

RESOLUTION NO. 010458

Expressing the opposition of the City of Kansas City to passage of House Bill 472 or Senate Bill 369 that would restrict the City's ability to properly manage the public rights-of-way.

WHEREAS, pending before the Missouri General Assembly is legislation known as House Bill 472 and Senate Bill 369 that would severely restrict the City's ability to regulate its public rights-of-way; and

WHEREAS, this legislation would prevent cities from charging a street degradation fee, even if dedicated solely to street restoration; even if based on an engineering and economic formula representing the costs of damage to the streets; and even if developed as simply an option to improved repair by the utility, as is all done in Kansas City; and

WHEREAS, in addition to street degradation fees being prohibited, this legislation prohibits any reconsideration of appropriate street rental/lane closure fees; and

WHEREAS, such prohibitions result in the subsidization of utility companies by all taxpayers for the utilities' private for-profit use of the public's own assets, its rights-of-ways; and

WHEREAS, this legislation provides for automatic approval of permits if not acted upon within 15 days, even though there is no limit on the number of permits that may be filed at one time by any single or group of utilities, thus causing either permits to be approved without review or to cause the City overtime costs or the imposition of delays on other projects simply to provide utilities a favored status among all industries; and

WHEREAS, by these bills the General Assembly dictates to the City Council the administrative procedures it must follow to hear appeals from permit denials or revocations by requiring the City Council itself to conduct administrative hearings at its next regular meeting - the weekly legislative sessions - after a permit is denied or revoked, removing from local control any determination of how administrative matters should be handled and without any consideration of the work or other obligations of the City Council during its legislative sessions; and

WHEREAS, by imposing mandatory binding arbitration on the City, at the sole option of the utilities, the General Assembly will require the City to incur special extraordinary costs in its operations, including new legal responsibilities, engineering time devoted to arbitration hearings, exhibit preparation, witness time, shared cost of arbitrators, and other administrative costs of arbitration; and

WHEREAS, this legislation will prevent the City from modifying its methods of obtaining compensation for the use of rights-of-way by not permitting per-foot charges to be imposed as a credit against any business license tax or franchise fee otherwise paid by the utilities, if that was desired by the City, thus forcing the City to retain into the future, systems

designed for simpler times where only one utility company provided a single service; and

WHEREAS, in addition to the costs of arbitration, it is estimated by the City that at least \$1 to \$1.5 million dedicated solely for street restoration will not be collected, and about \$2 million for lane closure - disruption fees would not be collected; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Mayor and Council express their strong opposition to the adoption of legislation that restricts the City's ability to properly manage its rights-of-way through forced permit approvals, mandatory binding arbitration, administrative hearings held only by the City Council on a schedule determined by the State; elimination of the ability to modify right-of-way rental/ compensation methods to fairly meet current conditions, elimination of the City's current authority to impose street degradation fees, even when those fees are devoted entirely to street restoration.

Section 2. That the Mayor and Council specifically express their strong opposition to the adoption of House Bill 472 and Senate Bill 369 so long as the legislation continues to include costly and counter-productive special industry-specific favoritism and public subsidization of all utility companies using the public's rights-of-way for private business purposes.
