

**BOARD BILL NO. 174 INTRODUCED BY ALDERWOMAN PHYLLIS YOUNG**

1 An ordinance authorizing and directing the Mayor and the Comptroller of the City of St.  
2 Louis to enter into a Second Memorandum of Agreement (“Second Memorandum”) on  
3 behalf of the City of St. Louis between the City of St. Louis (“City”) and the Bi-State  
4 Development Agency of the Missouri-Illinois Metropolitan District (“Agency”);  
5 authorizing the issuance of City of St. Louis Department of Streets’ permits, which  
6 provide the Agency mooring privileges on the improved wharf for one (1) year periods,  
7 commencing on the 1<sup>st</sup> day of January 2012 and ending on the 31<sup>st</sup> day of December  
8 2015, with mutual options for three, one (1) year extensions; authorizing the execution of  
9 documents necessary to comply with the intent of this Ordinance; and containing a  
10 severability clause.

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

19 WHEREAS, on June 29, 2005, the Department of Streets issued to the Agency a permit  
20 for temporary mooring (“Dock Barge Permit”) on the wharf for a dock barge (“Dock  
21 Barge”), adjacent to the Riverboat Mooring Site, for the purpose of support of the  
22 Riverboats used for year-round cruise operations, in addition to an office, restrooms,  
23 additional seating and other facilities for the Agency’s St. Louis Riverfront activities,

1 starting at a point approximately one thousand three hundred feet (1,300') north of the  
2 Poplar Street Bridge and to extend northward one hundred feet (100') ("Dock Barge  
3 Mooring Site"); and

4 WHEREAS, on June 29, 2005, the Department of Streets issued to the Agency a permit  
5 for temporary mooring ("Heliport Permit") on the wharf of the heliport barge ("Heliport  
6 Barge") to be used for the operation of scenic helicopter tours and public use on that  
7 portion of the wharf, beginning at a point parallel with fifty feet (50') north of the north  
8 leg of the Gateway Arch and to extend northward two hundred feet (200') (the "Heliport  
9 Site"); and

10 WHEREAS, on May 15, 2006, the City and the Agency entered into a Memorandum of  
11 Agreement ("MOA"), authorizing the Agency to temporarily place a Heliport Barge on  
12 the Heliport Site and a Dock Barge on the Dock Barge Mooring Site ; and

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

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

21 WHEREAS, on September 30, 2010, the MOA was amended a third time by way of the  
22 Third Amendment to Memorandum of Agreement ("Third Amendment"), which  
23 extended the renewal provisions for the Dock Barge Permit and the Heliport Permit for a

1 term or terms ending on August 6, 2011, and allowed for scenic tours to continue until  
2 November 30, annually; and

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

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

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

14 WHEREAS, the Plan called for an international design competition to connect and unify  
15 the streetscapes, roadways, and riverscape of the Park that are adjacent to portions of  
16 downtown St. Louis, the Mississippi River, and the riverfront in the State of Illinois  
17 facing the Gateway Arch; and

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

22 WHEREAS, the City wishes to continue to temporarily allow the Agency to locate the  
23 Riverboats on the Riverboat Mooring Site, the Dock Barge on the Dock Barge Mooring

1 Site, and the Heliport Barge on the Heliport Site pursuant to temporary annual permits  
2 subject to the terms and conditions of this Second Memorandum (collectively, the  
3 Riverboat Mooring Site, the Dock Barge Mooring Site and the Heliport Site are the  
4 “Agency Mooring Sites”); and

5 WHEREAS, the Port Commission of the City of St. Louis and the Board of Public  
6 Service of the City of St. Louis approved the Second Memorandum on September 13,  
7 2011, and September 20, 2011, respectively; and

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

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

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

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

22 **SECTION TWO.** Authorization of Documents. The City is hereby authorized to enter  
23 into the Second Memorandum between the City and the Agency, in substantially the form

1 attached hereto as Exhibit 1 (including its attached Exhibits A, B, and C) and hereby  
2 made a part of this Ordinance, with such changes therein as shall be approved by the  
3 Mayor and Comptroller, upon the advice of the City Counselor of the City of St. Louis  
4 executing such documents, such officers signatures thereon being conclusive evidence of  
5 their approval thereof.

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

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