

1 **BOARD BILL NO. 221CS INTRODUCED BY ALDERMAN JOSEPH VACCARO,**
2 **PRESIDENT LEWIS REED, ALDERMAN STEPHEN CONWAY, ALDERMAN CRAIG**
3 **SCHMID, ALDERWOMAN DIONNE FLOWERS, ALDERMAN LARRY ARNOWITZ,**
4 **ALDERWOMAN BETH MURPHY, ALDERWOMAN MEGAN GREEN**

5 An ordinance pertaining to the definition of “lowest responsible bidder” as cited under
6 Section 4 of Article XXII of the City Charter and bidding and containing a severability clause.

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

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

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

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

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

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

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

22 **SECTION ONE. Lowest Responsible Bidder**

23 1. The-Board of Public Service shall have the authority to award contracts within the
24 purview of this chapter. Contracts shall be awarded to the lowest responsible bidder under

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1 Section 4 of Article XXII of the City Charter. In determining "lowest responsible bidder", in
2 addition to price, the Board of Public Service shall consider: The ability, capacity or skill of the
3 bidder to perform the contract or provide the service required; whether the bidder can perform
4 the contract or provide the service promptly or within the time specified, without delay or
5 interference; the character, integrity, reputation, judgment, experience and efficiency of the
6 bidder; the quality of performance of previous contracts or services; the previous and existing
7 compliance by the bidder with laws and ordinances relating to the contract or service; the
8 sufficiency of the financial resources and ability of the bidder to perform the contract or provide
9 the services; the quality, availability of the supplies, or contractual services to the particular use
10 required; the ability of the bidder to provide future maintenance and service for the use of the
11 subject to the contract; compliance with any applicable requirements for minority and women
12 business enterprise participation; and the number and scope of conditions attached to the bid.
13 When the award is not given to the lowest bidder, a full and complete statement of the reasons
14 for placing the order elsewhere shall be prepared by the Board of Public Service with the
15 concurrence of the City Counselor and filed with the other papers relating to the transaction. The
16 Board of Public Service shall comply with all affirmative action policies adopted by the City of
17 St. Louis for minority or women business enterprise participation or for participation by
18 businesses located within the City of St. Louis.

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

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1 City-issued business, trade or contracting license suspended or revoked within the last year; that
2 they have and enforce a drug-testing policy for all employees in the field; that they participate in
3 or maintain their own Department of Labor-approved apprentice program for each craft which
4 the firm employs, both directly and through subcontractors, and have active, registered
5 apprentices for each program; that all on-site employees on the project will be employees and
6 that there will be no use of independent contractors for on-site work; that all employees will be
7 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 the project 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

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1 shrubs, and retaining wall construction), shall not be deemed to be directly engaged in
2 construction;

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

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

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

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

17 **SECTION FOUR. TWO.** The sections of this Ordinance shall be severable. In the event that
18 any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the
19 remaining sections of this Ordinance are valid, unless the court finds the valid sections of the
20 Ordinance are so essential and inseparably connected with and dependent upon the void section
21 that it cannot be presumed that this Board would have enacted the valid sections without the void
22 ones, or unless the court finds that the valid sections standing alone are incomplete and are

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1 incapable of being executed in accordance with the legislative intent.

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