

ORDINANCE #65409
Board Bill No. 257

An ordinance pursuant to Sections 70.210 to 70.325 RSMo and Sections 252.010 et seq. RSMo; authorizing and directing the execution and delivery on behalf of the City of St. Louis of a Cooperation Agreement between the City of St. Louis and the Missouri Department of Conservation, concerning the Hatcheries area in Forest Park; approving form of such Cooperation Agreement; authorizing the execution or approval of other documents as may be necessary and appropriate to implement this ordinance; providing for the filing of the Cooperation Agreement with the Secretary of State and Recorder of Deeds; with an emergency provision.

WHEREAS, for many years the Missouri Department of Conservation (the "Department") has provided fish stocking in the lakes in Forest Park, and has conducted fishing education and training programs in the Park for City residents, at no cost to the City; and

WHEREAS, the Department has proposed to assist the City, using Department funds, in the implementation of the Forest Park Master Plan by improving the Hatcheries area on the north side of the Park; and

WHEREAS, the Department wishes to continue and improve its fishing and training programs in the Hatcheries area; and

WHEREAS, such improvements and programs benefit the City and its residents; and

WHEREAS, pursuant to Section 70.220 RSMo municipalities and state agencies are authorized to contract and cooperate for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service;

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

SECTION ONE. The Director of Parks, Recreation and Forestry and the Comptroller are hereby authorized and directed to execute and deliver, on behalf of The City of St. Louis, a Cooperation Agreement between The City of St. Louis and the Missouri Department of Conservation, concerning the Hatcheries area (as defined in the Cooperation Agreement) in Forest Park, in substantially the form attached as Exhibit A hereto, the form of which is hereby approved., with revisions thereto which are consistent with this ordinance and approved by the City Counselor.

SECTION TWO. The Director of Parks, Recreation and Forestry and the Comptroller are authorized and directed to execute or approve other documents as may be necessary and appropriate to implement this ordinance which are approved as to form by the City Counselor and as consistent herewith.

SECTION THREE. Upon its execution the Register shall cause a copy of the Cooperation Agreement to be filed in the office of the Missouri Secretary of State and in the office of the Recorder of Deeds of the City of St. Louis, as required by Section 70.300 RSMo.

SECTION FOUR. This ordinance, being deemed necessary for the immediate preservation of the public peace and health, is hereby declared to be an emergency measure under Article IV Sections 19 and 20 of the Charter.

EXHIBIT A

Cooperation Agreement

This Cooperation Agreement ("this Agreement") made and entered into this ____ day of _____, 2001 ("the date of this Agreement") between the City of St. Louis, Missouri ("the City") acting by and through its Department of Parks, Recreation & Forestry ("Parks") and the Missouri Department of Conservation ("the Contractor").

WHEREAS, the Contractor, in accordance with its constitutional authority over the fisheries, forest and wildlife resources of the State of Missouri, desires that Missouri resources in the urban environment be protected, sustained, enhanced and restored and that Missouri citizens be educated about such resources; and

WHEREAS, the City desires to utilize the Contractor's expertise and trained personnel in participation to protect, sustain, enhance and restore fisheries, forest and wildlife resources in the City's Forest Park, in keeping with the City's 1995 Forest Park Master Plan; and

WHEREAS, the Contractor realizes the importance and need for educational programs related to fishing and close-to-home fishing and associated outdoor activities, and

WHEREAS, the Contractor wishes to take advantage of the productive capacity of the water in Forest Park and to assist in maximizing the wildlife values associated with proper management and use of the fisheries resources;

WHEREAS, this agreement has been authorized by City Ordinance ____;

WHEREAS, this agreement is authorized by Section 70.210 et seq. RSMO and the Department is authorized to enter into this agreement pursuant to Sections 252.010 et seq. RSMO

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

1. **Term.** The term of this Agreement is from the date of this Agreement until December 31, 2022, subject to earlier termination and to renewal as hereinafter provided.

2. **Project Area.** The City will permit the Contractor to complete projects described in Section 11 of this Agreement in the Hatcheries Area of Forest Park and perform other activities in such area as hereinafter provided. The Hatcheries Area is depicted in exhibit A hereto, and is sometimes hereinafter referred to as the "Area". Parks will grant the Contractor access to the Area as necessary for performance of the Contractor's undertakings under this Agreement.

3. **Programs.** In addition to completing projects as described in Section 11 of this Agreement, the Contractor will from time to time conduct fishing programs for members of the public in the Hatcheries Area lakes. The City agrees to allow the Contractor full use of the Hatcheries Area lakes for such programs and management of public access to the Hatcheries Area while conducting such programs. The City further agrees to support conservation uses of the Hatcheries Area.

4. **Fishery.** The Contractor will prepare a fish management plan for the Hatcheries Area lakes and for review and approval by Parks, such approval not to be unreasonably withheld. The City agrees to allow the Contractor to manage the fish community in the Hatcheries area lakes through proper stocking, population regulation and other customary and appropriate management activities. The City agrees to prohibit fish stocking in the Hatcheries Area lakes other than as recommended by Contractor's fisheries management biologists.

5. **Approvals.** The City will advise and inform the Contractor of all required approvals for its activities hereunder, including but not limited to approval requirements of the Forest Park Master Plan and the City's Board of Public Service. The City will assist Contractor to obtain such approvals.

6. **Maintenance.** The City will provide maintenance sufficient to keep the public use facilities in the Hatcheries Area Agreement in a safe and clean condition, including:

- a. Continuing to maintain the blacktop bicycle path adjacent to and through the Hatcheries Areas,
- b. Mowing and maintaining grass located in picnicking facilities and other lawn areas so that grass does not exceed a height of six inches,
- c. Removing trash and litter at least once each week from May 1st through September 15th, and as needed during the rest of the year,
- d. Providing routine repair and maintenance of aeration systems,
- e. Providing and installing maintenance rock for the repair of minor damage to rocked slopes or banks of lakes,
- f. Controlling grass at parking areas,
- g. Providing maintenance rocks and asphalt as needed on all parking lots, trails and entrance roads,

- h. Repairing and maintaining trails at the Hatcheries Area,
- i. Removing of hazardous trees and limbs, and
- j. Providing routine repair and maintenance of restrooms.

7. **Security.** The City agrees to provide law enforcement and security in the Hatcheries Area, and to report any observed violations of the Wildlife Code of Missouri to Conservation agents.

8. **Utilities.**

The City agrees:

- a. To provide and maintain adequate water supply and water quality to the Hatcheries Area at no cost to the Contractor,
- b. To provide and maintain electric service to Hatcheries Area aeration units as reasonably recommended by the Contractor, at no cost to the Contractor,
- c. To provide and maintain water and sewer connections to the restrooms at the Hatcheries Area..

9. **Repairs and Capital Maintenance.** The City agrees to conduct major repairs and capital maintenance for the Hatcheries Building, as determined by the City in the City's sole discretion.

10. **Advertisements and Signs.**

- a. The City agrees to give proper recognition to the Contractor in all City brochures, advertisements or other publications pertaining to the Hatcheries Area.
- b. The City agrees to allow Contractor signage to be erected at the Hatcheries Area, subject to all necessary City approvals.

11. **Projects.** The Contractor agrees to design and construct, or contract for such construction, pursuant to plans and specifications approved by the City's Board of Public Service, and bond and insurance requirements of such Board, and subject to all other necessary City approvals, the following items to enhance educational and interpretive opportunities:

- a. Grading and landscaping materials for a Successional wetland and a boardwalk with interpretive signage in the Hatcheries Area,
- b. Deepening, habitat improvements, aeration, shoreline stabilization and disabled angler access as appropriate for clinic ponds in the Hatcheries Area,
- c. Habitat improvements, parking and driveway realignment in the Hatcheries Area,
- d. Construction of flushable restrooms in the Hatcheries Area.

The City agrees, at the request of the Contractor, to close all or portions of the Hatcheries Area to public uses for one or more periods of time, agreed to by both parties, in order to permit the Contractor to implement the above projects.

12. **Areas Usage.** The Contractor agrees to support conservation uses of the Hatcheries Area and Hatcheries Building, focusing on children, teachers and disabled users.

13. **Permits.** The Contractor agrees to obtain all necessary approvals for projects and activities of Contractor contemplated under this agreement.

14. **Maintenance.** The Contractor agrees, subject to all necessary City approvals, to conduct maintenance and repair to correct items of major wear and tear to any facilities and improvements (other than the Hatcheries Area restrooms) installed pursuant to this Agreement, grounds, and other improvements provided under the terms of this agreement, including but not limited to any major repairs to disabled user accessible docks, access trails, and parking.

15. **Breach, Notice, Cure and Termination.**

a. This agreement may be amended only upon the written consent of the authorized representative of the Contractor and the City.

b. This agreement shall not be binding or remain binding upon the Contractor unless and until appropriations have been made by the Missouri General Assembly for payment under this contract on behalf of the Contractor for any State fiscal period occurring during the term of this agreement.

c. This agreement shall become effective upon execution by both parties. This agreement shall renew automatically for successive terms of ten years each, if neither party has advised the other in writing of its intention to terminate the same at least one hundred and eighty days prior to any applicable termination date.

d. All improvements installed at the Hatcheries Area by the Contractor shall become the property of the City upon completion and acceptance by the City.

16. **Nonassignment.** Without the prior written consent of the other party first obtained, neither party shall assign, lease or transfer, in whole or in part, this Agreement.

17. **Successors and Assigns.** The covenants and agreements herein contained shall bind and inure to the benefit of the City, its successors and assigns, and the Contractor, its successors and assigns.

18. **Construction.** Any and all construction or work by the Contractor shall be done in complete compliance with all applicable City, State and Federal Codes and pursuant to plans and specifications approved by the City's Board of Public Service and with all approvals required by the City's Master Plan for Forest Park, and subject to approval by or permit of any other any other City office or agency whose approval or permission may be required under the Saint Louis City Charter or Saint Louis City ordinance prior to the commencement of any such construction or work.

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

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

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

With copies to:

Director of Parks, Recreation & Forestry
5600 Clayton Avenue (in Forest Park)
St. Louis, MO 63110 and

City Counselor's Office
Attn: Francis M. Oates, Esq.
314 City Hall
Tucker & Market Streets
St. Louis, MO 63103

If to the Contractor, delivery shall be to:

Director
MDC
P.O. Box 180
Jefferson City, MO 65102

with copies to:

General Counsel
MDC
P.O. Box 180
Jefferson City, MO 65102

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

20. **Nondiscrimination.** The Contractor agrees that in the use of this Areas or in the use of any premises, it will not exclude or discriminate against any person solely because of race, color or creed, or for any reason not sanctioned by law and not applicable alike to persons generally in the use of said Areas or premises.

IN WITNESS WHEREOF, this agreement was executed the day and year first above written.

Missouri Conservation Department

By: _____
(SEAL)

CITY OF ST. LOUIS, MISSOURI

By: _____
Title

By: _____
Comptroller

(SEAL)

City Register

APPROVED AS TO FORM:

City Counselor

Executed this ____ day of _____, 2001.

Approved: January 30, 2001