO FLAMMABLE MATERIALS:** The Lessee will permit no fuel servicing of vehicles on the premises. The Lessee will not permit the manufacture, storage, possession or use on the premises of hazardous, flammable, corrosive, explosive or other

dangerous substances, chemicals or wastes, as those terms are defined in federal and state laws and regulations, or the parking hereon of vehicles, trailers or other objects containing any quantity of such substances, chemicals or wastes (except the fuel contained in the lawful fuel tank of a vehicle in order to propel that vehicle). The Lessee will not permit any structures, buildings, or facilities which utilize combustible materials (such as wood, wood fiber, plastic, etc.). The Lessee will permit no fire hazards on the premises.

(7) NO ODORS: The Lessee will not permit the presence on the premises of hazardous, or unreasonably objectionable smoke, fumes, vapor or odors.

(8) OBSERVATION OF REGULATIONS: The Lessee will observe and abide by the regulations and directions of the Lessor with respect to cleanliness and fire hazards on the premises, and permit the Lessor, its agents and employees, and/or authorized Federal Highway Administration (FHWA) representatives, to enter upon the premises for the purpose of maintenance or reconstruction of its property and to inspect the leased premises with respect to cleanliness, neatness and the existence of fire hazards or other hazards.

(9) INSURANCE: The Lessee shall take out and maintain at the Lessee's own expense liability insurance with a company licensed and authorized to do business in the state of Missouri in the minimum amount of Five Hundred Thousand Dollars (\$500,000) per person up to a total of Four Million Dollars (\$4,000,000) per incident, and the Lessee shall cause insurer to include the Missouri Highways and Transportation Commission as an additional insured. This insurance shall be for the payment of any property damages, personal injury or death to person(s) on the premises as licensees or invitees, expressed or implied, of the Lessee. Evidence of the Lessee's liability insurance shall be furnished to the Lessor with the first payment, as shown in paragraph 1 of this Lease, and if the Lessee fails, refuses or neglects to take out, extend or maintain said insurance this lease shall be null and void.

(10) INDEMNIFICATION: The Lessee shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Lessee's performance of its obligations under this Agreement.

(11) ADDITIONAL INDEMNITY - Neither the Lessor nor the FHWA will be responsible for any damage to the Lessee's property, the leased area, or the property of any invitee, guest, agent, employee, client or visitor, whatsoever, including but not limited to damage from debris, snow, ice or other potentially hazardous items being thrown from or falling from the highway and highway facilities. Lessee shall assume all risk of loss to the leased area, included but not limited to, any damage, economic loss, or complete destruction of the leased area as a result of the collapse or other impact of the I-44 structure above the leased area.

(12) NO STRUCTURES: The Lessee will not erect, or cause to be erected, on the premises any kind of building or structure.

(13) MAINTENANCE OF EXISTING GRADING: If the Lessee paves, gravels or resurfaces the premises or any part thereof, it will not change the existing grade or drainage pattern existing on the premises. Any surface improvements shall pass to the Lessor absolutely.

(14) SIGNS: Any signs which the Lessee erects and maintains will be neat, clean, not unduly conspicuous, and the wording thereupon will be restricted to indications of property interest and to warnings or cautions against trespassing.

(15) MAINTENANCE OF PREMISES: The Lessee will keep the premises in a neat, clean, orderly and presentable condition, free of grass, weeds, trash, debris and unsightly objects.

(16) ASSIGNMENT: The Lessee will not assign or sublet the leased premises or any part thereof without the prior written approval and consent of the Lessor, subject to concurrence by the FHWA, which approval and consent shall be within the absolute judgment and discretion of the Lessor and the FHWA.

(17) RETURN OF PREMISES: At the end of the term of the lease, or whenever the lease for any reason is terminated, the Lessee will peaceably surrender and return the premises to the Lessor in as good a condition as when found, ordinary wear and tear excepted.

(18) QUIET ENJOYMENT OF LEASE: The Lessee, upon keeping and performing the covenants of this lease shall at all times during the tenancy peaceably and quietly have, hold and enjoy the leased premises without suit, trouble or hindrance from the Lessor.

(19) CANCELLATION OF LEASE: The Lessor may without notice re-enter and take possession of the premises and, with or without legal process, evict the Lessee from the premises under the following conditions: (1) rent is unpaid after it has become due and payable; (2) each condition and covenant contained in the Lease is not performed or fulfilled by the Lessee; (3) a petition in bankruptcy has been filed by or against the Lessee; (4) the Lessee becomes insolvent; (5) any proceeding is filed to subject this lease or the interests of the Lessee to garnishment or sale under execution; (6) the Lessee makes an assignment for the benefit of creditors; (7) the Lessee discontinues use of the premises for more than a continuous sixty (60) day period; or (8) the Lessee attempts to sell or assign this lease without the written approval or consent of the Lessor. Any such act(s) of omission or commission may, at the option of the Lessor, constitute a forfeiture of all rights of the Lessee hereunder, voiding and ending this lease.

(20) TERMINATION OF LEASE: In the event of the destruction or damage to the Lessor's facilities located upon premises leased, the Lessor may terminate this lease

immediately if, in the Lessor's discretion, it is necessary to occupy the leased premises for restoration or repair to the said Lessor's premises.

(21) NOTICE OF TERMINATION: Either party shall have the right to terminate the lease of the above-referenced tract by giving thirty (30) days written notice to the other party. If the lease is so terminated by the Lessor, the Lessee will be entitled to a refund equal to one twelfth (1/12) of the annual lease payment for any remaining unused months of the annual lease period. If the lease is so terminated by the Lessee, no portion of rent paid or due for the year affected by such termination will be refunded or forgiven the Lessee.

(22) NO DISCRIMINATION IN USE OF FACILITIES: The Lessee, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, agrees to as a covenant which runs with the land that no person on the grounds of race, color, religion, creed, sex, age, ancestry, national origin, disability or veteran status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities.

(23) NO DISCRIMINATION IN FURNISHING OF SERVICES: No person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, in the construction of any improvement on, over or under such land and the furnishing of service thereon, on the grounds of race, color, religion, creed, sex, age, ancestry, national origin, disability or veteran status.

(24) NONDISCRIMINATION CLAUSE: The Lessee shall comply with all state and federal statutes applicable to the Lessee relating to nondiscrimination, including but not limited to Chapter 213, RSMo; Title VI and Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101 *et seq.*) which applies to the Lessee. The Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 22.

(25) BREACH OF NONDISCRIMINATION COVENANTS: In the event of breach of any of the nondiscrimination covenants in paragraphs 21 and 22, the Lessor shall have the right to terminate the lease and to re-enter and repossess said land and facilities thereon and hold the same as if this lease had never been made or issued.

(26) LAW OF MISSOURI TO GOVERN: This Lease shall be construed according to the laws of the State of Missouri. The Lessee shall comply with all local, state and federal laws and regulations relating to the performance of this Lease.

(27) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Lease, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(28) EXISTING UTILITIES: The Lessee agrees to permit all known and

unknown existing utilities to maintain their easements for the purpose of maintaining, constructing, or reconstructing utility lines and their appurtenances over, under or across the lands herein leased.

(29) RECEIPT OF PAYMENT: The parties agree that any receipt and deposit by the Lessor of any payment made by the Lessee for any period or periods beyond the express term of the Lease shall not constitute an extension of the express term of the Lease. The Lessor will promptly return all such payments that the Lessor has deposited in error.

(30) TRAFFIC BARRIERS: At Lessee's expense, Lessee will provide and maintain wheel stops (traffic barriers) around Lessor's structural columns located in the leased area. The requirements concerning said wheel stops (traffic barriers) are contained in Exhibits A and B, which is attached to this Lease of Premises Agreement and made a part thereof. Lessee will maintain during the term of the Lease said wheel stops (traffic barriers) in good condition and appearance. Ownership of the wheel stops (traffic barriers) around the columns of the structure and any surface improvements, shall pass to the Lessor absolutely at the end of the term of the Lease.

(31) VERTICAL DIMENSIONS: The vertical dimensions of the described property leased herein stops at and shall not extend above a plane horizontal to and eight (8) feet below the underside of the viaduct carrying said Route I-64 passing along and above the described premises.

(32) RIGHT TO ENTER LEASE AREA:

(A) Construction or Reconstruction of Highway Facilities: The Lessor and FHWA employees and their agents shall have the right enter the leased area as necessary to construct or reconstruct any and all highway facilities within the designated area upon thirty (30) days prior written notice to Lessee. During construction and reconstruction of highway facilities, it may become necessary for the Lessee, its employees, agents, invitees, or guests to vacate all or part of the leased area, solely at the discretion of the Lessor and FHWA employees and their agents.

(B) Emergency or Dangerous Condition: In the event of an emergency, or when the District Engineer or Lessor's other authorized representative(s) have determined that a condition may exist within, upon or adjacent to Lessor's highway facilities and structures, which represents an actual or potential danger to the traveling public, Lessor, the FHWA, and their authorized agents and employees may immediately enter upon and within leased area and highway facilities and structures. The inspecting party(ies) shall contact Lessee immediately (on a 24/7 basis) to notify them of the emergency condition. Further, the District Engineer or Lessor's other authorized representative(s) shall have the right to construct, reconstruct or demolish any structures or facilities within the lease area as is deemed necessary to remedy the emergency situation. Demolished structures and facilities belonging to Lessee, as the result of an

emergency situation, may be reconstructed with the District Engineer's or Lessor's other authorized representative's approval at no cost to the Lessor.

(C) Inspections: The Lessor and FHWA employees and their agents shall have the right to make periodic inspections of the leased area when they deem such inspections necessary or advisable, upon not less than one week's advance written notice to Lessee, stating time, location, and purpose of the planned inspection.

(33) LIGHTING: Entire leased area must have under bridge lighting that is functional and is maintained and operational at all times. Lights should have the ability to also function during low light conditions during the daytime as well.

(34) PARKING SIGNS: Entire leased area should be signed as "park at your own risk". Lessee assumes all liability for personal or property damage for those that choose to park, walk or otherwise navigate under or near the bridge, to the extent allowed by law, as indicated in Paragraph 10.

(35) IMPROVEMENTS/REPAIRS: Any improvements or repairs required by the City of St. Louis to obtain an occupancy permit or operate a parking lot will be at the sole expense of Lessee and shall pass to the Lessor absolutely. It is also required that Lessee obtain written approval from Lessor prior to installing any improvements.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the last date written below.

Executed by Lessee on _____(DATE).

Executed by Lessor on _____(DATE).

**MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION,
LESSOR**

LESSEE

By _____

By _____

Title _____

Title _____

Address _____

ACKNOWLEDGMENT BY COMMISSION

STATE OF MISSOURI _____)
)
COUNTY OF _____) ss

On this _____ day of _____, 20__, before me appeared _____ personally known to me, who being by me duly sworn, did say that he/she is the _____ of the Missouri Highways and Transportation Commission and the seal affixed to the foregoing instrument is the official seal of said Commission and that said instrument was signed in behalf of said Commission by authority of the Missouri Highways and Transportation Commission and said _____ acknowledged said instrument to be the free act and deed of said Commission.

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

Notary Public

My Commission Expires: _____