

ORDINANCE #66648
Board Bill No. 425
Floor Substitute

An ordinance recommended by the Board of Estimate and Apportionment authorizing the City of St. Louis, Missouri and St. Louis Municipal Finance Corporation to enter into a bond financing, sale/leaseback, lease/leaseback and/or other structured finance arrangement acceptable to the parties authorized hereby relating to the Cervantes Convention Center; authorizing said Corporation, the Mayor, the Comptroller and any other appropriate City officials to execute and deliver documents and instruments related thereto; authorizing the taking of other actions and the approval and execution of other documents as necessary or desirable to carry out and comply with the intent hereof; and containing an emergency clause.

WHEREAS, St. Louis Municipal Finance Corporation (the "Corporation") holds title to the convention center (the "Cervantes Convention Center") located at Washington Avenue, between 7th and 8th Streets, located within the geographical boundaries of the City of St. Louis, Missouri (the "City") and leases the Convention Center Property (hereinafter defined) to the City, pursuant to which lease the City has an option to purchase the Convention Center Property for a nominal sum upon defeasance or final retirement of the Convention Center Bonds (hereinafter defined); and

WHEREAS, on June 3, 2003, the Board of Aldermen approved Ordinance No. 65878, pursuant to which the City was authorized to enter into a structured lease transaction (the "Prior Transaction"); however, under current market conditions the structure of the Prior Transaction cannot generate the desired net economic benefit to the City; and

WHEREAS, the City desires to enable the Corporation to capitalize a portion of the value of the Convention Center Property through a sale/leaseback, lease/leaseback or other structured finance arrangement (as authorized hereby, the "Lease Financing Transaction"), or through the issuance of leasehold revenue bonds (as authorized hereby, the "Bond Transaction"), all utilizing the Convention Center Property or an interest therein that is acceptable to the City and the other parties thereto and will achieve the economic benefit for the City recited herein; and

WHEREAS, it is anticipated that the City may receive from the Corporation out of the aggregate proceeds of the Lease Financing Transaction and/or the Bond Transaction approximately Twenty-Five Million Dollars (\$25,000,000.00), to be used as set forth herein; and

WHEREAS, the Board of Aldermen has determined that it is in the best interest of the City to direct the Corporation to enter into the Lease Financing Transaction or the Bond Transaction; and

WHEREAS, the Board of Aldermen recognizes that the transactions approved herein are complex transactions that require a high level of expertise and experience in the negotiation and finalization of similar transactions; and

WHEREAS, it is necessary and desirable in connection with entering into the Lease Financing Transaction for the Corporation and the City to execute and deliver certain documents and take certain other actions, as herein provided.

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

Section 1. Definitions. Capitalized terms not otherwise defined in this Ordinance shall have the meanings given such terms in the preambles hereto. In addition, as used in this Ordinance, the following words shall be defined as follows:

"Convention Center Bonds" means any and all bonds secured by a deed of trust on or revenue from the Convention Center Property.

"Convention Center Property" means the land and all buildings, structures, improvements and fixtures located on or to be purchased, constructed and otherwise improved on the site of Cervantes Convention Center.

"Lease Financial Advisor" means the team of firms UBS Financial Services Inc., BTM Capital Corporation, and LIATI Capital, LLC, selected to provide leasing advisory services to the City and/or the Corporation who have experience in structuring transactions in the United States dealing with governmental assets utilizing a sale/leaseback, lease/leaseback or other structured finance arrangement and whose responsibility will include the structuring of the Lease Financing Transaction and the assembly of the equity investor(s), lender(s) and other parties necessary to complete the Lease Financing Transaction.

Section 2. Findings and Determinations. The findings, determinations, and declarations set forth in the preambles hereto are incorporated herein by this reference. In addition, the Board of Aldermen hereby finds, determines, and declares that it is necessary and in the best interests of the City:

- (a) to authorize and direct the Corporation to enter into the Lease Financing Transaction or the Bond Transaction with respect to the Convention Center Property under the terms and conditions approved herein;
- (b) to delegate to the Comptroller the power and authority to select the proposal for the Lease Financing Transaction or the Bond Transaction which is determined to be in the best interest of the City, taking into consideration the proposed economic benefit to City and other terms and conditions affecting the security of the Convention Center Bonds, subject only to authority of the Board of Estimate and Apportionment to review and approve the Lease Financing Transaction structure pursuant to Section 5 hereof;
- (c) to pay reasonable fees and expenses incurred by the Corporation and the City in connection with the Lease Financing Transaction or the Bond Transaction;
- (d) to authorize, on behalf of the Corporation and the City, each officer of the Corporation and the Mayor and Comptroller, respectively, to execute and deliver any and all documents and writings and to take all such actions as each of them may deem necessary, desirable or appropriate to effectuate the Lease Financing Transaction or the Bond Transaction; and
- (e) to ratify and approve any and all actions heretofore taken by officers of the Corporation and officials of the City on behalf of the Corporation and the City, respectively, in furtherance of the Lease Financing Transaction or the Bond Transaction.

Section 3. Authority and Direction to Enter Into the Lease Financing Transaction. The Board of Aldermen hereby authorizes the officers of the Corporation on behalf of the Corporation and authorizes the Mayor and the Comptroller on behalf of the City to enter into the Lease Financing Transaction with respect to the Convention Center Property, and to budget out of the aggregate proceeds of the transaction, net of the fees, costs and expenses of the transaction, approximately Twenty-Five Million Dollars (\$25,000,000.00) to be used as follows: first, to provide \$10.7 million to replenish the City's unreserved general fund balance; second, to provide up to \$10 million to partially fund the City's Fiscal Year 2006 General Operating Budget, and third, to provide up to \$4.3 million to fund the City's Fiscal Year 2006 Capital Budget via deposit into the City's Capital Fund. The Board of Aldermen further authorizes the Corporation to retain the remainder of the proceeds of the Lease Financing Transaction to be used for such purposes as hereafter authorized by subsequent Ordinance. The Lease Financing Transaction shall not create any liens senior to the Convention Center Bonds or, in the opinion of bond counsel, unduly jeopardize the tax-exempt status of the Convention Center Bonds. Neither the City of St. Louis nor the St. Louis Municipal Finance Corporation shall have any obligation to pay any transaction fees out of any funds other than proceeds of the Lease Financing Transaction. The City's Financial Advisors shall work on behalf of the City of St. Louis to negotiate reasonable fees consistent with lease market practice and consistent with the intent of the fee amounts established in Ordinance No. 65878, taking into account changes in economic conditions and revisions to the structure of the transaction, for the Lease Financial Advisor, the City's counsel, the appraiser and other consultants (e.g., engineering, environmental, insurance). The Lease Financial Advisor and the City's Financial Advisors, working with other City consultants, will also negotiate with the lessor/investor to establish caps on fees such the lessor/investor pays to its counsel and advisors to maximize the net economic benefit to the City of the Lease Financing Transaction.

Section 4. Selection of Financial Advisor and Other Participants for Lease Financing Transaction. The Comptroller is hereby authorized and directed to retain P.G. Corbin & Company, Inc., and Stifel Nicolaus & Company Incorporated as the City's Financial Advisors and such other advisors, counsel and participants to the Lease Financing Transaction per Ordinance 64102 as are desirable to further the purposes of this Ordinance, and to compensate such Financial Advisors as appropriate from the proceeds of such transaction.

Section 5. Authority to Approve Lease Financing Structure. The Board of Estimate and Apportionment shall have the opportunity to review and approve the Lease Financing Transaction structure prior to the closing thereof.

Section 6. Authority and Direction to Enter Into the Bond Transaction. In addition to or as an alternative to the Lease Financing Transaction but subject to the limitations set forth in Section 15 hereof, the City hereby authorizes the Corporation to issue its Leasehold Revenue Bonds, (City of St. Louis, Missouri, Lessee) Series 2005, in an aggregate principal amount not to exceed \$45,000,000 (the "Series 2005 Bonds") on behalf of the City, the proceeds of which shall be used to pay the costs of issuance thereof,

fund any reserve fund, surety, and bond insurance policy securing the payment thereof, and pay such obligations and make such expenditures of the City as approved by bond counsel and as shall realize benefits for the City commensurate with those described in Section 3 hereof. The Series 2005 Bonds (i) shall bear such dates and series designation, (ii) shall mature at such times with a final maturity not later than December 31, 2030, and be subject to redemption at such times as directed by the supplemental trust indenture securing the Series 2005 Bonds (the "Trust Indenture"), (iii) shall bear interest at such variable interest rate or fixed interest rate or shall have principal accrete under such terms as the City reasonably expects will achieve an economic benefit to the City, and (iv) may be sold at a premium or at a discount with such discount not to exceed the maximum discount allowable under Missouri law. The Series 2005 Bonds may also be issued as forward delivery or current delivery obligations. The terms and provisions of the Series 2005 Bonds shall be as provided in the Trust Indenture.

Section 7. Limited Obligations. The Series 2005 Bonds and the interest thereon shall be limited obligations payable by the Corporation solely from (i) the rentals and additional rentals received by the Corporation from the City or received by the bond trustee on behalf of the Corporation and reasonably expected to be used to pay debt service on the Series 2005 Bonds pursuant to the lease agreement and any amounts payable by any credit provider in connection with any credit enhancement on the Series 2005 Bonds. The taxing power of the City is not pledged to the payment of the Series 2005 Bonds either as to principal or interest or to the payment of rentals or additional rentals under the herein-defined Lease Agreement. The Bonds and the interest thereon shall not constitute an indebtedness of the City or State of Missouri within the meaning of any constitutional or statutory debt limitation or restriction. The obligation of the City to make payments of Rentals and Additional Rentals and other amounts under the Lease Agreement is subject to annual appropriation as provided therein. The obligation of the City to make such payments under the Lease Agreement or the Series 2005 Bonds shall not constitute a debt of the City. The issuance of the Series 2005 Bonds will not directly or contingently obligate the City to make any payments beyond those appropriated for its then current fiscal year. Notwithstanding anything herein to the contrary, the Series 2005 Bonds shall be issued in a form and under such terms as shall ensure and maintain the security and tax-exempt status of any prior series of bonds secured by the Trust Indenture and still outstanding.

Section 8. Authority and Direction to Obtain Credit Enhancement, Debt Service Reserve Fund Credit Facility, Interest Rate Hedge. The City hereby authorizes the City and Corporation to obtain credit enhancement, a debt service reserve fund credit facility, and/or an interest rate hedge under such terms that, in the opinion of the underwriters and financial advisors, will achieve an economic benefit for the City. The Comptroller is hereby authorized to approve the terms of any agreement in connection therewith, and the Comptroller, with the advice of the City Counselor as to form thereof, is hereby authorized and directed to execute such agreement and other documents in connection therewith as required to obtain credit enhancement, debt service reserve fund credit facility, and/or interest rate hedge.

Section 9. Authority and Direction to Execute and Deliver Corporation Documents. In connection with the issuance of the Series 2005 Bonds, the City hereby authorizes the Corporation to approve the terms of and to execute, seal, attest and deliver the Trust Indenture, a supplemental lease purchase agreement (the "Lease Agreement"), a deed of trust and security agreement, if necessary, a bond purchase agreement, a credit agreement, and such other documents, certificates and instruments as may be necessary or desirable to facilitate the issuance of the Series 2005 Bonds and to carry out and comply with the intent of this Ordinance, in such form as shall be approved by the City Counselor and by the appropriate officers of the Corporation executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof.

Section 10. Authorization and Direction to Execute and Deliver City Documents. The City is hereby authorized to enter into, and the Mayor and the Comptroller and such other officers of the City as are appropriate are hereby authorized and directed to execute, seal, attest and deliver, for and on behalf of and as the act and deed of the City, the Lease Agreement, a bond purchase agreement, a continuing disclosure agreement, a credit agreement, and a leasehold deed of trust, if necessary, and if desirable an interest rate hedge agreement, and such other documents, certificates and instruments as may be necessary or desirable to facilitate the issuance of the Series 2005 Bonds and to carry out and comply with the intent of this Ordinance, in such form as shall be approved by the City Counselor and by the appropriate officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof. The Lease Agreement shall be for a lease term to terminate no later than the final maturity of the Series 2005 Bonds, subject to annual appropriation of rentals equal to the principal and interest or accreted principal due on the Series 2005 Bonds and any outstanding previous series of bonds secured thereby and certain additional rentals due under such lease. The Lease Agreement shall further provide the City with an option to purchase the Convention Center upon the defeasance, or adequate provision therefor, of the Series 2005 Bonds and any previous series of bonds outstanding. The Lease Agreement shall contain such other terms and provisions as shall adequately secure and protect the payment of principal and interest due on the Series 2005 Bonds and any previous series of bonds outstanding.

Section 11. Authorization with Respect to Sale of the Series 2005 Bonds. In connection with the issuance of the Series 2005 Bonds, the City hereby authorizes the Corporation to negotiate the sale thereof with the underwriters, subject to the provisions

of this Ordinance. The preparation of a preliminary official statement and a final official statement, the execution and delivery of a final official statement by the City and the Corporation, and the execution and delivery of a bond purchase agreement are hereby authorized, and the Mayor, the Comptroller, and other appropriate officers, agents and employees of the City and the Corporation are hereby authorized and directed to take such further actions, and execute such other documents as are required by the City thereunder, with their respective signatures thereon to be evidence of such approval by the City and the Corporation. The Mayor, the Comptroller, and other appropriate officers, agents and employees of the City, with the advice and concurrence of the City Counselor, are hereby authorized and directed to participate with the Corporation and the underwriters in the preparation of such preliminary Official Statement and final Official Statement, and to execute and deliver such final official statement and such continuing disclosure agreements as are necessary and desirable in order to assist the underwriters in complying with Rule 15c2-12 of the Securities and Exchange Commission.

Section 12. Selection of Financial Advisor and Other Participants for the Bond Transaction. The Comptroller is hereby authorized and directed to retain P.G. Corbin & Company, Inc., Stifel Nicolaus & Company Incorporated, and UBS Financial Services Inc., and such other advisors, underwriters, counsel and participants per Ordinance 64102, for the Bond Transaction as are desirable to further the purposes of this Ordinance, and to compensate such participants as appropriate from the proceeds of such transaction.

Section 13. Lease Financing Transaction and Bond Transaction Both Authorized. The provisions of this Ordinance shall be deemed to authorize a Lease Financing Transaction, a Bond Transaction, or any combination thereof.

Section 14. Authority and Direction to Execute and Deliver Corporation Documents. The Board of Aldermen hereby authorizes the Corporation to approve the terms of and execute and deliver such documents, certificates, undertakings, guarantees, indemnities, waivers and instruments as may be necessary or desirable to facilitate the Lease Financing Transaction or the Bond Transaction, and to carry out and comply with the intent of this Ordinance in such forms as shall be approved by the City Counselor and by the appropriate officers of the Corporation executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof.

Section 15. Authorization and Direction to Execute and Deliver City Documents. The City is hereby authorized to enter into, and the Mayor, the Comptroller and such other officers of the City as are appropriate are hereby authorized to execute, seal, attest and deliver, for and on behalf of and as the act and deed of the City, such documents, certificates, undertakings, guarantees, indemnities, waivers and instruments as may be necessary or desirable to facilitate the Lease Financing Transaction or the Bond Transaction, and to carry out and comply with the intent of this Ordinance in such forms as shall be approved by the City Counselor and by the appropriate officers of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof.

Section 16. Ratification of Actions. The City hereby approves and ratifies any and all actions heretofore taken by officers of the Corporation and officials of the City in furtherance of the Lease Financing Transaction or the Bond Transaction authorized hereby.

Section 17. Further Authority. The Mayor, the Comptroller and other appropriate officials, agents and employees of the City are hereby authorized to take such further actions and execute such other documents 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 thereto. The officers, agents and employees of the Corporation are hereby authorized to take such further actions and execute such other documents 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 Corporation with respect thereto.

Section 18. Severability. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof (except to the extent otherwise provided herein) and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection (except to the extent otherwise provided herein). In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect consistent with such intention of the Board of Aldermen, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Section 19. Conflict. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby

repealed.

Section 20. Emergency Clause. The passage of this ordinance being deemed necessary for the immediate preservation of the public health, moral, safety, and general welfare, shall be and is hereby declared to be an emergency measure within the meaning of Article IV, Sections 19 and 20, of the Charter of the City of St. Louis, and, as such, this ordinance shall take effect immediately upon its approval by the Mayor.

Clerk, Board of Aldermen

President, Board of Aldermen

Approved: Date: _____

Mayor

Truly Engrossed and Enrolled

Approved: February 28, 2005