

# *St. Louis City Ordinance 64722*

FLOOR SUBSTITUTE

BOARD BILL NO. [99] 107

INTRODUCED BY ALDERMAN TERRY KENNEDY

AN ORDINANCE recommended by the Board of Public Service authorizing and directing the Mayor and the Comptroller of the City of St. Louis (hereinafter called the "City") to execute and deliver to the Missouri Highway and Transportation Commission (herein after called **Commission**) its successors and assigns, a utility agreement to adjust certain city-owned utility facilities in the vicinity of Union Boulevard and I-70.

WHEREAS, the Commission proposes to construct and improve a section of state highway designated as Job No. J6L1220E, Route I-70, St. Louis City, in the vicinity of Union Blvd. In accordance with certain road plans on file in the office of the City Clerk of the City of St. Louis County, Missouri; and

WHEREAS, it is deemed to be in the public interest to allow said adjustments to be made, and

WHEREAS, the City is willing to permit said Utility Agreement, as described in Exhibit 1, to the Missouri Highway and Transportation Commission.

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

SECTION ONE. The Mayor and the Comptroller, acting on behalf of the City of St. Louis Water Division, are authorized and directed to execute and deliver to the Commission, its successors and assigns, the Utility Agreement as described in Exhibit 1 of this Ordinance, located in the City of St. Louis.

SECTION TWO. This being an Ordinance relating to a public work and improvement and to provide for the preservation of the public health, it is hereby declared to be an emergency measure as defined by Article IV, Section 20 of the City Charter, and shall become effective immediately upon its passage and approval by the Mayor.

## EXHIBIT 1

CCO FORM: UT3      Route I-70

Approved: 1/98 (BDG) County St. Louis City

Revised: Job No. J6I1220E  
Modified:

MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION  
UTILITY AGREEMENT - ACTUAL COST

(For Company or City Use, When Facility Occupies Private Easement)

THIS AGREEMENT is entered into by the Missouri Highway and Transportation Commission (hereinafter, "Commission") and City of St. Louis (hereinafter, "City").

WITNESSTH:

WHEREAS, the Commission proposes to construct and improve a section of state highway designated as Job No. J6I1220E, Route I-70, St. Louis City, in the vicinity of Union Blvd. in accordance with certain road plans on file in the Office of the City Clerk of St. Louis County, Missouri: and

WHEREAS: in order to improve said highway in accordance with said plans, it will be necessary to adjust certain city-owned utility facilities now located partly on city streets of the City in order to maintain the services of the City, such changes being generally shown in legend on plan marked Exhibit "A" and estimated of cost marked Exhibit "B" attached hereto and each made a part here.

NOW, THEREFORE, in consideration of these mutually, the parties agree as follows:

(1) USE OF RIGHT OF WAY: The City grants to the Commission the right to use the right of way within any existing street alley or other public way which is under the jurisdiction of city as may be necessary to construct and maintain said highway through city.

(2) COMPLY WITH FEDERAL AID POLICY GUIDE (FAPG): The City agrees that the detail plan and estimate of cost for the required adjustment of the City's facilities have been prepared in accordance with FAPG 23 CFR 645A and any amendments which by reference are made a part of this

Agreement. The City also agrees that the work will be performed in accordance with said regulation.

(3) **COMMENCEMENT AND COMPLETION OF WORK:** After approval of the detail plan and estimate of cost and upon notification by the Commission, the City will commence, without unnecessary delay, to reach the earliest possible completion date and to minimize interference with the Commission's roadway contractor. The City agrees to provide a written estimated time schedule of its planned work and a written notification to the Commission's district engineer at least five (5) days prior to beginning the work. If the City falls behind in its work schedule, it shall submit a revised work schedule to the Commission's (area/resident) engineer. The City will make every effort to get back on schedule and complete its work. The City has an affirmative duty to cooperate and coordinate its activities with those of the Commission's roadway contractor. The Commission's roadway contractor. The Commission's contractor has a contractual requirement to cooperate and coordinate its activity with the City and other utility companies on this job.

(4) **AUDIT OF RECORDS:** The City shall develop the adjustment cost of the work by using the actual and related indirect cost accumulated in accordance with an established procedure used by the City in its regular operations and shall keep a detailed and accurate account of all labor, materials, supplies, incidentals, and other necessary costs involved in making such changes. The Commission's (area/residential) engineer in charge of said project, or any authorized agent of the Commission or the Federal Highway Administration, shall have access during normal business hours to such City records. These records must be available during the contract period and any extension, and for three (3) years from the date of final payment at no charge.

(5) **SUBCONTRACT:** The City intends to perform this work with its own forces, but if it becomes necessary to contract any of the work of adjusting its facilities, it shall furnish the Commission with evidence that it is not adequately staffed or equipped to perform the work and shall comply with the procedures outlined in FAPG 23 CFR 645A relating to performing part or all of the work by contract. Furthermore, if the City solicits bids for the work, the City is to furnish to the Commission's tabulation of bids received, a copy of the proposal used in securing the bids, and any other information to support the City's recommendation for award to the lowest qualified bidder prior to any contract work being performed.

(6) CHANGE ORDER: If any substantial change is made in the original plan and extent of the work, the City agrees that reimbursement shall be limited to costs covered by a supplemental agreement or change order prepared by the Commission's (area/resident) engineer or his/her representative and having approval of the Commission and Federal Highway Administration PRIOR to the performance of the work, as set out in FAPG 23 CFR 645A.

(7) BACKFILL: The City agrees to compact backfill of all excavation within the roadway limits in accordance with the Missouri Standard Specifications for Highway Construction, current edition, or as approved by the Commission's resident engineer.

(8) CONDITION OF RIGHT OF WAY: Upon completion of the work provided in this Agreement, the City shall remove all leftover materials and debris resulting from the work and leave the right of way in a neat, workmanlike condition, free of holes, mounds of dirt, or other objectionable material.

(9) SAFETY DEVICES: At all times when work is being performed by the City under such conditions as will affect traffic on the public highways, the City will display warning signs, barricades, flags, lights and /or flares as circumstances may require and shall employ and use a flagger when required for safety of the traveling public, all in accordance with the standards set forth in the Manual on Uniform Traffic Control Devices (MUTCD).

(10) COST: The total cost of the work required for the highway construction is estimated to be \$53,407.65. The Commission's obligation toward the cost of the work under this agreement shall be 100 per cent of the actual cost, which obligation is now estimated to be \$53,407.65. The Commission's obligation shall extend only to those costs incurred under the provisions of FAPG 23 CFR 645A. Upon approval of the work in accordance with said plan and estimate of cost, the Commission will promptly reimburse City for Commission's obligation when seven copies of a detailed statement of costs are submitted to Commission. The Commission will afterwards conduct an audit of the City's statement and supporting records. If the audit reveals that the City has been overpaid, the City will immediately refund to the Commission such overpayment.

(11) PERMIT REQUIREMENT: The City shall obtain a no cost permit from the Commission's district engineer prior to adjusting or relocating its property

from, within, or onto the Commission's right of way. The permit shall be signed by an authorized City representative.

(12) COMMISSION REPRESENTATIVE: The Commission's (area/resident) engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement.

(13) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the state of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(14) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding the alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(15) FINAL INVOICE SUBMITTAL: After completion of the utility work, the City agrees to submit a final invoice for the cost of the work to the Commission within sixty (60) days or as mutually agreed to by the Commission's (area/resident) engineer or his/her representative. The final invoice shall be in as much detail as possible to verify the cost of the completed work. It should follow the format of the original cost estimate (Exhibit B) when possible to promote faster processing by the Commission. The Commission's resident engineer will process the final invoice as soon as possible after receipt.

(16) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(17) COOPERATION: When the City relocation work is being done concurrent with the Commission's roadway contractor operation, the City agrees to cooperate and coordinate its work to minimize disturbance to the roadway contractor or other utility companies work on the project.

(18) HIGHWAY IMPROVEMENT INFORMATION: The Commission agrees to furnish the City all necessary information on the highway improvement in order to properly carry out the utility relocation. Known hazardous waste sites will be identified on the right of way.

(19) WORK CANCELED: If the Commission instructs the City not to proceed with the work, the Commission shall reimburse the city for the Commission's percentage share of the City's costs incurred prior to the date the work is

canceled, as allowed pursuant to FAPG 23 CFR 645A. The City shall promptly return to the Commission any funds in excess of those actually incurred prior to the date the work is canceled.

IN WITNESS WHEREOF, the parties have entered into this agreement on the date last written below.

Executed by the City this \_\_\_ day of \_\_\_\_\_, 1999

Executed by the Commission this \_\_\_ day of \_\_\_\_\_, 1999

MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION

CITY OF ST. LOUIS

By \_\_\_\_\_

Clarence Harmon, Mayor

Title \_\_\_\_\_

ATTEST:

Darlene Green, Comptroller

Approved as to Form:

Signed \_\_\_\_\_

Title \_\_\_\_\_

Thomas J. Ray, City Counselor

Secretary to the Commission

ATTEST:

\_\_\_\_\_  
Rita M. Krapf, Register

Approved as to Form:

---

<b>Legislative History</b>				
<b>1ST READING</b>	<b>REF TO COMM</b>	<b>COMMITTEE</b>	<b>COMM SUB</b>	<b>COMM AMEND</b>
<b>06/25/99</b>	<b>06/25/99</b>	<b>PU</b>		
<b>2ND READING</b>	<b>FLOOR AMEND</b>	<b>FLOOR SUB</b>	<b>PERFECTN</b>	<b>PASSAGE</b>
<b>07/16/99</b>			<b>07/23/99</b>	<b>07/23/99</b>
<b>ORDINANCE</b>	<b>VETOED</b>		<b>VETO OVR</b>	
<b>64722</b>				