

ORDINANCE #69041
Board Bill No. 174

An ordinance authorizing and directing the Mayor and the Comptroller of the City of St. Louis to enter into a Second Memorandum of Agreement (“Second Memorandum”) on behalf of the City of St. Louis between the City of St. Louis (“City”) and the Bi-State Development Agency of the Missouri-Illinois Metropolitan District (“Agency”); authorizing the issuance of City of St. Louis Department of Streets’ permits, which provide the Agency mooring privileges on the improved wharf for one (1) year periods, commencing on the 1st day of January 2012 and ending on the 31st day of December 2015, with mutual options for three, one (1) year extensions; authorizing the execution of documents necessary to comply with the intent of this Ordinance; and containing a severability clause.

WHEREAS, since 2001, the Agency has operated the M/V Becky Thatcher and the M/V Tom Sawyer for year-round cruise operations (collectively the “Riverboats”) pursuant to a lease agreement dated August 7, 1986 (the “Lease Agreement”), which was originally entered into between the James B. Eads Corporation and the City, providing for mooring privileges upon that portion of the wharf of the City located three hundred feet (300’) starting at a point approximately one thousand four hundred feet (1,400’) north of the Poplar Street Bridge (approximately Station 1+20.68 on the Floodwall) and to extend three hundred feet (300’) northward (the “Riverboat Mooring Site”); and

WHEREAS, on June 29, 2005, the Department of Streets issued to the Agency a permit for temporary mooring (“Dock Barge Permit”) on the wharf for a dock barge (“Dock Barge”), adjacent to the Riverboat Mooring Site, for the purpose of support of the Riverboats used for year-round cruise operations, in addition to an office, restrooms, additional seating and other facilities for the Agency’s St. Louis Riverfront activities, starting at a point approximately one thousand three hundred feet (1,300’) north of the Poplar Street Bridge and to extend northward one hundred feet (100’) (“Dock Barge Mooring Site”); and

WHEREAS, on June 29, 2005, the Department of Streets issued to the Agency a permit for temporary mooring (“Helicopter Permit”) on the wharf of the helicopter barge (“Helicopter Barge”) to be used for the operation of scenic helicopter tours and public use on that portion of the wharf, beginning at a point parallel with fifty feet (50’) north of the north leg of the Gateway Arch and to extend northward two hundred feet (200’) (the “Helicopter Site”); and

WHEREAS, on May 15, 2006, the City and the Agency entered into a Memorandum of Agreement (“MOA”), authorizing the Agency to temporarily place a Helicopter Barge on the Helicopter Site and a Dock Barge on the Dock Barge Mooring Site ; and

WHEREAS, on February 16, 2007, the MOA was amended by way of the Amendment to Memorandum of Agreement (“First Amendment”), which adjusted the operating hours at the Helicopter Site, allowed for scenic tours to start March 1, annually and amended the notice section; and

WHEREAS, on April 14, 2008, the MOA was amended a second time by way of the Second Amendment to Memorandum of Agreement (“Second Amendment”), which extended the renewal provisions for the Dock Barge Permit and the Helicopter Permit for a term or terms ending on September 30, 2010; and

WHEREAS, on September 30, 2010, the MOA was amended a third time by way of the Third Amendment to Memorandum of Agreement (“Third Amendment”), which extended the renewal provisions for the Dock Barge Permit and the Helicopter Permit for a term or terms ending on August 6, 2011, and allowed for scenic tours to continue until November 30, annually; and

WHEREAS, the original term of the Lease Agreement extended until August 6, 1991, with additional five-year options arising in 1996, 2001 and 2006 (which have been exercised), and terminated on August 6, 2011; and

WHEREAS, on July 21, 2011, the Department of Streets issued permits for temporary mooring of the Riverboats, Dock Barge and Helicopter Barge effective August 1, 2011, through December 31, 2011; and

WHEREAS, the U.S. Department of the Interior, acting by and through the National Park Service (“NPS”) is currently engaged in the development of a long-term plan for the Jefferson National Expansion Memorial Park (“Park”) including but not limited to the implementation of the Jefferson National Expansion Memorial Final General Management Plan/ Environmental Impact Statement (“Plan”); and

WHEREAS, the Plan called for an international design competition to connect and unify the streetscapes, roadways, and riverscape of the Park that are adjacent to portions of downtown St. Louis, the Mississippi River, and the riverfront in the State of

Illinois facing the Gateway Arch; and

WHEREAS, it is not yet certain whether implementation of the Plan will include the City's development of the wharf ("Riverfront Plan") in such a manner that requires use of the Riverboat Mooring Site, the Dock Barge Mooring Site, or the Heliport Site for purposes other than the Agency's uses; and

WHEREAS, the City wishes to continue to temporarily allow the Agency to locate the Riverboats on the Riverboat Mooring Site, the Dock Barge on the Dock Barge Mooring Site, and the Heliport Barge on the Heliport Site pursuant to temporary annual permits subject to the terms and conditions of this Second Memorandum (collectively, the Riverboat Mooring Site, the Dock Barge Mooring Site and the Heliport Site are the "Agency Mooring Sites"); and

WHEREAS, the Port Commission of the City of St. Louis and the Board of Public Service of the City of St. Louis approved the Second Memorandum on September 13, 2011, and September 20, 2011, respectively; and

WHEREAS, pursuant to Ordinance 56707, as codified in Section 21.20.030 of the Revised Code of the City of St. Louis, the Department of Streets has the authority to issue temporary permits for time periods of up to one calendar year for portions of the City wharf and, pursuant to said authority, shall continue to issue the Riverboat Permit, Dock Barge Permit and Heliport Permit (collectively "Agency Permits") for time periods of up to one calendar year until December 31, 2015; and

WHEREAS, the Board of Aldermen finds that the provisions of the Second Memorandum, attached as Exhibit 1 hereto (including its attached Exhibits A, B, and C), and incorporated herein by reference as if fully set out, are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with public purposes.

BE IT ORDAINED BY THE CITY OF SAINT LOUIS AS FOLLOWS:

SECTION ONE. Findings. The Board of Aldermen hereby adopts the foregoing recitals as findings.

SECTION TWO. Authorization of Documents. The City is hereby authorized to enter into the Second Memorandum between the City and the Agency, in substantially the form attached hereto as Exhibit 1 (including its attached Exhibits A, B, and C) and hereby made a part of this Ordinance, with such changes therein as shall be approved by the Mayor and Comptroller, upon the advice of the City Counselor of the City of St. Louis executing such documents, such officers signatures thereon being conclusive evidence of their approval thereof.

SECTION THREE. Further Authority. The City shall, and the officers, aldermen, officials, agents and employees of the City are hereby authorized and directed to take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the City with respect to the Second Memorandum.

SECTION FOUR. Severability. If any provision of this Ordinance shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because of conflicts with any provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Approved: November 28, 2011