

1 **BOARD BILL NO. 221 INTRODUCED BY ALDERMAN JOSEPH VACCARO**

2 An ordinance pertaining to competitive bidding and composition of workforce and
3 containing a severability clause.

4 WHEREAS, the City of St. Louis is committed to working in partnership with labor,
5 business and the community to create a skilled workforce that reflects the diversity of the
6 population of the City; and

7 WHEREAS, a well-trained, diverse workforce is critical to the economic and social
8 vitality of the City and region; and

9 WHEREAS, the City’s public works contracts can provide training and job opportunities
10 as a means to increase the skills and diversity of the construction industry workforce; and

11 WHEREAS, the City is committed to ensuring that employment opportunities on City
12 public works projects are offered to City residents; and

13 WHEREAS, the City is committed to using training that is accepted industry wide so that
14 the resulting journey-level workers can enter the region’s pool of skilled labor, fully qualified for
15 jobs throughout the industry; and

16 WHEREAS, the City is committed to promoting apprenticeship opportunities on public
17 works projects and ensuring that all contractors participate in this requirement;

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

19 **SECTION ONE. Formal Contract Procedure--Competitive Bidding**

20 All supplies and contractual services, except as otherwise provided herein, when the estimated
21 cost thereof shall exceed twenty-five thousand dollars (\$25,000.00), shall be purchased by
22 formal written contract from the lowest responsible bidder, after due notice inviting proposals:

23

1 1. Notice inviting bids shall be published at least once in at least one official newspaper in
2 the City a circulation of at least 500 copies per issue, which notice shall be published at least ten
3 (10) days preceding the last day set for receipt of proposals. The newspaper notice required
4 herein shall include a general description of the articles to be purchased or sold, shall state where
5 bid blanks and specifications may be secured and the time and place for opening bids. The Agent
6 shall also solicit sealed bids from all responsible prospective suppliers or purchasers who have
7 requested their names to be added to a "Bidders' List", which the Agent shall maintain, by
8 sending them a copy of such newspaper notice or such other notice as will acquaint them with
9 the proposed purchase or sale.

10 In any case, invitations sent to the vendors on the Bidders' List shall be limited to commodities
11 that are similar in character and ordinarily handled by the trade group to which the invitations are
12 sent. All such purchases or sales shall also be advertised by a notice posted on the public bulletin
13 board in the Court House.

14 2. When deemed necessary by the Agent, bid deposits shall be prescribed in the public
15 notice inviting bids. Unsuccessful bidders shall be entitled to return of surety or deposit where
16 the Agent has required such. A successful bidder shall forfeit any deposit or surety required by
17 the Agent upon failure on his part to enter into a contract within ten (10) days after the award.

18 3. In addition to the requirements set forth in subsections (1) and (2) hereinabove, with
19 respect to the purchase of insurance, the Agent shall solicit sealed bids from those brokers who
20 regularly bid on City insurance by sending them a copy of such newspaper notice or such other
21 notice as will acquaint them with the proposed insurance purchase. If more than one broker is
22 present at the time and place where bid blanks and specifications may be secured, the Agent shall
23 determine, by drawing lots, the order of distribution of bid blanks and specifications and the

1 order in which brokers select an insurance company; provided, however, that the broker
2 representing an insurance company on an expiring policy may continue to quote that insurance
3 company on renewal. Brokers arriving at the designated place after the designated time shall not
4 be included in said drawing but shall receive their bid blanks and specifications and select their
5 insurance company in the order of their appearance. The Agent may not be required to allow
6 more than one broker to represent the same insurance company.

7 4. All bids shall be submitted sealed to the Agent and shall be identified as bids on the
8 envelope. Bids shall be opened by the Agent or a duly authorized representative in the presence
9 of the Supply Commissioner or a duly authorized representative, at the date, time and location
10 specified in the advertisement for bids. The Agent shall tabulate all bids received on a form
11 specially designed for the purpose, and such tabulation shall be posted in the Office of the Agent
12 and available for public inspection for at least five days. The Agent shall forward the Bids to the
13 interested Department Head, who shall return the Bids with his recommendations to the Agent
14 within the shortest practicable time.

15 5. The Agent shall have the authority to reject all bids, parts of all bids, or bids for any one
16 or more supplies or contractual services included in the proposed contract, when the public
17 interest will be served thereby.

18 6. The Agent shall have the authority to award contracts within the purview of this chapter.
19 Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible
20 bidder", in addition to price, the Agent shall consider: The ability, capacity or skill of the bidder
21 to perform the contract or provide the service required; whether the bidder can perform the
22 contract or provide the service promptly or within the time specified, without delay or
23 interference; the character, integrity, reputation, judgment, experience and efficiency of the

1 bidder; the quality of performance of previous contracts or services; the previous and existing
2 compliance by the bidder with laws and ordinances relating to the contract or service; the
3 sufficiency of the financial resources and ability of the bidder to perform the contract or provide
4 the services; the quality, availability of the supplies, or contractual services to the particular use
5 required; the ability of the bidder to provide future maintenance and service for the use of the
6 subject to the contract; compliance with any applicable requirements for minority and women
7 business enterprise participation; and the number and scope of conditions attached to the bid.

8 When the award is not given to the lowest bidder, a full and complete statement of the reasons
9 for placing the order elsewhere shall be prepared by the Agent with the concurrence of the City
10 Counselor and filed with the other papers relating to the transaction. If all bids received are for
11 the same total amount or unit price, the Agent shall re-advertise for bids, unless the public
12 interest will not permit this delay. In such case, the Agent shall award the contract to one of the
13 tie bidders by drawing lots in the presence of the Supply Commissioner or his duly authorized
14 representative in public, or by purchasing the supplies or contractual services in the open market,
15 provided the price paid therefor shall not exceed the lowest contract bid price submitted for the
16 same supplies or contractual services. If two or more bidders tie for low bid and elements of time
17 or responsibility of the bidders are not sufficient to justify the award to one of the tie bidders, the
18 Agent shall award the contract to one of the tie bidders by drawing lots in the presence of the
19 Supply Commissioner or his duly authorized representative in public.

20 7. (a) As to construction projects, the term “responsible bidder” shall be further restricted to
21 include, except as to federal or state projects if prohibited as a condition of funding, only those
22 bidders who certify by notarized statement that: they have not been barred from bidding on any
23 federal or State projects within the last year; that they have not had any State or City-issued

1 business, trade or contracting license suspended or revoked within the last year; that they have
2 and enforce a drug-testing policy for all employees in the field; that they participate in or
3 maintain their own Department of Labor-approved apprentice program for each craft which the
4 firm employs, both directly and through subcontractors, and have active, registered apprentices
5 for each program; that all on-site employees on the project will be employees and that there will
6 be no use of independent contractors or “leased employees” for on-site work; that all employees
7 will be licensed with the appropriate licensing authority; that prevailing wages will be paid to all
8 employees; that all employees and employee supervisors will be OSHA-certified in compliance
9 with then-current OSHA safety requirements prior to working on the project; that all employees
10 will be ten-hour OSHA certified; that all employee supervisors will be thirty-hour OSHA-
11 certified; and that they will comply with all applicable laws, ordinances, rules and regulations
12 governing the conduct of business in the City of St. Louis and the State of Missouri.

13 (b) As used in this subsection:

14 i. “On-site employee” shall mean any laborer, workers, drivers, equipment
15 operators, and craftspersons employed by contractors and subcontractors to be directly
16 engaged in construction at the site of the construction project;

17 ii. “Directly engaged in construction” shall mean work performed in the
18 actual erection of the structure or completion of the improvement constituting the public
19 work project, as well as employees working at nearby facilities used by the contractor or
20 subcontractor for construction of the project. Persons engaged solely in the
21 transportation of materials, fuel or equipment to the site, and contractors who perform
22 landscaping work (which shall be defined as seeding, sodding and planting of trees and
23 shrubs, and retaining wall construction), shall not be deemed to be directly engaged in

1 construction;

2 iii. An “independent contractor” is a self-employed worker hired to perform
3 services, who controls the manner and means of the services performed, is responsible for
4 his or her own taxes, and is considered to be engaged in a business;

5 iv. A “supervisor” is a foreman, project manager, safety director or lead
6 tradesman on the project;

7 v. A “subcontractor” is a person who enters into a subcontract with a
8 contractor for construction of public works and employs on-site employees for
9 completion of the contract.

10 (c) The Agent shall receive and investigate complaints concerning compliance with
11 the requirements set forth in this subsection, and may further initiate his or her own
12 investigations concerning compliance either during the project or after completion. Any
13 contractor or subcontractor being investigated shall cooperate fully with the investigation and
14 shall have a continuing burden of providing complete, truthful information to the Agent or the
15 Agent’s designee.

16 8. As to construction projects with an estimated cost exceeding one twenty-five thousand
17 dollars (\$25,000.00), the Agent shall obtain the approval of the Board of Aldermen prior to
18 advertising for bids. Award of contracts for construction projects with an estimated cost
19 exceeding twenty-five thousand dollars (\$25,000.00) shall be made by order of the Board of
20 Aldermen.

21 9. All contracts of St. Louis City shall be executed by the mayor and Comptroller, and shall
22 bear thereon the approval of the City Counselor, and the certification of the Comptroller. A copy
23 of each contract shall be filed with the Comptroller.

1 10. No contract or purchase shall be subdivided to avoid the requirements of this Section.

2 11. The Agent shall adopt such rules and regulations as appropriate for the requirement of
3 corporate surety bonds for contracts. These rules and regulations are to be approved by the City
4 Counselor and shall become effective when approved by the St. Louis Board of Aldermen.

5 **SECTION THREE. Composition of Workforce**

6 1. As used in this section:

7 (a) "Construction project" shall mean a structure or facility being built or renovated
8 pursuant to a contract for at least \$1,000,000, which contract was procured pursuant and subject
9 to this chapter; except, however, that the provisions of this section shall not apply to contracts to
10 be paid in whole or part with funds from the United States government or the State of Missouri
11 to the extent that such provisions are inconsistent with requirements, terms, or conditions
12 imposed by those governments, or to highway projects as to which Disadvantaged Business
13 Enterprise goals are applicable;

14 (b) "Labor hours" shall mean the total number of work hours performed by workers
15 directly employed on the site of a construction project, including hours performed by workers
16 directly employed by both the contractor and all subcontractors working on the construction
17 project; it shall not include hours worked by foremen, superintendents, owners and workers who
18 are not subject to prevailing wage requirements;

19 (c) "Minorities" shall mean persons who are citizens or lawful permanent residents of the
20 United States and who:

21 (i.) Have origins in any of the Black racial groups of Africa;

22 (ii) Have origins in any of the peoples of Mexico, Puerto Rico, Cuba, Central or
23 South America, regardless of race;

1 (iii) Have origins in any of the original peoples of the Far East, Southeast Asia, or
2 the Indian subcontinent or the Pacific Islands; or

3 (iv) Maintain cultural identification through tribal affiliation or community
4 recognition with any of the original peoples of the North American continent, or
5 demonstrate at least one-quarter descent from such groups.

6 2. For all construction projects as defined herein, there shall be a goal that 15% of all labor
7 hours be performed by minorities; 10% by persons who reside in the City of St. Louis; and 5%
8 by women. Labor hours performed by a particular person shall be counted in each of the three
9 applicable categories as applicable.

10 3. The Agent may, upon concurrence of the City Counselor, issue a written waiver or
11 reduction of the stated participation percentages set forth herein upon a determination that the
12 construction project carries a disproportionately high ratio of material costs to labor hours so that
13 the percentages are not economically feasible; the construction project is being undertaken in
14 connection with an emergency; a contractor is unable to comply despite good faith efforts to do
15 so; or waiver or modification is determined to be in the City's best interests. A full and complete
16 statement of the reasons for waiving or reducing the percentages shall be filed with the other
17 contract documents related to the construction project.

18 4. The Agent shall adopt such rules and regulations as are appropriate to implement the
19 requirements of this section, which rules and regulations shall become effective when approved
20 by the Board of Aldermen.

21 **SECTION FOUR.** The sections of this Ordinance shall be severable. In the event that any
22 section of this Ordinance is found by a court of competent jurisdiction to be invalid, the
23 remaining sections of this Ordinance are valid, unless the court finds the valid sections of the

1 Ordinance are so essential and inseparably connected with and dependent upon the void section
2 that it cannot be presumed that this Board would have enacted the valid sections without the void
3 ones, or unless the court finds that the valid sections standing alone are incomplete and are
4 incapable of being executed in accordance with the legislative intent.