

CITY OF ST. LOUIS
SERVICE AGREEMENT FOR
BOILER CONTROL & REPAIR SERVICES
LAMBERT- ST. LOUIS INTERNATIONAL AIRPORT®

CONTRACT NO.: 70516

CONTRACT NOT-TO- EXCEED AMOUNT: \$200,000.00

CONTRACTOR: SystemAire, Inc.
4181 Shoreline Drive
Earth City, Missouri 63045

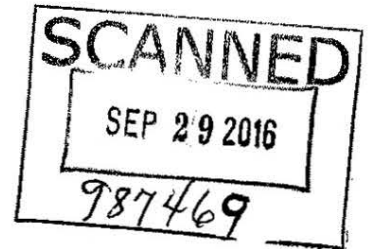
FEDERAL I.D. #43 - 0889417

ESTIMATED ANNUAL ENCUMBRANCES:

FY 2016-2017	\$50,000.00
FY 2017-2018	\$67,000.00
FY 2018-2019	\$67,000.00
FY 2019-2020	\$16,000.00

CONTRACT AUTHORIZED BY: **ORDINANCE NO.** 70272
 BUDGET ACCOUNT: 5638

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT
ST. LOUIS, MISSOURI



CITY OF ST. LOUIS
SERVICE AGREEMENT FOR
BOILER CONTROL & REPAIR SERVICES
LAMBERT- ST. LOUIS INTERNATIONAL AIRPORT

This Agreement, made and entered into this 31st day of August, 2016 ("**Agreement**"), by and between the City of St. Louis, a municipal corporation of the State of Missouri (the "**City**") and SystemAire, Inc. ("**Contractor**").

WITNESSETH THAT:

WHEREAS, City owns and operates Lambert-St. Louis International Airport (the "**Airport**"); and

WHEREAS, City seeks to contract with the Contractor for Boiler Control & Repair Services as more fully described herein.

NOW, THEREFORE, in consideration of the payments, terms, conditions, agreements, hereinafter set forth, to be made and performed by City, the Contractor hereby promises and agrees that it will faithfully perform all the services called for by this Agreement, in the manner and under the terms, covenant, and conditions hereinafter set forth.

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ATTACHMENTS/EXHIBITS

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Affidavit (Missouri Unauthorized Aliens Law)

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Living Wage Bulletin

Confidential
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2020-01-16 13:33:34 +0000

**CITY OF ST. LOUIS
LAMBERT - ST. LOUIS INTERNATIONAL AIRPORT**

APPENDIX "A"

**TECHNICAL SPECIFICATIONS
(BOILER CONTROL & REPAIR SERVICES)**

1. DEFINITIONS

The following terms and definitions are used in this agreement:

- A. **"Agreement"** means the contract between the City of St. Louis and SystemAire, Inc.
- B. **"Airport"** means the property owned by the City at Lambert-St. Louis International Airport.
- C. **"Airport Representative"** means the Airport Construction & Maintenance Manager or his/her authorized or designated representative.
- D. **"City"** means the City of St. Louis, owner and operator of Lambert-St. Louis International Airport.
- E. **"Commencement Date"** means the date the term of this Agreement begins which is October 1, 2016 as provided for in Appendix A, Section 4.
- F. **"Contractor"** used herein means SystemAire, Inc.
- G. **"Contract Year"** means a consecutive twelve (12) calendar month period beginning on the Commencement Date and each twelve (12) consecutive calendar month period thereafter during the term of this Agreement.
- H. **"days"** means consecutive calendar days unless otherwise expressly stated.
- I. **"Director"** as used herein refers to the Director of Airports of the City of St. Louis and to his/her authorized representatives or designated representative.
- J. **"Expiration Date"** means the date the term of this Agreement ends which is September 30, 2019 as provided for in Appendix A, Section 5.
- K. **"Extras"** means additional service work or modifications, additions, or extras.
- L. **"Holiday"** means New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

- M. **"Normal Hours"** means 8:00 a.m. to 4:30 p.m. Central Time Zone, Monday through Friday except Holidays.
- N. **"Outside Normal Hours"** means 4:30 p.m. to 8 a.m. Central Time Zone, Monday through Friday including all day Saturday, Sunday and Holidays.
- O. **"Provision"** means any term, covenant, warranty, condition, or provision under this Agreement.

2. SCOPE OF WORK

Contractor warrants, represents, stipulates, and agrees that the Contractor shall perform the following work or services subject to and in accordance with the Provisions of this Agreement:

- A. The Contractor shall supply all supervision, labor, tools, supplies, parts, equipment, and material necessary to perform the maintenance and repair of the boiler control systems and sand dryer control systems at the Airport in accordance with manufacture's specifications and subject to and in accordance with the Provisions of this Agreement for the following equipment located at the Airport as ordered and requested by the Airport Representative in writing.

EAST POWER PLANT

Boiler Number	Manufacturer	PDS Per Hr	S/N	Fuel Supply
1	Nebraska	40,000	D2097	#2 Fuel Oil & Natural Gas
2	Nebraska	20,000	D2133	#2 Fuel Oil & Natural Gas
3	Nebraska	40,000	D2096	#2 Fuel Oil & Natural Gas

WEST POWER PLANT

Boiler Number	Manufacturer	PDS Per Hr	S/N	Fuel Supply
1	Hurst	25,875	S375-150-19	Fuel Oil & Natural Gas
2	Hurst	25,875	S375-150-18	Fuel Oil & Natural Gas
3	Nebraska	55,000	D2683	Fuel Oil & Natural Gas
4	Hurst	10,350	S150-150-137	Fuel Oil & Natural Gas

AIRFIELD SAND DRYER

Manufacturer	Burner Capacity	Fuel Supply
Almix	37,000,000 BTU/HR	Natural Gas

AIRPORT OFFICE BUILDING (HOT WATER BOILERS)

11495 Navaid Road

Boiler Number	Manufacturer	BTU/HR Output	S/N	Fuel Supply
1	Raypak	2,049,180	0790114156	Natural Gas
2	Raypak	2,049,180	0790114157	Natural Gas

FIRE TANK BOILERS (15 psi Steam)

41 Banshee Road

Boiler Number	Manufacturer	Model	Fuel Supply
1	Smith Cast Iron Boiler	28A—S/W-07	Natural Gas
2	Smith Cast Iron Boiler	28A—S/W-07	Natural Gas

- B. The boiler controls maintenance and repair services contemplated herein, to be performed by the Contractor, shall include, without limitation, the following: combustion controls, combustion air, ignition and burner systems, flame failure systems, piping, wiring, and connection of all interlocks and shutoff valves, indicating and recording equipment, atomizer testing, fuel supply line safety limits and valve train, safety valves, safety limits, electronic pressure, differential switches, pneumatic controls, fluid meters, trim controls system, auxiliary controls, loop command controls, accumulation testing, continuous emissions monitoring system and computer monitoring stations.
- C. The Contractor shall timely perform, as required by the manufacturer's instructions, the following "Annual Testing," "Quarterly Testing," and "Weekly Testing." The Contractor shall also timely submit the required "Annual Test Report," "Quarterly Test Report," and "Weekly Test Report" to the Airport and State of Missouri Representatives. The Annual Testing, Quarterly Testing, and Weekly Testing shall consist of but not be limited to the following:

1. Ignition and burner components;
 2. Combustion air supply systems;
 3. Flame failure systems;
 4. Piping, wiring and connections of all interlocks;
 5. Combustion control systems;
 6. Calibration of indicating and recording instruments;
 7. Atomizers;
 8. All safety limits;
 9. Accumulation tests;
 10. All interlocks;
 11. Continuous emission monitoring system;
 12. Energy efficiency of each boiler through its entire firing range;
 13. Sand dryer drum sensors and products sensors; and
 14. Testing of the tunnel CO System Multigard TM Gas Sampling System following manufactures requirements. Confirm test of the correct operation of tunnel Multigard TM Gas Sampling System by forwarding required reports to Missouri Department of Transportation for review and approval and a copy to the City.
- D. Annual Testing shall be performed by the Contractor during the period of September 1ST through November 1ST of each year. Annual Test Reports shall be submitted by the Contractor to the Airport Representative prior to November 30TH of each year in a form and content acceptable to the Airport Representative.
- E. Contractor covenants, warrants, represents, stipulates, and agrees that all work under this Agreement shall be performed by Manufacturer Certified Personnel. The Contractor shall provide 24 hour, 7 days a week "**Emergency Service**". The Contractor shall report to the Airport within 1 – 1-½ hours after receiving notification from the Airport Representative. Each day upon arrival at the Airport, the Contractor must report to the Climate Control plant locations and clock in with their identification badges and at completion of the work clock out with said badges at the same location. **The City reserves the right to refuse to make payments for any work performed by the Contractor when the Contractor does not strictly adhere to this procedure.** Contractor covenants, warrants, represents, stipulates, and agrees that all replacement parts furnished by the Contractor. The Contractor acknowledges, stipulates, and agrees that the Contractor shall not be compensated for work or expenses or use of vehicles not called for in this Agreement incurred without or prior to written authorization by the Airport Representative.

3. EXTRA WORK

- A. At the written request and direction of the Director, additional Boiler Control & Repair Services work or modifications, additions, or extras ("**Extras**") to the

Boiler Control & Repair Services may be required. The fee or charge for Extras will be agreed upon up front in writing on a case by case basis as described herein and in Appendix A, Section 8.A of this Agreement. For all work conducted under this Agreement, the total amount to be paid to the Contractor must not exceed the total Contract Not-To-Exceed Amount of this Agreement. (See Appendix A, Section 8.D).

- B. Any work not herein specified which may be fairly implied as included in the Agreement, of which the Director will be the sole and absolute judge, will be done by the Contractor without extra charge. The Contractor will do all Extras that may be requested or ordered by the Director in writing. No claim for Extras will be allowed in favor of the Contractor unless such Extras have been ordered in advance by written request of the Director. The Contractor will furnish the Director with itemized bills for all items included under this heading, and such bills may be verified or audited by the City. All bills for Extras done in any month, will be submitted to the Director, in writing, before the 15th day of the following month, and the amounts therein must be in accordance with the daily time, material, and equipment statements duly approved by the Director. As proof of costs, the Contractor will submit copies of itemized invoices received from the Contractor's approved subcontractor(s) which have been previously reviewed and approved by the Contractor. Extras will be paid for on the basis of a fixed amount or rate or charge or any combination thereof to be agreed upon and approved by the Contractor and the Director in writing prior to such Extras being performed. (See Appendix A, Section 8.A).

4. **TERM**

The term of this Agreement will be for three (3) years beginning on the Commencement Date specified below and ending thirty-six (36) months thereafter unless terminated or cancelled as provided for in Appendix B, Section 2. This Agreement is expressly subject to, and will not become effective or binding on the City until, fully executed by all signatories of the City. The commencement and expiration dates will be as follows:

Commencement Date: October 1, 2016 Expiration Date: September 30, 2019

5. **ADMINISTRATIVE PROCEDURES**

- A. Before work under this Agreement commences, the Contractor will designate, by written notice to the Airport Representative, an experienced, competent and knowledgeable, full-time employee of the Contractor as the Contractor's "**Project Coordinator**". The Project Coordinator will be fully authorized to act for the Contractor in all matters covered by this Agreement. The Contractor will also furnish all supervisory personnel with copies of these specifications and will make certain that all such personnel understand the provisions

thereof.

- B. When necessary, or as requested by the Airport Representative, the Contractor will make periodic reports and recommendations to the Airport Representative with respect to conditions, transactions, situations or circumstances encountered by the Contractor relating to the services to be performed under this Agreement.
- C. The Contractor's performance hereunder must be in accordance with the highest standards of care, skill, and diligence provided by professionals who perform services similar to the services contemplated by this Agreement. All work will be executed in the most workmanlike, safe and substantial manner and everything will be furnished by Contractor that is necessary to complete and perfect the aforesaid work according to the design and intention, whether particularly specified or not which may be inferred from this Agreement and its specifications. Work which should properly be performed by skilled laborers, will not be attempted by common laborers.
- D. The Contractor will ensure that all equipment and temporary offices and trailers used on the job are conspicuously marked with both the name and telephone number of the Contractor. (if applicable)
- E. Daily site clean-up must be accomplished by the Contractor. This clean-up must include the placing of material, tools, and equipment in a neat, safe, and orderly arrangement. Equipment must never be allowed to block access to existing facilities. Rubbish, debris, rubble, and garbage must be properly removed daily and disposed of by the Contractor in accordance with all applicable local, state, and federal laws and regulations. The Contractor will acknowledge, stipulate, and agree that the City and its officers, agents, representatives, or employees are not responsible or liable for, in any way whatsoever, for any hazardous condition created by, arising out of, or incidental to the Boiler Control & Repair Services performed by the Contractor or its officers, employees, contractors, representatives, or agents under this Agreement. (See Appendix B, Section 1 entitled "Insurance and Indemnification.")
- F. The Contractor will furnish, and have on the job at all times, ample equipment to properly and safely carry out the work contemplated herein including such tool or equipment as may be necessary to meet emergency requirements.
- G. The Contractor will give personal attention to the performance of this Agreement and will furnish to the Airport Representative a listing of all employees (including subcontractor's employees) performing services under this Agreement. (See also Appendix B, Section 3 entitled "Assignment and Subcontracting") This listing of said employees will be updated and maintained by the Contractor throughout the term of this Agreement. The Contractor will be present, either in person, or have a duly authorized representative (i.e., Project Coordinator or supervisory personnel) at the site of the work continuously during working hours,

throughout the progress of the work, to receive directions or furnish information. Any instructions or directions given to the Project Coordinator or supervisory personnel of the Contractor will be considered the same as given to the Contractor in person.

- H. Contractor, at its cost, will be required to secure all applicable permits and licenses and approvals required or necessary to fulfill the Provisions of the Agreement.
- I. The Contractor will attend a pre-performance conference prior to commencement of any work under this Agreement. Said conference will be after the date of Agreement execution, and prior to start of the work.
- J. The work to be performed under this Agreement is on an active Airport. Therefore, prior to the start of any work under this Agreement, the Contractor will provide the Airport Representative with a work schedule which will indicate a proposed sequence and time schedule of the work to be accomplished for the Airport Representative's prior written approval. (See Appendix A, Section 2, entitled "Scope of Work".)
- K. In case of an emergency, the Director, Operations Supervisor, or either of their representatives, will have authority to order the Contractor to immediately terminate work and clear the area of personnel and equipment. The Contractor will immediately comply to such an order with all possible speed.
- L. The Airport Representative will determine the amount, classifications, acceptability, and fitness of all work to be done, and will decide all questions which may arise relative to the proper performance of this Agreement, and his decisions will be final and conclusive, except as provided for in Appendix A, Section 12.
- M. The City reserves the right to solicit bids and award contracts to other contractors for any modifications or additions to the Boiler Control & Repair Services. The City reserves the right to furnish components, parts, supplies, and materials at its discretion or to perform the work contemplated herein. (See Appendix A, Sections 8.B. and 22.G).

6. RULES AND REGULATIONS

- A. Contractor warrants, covenants, represents, stipulates, and agrees that the Contractor will comply with all applicable rules and regulations including, resolutions, plans, operating directives, Airport certification manual, and directives promulgated or established by the Airport Authority, the Airport Commission, the Director, or the City, as they may be amended from time to time, in performing the work or services contemplated herein or the Provisions of this Agreement. Contractor warrants, covenants, represents, stipulates, and agrees that

the Contractor will comply with all statutes, laws, ordinances, orders, judgments, decrees, permits, regulations, environmental plans and programs, environmental permits, directions, and requirements of the City as may be amended from time to time, and all federal, state, city, local and other governmental authorities, now or hereafter applicable, in performing the Provisions of this Agreement and the work or services contemplated herein.

- B. The Contractor will be responsible for compliance with all Airport Security Regulations, Airport Security procedures, and TSA 1500 as they may be amended from time to time. Any and all violations by the Contractor or its officers, employees, subcontractors, independent contractors, agents, or representatives pertaining to Airport Security resulting in a fine or penalty to the City or the Contractor, or its officers, employees, agents, or representatives, will be the responsibility of the Contractor. City will be reimbursed (within ten (10) days of the City's request) for any such fines or penalties imposed on the City.
- C. The Contractor will be responsible for the work of all subcontractors and agents, and all work must be kept under the Contractor's control. A complete list of all such subcontractors will be submitted to the Director for his/her prior written approval (See Appendix B, Section 3 herein).
- D. The Contractor will not be entitled to any claim for damages or losses whatsoever against the City or its officers, employees, agents, representatives, due to hindrance or delay from any cause whatever in the progress of the work or any portion thereof including without limitation, loss of profits, and actual, consequential, special, or incidental damages.

7. REPAIR OF DAMAGE

The Contractor will promptly report any property of the City or third parties damaged by Contractor's operations or employees. The Contractor will make no repairs or replacements to City property without the prior written approval of the Airport Director.

8. PAYMENTS

- A. The Contractor shall submit to the Airport Representative for payment by the City, a monthly-itemized invoice for work performed under this Agreement at the rates and amounts outlined in the attached Appendix C, subject to and in accordance with the Provisions of this Agreement. The invoice shall state: a) Contract Number; b) Ordinance Numbers, c) service performed, and d) date the service was performed. For Extras authorized in writing by the Director, the Contractor will invoice the City the actual labor, parts, and materials required to complete the modifications or additions authorized in writing by the Director as set out in Appendix "A," Section 3.

- B. Nothing in this Agreement will be construed or interpreted to create a debt, liability, or obligation of any kind whatsoever on the City for the City to order or request any particular amount of work or services. (See also Appendix A, Sections 5.M. and 22.G.)
- C. The Contractor warrants, covenants, represents, stipulates, and agrees to submit invoices for the services and work performed pursuant to this Agreement in a timely manner and as provided for in this Agreement. The Contractor acknowledges and agrees that the City will not be required or obligated to pay any invoice submitted to the City by the Contractor more than six (6) months after the expiration or earlier termination of this Agreement or be responsible for any costs or expenses incurred by the Contractor for services or work performed pursuant to the Agreement for which invoices have not been submitted to the City for payment within six (6) months of the expiration or earlier termination of this Agreement.
- D. The total Contract Not-To Exceed Amount of this Agreement is Two Hundred Thousand Dollars (\$200,000.00).

9. **NOTICE OF LOSS OR CLAIMS**

- A. The Contractor will indemnify, defend, and save harmless the City, its officers, employees, and agents from all suits or actions, or losses brought against or suffered by the City, its officers, employees or agents, for or on account of any injuries or damages received or sustained by any party or parties by or from the Contractor, his employees, representative, or agents, in the performance of the work herein specified, or in consequence of any negligence in guarding the same, or any defective materials or equipment used, or by or on account of any act or omission of the said Contractor.
- B. The Contractor will indemnify, defend, and save harmless the City, its officers, employees, representatives, and agents from the payment of any and all claims, demands, damages, or costs arising out of any infringement, or alleged infringement of intellectual property rights including, without limitation, the use of any patent or patented device, article, system, arrangement, material or process used by the Contractor or its officers, employees, representative, or agent in the execution of this Agreement.
- C. The Contractor shall within seven (7) days of service or demand, provide written notification to the Director of all suits or action or losses arising out of the Agreement.

10. REPLACEMENT OF PERSONNEL

Contractor agrees to promptly replace the manager or any employee working under this Agreement should the Airport Director feel and recommend that such should be done for the good of the services being rendered. The Airport Director's decision will be final and binding.

11. PROHIBITED ACTS

Contractor will not do or permit to be done any act which:

- A. Will invalidate or be in conflict with any insurance policies covering the Airport or the City, or any part thereof, or upon the contents of any building thereon;
- B. Will increase rates of any insurance, extended coverage or rental insurance on the Airport or the City, or any part thereof, or upon the contents of any building thereon;
- C. In the opinion of the Airport Representative, will constitute a hazardous condition, so as to increase risks normally attendant upon the operations enumerated in this Agreement;
- D. Will constitute a nuisance in or on the Airport or which may result in creation, commission, or maintenance of a nuisance in or on the Airport; or
- E. May interfere with the effectiveness or accessibility of the drainage of any sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses if any, installed or located in or on the Airport.
- F. If by reason of the Contractor's failure to comply with the provisions of this section, any fire insurance, extended coverage or rental insurance rate on the Airport, or any part thereof, or upon the contents of any building thereon will be at any time higher than it otherwise would be, then the Contractor will on demand, pay the City the increase in the cost of insurance premiums paid or payable by the Airport which was charged because of such violation by the Contractor. For the purpose of this section, "Airport" includes all structures or improvements located thereon.

12. RIGHT OF REVIEW

Contractor has the right to take any decision or direction of the Airport Representative to the Director for his/her review and decision. The decision of the Director will be final and binding. All requests for review must be in writing and within 24 hours of the Airport Representative's decision in dispute, and must set forth clearly the cause for such

request of review. No review will be allowed by the Director which has not first been considered by the Airport Representative. (See Appendix A, Section 5.L).

13. GOVERNING LAW AND FORUM SELECTION

This Agreement is made and entered into in the State of Missouri, and Missouri law, the City's charter and ordinances, as they may be amended from time to time, will govern and apply to this Agreement. Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Agreement must be brought only in a federal or state court in The City of St. Louis, Missouri. Contractor and the City hereby admit and consent to the jurisdiction and venue of such courts. The Provisions of this section survive the expiration or early termination of this Agreement.

14. WAIVERS OF LIEN

Upon completion of work contemplated herein, and if requested by the City, the Contractor will submit within five (5) business days of the City's request full waivers of lien from every entity involved in the performance of this Agreement. Lien waivers must be submitted on forms and executed in a manner acceptable to the Airport Representative. Contractor will warrant, covenant, represent, stipulate, and agree not to permit any mechanics' or materialmen's liens or any other lien or encumbrance to be attached or foreclosed upon the City's property or any part or parcel thereof, or on the improvements thereon, by reason of any work or labor performed or materials furnished by any mechanic, materialman, contractor, or any other reason.

15. FACILITIES PROVIDED BY THE AIRPORT

City, subject to and in accordance with the Provisions of this Agreement, will provide the right of ingress and egress to all areas herein specified in order for the Contractor to perform the work and services contemplated herein.

16. PRECAUTIONARY MEASURES

Contractor warrants, covenants, represents, stipulates, and agrees the Contractor shall exercise every precaution to prevent injury to persons or damage to property and avoid inconvenience to the City's travelers, licensees, and invitees, or airlines operating at the Airport, or other users of the Airport. Contractor shall without limiting the generality hereof, place such watchmen, erect such barricades and railings, give such warnings, display such lights, signals, or signs and exercise such precautions against fire, or electrocution, and take such other precautions as may be necessary, proper or desirable.

17. STORAGE AND STAGING AREA

- A. Location of storage and transfer area ("**Transfer Area**") will be assigned by the Airport Representative in writing (if applicable). If assigned, the Transfer Area will be used for storage of the Contractor's equipment and property, and will be maintained by the Contractor at its cost and to the City's standards as provided for in this Agreement. Assignment of the Transfer Area will be based on availability of space.
- B. The Contractor is responsible for the security of its equipment and must maintain and improve the Transfer Area as directed by the Airport Representative. The Contractor acknowledges, stipulates, and agrees that the City (including its officers, employees, agents or representatives) will not be responsible or liable for any vandalism, theft, casualty, loss, or damages of any kind whatsoever to the Contractor's equipment, containers, compactors, parts, tools, or supplies, or other personal property.
- C. City, subject to and in accordance with the Provisions of this Agreement, will provide the right of ingress and egress to all areas required in the performance of the Contractor's services.

18. BADGING

- A. The Contractor shall comply with all applicable federal, state and local governmental laws and regulations as well as rules and regulations of the Airport as may be amended from time to time. (See Appendix A, Section 6.A)
- B. The Contractor at its cost shall supply to and update as needed for the Airport Police Security Operations Bureau, a list of the Contractor's employees to be issued an Airport Employee Badge.
- C. The Contractor at its cost, if requested by the City, shall provide verification of a five (5) to ten (10) year employee background check of each employee to be issued an Airport Employee Badge.
- D. The Contractor shall, when requested and ordered by the Airport Representative, schedule with the Airport Police Security Operations Bureau to have each employee, to be issued an Airport ID Badge, fingerprinted, for a criminal history check. This process will be used to issue Airport Identification Badges to all Contractor employees assigned to work within the Security Identification Display Area ("**SIDA**"). The Contractor shall maintain at all times adequate control of said identification badges. All employees issued identification badges will be required to attend the SIDA class offered by the Airport Police. The Contractor shall bear the cost of providing badges for the Contractor's employees working under this Agreement. The cost for badging is approximately \$80.00 per

employee and includes the cost of the badge, background check, fingerprinting and the SIDA course. Replacement cost for lost, stolen, or damaged identification badges will be the sole responsibility of the Contractor.

- E. The Contractor is responsible for compliance with all Airport Security Regulations, Airport Security procedures, and TSA 1542 as they may be amended from time to time. Any and all violations by the Contractor or its officers, employees, subcontractors, agents, or representatives pertaining to Airport Security resulting in a fine or penalty to the City or the Contractor, or its officers, employees, agents, or representatives, will be the responsibility of the Contractor. The City will be reimbursed (within ten (10) days of the City's request) for any such fines or penalties imposed on the City (See Appendix A, Section 6.B).
- F. Due to the amount of time needed to complete the badging process, it is recommended that the Contractor begin the process at least thirty (30) days prior to November 1st of each year that this Agreement is in effect.

19. UNIFORMS

Contractor, at its costs, shall provide uniforms for all its employees assigned to the Airport. Such uniforms are to bear the company's name and be approved by the Airport Representative in writing.

20. PERFORMANCE & PAYMENT BOND

- A. At or prior to the execution of this Agreement, the Contractor shall immediately execute a performance bond and a payment bond each in the amount of Fifty Thousand Dollars (\$50,000.00) with surety satisfactory to the City conditioned on the full and faithful performance of all Provisions of this Agreement to be executed. Affirmation by the Surety Company to execute the performance bonds and the payment bonds must be executed by Attorney-In-Fact for the surety company before a licensed Notary Public. The payment bonds must comply with the coverage requirements and conditions of Section 107.170 RSMo. The City will allow submittal of one year renewable bonds to meet the requirements of this Section 20. The Contractor shall notify the City no later than thirty (30) days prior to the termination, cancellation, or non-extension of the performance bonds and/or payment bonds and if the Contractor's performance bonds and/or payment bonds are terminated, cancelled, not renewed or extended, the Contractor shall promptly provide the City with a replacement bond(s) in full compliance with this Section 20. Any sum or sums derived from said performance and/or payment bonds will be used for the completion of this Agreement and the payment of laborers and material suppliers, as the case may be.

- B. Copies of the performance bonds and the payment bonds, in a form acceptable to the City, must be given to the Airport Representative for approval before the work of this Agreement begins.

21. **MISSOURI UNAUTHORIZED ALIENS LAW**

As a condition precedent for the award of this Agreement and prior to performing any work or services under this Agreement, the Contractor, shall, pursuant to the applicable provisions of Sections 285.525 through 285.555 of the Revised Statutes of Missouri 2000, as amended (the "**Missouri Unauthorized Aliens Law**"), by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with this Agreement. The Contractor shall also affirm in said affidavit that it does not knowingly employ any person who is an unauthorized alien in connection with this Agreement pursuant to the Missouri Unauthorized Aliens Law. A copy of an affidavit in a form acceptable to the City is attached hereto and incorporated herein as **Exhibit A** entitled "Affidavit". Contractor's failure to comply at all times with the Missouri Unauthorized Aliens Law or the provisions of this Agreement related to the Missouri Unauthorized Aliens Law may result in the termination of this Agreement by the City and/or the City seeking other remedies available to the City at law or in equity. In addition, the State of Missouri may impose penalties or remedies for violations of the Missouri Unauthorized Aliens Law as set forth therein. The Contractor shall promptly and timely deliver to the City a fully executed original of the Affidavit (see Exhibit "A") including any required documentation in accordance with the Missouri Unauthorized Aliens Law prior to performing any work under this Agreement.

22. **GENERAL PROVISIONS**

- A. The Contractor is, and at all times hereunder, will be and remain an independent contractor and nothing herein will be interpreted or construed to mean that the Contractor or any of its employees or agents is an employee or agent of the City.
- B. The Contractor shall coordinate the services performed under this Agreement with the Airport Representative designated by the Airport Director.
- C. This Agreement will be the entire agreement and no amendment or modification will be made (except as expressly provided for herein) unless in writing and signed by the parties hereto.
- D. The City of St. Louis and the Contractor agree that this Agreement and all contracts entered into under the Provisions of this Agreement are binding upon the parties hereto and their successors and permitted assigns.

- E. A waiver by either party of the Provisions hereto to be performed, kept, or observed by the other party will not be construed as or operate as a waiver of any subsequent default or breach of any of the terms, covenants, or conditions of this Agreement. Any waiver by either party must be in writing and signed by the party waiving.
- F. The Contractor shall keep and maintain such records and reports as are necessary for the City to determine compliance with the obligations of this Agreement. Such records must be maintained by the Contractor for at least three (3) years after the expiration or termination of this Agreement. The City reserves the right to investigate, audit, and review, upon written request, such records and documents, in order to determine compliance with this Agreement. (See Appendix B, Section 6 entitled "Right To Audit Clause").
- G. Contractor acknowledges, understands, stipulates, and agrees that the City retains the right to receive bids and award contracts on any modifications, deletions, or additions to the Boiler Control & Repair Services contemplated herein. In addition, the City retains the right to furnish materials or supplies at its discretion, or perform for itself, any work contemplated herein. (See Appendix A, Sections 5.M and 8.B).
- H. No alderman, commissioner, director, board member, officer, employee or other agent of the City will be personally liable under or in connection with the Agreement.
- I. Neither party will 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 a public enemy, acts of a superior governmental authority, riots, rebellion, or sabotage, or any other circumstances for which it is not responsible and which is not within its control. (See Appendix A, Section 22K).
- J. In the event any Provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such Provision will in no way affect any other Provision, herein contained, provided the invalidity of such Provision does not materially prejudice either party hereto in its respective rights and obligations contained in the valid Provisions of this Agreement.
- K. Time is of the essence in this Agreement. The parties agree that time will be of the essence in the performance of each and every obligation and understanding of this Agreement.
- L. Unless otherwise expressly provided for herein, when the consent, approval, waiver, release, or certification ("**Approval**") of either party is required under the terms of this Agreement, such Approval must be in writing and signed by the party making the Approval. Whenever the Approval of the City or the Director of Airports is required, the Approval must be from the City's Director of Airports or his/her

authorized or designated representative.

23. PREVAILING WAGE AND FRINGE BENEFITS

The Contractor warrants, covenants, represents, stipulates, and agrees that all employees and subcontractor's employees performing any work under and subject to the terms of this Agreement at the Airport will be paid not less than the prevailing hourly rate of wages and fringe benefits as determined by the United States Secretary of Labor, or his/her authorized representative, in accordance with prevailing rates in the locality of the metropolitan St. Louis area pursuant to 41 U.S.C. 351 ex seq., as amended, except for any person engaged in an executive, administrative or professional capacity. This Section 23 is subject to and is in accordance with City Ordinance No. 62124.

24. MEDIA INQUIRIES / ADVERTISING

- A. If contacted by any media entity or other third party ("**Media Entity**") about this Agreement or the services or work performed by the Contractor under this Agreement ("**Airport Project**"), the Contractor will refer the Media Entity to the Airport's Public Relations Manager. This includes, without limitation, trade publications.
- B. Contractor acknowledges and agrees that any printed articles, press releases, web articles, social media communications or case studies about an Airport Project must be approved in writing by the Airport's Public Relations Manager prior to being made public by the Contractor. Contractor will have no right to use the trademarks, symbols, logos, trade names or the name of the City or the Airport, either directly or indirectly, in connection with any production, promotional service, publication or advertising without the prior written consent of the Airport's Public Relations Manager.
- C. Contractor will treat all knowledge of the City's intentions, operations or procedures, and business as confidential and at no time divulge such information without the prior written consent of the Director, unless otherwise required by a court order or subpoena. Contractor will timely inform the City of any such order or subpoena prior to releasing said confidential information.
- D. Advertisements discussing an Airport Project must be approved by the Airport's Public Relations Manager in writing prior to publication or must include a prominent disclaimer that neither the City nor the Airport necessarily endorses the Contractor's work.
- E. Any quotes or testimonials from City or Airport staff may not be used unless pre-approved in writing by the Airport's Public Relations Manager.

- F. Photos taken by Contractor of Airport Projects must be pre-approved in writing by the Airport's Public Relations Manager. Contractor acknowledges and understands that some photos may contain security-sensitive information and publication may violate federal laws or regulations or Airport security rules or procedures.
- G. The Airport's Public Relations office must be given at least three (3) business days' notice to review request and materials. The Airport's Public Relations office coordinates media, web, postings, printed materials, advertisements and other public communication about Airport Projects. Public Relations main number is: 314-426-8125.

25. CUSTOMER SERVICE

Contractor, on behalf of itself and all subcontractors, acknowledges that customer service to the traveling public is a primary concern for the City and that customer service is the shared responsibility of all employees at the Airport, no matter their role or function. Contractor agrees that all employees performing service at the Airport pursuant to this Agreement shall:

- A. Demonstrate excellent customer service at all times when in contact with users of the Airport.
- B. Act in a courteous and helpful manner at all times with travelers, fellow employees, and all other users of the Airport, including but not limited to, appropriate greetings and assistance to travelers.
- C. Ensure that travelers have a positive Airport experience and must at all times behave in a businesslike and professional manner while on Airport property.
- D. Speak English, except when necessary to accommodate customers; refrain from using foul or inappropriate language in public areas; smile and use a pleasant tone of voice when conversing with travelers and all other Airport users; be actively working while on duty and refrain from gathering and "chatting" in groups while on duty, unless necessary; refrain from the use of non-business cell phones while on duty; refrain from napping or sleeping in public areas.
- E. Not utilize public seating, boarding areas, gate areas or lounge areas within the terminals and concourses. The above areas are intended for use by the traveling public and not as rest or lounge facilities for employees.
- F. Additionally, Contractor agrees that it shall:

1. Provide proper training of all employees including on-going customer service training and for the certification or licensing of employees in all areas of service as their duties might legally require.
2. Participate in the Airport's customer service program if required by the Director in writing.
3. Respond in writing to every complaint issued regarding its employees interaction with the public, written or oral, within seven (7) calendar days of the complaint and shall make good faith efforts to explain, resolve or rectify the cause of the complaint. Contractor shall provide the Director with a copy of each such complaint and its written response thereto.
4. Generate a written Customer Service Plan (the "**Plan**") for its employees that is provided to the Director for approval upon fifteen (15) days written notice. Should the Director not approve the Plan, Contractor shall revise and resubmit the Plan within fifteen (15) days of written notice of the denial.

26. INSPECTIONS

- A. The Airport Representative will at all times have free access to the work, as well as the equipment, and shops of the Contractor for the purpose of determining Contractor's compliance with the Provisions of this Agreement. The Airport Representative may perform periodic inspections of the work as outlined in the Agreement, to determine that services performed by the Contractor meet with required standards and the Contractor will be required to timely and promptly make any improvements as required by the Airport Representative at no additional charge to the City (See Appendix A, Sections 2 & 5).

**CITY OF ST. LOUIS
LAMBERT - ST. LOUIS INTERNATIONAL AIRPORT**

APPENDIX "B"

**GENERAL SPECIFICATIONS
(BOILER CONTROL & REPAIR SERVICES)**

1. INSURANCE AND INDEMNIFICATION

- A. The Contractor, at its expense, at all times during the term hereof, will cause St. Louis County, the City, and its Board of Alderman and the Airport Commission, and the State of Missouri for the benefit of the State of Missouri's Legal Expense Fund and the Missouri Highway and Transportation Commission, and their respective officers, employees, and agents and the Contractor to be insured **on an occurrence basis** against 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 the Contractor, its officers, agents, employees, contractors, subcontractors, licensees, invitees, representatives, and independent contractors pursuant to this Agreement under the following types of coverage:
1. Comprehensive General Liability;
 2. Comprehensive Automobile Liability (any vehicles, including owned, hired and non-owned).
- B. **The minimum limits of coverage for the above classes of insurance must equal a single limit of Three Million Dollars (\$3,000,000.00) comprised of such primary and excess policies of insurance as the Contractor finds it feasible to purchase during the term of this Agreement** and will name St. Louis County, the City, and its Board of Alderman and the Airport Commission, and the State of Missouri for the benefit of the State of Missouri's Legal Expense Fund and the Missouri Highway and Transportation Commission, and their respective officers, employees, and agents (the "**CITY**" as used in this Section) by endorsement as an "Additional Insured". Prior to execution of this Agreement, Contractor will provide certificates of said insurance and all endorsements required pursuant to this Agreement to the Airport Representative in form and content satisfactory to the City. In addition, the Contractor will also mail or fax a copy of the Certificate of Insurance and all required endorsements to:

St. Louis Airport Police Department
P.O. Box 10212, Lambert Station
St. Louis, Missouri 63145
Attn: Sharon Wilson, Bureau of Security Operations
Phone: 314-426-8002
Fax: 314-890-1325

- C. Such liability insurance coverage must also extend to damage, destruction and injury to CITY owned or leased property and CITY personnel, and caused by or resulting from work, acts, operations, or omissions of Contractor, its officers, agents, employees, contractors, subcontractors, licensees, invitees, representatives, and independent contractors and, contractual liability insurance sufficient to cover Contractor's indemnity obligations hereunder. The CITY will have no liability for any premiums charged for such coverage, and the inclusion of the CITY as an Additional Insured is not intended to, and does not make the CITY a partner or joint venturer with Contractor in its operations hereunder. Each such insurance policy must provide primary coverage to the CITY when any policy issued to the CITY provides duplicate or similar coverage and in such circumstances, the CITY's policy will be excess over Contractor's policy.
- D. The Contractor will protect, defend, and hold St. Louis County, the City, and its Board of Alderman and the Airport Commission, and the State of Missouri for the benefit of the State of Missouri's Legal Expense Fund and the Missouri Highway and Transportation Commission, and their respective officers, employees, and agents completely harmless from and against all liabilities, losses, suits, claims, judgments, and fines or demands arising by reason of injury or death of any person or damage to 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 whatsoever arising out of or incident to this Agreement and the use or occupancy of the City's premises and the acts or omissions of Contractor's officers, agents, employees, contractors, subcontractors, licensees, invitees, or independent contractors regardless of where the injury, death, or damage may occur, unless and to the extent such injury, death or damage is caused by the negligence of the City. The Director or his/her designee will give to Contractor reasonable notice of any such claims or actions. The Contractor will also use counsel reasonably acceptable to the City Counselor of the City or his/her designee, after consultation with the Director or his/her designee, in carrying out its obligations hereunder. The Provisions of this section survive the expiration or early termination of this Agreement.
- E. The Contractor will maintain Worker's Compensation and Employer's Liability Insurance at least at the statutory requirement and in accordance with Missouri laws and regulations. Contractor will require that all of its subcontractors or licensees similarly provide such coverage. The City, its officers, employees, or agents will not be liable or responsible for any claims or actions occasioned by Contractor's failure to comply with the provisions of this subsection. The indemnification provisions of this Agreement apply to this subsection. It is expressly agreed that the employees of the Contractor are not employees of the City for any purpose, and that employees of the City are not employees of the Contractor.

2. CANCELLATION

- A. The City retains the right to cancel this Agreement immediately upon written notice to the Contractor, if the Contractor should fail to properly keep any Provision of this Agreement; or, if the quality of service should fall below the specified standards as determined by the City; or, if the Contractor should fail or refuse to render the amount of service required.
- B. The Contractor has the right to cancel this Agreement if the City fails to keep, perform, or observe any material Provision of this Agreement for a period of thirty (30) Days after written notice by the Contractor specifying such material breach by the City; provided, however, that such material breach which can be cured, but which cannot with due diligence be cured within such thirty (30) Days, shall not give rise to the Contractor's right to terminate this Agreement if corrective action is instituted by the City within such thirty (30) Days and diligently pursued until the material breach is corrected.
- C. The Contractor retains the right to cancel this Agreement without cause upon (90) Days written notice to the City. There will be no liability to the Contractor and such a cancellation will be deemed a no fault cancellation.
- D. The City retains the right to cancel this Agreement without cause upon (30) Days written notice to the Contractor. There will be no liability to the City and such a cancellation will be deemed a no fault cancellation.
- E. Notwithstanding anything to the contrary herein, it is expressly understood by the parties hereto that this Agreement will terminate immediately upon the failure of budgetary appropriations with no resulting liability to the City.
- F. If requested in writing by the Airport Representative or in the event of cancellation, termination, or the expiration of this Agreement, all tools, parts, equipment, supplies, materials, maps, plans and specifications, manuals, schedules, records, files, logs, work product, or property paid for, supplied or owned by the City will be returned to the City by the Contractor within one (1) business day.

3. ASSIGNMENT AND SUBCONTRACTING

- A. Contractor will not assign or transfer this Agreement without the prior written approval of the City, as provided for in Ordinance 63687 approved in 1996. At least 90 days prior to any contemplated assignment of this Agreement, Contractor will submit a written request to the City along with a copy of the proposed assignment agreement. The City reserves the right to refuse without cause or justification, such requests. No assignment will be made or will be effective unless Contractor is not in default on any of the other terms, covenants, and

conditions herein contained. The party to whom such assignment is made will expressly assume in writing the terms, covenants, and conditions of this Agreement. The parties to this Agreement understand and agree that the Contractor is and will remain responsible for the performance of its assigns under this Agreement. No assignment will be effective as it pertains to the City until such time as the City receives a fully executed copy of the approved assignment agreement as provided for above.

- B. Contractor will not subcontract or transfer any part of the services or work to be performed hereunder without the prior written approval of the Director of Airports. At least 60 days prior to any contemplated subcontracting of service or work or the transfer of any part of the services or work to be performed hereunder, Contractor will submit a written request to the Director of Airports. This request must include a copy of the proposed subcontract or agreement. The City reserves the right to refuse without cause or justification, such requests. At a minimum, any sub-contractor agreement must expressly require strict compliance with the terms, covenants, and conditions of this Agreement. The Contractor will furnish all authorized subcontractors or agents a copy of this Agreement. The parties understand and agree that the Contractor is responsible for the performance of its subcontractors or agents under this Agreement. No subcontract or any other agreement will be effective as it pertains to the City until such time as the City receives a fully executed copy of the approved subcontract or agreement as provided for above.
- C. Any such assignment or transfer or subcontracting of services without the consent of the City, as provided for above, will constitute default on the part of the Contractor under this Agreement. No action or failure to act on the part of any officer, agent, or employee of the City will constitute a waiver by the City of this provision.
- D. The City has approved the following M/W/DBE subcontractors for participation under this Agreement at the percentage participation goals as set out below:

TD4 Electrical LLC	MBE	5.2%
J D Kutter Insurance Associates, Inc.	WBE	.69%

4. AFFIRMATIVE ACTION PROGRAM AND NON-DISCRIMINATION

- A. Contractor agrees during performance under this Agreement, that discrimination will not be permitted against any employee, worker, or applicant for employment because of race, creed, color, religion, sex, age, disability, national ancestry or origin.
- B. Contractor agrees during performance under this Agreement, that all printed or circulated solicitations, or other advertisement or publication for employees placed

by or on behalf of the Contractor, state that all qualified applicants will receive meaningful consideration for employment without regard to race, creed, color, religion, sex, age, disability, national origin or ancestry.

- C. Contractor agrees during performance under this Agreement, that should it be determined by the Contractor or City that Contractor will be unable to conform to the approved positive employment program, submitted to determine eligibility under the Fair Employment Division Practices Provisions of the City Code, will notify the Fair Employment Division of the St. Louis Council on Human Relations within ten days as to the steps to be taken by the Contractor to achieve the provisions of this program.
- D. Contractor 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. In the event of the Contractor's non-compliance with the nondiscrimination clauses of this Agreement, or to furnish information or permit records and accounts to be inspected, within twenty days from the date requested, this Agreement may be canceled, terminated, or suspended in whole or part and Contractor may be declared ineligible for further City contracts for a period of one year, by the option of the City; provided further in the event the Agreement is canceled, terminated, or suspended for failure to comply with fair employment practices, the Contractor will have no claim for any damages against the City.
- F. Contractor further agrees that these clauses (A through E) on discrimination and equal opportunity practices in all matters of employment and training for employment will be incorporated by Contractor in all contracts or agreements entered into with suppliers of materials or services, contractors and subcontractors and all labor organizations furnishing skilled, unskilled and craft union skilled labor, or who may perform any such labor or services in connection with this Agreement.
- G. Whenever the Contractor is sued or threatened with litigation by a subcontractor, vendor, individual, group or association, as a result of compliance with the clauses (A through F) of these provisions relating to fair employment practices, such contractor will notify the City Counselor in writing of such suit or threatened suit within ten days.
- H. The Contractor must submit evidence from the City's Civil Rights Enforcement Agency (**CREA**) stating that Contractor has complied with the City's requirements for an affirmative action program as required by the Mayor's Executive Order on Equal Opportunity in Employment.
- I. Contractor shall comply with all applicable nondiscriminatory requirements that may be imposed pursuant to the Federal Aviation Act of 1958, as amended; Title

VI of the Civil Rights Act of 1964, as amended; 49 C.F.R. Parts 21, 23, and 26, as said regulations may be amended; and state and local laws.

5. **MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE (MBE/WBE) PARTICIPATION**

A. Definitions:

As used in this requirement, "Minority Business Enterprise" or "MBE" and "Women Business Enterprise" or "WBE" are defined as follows:

1. **"Minority Business Enterprise" or "MBE"** means a minority business enterprise as defined in the Mayor's Executive Order #28, as amended.
2. **"Women Business Enterprise" or "WBE"** means a women's business enterprise as defined the Mayor's Executive Order #28, as amended.

B. Policy:

It is the policy of the City of St. Louis Airport Authority to ensure the maximum utilization of minority and women's business enterprises in contracting and the provision of goods and services to the City, its departments, agencies and authorized representative and to all entities receiving City funds or City-administered government funds while at the same time maintaining the quality of goods and services provided to the City and its subrecipients through the competitive bidding process. The provisions of this Policy apply to all contracts awarded by the City, its departments and agencies and to all recipients of City funds or City-administered government funds and will be liberally construed for the accomplishments of its policies and purposes.

C. Goal:

A goal of 25 % MBE and 5 % WBE utilization has been established in connection with this Agreement. This goal is based on the original Agreement amount and remains in effect throughout the term of this Agreement. If an award of this Agreement is made and the MBE/WBE participation is less than this Agreement goal, the Contractor will continue good faith efforts throughout the term of this Agreement to increase MBE/WBE participation and to meet this Agreement goal. **Please note: Contractors which have been certified as either an MBE or WBE are still required to fill both goals. In addition, Contractors which have been certified as an MBE and a WBE can only be used to fulfill either the MBE goal or the WBE goal, not both goals.**

D. Obligation:

1. The Contractor agrees to take all reasonable steps to ensure that MBEs/WBEs have maximum opportunity to participate in contracts and subcontracts financed by the City of St. Louis Airport Authority provided under this Agreement. The Contractor will not discriminate on the basis of race, color, national origin, or sex in the award or in the performance of contracts financed by the City of St. Louis Airport Authority.
2. A current Directory of M/W/DBE certified firms is available online at [http://www.flystl.com/Business Diversity](http://www.flystl.com/BusinessDiversity) under the Business Profile Directory link. A paper copy of the Directory may be requested at the Airport DBE Programs Office, Lambert – St. Louis International Airport, P.O. Box 10212, St. Louis, Missouri 63145 or by calling (314) 426-8111.

E. Eligibility:

Contractor should contact the City of St. Louis Airport Authority DBE Program Office to obtain a list of eligible MBEs/WBEs and to determine the eligibility of the MBE/WBE firms it intends to utilize in this Agreement.

F. Counting MBE/WBE Participation Toward Goals:

MBE/WBE participation towards the attainment of the goal will be credited on the basis of the total subcontract prices agreed to between the Contractor and subcontractors for the contract items being sublet as reflected on the “**MBE/WBE Utilization Plan**” attached hereto as Attachment 3 and incorporated herein (see Bidder’s Checklist Item 4). *Firms must be certified prior to the bid opening in order to be used to fulfill the participation goals.*

G. Post Award Compliance:

If the contract is awarded on less than full MBE/WBE goal participation, such award will not relieve the Contractor of the responsibility to continue good faith efforts to maximize participation of MBEs/WBEs during the term of this Agreement.

H. Substitution of MBE/WBE Firms After Award:

1. The Contractor will conform to the scheduled amount of MBE/WBE participation. When a listed MBE/WBE is unwilling or unable to perform the items of work or supply the goods or services specified in the MBE/WBE Utilization Plan, the Contractor will immediately notify the City of St. Louis Airport Authority DBE office prior to replacement of the firm.

2. Substitutions of MBE/WBE must be approved in writing by the Director. (See Appendix B, Section 3.B.) Substitutions of MBE/WBE will be allowed only when the MBE/WBE has failed to perform due to a default (material breach) of its subcontract or agreement. Contractor understands, warrants, and agrees that it will not cancel or terminate its agreement with the MBE/WBE without cause and will timely forward supporting documentation substantiating the cause of the default or termination to the Director for review.

I. Good Faith Efforts:

When the M/WBE goals cannot be met, the Bidder will document and submit justification utilizing the Contractor's "**Good Faith Efforts Report Form**" attached hereto as Attachment 4 and incorporated herein and provide a statement as to why the goals could not be met. (See Bidder's Checklist Item 5.) The quality and intensity of the contractor's good faith efforts will be evaluated by the City. The contractor must demonstrate the good faith efforts taken to meet the M/WBE goals, including but not limited to the following:

1. Efforts made to select portions of the work proposed to be performed by M/WBEs in order to increase the likelihood of achieving the stated goal, including, where appropriate, but not limited to, breaking down contracts into economically feasible units to facilitate M/WBE participation. Selection of portions of work are required to at least equal the goal for M/WBE utilization specified in the contract.
2. Written notification at least (14) calendar days prior to the opening of bids, soliciting individual M/WBEs interested in participation in the contract as a subcontractor, regular dealer, manufacturer, consultant, or service agency and for what specific items or type of work.
3. Written notification to disadvantaged economic development assistance agencies and organizations which provide assistance in recruitment and placement of M/WBEs, of the type of work, supplies, or services being considered for M/WBEs on this contract.
4. Efforts made to negotiate with M/WBEs for specific items of work including evidence on:
 - a. The names, addresses, telephone numbers of M/WBEs who were contacted, the dates of initial contact and whether initial solicitations of interest were followed up by contacting the M/WBEs to determine with certainty whether the M/WBE is interested. Personal or phone contacts are expected.

- b. A description of the information provided the M/WBEs regarding the plans and specifications and estimated quantities for portions of the work to be performed.
 - c. A statement of why additional agreements with M/WBEs were not reached, and
 - d. Documentation of each M/WBE contacted but rejected and the reasons for the rejection.
- 5. Absence of any agreements between the contractor and the M/WBE in which M/WBE promises not to provide subcontracting quotations to other bidders.
- 6. Efforts made to assist the M/WBEs that need assistance in obtaining bonding, insurance, or lines of credit required by the contractor.
- 7. Documentation that qualified M/WBEs are not available, or not interested.
- 8. Attendance at any meeting scheduled by the user department, or the SLDC to encourage better contractor-subcontractor relationships, forthcoming M/WBE utilization opportunities (i.e. pre-bid, workshops, seminars), etc.
- 9. Advertisement, in general circulation media, trade association publications, disadvantaged-focused media, of interest in utilizing M/WBEs and area of interest.
- 10. Efforts to effectively use the services of available disadvantaged community organizations; disadvantaged contractor's groups; local, state and federal disadvantaged business assistance offices; and other organizations that provide assistance in recruitment and placement of M/WBEs.
- 11. Examples of actions not acceptable as reasons for failure to meet the M/WBE goal.
 - a. M/WBE unable to provide performance and/or payment bonds.
 - b. Rejection of reasonable bid based on price.
 - c. M/WBE would not agree to perform items of work at the unit bid price.
 - d. Union versus nonunion status.
 - e. Contractor normally would perform all or most of the work of the contract.

- f. Solicitation by mail only.
 - g. Restricting to only those general group of items which may be listed in bids under such headings "Items Subcontractible to M/WBE firms".
- 12. The demonstration of good faith efforts by the contractor must, in the end, prove the contractor had actively and aggressively sought out M/WBEs to participate in the project.
- 13. The information provided will be evaluated to determine if the low bidder is responsive. All the information provided must be accurate and complete in every detail. The apparent low bidder's attainment of the M/WBE goal or demonstration of good faith effort will assist in determining the award of the contract.
- J. Record Keeping Requirements:

The Contractor will keep such records (copies of subcontracts, paid invoices, documentation of correspondence) as are necessary for the City of St. Louis Airport Authority to determine compliance with the MBE/WBE contract obligations. The City of St. Louis Airport Authority reserves the right to investigate, monitor and/or review actions, statements, and documents submitted by any contractor, subcontractor, or MBE/WBE.
- K. Reporting Requirement:

The Contractor will submit quarterly reports on MBE/WBE involvement to the City of St. Louis Airport Authority DBE Office. Actual payments to MBEs/WBEs will be verified. These reports will be required until all MBE/WBE subcontracting activity is complete or the MBE/WBE goal has been achieved.
- L. Applicability Of Provisions To MBE/WBE Contractors:

These provisions are applicable to all contractors including MBE/WBE contractors. If the MBE/WBE contractor intends to sublet any portion of this Agreement, the MBE/WBE contractor will comply with provisions regarding contractor and subcontractor relationships.

6. **RIGHT TO AUDIT CLAUSE**

- A. The Contractor's "records" must be open to inspection and subject to audit and reproduction during normal working hours and kept within the greater St. Louis metropolitan area. A City representative may perform such audits or an outside

representative engaged by the City. The City or its designee may conduct such audits or inspections throughout the term of this Agreement, and for a period of three years after the early termination or the expiration of this Agreement or longer if required by law.

- B. The Contractor's "**records**" as referred to in this Agreement include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, communities, arrangements, notes, daily diaries superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in City's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by this Agreement. Such records subject to audit also include, but are not limited to, those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. Such records include (hard copy, as well as computer readable data if reasonably available), written policies and procedures; time sheets; payroll registers; cancelled checks; original estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); backcharge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other Contractor records which may have a bearing on matters of interest to the City in connection with the Contractor's work for the City (all foregoing hereinafter referred to as "records") to the extent necessary to adequately permit evaluation of:
1. Contractor's compliance with the Provisions of this Agreement or the performance of the services contemplated herein; or
 2. Compliance with provisions for pricing, change orders, invoices or claims submitted by the Contractor or any of its payees or subcontractors, if any.

7. LIVING WAGE

- A. Living Wage Compliance Provisions: Any work ordered by the City under this Agreement is subject to the St. Louis Living Wage Ordinance Number 65597 (the "**Ordinance**") and the "**Regulations**" associated therewith, as may be amended from time to time, both of which are incorporated herein by this reference. The Ordinance and Regulations require the following compliance measures, and Contractor hereby warrants, represents, stipulates, and agrees to strictly comply with these measures beginning on the Commencement Date of this Agreement:
1. **Minimum Compensation:** Contractor hereby agrees to pay an initial hourly wage to each employee performing services related to this Agreement in an amount no less than the amount stated on the attached

Living Wage Bulletin (See **Exhibit B**) which is attached hereto and incorporated herein. The initial rate will be adjusted each year no later than April 1, and Contractor hereby agrees to adjust the initial hourly rate to the adjusted rate specified in the Living Wage Bulletin at the time the Living Wage Bulletin is issued.

2. **Notification:** Contractor shall provide the Living Wage Bulletin together with the "Notice of Coverage" to all employees in English, Spanish, and any other languages spoken by a significant number of the Contractor's employees within thirty (30) days of the effective date of this Agreement for existing employees and within thirty (30) days of employment for new employees.
3. **Posting:** Contractor shall post the Living Wage Bulletin, together with a "Notice of Coverage", in English, Spanish, and any other languages spoken by a significant number of the Contractor's employees, in a prominent place in a communal area of each worksite covered by this Agreement.
4. **Subcontractors:** Contractor hereby agrees to require Subcontractors, as defined in the Regulations, to comply with the requirements of the Living Wage Regulations, and hereby agrees to be responsible for the compliance of such Subcontractors. Contractor shall include these Living Wage Compliance Provisions in any contract with such Subcontractors.
5. **Term of Compliance:** Beginning on the effective date of this Agreement, Contractor hereby agrees to comply with these Living Wage Compliance Provisions and with the Regulations for as long as work related to this Agreement is being performed by Contractor's employees, and to submit the reports required by the Regulations for each calendar year or portion thereof during which such work is performed.
6. **Reporting:** Contractor shall provide the Annual Reports and attachments required by the Ordinance and Regulations.
7. **Penalties:** Contractor acknowledges and agrees that failure to comply with any provision of the Ordinance or Regulations may result in penalties specified in the Ordinance and Regulations, which penalties may include, without limitation, suspension or termination of this Agreement, forfeiture and/or repayment of City funds, disbarment, and/or the payment of liquidated damages, as provided in the Ordinance and Regulations.
8. **Acknowledgements:** Contractor acknowledges receipt of a copy of the Ordinance and Regulations.

8. **CIVIL RIGHTS GENERAL PROVISIONS**

- A. The Contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.
- B. The provisions bind the Contractor and sub tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

9. **CIVIL RIGHTS AND NON-DISCRIMINATION PROVISIONS**

- A. During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest agrees as follows:
 - 1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
 - 2. **Non-discrimination:** The Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
 - 3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
 - 4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and

instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with this Section, the City will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Contractor under the Agreement until the contractor complies; and/or
- b. Cancelling, terminating, or suspending this Agreement, in whole or in part.

6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

- B. During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of

persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take

reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); or

12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

10. FEDERAL FAIR LABOR STANDARDS ACT PROVISION

- A. All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Sect. 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.
- B. The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

11. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All Contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Section 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

12. SEISMIC SAFETY

When applicable, the Contractor agrees to ensure that all work performed under this Agreement, including work performed by its subcontractor(s), conforms to a building code standard that provides a level of seismic safety and substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (“NEHRP”). Local building codes that model their code after the current version of the International Building Code meet the NEHRP equivalency level for seismic safety.

13. DISTRACTED DRIVING

The City encourages the Contactor to promote policies and initiatives for its employees and other work personnel that decreases the crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with this Agreement. The Contractor must include the substance of this section in all sub contracts r that involve driving a motor vehicle in performance of the work associated with this Agreement.

14. CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, Executive Orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. Sec. 740-7671q) and the Federal Water Pollution Act as amended (33 U.S.C. Sec. 1251-1387). The Contractor agrees to report any violation to the City immediately upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency and the Federal Aviation Administration.

15. NOTICE PROVISION

Except as herein otherwise expressly provided, all notices required to be given to the City hereunder must be in writing and must be delivered personally or be sent by certified mail return receipt requested, or overnight courier to:

Rhonda Hamm Niebruegge
Airport Director
St. Louis Airport Authority
P.O. Box 10212
St. Louis, MO 63145

With a copy to:

Ron Stella
St. Louis Airport Authority
P.O. Box 10212
St. Louis, MO 63145

And a copy to:

Robert Salarano
St. Louis Airport Authority
P.O. Box 10212
St. Louis, MO 63145

All notices, demands, and requests by the City to the Contractor must be sent to:

Brad Stearns
SystemAire, Inc.
4181 Shoreline Drive
Earth City, Missouri 63045

The City or Contractor may designate in writing from time to time any changes in addresses or any addresses of substitutes or supplementary persons in connection with said notices. The effective date of service of any such notice shall be deemed received at the earlier of actual receipt or the dates such notice is mailed to the Contractor or the Airport Director.

Confidential
garvinm@stlouis-mo.gov
2020-01-16 13:33:34 +0000

**CITY OF ST. LOUIS
LAMBERT - ST. LOUIS INTERNATIONAL AIRPORT®**

**APPENDIX "C"
RATES FOR BOILER CONTROL & REPAIR SERVICES**

	Year 1	Year 2	Year 3
Bid for Normal Hours Labor Service	\$ <u>92.00</u> per man hour	\$ <u>94.00</u> per man hour	\$ <u>96.00</u> per man hour
Service Call Charge for Normal Hours Emergency Service	\$ <u>92.00</u> per call	\$ <u>94.00</u> per call	\$ <u>96.00</u> per call
Bid for Outside Normal Hours Labor Service	\$ <u>92.00</u> per man hour	\$ <u>94.00</u> per man hour	\$ <u>96.00</u> per man hour
Service Call Charge for Outside Normal Hours Emergency Service	\$ <u>92.00</u> per call	\$ <u>94.00</u> per call	\$ <u>96.00</u> per call
Bid for New Parts; List Price Less (See Appendix A, Section 5.D)	<u>0</u> %	<u>0</u> %	<u>0</u> %

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals as set forth below:

SYSTEMAIRE, INC.

ATTEST:

BY: [Signature] 7/13/16
Date

BY: [Signature] 7/13/16
Date

THE CITY OF ST. LOUIS, MISSOURI, OWNER AND OPERATOR OF
LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT:

The foregoing Agreement was approved on this 3 day of August, 2016,
by the Airport Commission.

BY: [Signature]
Director of Airports Date

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its
meeting on August 23, 2016.

BY: [Signature] 8-23-16
Secretary Date
Board of Estimate & Apportionment

APPROVED AS TO FORM BY:

COUNTERSIGNED BY:

[Signature] 8-3-2016
City Counselor Date

[Signature]
Comptroller Date

ATTESTED TO BY:

[Signature] AUG 31 2016
Register Date

COMPTROLLER'S OFFICE
DOCUMENT # 70516

Exhibit A
Affidavit
(Missouri Unauthorized Aliens Law)

Confidential
garvinm@stlouis-mo.gov
2020-01-16 13:33:34 +0000

STATE OF MISSOURI)
)SS.
COUNTY OF ST. LOUIS)

AFFIDAVIT

Before me, the undersigned Notary Public, personally appeared BRAD STEARNS (Name of Affiant) who, by me being duly sworn, deposed as follows:

My name is BRAD STEARNS (Name of Affiant), I am of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein stated:

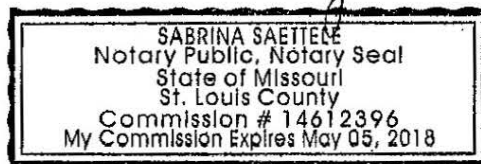
I am the U.P. BUSINESS DEV. (Position/Title) of SYSTEM AIRE, INC. (Contractor).


I have the legal authority to make the following assertions:

1. SYSTEM AIRE, INC. (Contractor) is currently enrolled in and actively participates in a federal work authorization program with respect to the employees working in connection with BOILER CONTROL & REPAIR SERVICE (the "Agreement"), as required pursuant to Sections 285.525 through 285.555 of the Revised Statutes of Missouri 2000, as amended.
2. Pursuant to Sections 285.525 through 285.555 of the Revised Statutes of Missouri 2000, as amended, SYSTEM AIRE, INC. (Contractor) does not knowingly employ any person who is an unauthorized alien in connection with the Agreement.


Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal
this 9 day of May, 2016




Notary Public

My Commission Expires: 5/5/18

Exhibit B
ST. LOUIS LIVING WAGE ORDINANCE
LIVING WAGE ADJUSTMENT BULLETIN

NOTICE OF ST. LOUIS LIVING WAGE RATES
EFFECTIVE APRIL 1, 2016

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 **\$12.60** per hour (130% of the federal poverty 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 **\$16.87** per hour (130% of the federal poverty guideline for a family of three, plus fringe benefit rates as defined in the Ordinance).
- 3) Fringe benefit rate defined under Chapter 6.20 of the Revised Code of the City of St. Louis: **\$4.27** per hour

These rates are based upon federal poverty level income guidelines as defined in the Ordinance and are effective as of **APRIL 1, 2016**. These rates will be further adjusted when the federal poverty guidelines are adjusted by the U.S. Department of Health & 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 <https://www.stlouis-mo.gov/government/city-laws/ordinances/ordinance.cfm?ord=65597> or obtained from:

City of St. Louis Living Wage Program Office
St. Louis, Missouri
(314) 426-8106

Dated: February 5, 2016