

case no. 11

# REQUEST FOR ACTION: CONTRACT

Version: 05/01/2002

AGENDA FOR:  MAYOR  COUNCIL AUTHORITY: \_\_\_\_\_ DATE: August 4, 2008  
Tulsa City Clerk's Office: 596-7513 or 596-7514

**FOR INFORMATION CONTACT:**

DEPARTMENT: PUBLIC WORKS CONTACT NAME: PAUL D ZACHARY 8/12/08  
ADDRESS: 2317 S. JACKSON AVE., RM S-200 TELEPHONE: 576-5679 (Dennis Whitaker)  
CONTRACT TYPE: LICENSE AGREEMENT CONTRACT #:  
CONT. DOC. TYPE: CONTRACT AMOUNT:  
PROJECT TITLE: LICENSE AGREEMENT  
CONTRACTOR: SAVE THE OLD FRISCO ENGINE FOR TULSA COMMITTEE, INC  
BID/TAC/PROJECT #: \_\_\_\_\_ EXTENSION DAYS: \_\_\_\_\_ COMMODITY CODE: \_\_\_\_\_  
RENEWAL, AMENDMT, CHNG # \_\_\_\_\_ of x PERCENT: \_\_\_\_\_ TOTAL PERCENT: \_\_\_\_\_ COUNCIL DIST: 2

**SUMMARY:**

Applicant: Save the Old Frisco Engine for Tulsa Committee, Inc.  
Location: A tract of City owned land within the range of 3600-3800 block of Southwest Blvd.  
Licensee has applied for license to install, use, and maintain railroad track panels and Frisco 4500 Engine & Tender for public display and benefit. Location approximately as shown in Exhibit A.

Public Works offers no objection to the License Agreement.

Approved By  
City Council On  
SEP 11 2008

BUDGET: \_\_\_\_\_ FINANCE DIRECTOR APPROVAL: \_\_\_\_\_

- CHECKLIST
- No Payments Involved
  - Purchase Order
  - Contract Encumbrance
  - Affidavit Needed?

FUNDING SOURCE(S): \_\_\_\_\_

APPROVED BY MAYOR  
CITY OF TULSA  
SEP 11 2008

REQUEST FOR ACTION: *All department items requiring Council approval must be submitted through Mayor's Office.*

Recommend approval of application. Please return two executed copies to the Public Works Department, 2317 S. Jackson Ave., Rm S-200, Tulsa, OK 74107.

Attachments

DEPARTMENT HEAD APPROVAL: \_\_\_\_\_ DATE: 8/8/08  
CITY ATTORNEY APPROVAL: SWINEY AUG. 14, 2008  
BOARD APPROVAL: \_\_\_\_\_  
MAYORAL APPROVAL: \_\_\_\_\_  
OTHER: \_\_\_\_\_

FOR CITY COUNCIL OFFICE USE ONLY: 08-1006-1 DATE RECEIVED: 8-22-08  
COMMITTEE: PW COMMITTEE DATE(S): 9-9-08 FIRST AGENDA DATE: 9-11-08  
HEARING DATE: \_\_\_\_\_ SECOND AGENDA DATE: \_\_\_\_\_ APPROVED: \_\_\_\_\_

For City Clerk's Office Use Only (Agenda Date: MMDDYYYY; Sec #: Dept ##, Item ##, Sub-Item ##, Status: S=Synopsis):

09-22-2008 2 20 5

RESOLUTION NO. 22777

**LICENSE AGREEMENT**

THIS AGREEMENT, made and entered into by and between the **CITY OF TULSA, OKLAHOMA**, a municipal corporation, 200 Civic Center, Tulsa OK 74103 (hereinafter referred to as "City") and **SAVE THE OLD FRISCO ENGINE FOR TULSA COMMITTEE, INC.**, an Oklahoma not-for-profit corporation (hereinafter referred to as "Licensee"),

WITNESSETH:

WHEREAS, City owns certain public property, namely:

A tract of land adjacent to Southwest Boulevard in the Southeast Quarter of Section 22, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, as more fully described on attached Exhibit "A" (herein, the "public property"); and

WHEREAS, Licensee has applied for a license to install, use and maintain, or cause to be installed, used and maintained, certain improvements, to-wit:

railroad track panels and necessary railroad fixtures, along with appropriate personnel and equipment (herein, "the railroad fixtures")

in and upon the said public property in connection with the permanent placement of the City-owned Frisco 4500 locomotive engine and tender (herein, "the Frisco 4500") thereon; and

WHEREAS, City is agreeable to the issuance of said license, subject to the covenants and conditions set forth below;

NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN CITY AND LICENSEE AS FOLLOWS:

1. City does hereby grant this license to Licensee to install and maintain the said railroad fixtures, in and upon City's said public property, provided that such use does not unreasonably interfere with public use of the City's said public property.

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2. This license is revocable at any time at the will of City, and is subject to and subordinate to City's right to maintain, use, alter or excavate any portion of City's said public property. This license is subject to and subordinate to any rights heretofore or hereafter granted by City to any public utility or franchise holder, to construct, install, operate, maintain, repair or replace any utility or appurtenance thereto, or to use any portion of City's public property. Should removal, construction and/or excavation become necessary in City's opinion, Licensee agrees to hold City harmless for any loss or damage to Licensee's railroad fixtures.

3. The said railroad fixtures shall at all times be and remain the property of Licensee, Licensee's contractors, successors and assigns. It is specifically agreed that Licensee installs, uses and maintains said railroad fixtures at Licensee's own expense, and at Licensee's own risk. During the term of this agreement, Licensee shall maintain the said railroad fixtures in a functional, safe and attractive condition.

4. Licensee agrees to paint, repaint, repair and/or restore the Frisco 4500, including graffiti abatement and rust removal, as necessary or as requested by City. City hereby grants Licensee permission to enter upon City's said public property at reasonable times for this purpose.

5. Licensee shall indemnify and hold City harmless from any and all claims, suits, actions or judgments, including all expenses, attorney fees, witness fees and costs of defending any such claim, or appeals therefrom, which arise out of Licensee's installation, use or maintenance of said railroad fixtures, including any interference or damage to any third person or property. Licensee shall maintain a policy of liability insurance naming the City of Tulsa as additional insured, in the amount of one million dollars (\$1,000,000.00), issued by an insurance company licensed to do business in the State of Oklahoma.

6. Upon termination of this license as herein provided, the railroad fixtures may become the property of City.

7. Nothing herein shall release Licensee or its contractors from

their duty to comply with all laws and regulations, including electrical, mechanical and building codes, Federal railroad regulations, drainage standards, A.D.A. standards and zoning ordinances.

8. In the event that Licensee desires to install, construct and/or maintain any additional improvements or appurtenances not identified in this agreement, Licensee shall obtain approval from City, and this agreement may be amended.

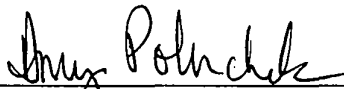
9. This license, when duly recorded in the office of the County Clerk, shall bind Licensee's successors in title, and shall run with the land.

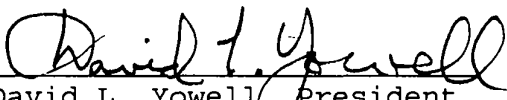
10. The date of this agreement shall be the date on which it is executed by the City of Tulsa.

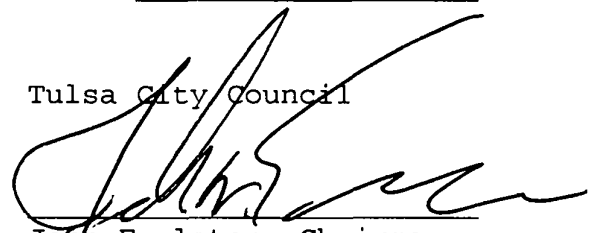
IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates set forth below.


CITY OF TULSA, OKLAHOMA,  
a municipal corporation

SAVE THE OLD FRISCO ENGINE FOR  
TULSA COMMITTEE, INC.,  
an Oklahoma not-for-profit  
corporation

  
Kathy Taylor, Mayor **PRO-TEM**  
Amy Pollock  
Date: SEP 24 2008

  
David L. Yowell, President  
Date: July 24, 2008

Tulsa City Council  
  
John Eagleton, Chairman  
Date: SEP 11 2008

ATTEST:  
  
Corporate Secretary



ATTEST:

*Anthony Mayes*

City Clerk

DEPUTY

APPROVED:

*John Swiney* (SWINEY)

City Attorney

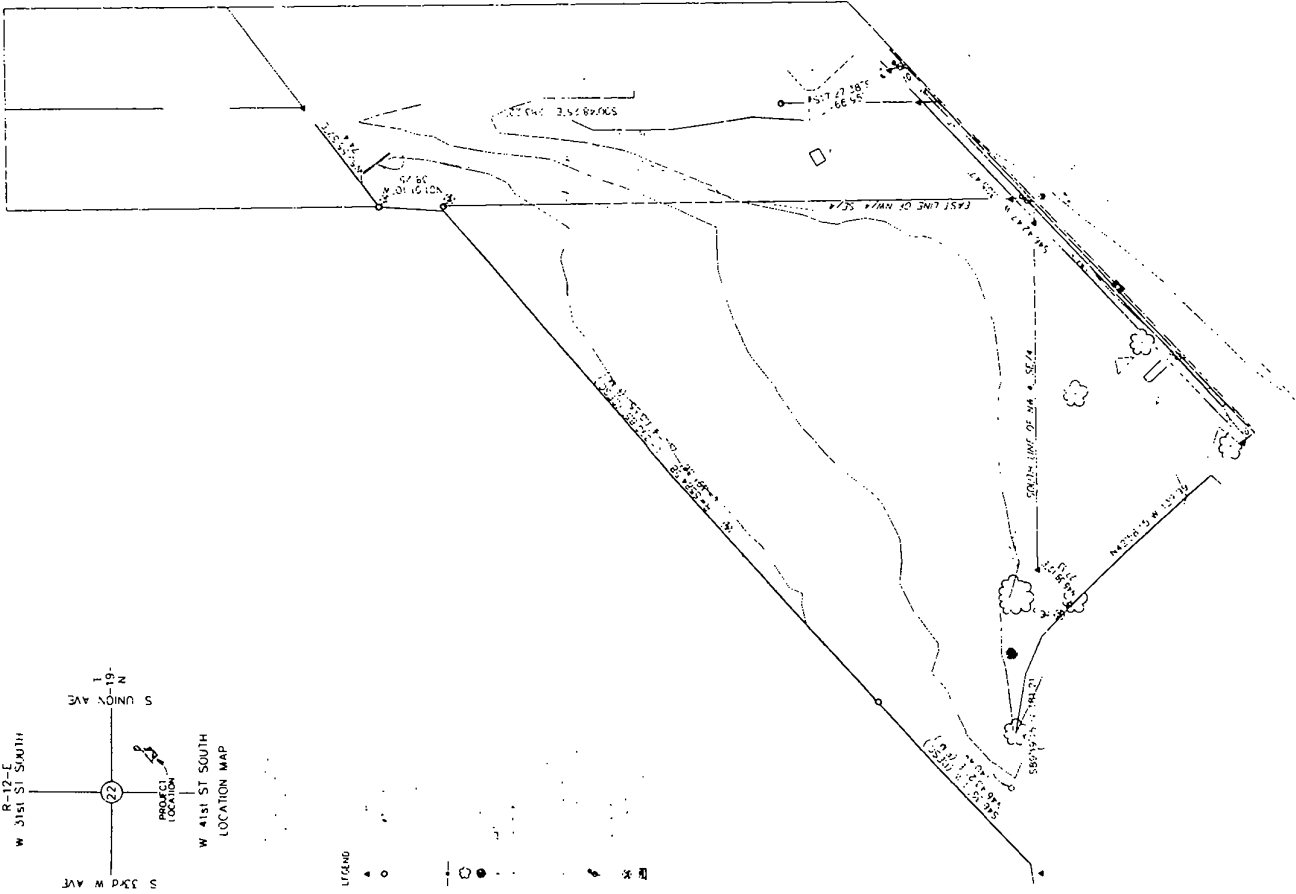
SENIOR ASSISTANT

APPROVED:

*[Signature]* 2/10/03

Public Works Department

# PLAT OF SURVEY



**Description**

Lot Fourteen (14), Block Three (3), Clinton Heights to Red Fork, now an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof

AND

A tract of land lying in the Northwest Quarter of the Southeast Quarter (NW/4, SE/4) of Section Twenty-two (22), Township Nineteen (19) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows, to-wit

Beginning at a point on the East line of said Northwest Quarter, Southeast Quarter, 13.50 feet from the Southeast corner thereof, said point being on the Northwesterly right-of-way line of Southwest Boulevard, thence Northerly along the East line of said Northwest Quarter, Southeast Quarter (NW/4, SW/4) a distance of 337.68 feet to a point, thence Southwesterly on a curve to the left having a radius of 5,584.98 feet a distance of 390.85 feet to a point, thence South 46°36'11" West a distance of 140.44 feet to a point on the South line of said Northwest Quarter, Southeast Quarter (NW/4, SE/4), thence Easterly along the South line of said Northwest Quarter, Southeast Quarter (NW/4, SE/4) a distance of 388.27 feet to a point on the Northwesterly right-of-way line of Southwest Boulevard, thence Northwesterly along the Northwesterly right-of-way line of Southwest Boulevard a distance of 19.79 feet to the Point of Beginning

AND

Lot Eight (8), in Block Nine (9), in Interurban Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat No. 214, ALSO a plat of land described as follows,

Beginning at a point 95 feet North from the Southwest corner of Lot Seven (7), in Block Nine (9), in Interurban Addition to the City of Tulsa, Tulsa County, State of Oklahoma, thence South to the Southwest corner of said lot, thence Northeast along the front line of said lot a distance of 30 feet, thence in a Northwesterly direction to the point of beginning, according to the Recorded official plat No. 214, LESS a tract of land 10 feet in width, being more particularly described as that part of the Westerly 30 feet of Lot Seven (7) and Lot Eight (8), Block Nine (9), Interurban Addition to Red Fork, Oklahoma, now a part of Tulsa, according to the Recorded Plat No. 214, lying Southwesterly of a line which is parallel with and 10 feet Northwesterly of the Southeasterly line of said Block Nine (9)

AND LESS

A strip, piece or parcel of land lying in Lot Eight (8), Block Nine (9) of Interurban Addition to the original townsite of Tulsa in Tulsa County, Oklahoma, said parcel of land being described by metes and bounds as follows



PLAT NO. 214  
 TITLE 88 - WISDOM 2025  
 DATE 8-27-95 3M 6L10  
 CITY OF TULSA, OKLAHOMA  
 PUBLIC WORKS DEPARTMENT  
 RECORDS MANAGEMENT SECTION  
 1115 SOUTH JACKSON AVENUE  
 TULSA, OKLAHOMA 74106  
 PHONE (918) 591-2300  
 FACSIMILE (918) 591-2300

EXHIBIT A

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
09/18/2007

09/01/2008

**PRODUCER**  
LOCKTON COMPANIES, LLC-1 KANSAS CITY  
444 W. 47TH STREET, SUITE 900  
KANSAS CITY MO 64112-1906  
(816) 966-9000

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURERS AFFORDING COVERAGE

**INSURED**  
1380371 SERTOMA INTERNATIONAL  
AND ITS SUBSIDIARIES  
1912 E. MEYER BLVD  
KANSAS CITY MO 64132

INSURER A: PHILADELPHIA INSURANCE COMPANIES  
INSURER B: HARTFORD INSURANCE COMPANIES  
INSURER C:  
INSURER D:  
INSURER E:

### COVERAGES E1 THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PROJECT <input checked="" type="checkbox"/> LCC	RENEWAL OF PHPK135912	09/01/2007	09/01/2008	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	RENEWAL OF PHPK135912	09/01/2007	09/01/2008	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BOD'LY INJURY (Per person) \$ XXXXXXXX BOD'LY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO	NOT APPLICABLE			AUTO ONLY - EA ACCIDENT \$ XXXXXXXX OTHER THAN EA ACC \$ XXXXXXXX AUTO ONLY AGG \$ XXXXXXXX
A	<b>EXCESS LIABILITY</b> <input checked="" type="checkbox"/> OCCUR CLAIMS MADE <input checked="" type="checkbox"/> UMBRELLA FORM <input checked="" type="checkbox"/> RETENTION \$ 10,000	RENEWAL OF PHUB050974	09/01/2007	09/01/2008	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ XXXXXXXX \$ XXXXXXXX \$ XXXXXXXX
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	37WECPL4953	09/01/2007	09/01/2008	<input checked="" type="checkbox"/> WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	<b>OTHER</b> LIQUOR LIABILITY	RENEWAL OF PHPK135912	09/01/2007	09/01/2008	1,000,000 OCCURRENCE 1,000,000 AGGREGATE

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
TOWN WEST SERTOMA CLUB, TULSA OK # 10439 - CITY OF TULSA OKLAHOMA IS NAMED AS ADDITIONAL INSURED AS THEIR INTEREST MAY APPEAR WITH RESPECT TO THE FRISCO 4500 TRAIN ENGINE RESTORATION.

#### CERTIFICATE HOLDER

2964084  
CITY OF TULSA  
Attn: PARK DEPT  
110 S HARTFORD  
TULSA OK 74120

#### ADDITIONAL INSURED, INSURER LETTER:

#### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  
AUTHORIZED REPRESENTATIVE

Item Index - document

Item Type - Easements

Easement Number :	22,777
Meeting Date Mayor Agenda :	09/22/2008
Section Mayor Agenda :	2
Dept Code Mayor Agenda :	20
Item Mayor Agenda :	5
Sub-Item Mayor Agenda :	0
Status Mayor Agenda :	SYNOPSIS
Easement Type :	LICENSE AGREEMENT
Document Type :	EASEMENTS
Bid-TAC-Project Number :	
Department Name :	PUBLIC WORKS
FFPI :	
Owner-Grantor :	SAVE THE OLD FRISCO ENGINE FOR TULSA
COMMITTEE	
Section :	0
Township :	0
Range :	0
Addition :	
Council District :	2
Block :	
Lot :	
Address :	
Book Tulsa County Clerk :	0
Date Filed Tulsa County Clerk :	
Page Tulsa County Clerk :	0
Scan Date :	10/02/2008
Scan Time :	14:50:57
Date Mayor Approved :	09/24/2008
Date Council Approved :	09/11/2008
Tulsa County Document Number :	