

**2023 Street Paving Projects**

Asphalt	Company	Bid	Bid Bond	LOW BID
	Vern Bauman	\$299,001.00	yes	
	Jokerst Paving	\$323,447.24	yes	
	Jokerst, Inc.	\$278,614.92	yes	X

S. 10th St. \$25,355.46

Concrete	Company	Bid		
	Jokerst Inc.	\$78,608.24	yes	
	Jokerst Paving	\$69,567.00	yes	
	CE Contracting	\$66,355.40	yes	X

TOTAL \$344,970.32  
 Budget \$325,000  
 Difference (\$19,970.32)



## **Staff Report**

Date: Feb. 23, 2023

To: Board of Aldermen

From: D. Bova, Community Dev. Admin.

RE: Home-based Business Ordinance

### Issue:

This past year, the state legislature adopted two new statutes (71.990 & 89.500) regarding home occupations. Historically, this type use has been regulated locally, through Special Use permitting, to allow for customary type home occupations and allow local decisions regarding the conditions applied to Special Use permits. These new statutes prohibit requiring a permit or license for home occupations but do apply some conditions within the statutes. Thus we need to update our ordinance to reflect the newly adopted state statutes.

The ordinance changes, additions, and deletions proposed reflect the required changes and codify the definitions and conditions allowed by state statute. They were written with input from our legal counsel and will allow the city to work towards maintaining some accountability with home occupations, but special use permits will no longer be required if the home occupation proposed fits within the new definitions.

### Recommendation:

Approve the amendments to municipal code.

**BILL NO. 4542**

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE CITY OF STE. GENEVIEVE MUNICIPAL  
CODE OF ORDINANCES CHAPTER 405 ZONING AND CHAPTER 605  
BUSINESS LICENSING AS SET FORTH BELOW**

**WHEREAS**, the Missouri State Legislature passed HB 1662 regarding home based businesses;  
and

**WHEREAS**, the State of Missouri reduced the regulatory authority of city government on home  
based businesses; and

**WHEREAS**, the Community Development Department recommends the proposed changes to the  
Ste. Genevieve Code of Ordinances to bring in line with state statutes; and

**WHEREAS**, this has been reviewed and approved by legal counsel and the Planning & Zoning  
Commission; and

**WHEREAS**, the Board believes these changes are in the best interests of the City of Ste.  
Genevieve and recommend adopting.

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF STE.  
GENEVIEVE, MISSOURI AS FOLLOWS:**

**SECTION 1. Chapter 405 ZONING REGULATIONS - Article II – Definitions - Section  
405.020 is hereby amended by addition and/or replacing as follows and is to be codified in  
the Municipal Code:**

**Goods**

Any merchandise, equipment, products, supplies or materials.

**Home-based Business**

Any business operated in a residential dwelling or accessory structure that manufactures,  
provides, or sells goods or services and that is owned and operated by the owner or tenant  
of the residential dwelling.

**Home-based Work**

Any lawful occupation performed by a resident within a residential home or accessory  
structure, which is clearly incidental and secondary to the use of the dwelling unit for  
residential purposes and does not change the residential character of the residential  
building or adversely affect the character of the surrounding neighborhood.

## **Home Occupation**

A no-impact home-based business

## **No-impact Home-based Business**

A home-based business or home-based work where:

- a) The total number of employees and clients onsite at any one time does not exceed the occupancy limit for the residential dwelling; and
- b) The activities of the business:
  - 1) Are limited to the sale of lawful goods and services;
  - 2) May involve having more than one client on the property at one time;
  - 3) Do not cause a substantial increase in traffic through the residential area;
  - 4) Do not violate any parking regulations established by the political subdivision;
  - 5) Occur inside the residential dwelling or in the yard of the residential dwelling;
  - 6) Are not visible from the street;
  - 7) Do not violate any narrowly tailored regulations including those protecting the public health and safety, health and sanitation, transportation and traffic control, solid or hazardous waste, pollution, or noise control.

**SECTION 2. Chapter 405 ZONING REGULATIONS - Article III – Districts and District Regulations - Section 405.050 "R-1" Single-Family Residential District Regulations (A) (1) (h) is deleted in its entirety and replaced as follows.**

h. Home Occupation

**SECTION 3. Chapter 405 ZONING REGULATIONS – Article V Supplementary and Special Uses and Regulations – Section 405.200 Special Use Regulations (D) (20) is deleted in its entirety.**

**SECTION 4. Chapter 405 ZONING REGULATIONS – Article VI Sign Regulations – Section 405.205 Sign Regulations (B) Definitions SIGN (14) is replaced with the following language:**

**14. HOME OCCUPATION SIGN:** A small announcement or professional sign, not over two (2) square feet in area, attached to the home advertising a home occupation.

**SECTION 5. Chapter 405 ZONING REGULATIONS – Article VI Sign Regulations – Section 405.205 Sign Regulations F. Table Summary Of Permitted Signs Section HOME OCCUPATION is hereby deleted in its entirety and replaced as follows:**

<b>Sign Type</b>	<b>R-1, R-2, M-H</b>	<b>C-1, C-2, C-4</b>	<b>I-1, I-2</b>	<b>A</b>	<b>H-1, H-2 (2)</b>
Home occupation	✓	✓	✓	✓	✓

**SECTION 6. Chapter 405 ZONING REGULATIONS – Article V Supplementary and Special Uses and Regulations – New Section 405.202 Home Occupations is hereby added as set forth below:**

**Section 405.202. Home Occupations.**

A. Regulations to Safeguard the Residential Character of the Dwelling and/or Surrounding Neighborhood. To preserve the residential character of the residential building and protect against adverse effects on the character of the surrounding neighborhood, a Home Occupation may operate in a residential district, provided:

1. Home occupations shall be operated entirely from an enclosed structure and shall not occupy more than twenty-five percent (25%) of the total floor area of the main residential building and in no case more than five hundred (500) square feet of floor area, with use of the dwelling for a home occupation being clearly incidental and subordinate to its use for residential purposes.
2. Noise – Home occupations must not create offensive or excessive noise and must comply with all noise restrictions applicable to residential areas including but not limited to Section 210.210 Peace Disturbance and 215.175 Peace Disturbance.
3. Trash / Solid Waste – Home occupations must not generate trash, refuse or solid waste that exceeds normal residential trash and refuse and must comply with all solid waste restrictions including but not limited to Section 230.160 Containers For Residential Use.
4. Outdoor Storage – Outdoor storage of equipment, inventory, or other supplies for the home occupation is prohibited and no commodities shall be displayed or sold on the outside of the main residential building.
5. Parking – All customer parking must be located off of any public street and home occupations must comply with all parking regulations including but not limited to those in Section 365.080 Parking And/Or Storage of Oversized Trucks, Trailers, Or Other Vehicles On City Streets and Section 405.170 Off-Street Parking Regulations.

6. Public Health and Safety - Home occupations shall adhere to all City ordinances and regulations related to the public health and safety including but not limited to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, and pollution.
7. Compliance with Laws - Home occupations shall comply with state and federal laws including paying applicable taxes.
8. Signage – Home Occupations shall adhere to all City ordinances and regulations related to signage including but not limited to Section 405.205 Sign Regulations.
9. All deliveries related to the home occupation shall be made between the hours of 7:00 A.M. and 9:00 P.M. Deliveries shall not be made by a vehicle that exceeds the size and/or weight rating for the street.

B. Nothing in this Section shall be deemed to:

1. Prohibit mail order or telephone sales for home-based work;
2. Prohibit service by appointment within the home or accessory structure;
3. Prohibit or require structural modifications to the home or accessory structure;
4. Restrict the hours of operation for home-based work; or
5. Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure.

C. Home occupations do not require a license nor any fee, but within sixty (60) days of establishing a Home Occupation, the resident is asked to supply the City with (1) a copy of its business's Missouri Tax ID number and, for Home Occupations selling goods at retail, a Statement of No Tax Due in accordance with Missouri Statutes (Section 144.083.2 and 144.083.4, RSMo.), and (2) a written description of the Home Occupation, and the number of employees to be working at the Home Occupation who are not residents of the home. At the same time, to help ensure the proposed Home Occupation complies with the requirements of this subsection, the City shall supply the resident with a copy of this subsection or a summary of its requirements. Upon receipt of the written description, the City shall verify for the resident that the Home Occupation complies with the foregoing requirements. Any change in the amount of floor area occupied by the Home Occupation as detailed in the original description, number of employees, or the type of home occupation should be followed by a submission of a revised description and review and approval in accordance with this Section to assist the resident in continued compliance.

**SECTION 7. Chapter 605 BUSINESS LICENSING – Division 1 – Section 605.050 Amount of License Tax is hereby amended by adding the following:**

**Home Occupation \$ 0.00**

**SECTION 8. EFFECTIVE DATE:** This ordinance shall be in full force and effect from and after its date of passage.

**SECTION 9. REPEALER:** All ordinance and parts thereof in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 10. SEVERABILITY:** The invalidity of any section, clause, sentence or provision of this ordinance shall be given effect without such invalid part or parts.

**DATE OF FIRST READING:** \_\_\_\_\_.

**DATE OF SECOND READING:** \_\_\_\_\_.

**PASSED AND APPROVED THIS \_\_\_ DAY OF \_\_\_\_\_, 2023 BY A ROLL CALL VOTE OF THE BOARD OF ALDERMEN AS FOLLOWS:**

**VOTE**

- ALDERWOMAN KRISTI CLEGHORN**
- ALDERWOMAN SUSAN JOHNSON**
- ALDERMAN BOB DONOVAN**
- ALDERMAN MIKE JOKERST**
- ALDERMAN JEFFREY EYDMANN**
- ALDERMAN MICHAEL RANEY**
- ALDERWOMAN ASHLEY ARMBRUSTER**
- ALDERMAN JOE PRINCE**

**\_\_\_ YES \_\_\_ NO \_\_\_ ABSENT**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Paul Hassler, Mayor

\_\_\_\_\_  
Mark Bishop, City Attorney

SEAL

Reviewed by:

\_\_\_\_\_  
Pam Meyer, City Clerk

\_\_\_\_\_  
Happy Welch, City Administrator



## **Staff Report**

Date: Feb 23, 2023

To: Board of Aldermen

From: D. Bova, Community Dev. Admin.

RE: Tiny Homes Ordinance

### Issue:

At previous aldermanic meetings and workshops, there has been discussion on how to encourage and allow more residential construction in town. One item discussed was allowing Tiny Homes. Staff looked at several options and proposed this ordinance; the Planning & Zoning Commission has recommended adoption.

Creating an Overlay zone would allow Tiny Homes subdivisions on certain parcels and in certain zones within the City. It would allow tiny homes to be built within a Mobile Home Park District or allow a person to build a tiny home if they wanted to build upon or subdivide a larger parcel (4+ acres) within any zone allowing residential use. None of our existing residential subdivisions have any 4+ acre lots so tiny homes would not be able to be built as primary structures within these areas. Basically, this ordinance / process allows tiny homes to be built, with some stipulations, and allows P&Z and the Board of Aldermen to view the development plans before approving the overlay permit.

### Recommendation:

Approve the amendments to municipal code.



**AN ORDINANCE AMENDING THE CITY OF STE. GENEVIEVE MUNICIPAL CODE OF ORDINANCES CHAPTER 405 ZONING REGULATIONS CREATING A TINY HOME OVERLAY ZONE AS SET FORTH BELOW**

**WHEREAS**, like most areas of the country Ste. Genevieve has a shortage in available, affordable housing; and

**WHEREAS**, staff has researched ways to alleviate the shortage and create viable housing options for residents; and

**WHEREAS**, the Community Development Department, the Board of Aldermen and the Planning & Zoning Commission have all spent time reviewing and discussing the idea of allowing Tiny Homes to be placed within the City limits of Ste. Genevieve; and

**WHEREAS**, the Planning & Zoning Commission reviewed and recommend the changes as set forth below; and

**WHEREAS**, the Board believes these changes are in the best interests of the City of Ste. Genevieve and recommend adopting.

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF STE. GENEVIEVE, MISSOURI AS FOLLOWS:**

**SECTION 1. Chapter 405 ZONING REGULATIONS - Article III – Districts & District Regulations - Section 405.136 “THO” Tiny Home Overlay Zone is hereby added to the Ste. Genevieve Code of Ordinances as set forth below:**

**Section 405.136 “THO” Tiny Home Overlay Zone**

- A. Purpose. The “THO” Tiny Home Overlay Zone District is established to provide housing options in specified areas within the City by permitting tiny homes on lots smaller in size than the current City minimum square footage requirements within the zones allowed, and shall be used for independent living quarters, designed as a permanent, year-round residence.
- B. Location. The “THO” Tiny Home Overlay Zone may be allowed in “MH” Mobile Home Zones wholly or partially, or upon a minimum of at least four (4) acres in any zoning district where residential use is allowed.
- C. General. A “THO” Tiny Home Overlay permit may be granted under this Section for the uses enumerated in this Section. The permit shall be applicable to the real property and/or parcels described in the “THO” Overlay Zone application. The issuance of a “THO” Tiny Home Overlay permit shall expire if there is no

development of Tiny Homes within one (1) year from the date of issuance. An extension of one (1) year may be granted by the Planning & Zoning Commission upon written request by the applicant at least one (1) month prior to the expiration of the initial approval. Upon application for a “THO” Overlay Zone permit, the applicant shall pay an application fee of one hundred dollars (\$100.00).

D. Procedures.

1. Applications for the approval of an overlay permit shall be submitted to the Community Development Administrator. The application shall include a proposed statement of objectives for the development and proposed site plan including a layout of lots with approximate dimensions and size; location of all any existing structures; approximate location of existing and proposed streets, easements and utilities; any proposed alteration to the elevation or topography of the site; any proposed improvements other than tiny homes; and names of all adjoining property owners. If the property within the proposed “THO” Overlay Zone is to be subdivided, a preliminary subdivision plan, per Section 415.050 and 415.060, approved by Planning & Zoning is required also.
2. The Community Development Administrator shall prepare a report concerning the application for presentation to the Planning and Zoning Commission along with recommendations for conditions to ensure compliance with these provisions.
3. Applications for an overlay permit shall be made and processed in the same manner as provided for zoning amendments in Section 405.230.
4. Notification of application for an overlay permit shall be sent by regular mail to the owner of record of all property within 185’ of the proposed location of the overlay zone.
5. An application for an overlay permit under this Section may be made and processed contemporaneously with a proposed amendment of the district in which such site lies and/or with an application for subdivision of such site.

E. Permitted Uses.

1. Tiny Home between 200 ft<sup>2</sup> to 500 ft<sup>2</sup>.
2. Garages, covered parking structures, and other accessory buildings no larger than 400 ft<sup>2</sup> when on a lot where the primary building is a Tiny Home.
3. Accessory buildings incidental and subordinate to the Tiny Home Overlay Zone. Buildings housing such facilities as laundromats, community meeting space, etc. and only when such facilities are intended for the use of persons residing within the Tiny Home Overlay Zone.

F. Site and Structure Requirements.

1. The minimum lot area in the “THO” Tiny Home Overlay District is four thousand five hundred (4,500) square feet; minimum lot width shall be 30 feet.
2. Setbacks shall be the same as “R-2” General Residential District; maximum building height shall be 15 feet; maximum lot coverage by structures shall be 30%.

3. Tiny Homes shall be connected to City water service, City sewer, and electric utilities.
4. Mechanical equipment shall be incorporated into the structure and not located on the roof.
5. Tiny Homes must comply with all applicable State and Local Codes and Regulations including ICC International Residential Building Code and ICC Tiny House Code adopted in Section 500.110.
6. All Tiny Homes must be constructed or placed on a permanent foundation.
7. The City of Ste. Genevieve encourages some of the following design features be incorporated into a Tiny Home:
  - Upgraded entry feature, such as a transom or side windows;
  - Exterior accessories, such as permanent shutters, fixed sunshade devices, or gutters/downspouts;
  - Pitched roofline (4:12 pitch or steeper);
  - Dormers;
  - Premanufactured skylights;
  - Built-on porch or deck;
  - Exterior residential light sconces or downcans.

G. Definitions.

Tiny Home

A residential structure between two hundred (200) to five hundred (500) square feet of living area under roof installed on a permanent foundation, intended for independent living quarters, designed as a permanent, year-round residence for one (1) family.

Family

1. One (1) or more persons related by blood, marriage or adoption. A family may also include not more than two (2) persons not related by blood, marriage or adoption.
2. For purposes of this Tiny Homes Overlay section, occupancy shall not be more than one (1) occupant per 70 ft<sup>2</sup> of total floor space less space for the kitchen and bathroom (minimum 80 ft<sup>2</sup>)

**SECTION 8. EFFECTIVE DATE:** This ordinance shall be in full force and effect from and after its date of passage.

**SECTION 9. REPEALER:** All ordinance and parts thereof in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 10. SEVERABILITY:** The invalidity of any section, clause, sentence or provision of this ordinance shall be given effect without such invalid part or parts.

**DATE OF FIRST READING:** \_\_\_\_\_.

DATE OF SECOND READING: \_\_\_\_\_.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023 BY A ROLL CALL VOTE OF THE BOARD OF ALDERMEN AS FOLLOWS:

VOTE

- ALDERWOMAN KRISTI CLEGHORN
- ALDERWOMAN SUSAN JOHNSON
- ALDERMAN BOB DONOVAN
- ALDERMAN MIKE JOKERST
- ALDERMAN JEFFREY EYDMANN
- ALDERMAN MICHAEL RANEY
- ALDERWOMAN ASHLEY ARMBRUSTER
- ALDERMAN JOE PRINCE

\_\_ YES \_\_ NO \_\_ ABSENT

APPROVED AS TO FORM:

\_\_\_\_\_  
Paul Hassler, Mayor

\_\_\_\_\_  
Mark Bishop, City Attorney

SEAL

Reviewed by:

\_\_\_\_\_  
Pam Meyer, City Clerk

\_\_\_\_\_  
Happy Welch, City Administrator

**BILL NO. 4544**

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF STE. GENEVIEVE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH CE CONTRACTING FOR THE CLAYMONT STREET CONCRETE REPLACEMENT PROJECT IN AN AMOUNT OF \$66,355.40.**

**WHEREAS**, the City of Ste. Genevieve (“City”) has a need to contract with a qualified contractor for the “Claymont Street Concrete Replacement Project”; and

**WHEREAS**, the City advertised for bids in *The Herald* newspaper and received a total of three (3) proposals for the project, a copy of which is attached as Exhibit “A”; and

**WHEREAS**, the City accepted the low bid from CE Contracting in the amount of \$66,355.40 at the Board of Aldermen Meeting held on February 23, 2023; and

**WHEREAS**, the Board of Aldermen of the City of Ste. Genevieve believe it to be in the best interests of the City to enter into the “Owner-Contractor Agreement”, (Exhibit “B”) incorporated by reference in this Ordinance to execute the “Claymont Street Concrete Replacement Project.”

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF STE. GENEVIEVE, MISSOURI AS FOLLOWS:**

**SECTION 1.** The Owner-Contractor Agreement with CE Contracting of Ste. Genevieve, Missouri, for the amount of **sixty-six thousand three hundred fifty-five dollars and forty cents (\$66.355.40)** is hereby approved in substantially the form of Exhibit “B” attached hereto, to execute the Claymont Street Concrete Replacement Project.

**SECTION 2.** The Mayor is hereby authorized and directed to execute and deliver the agreement on behalf of the City.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its date of passage.

**SECTION 4. REPEALER.** All ordinance and parts thereof in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

**DATE OF FIRST READING:** \_\_\_\_\_

**DATE OF SECOND READING:** \_\_\_\_\_

PASSED AND APPROVED BY THE BOARD OF ALDERMEN THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023 BY A ROLL CALL VOTE AS FOLLOWS:

VOTE

ALDERWOMAN KRISTI CLEGHORN  
ALDERWOMAN SUSAN JOHNSON  
ALDERMAN BOB DONOVAN  
ALDERMAN MIKE JOKERST  
ALDERMAN JEFF EYDMANN  
ALDERMAN MICHAEL RANEY  
ALDERWOMAN ASHLEY ARMBRUSTER  
ALDERMAN JOE PRINCE

\_\_\_ YES \_\_\_ NO \_\_\_ ABSENT

APPROVED AS TO FORM:

\_\_\_\_\_  
Paul Hassler, Mayor

\_\_\_\_\_  
Mark Bishop, City Attorney

ATTEST:

REVIEWED BY:

\_\_\_\_\_  
Pam Meyer, City Clerk

\_\_\_\_\_  
Happy Welch, City Administrator

**2023 Street Paving Projects**

Asphalt	Company	Bid	Bid Bond	LOW BID
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S. 10th St. \$25,355.46

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	CE Contracting	\$66,355.40	yes	X

TOTAL \$344,970.32  
 Budget \$325,000  
 Difference (\$19,970.32)

## **OWNER-CONTRACTOR AGREEMENT**

This is an Agreement made and entered into the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the **City of Ste. Genevieve**, a municipal corporation (hereinafter called the "Owner") and **CE Contracting**, 10411 Kimmel Lake Rd., Ste. Genevieve, Missouri, (hereinafter called the "Contractor").

The project is identified as the Claymont Street Concrete Replacement, located on Claymont Street from Parkwood to 768 Claymont Dr. in the City of Ste. Genevieve, (hereinafter called "Project")

### **WITNESSETH:**

The Contractor and the Owner, for the consideration set forth herein, agree as follows:

### **ARTICLE I**

#### **The Contract Documents**

The Contract Documents include the Conditions of the Contract (General Conditions of Owner-Contractor Agreement), State Wage Determination (below Prevailing Wage requirement), Non-Collusion Affidavit, the Construction Schedule, all Addenda issued prior to the execution of this Contract, and all Modifications issued after execution of this Contract, which together with this Agreement form the Contract, and are all as fully a part of the Contract as if attached to this Agreement or repeated herein. All definitions set forth in the General Conditions of Owner-Contractor Agreement are applicable to this Agreement.

The Contract represents the entire and integrated agreement between the parties, and supersedes prior negotiations, representations and agreements, whether written or oral. An enumeration of the Contract Documents, other than Modifications, is set forth in Article X.

### **ARTICLE II**

#### **Scope of Work**

The Contractor, acting as an independent contractor, shall faithfully and fully perform the Work described in, and shall do everything required by, the Contract Documents or reasonably inferable there from, for the complete construction of the project. The Contractor represents and warrants that they have special skills which qualify them to perform the Work in accordance with the Contract and that they are free to perform all such Work and is not a party to any other



agreement, written or oral, the performance of which would prevent or interfere with the performance, in whole or in part, of the Work.

### **ARTICLE III**

#### **Time of Completion**

(a) All time limits stated in the Contract Documents are of the essence. The Work to be performed under the Contract shall commence within (7) consecutive calendar days of the date of the written Notice to Proceed from the Owner to the Contractor and shall be substantially completed within **Thirty (30)** consecutive calendar days from and including the date of said written Notice to Proceed, subject to adjustments of this Contract Time as provided in the Contract Documents.

(b) Contractor shall pay, as liquidated damages and not as a penalty, the sum of **\$500** for each consecutive calendar day after the Final Completion date that the Work has not been completed. The total amount so payable to the Owner as liquidated damages may be deducted from any sums due or to become due to Contractor from Owner.

### **ARTICLE IV**

#### **The Contract Sum and Payments**

The Owner agrees to pay, and the Contractor agrees to accept, for the performance of the Contract, the sum of **\$66,355.40**, subject to additions and deductions as provided in the Contract Documents. The bid documents as accepted by the City are attached for reference. Based upon proper application, final payment within 30 days after the Work is fully completed and accepted by the Owner and the Contract is fully performed. The price is subject to the MoDOT Price Index as published for the period of construction.

### **ARTICLE V**

#### **Performance of the Work**

(a) Within 5 days after being awarded the Contract, the Contractor shall prepare and submit for the Owner's approval, (1) a Construction Schedule which Construction Schedule shall indicate the dates for starting and completing the various stages of construction, and (2) a Traffic Control Plan indicating the location of all proposed signage, detours, road closures throughout the Project which adequately address the Traffic Control Plan of the proposed Work. All traffic control shall be according to the standards of the latest edition of the Manual on Uniform Traffic

Control Devices developed by the Federal Highway Administration. No Work will commence until the Contractor's Schedule and Traffic Control Plan is submitted and approved by the Owner.

(b) Completion of the Work in accordance with the time limits set forth in the Construction Schedule is an essential condition of the Contract.

(c) If the Contractor falls behind the Construction Schedule for any reason, he shall promptly take, and cause his Subcontractors to take, such action as is necessary to remedy the delay, and shall submit promptly to the Owner for approval a supplementary schedule or progress chart demonstrating the manner in which the delay will be remedied; provided, however, that if the delay is excusable under Article VI hereof, the Contractor will not be required to take, or cause his Subcontractors to take, any action which would increase the overall cost of the Work (whether through overtime premium pay or otherwise), unless the Owner shall have agreed in writing to reimburse the Contractor for such increase in cost. Any increase in cost incurred in remedying a delay which is not excusable under Article VI hereof shall be borne by the Contractor.

## **ARTICLE VI**

### **Delays Beyond Contractor's Control**

(a) If the Contractor fails to complete the Work in accordance with the Construction Schedule as a result of the act or neglect of the Owner, or by strikes, lockouts, fire or other similar causes beyond the Contractor's control, then, and to the extent of such delays, the Contractor shall not be required to pay liquidated damages to the Owner pursuant to Paragraph (b) of Article III hereof, provided the Contractor uses his best efforts to remedy the delay in the manner specified in Paragraph (c) of Article V hereof. If, as a result of any such cause beyond the Contractor's control, the delay in completion of the Work in accordance with the Construction Schedule is so great that it cannot be remedied in the aforesaid manner, or if the backlog of work is so great that it cannot be remedied without incurring additional cost which the Owner does not authorize, then the time of completion and the Construction Schedule shall be extended pursuant to a Change Order for the minimum period of delay occasioned by such cause. The period of delay and extension shall be determined by the Owner.

(b) Notwithstanding the foregoing Paragraph (a), no extension of time shall be granted for any delay the cause of which occurs more than seven (7) days before claim therefor is made in writing by the Contractor to the Owner, and no extension of time shall be granted if the Contractor could have avoided the need for such extension by the exercise of reasonable care and foresight. In the case of a continuing cause of delay, only one claim is necessary.

(c) Weather may constitute a cause for granting an extension of time.

(d) Except to the extent that a delay is caused by the Owner, the Contractor's sole remedy shall consist of his rights under this Article VI.

## **ARTICLE VII**

### **Changes in the Work**

(a) The Owner may make changes within the general scope of the Contract by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such changes in the Work shall be executed under the conditions of the Contract. No extra work or change shall be made except pursuant to a Change Order from the Owner in accordance with the General Conditions. Any claim for an increase in the Contract Sum resulting from any such change in the Work shall be made by the Contractor in accordance with the General Conditions.

(b) If the requested change would result in a delay in the Construction Schedule, the provisions of Paragraph (c) of Article V and of Article VI hereof shall apply. If the requested change would result in a decrease in the time required to perform the Work, the completion date and the Construction Schedule shall be adjusted by agreement between the parties to reflect such decrease.

(c) Any adjustment in the Contract Sum for duly authorized extra work or change in the Work shall be determined based on the unit prices previously specified, to the extent such unit prices are applicable. To the extent such unit prices are not applicable, the adjustment in the Contract Sum shall, at the option of the Owner, be determined by an acceptable lump sum properly itemized and supported by sufficient substantiating data to permit evaluation, or by an acceptable cost plus percentage or fixed fee.

## **ARTICLE VIII**

### **Termination by Owner**

(a) If the Contractor is adjudged a bankrupt, or if the Contractor makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor persistently or repeatedly fails, except in cases for which extension of time is provided, to make progress in accordance with the Construction Schedule, or if the Contractor fails to make prompt payment to Subcontractors for material or labor, or persistently disregards laws, ordinances or the instructions of the Owner, or otherwise breaches any provision of the Contract, the Owner may, without prejudice to any other right or remedy, by giving written notice to the Contractor and his Surety, terminate the Contract, take possession of the Work and of all materials and equipment thereon and finish the Work by whatever method the Owner may

deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Sum shall exceed the expenses of finishing the Work, including additional architectural, managerial and administrative expenses, such excess shall be paid to the Contractor. If such expenses shall exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the Owner promptly upon demand.

In the event of termination pursuant to this Paragraph, the Contractor, upon the request of the Owner, shall promptly assign to the Owner in the manner and to the extent directed by the Owner all right, title and interest of the Contractor under any subcontracts, purchase orders which the Contractor is a party and which relate to the Work.

(b) Performance of the Work hereunder may be terminated by the Owner by giving three (3) days prior written notice to the Contractor if the Owner, in its sole discretion, decides to discontinue or suspend construction. In the event of such termination, as opposed to termination pursuant to Paragraph (a) of this Article VIII, the Contract Sum shall be reduced in an equitable manner by agreement between the parties. The Contractor will not be entitled to payment of profit on work not performed.

## **ARTICLE IX**

### **Contractor's Liability Insurance**

The Contractor shall purchase and maintain in full force and effect the following insurance coverage with an insurance carrier acceptable to the Owner:

The policy shall be endorsed to cover the contractual liability of the Contractor under the General Conditions.

The Contractor and his Subcontractors shall procure and maintain during the life of this Agreement insurance of the types and minimum amounts as follows:

(a) Workers' Compensation in full compliance with statutory requirements of Federal and State of Missouri law and Employers' Liability coverage in the amount of \$2,000,000.

(b) Comprehensive General Liability and Bodily Injury

Including Death: \$1,000,000 each person  
\$1,000,000 each occurrence

Umbrella Liability \$3,000,000 each occurrence  
\$3,000,000 aggregate

(c) Comprehensive Automobile Liability, Bodily Injury

Including Death: \$1,000,000 each person  
\$1,000,000 each occurrence  
Property Damage: \$1,000,000 each accident  
(d) Personal and ADV Injury  
Including Death: \$1,000,000 each occurrence  
\$2,000,000 aggregate

The Owner's Protective Policy shall name the Owner as the insured. Certificates evidencing such insurance shall be furnished the Owner prior to Contractor commencing the Work on this Project. The certificates must state, **"The City of Ste. Genevieve and Employees, are included as an additional insured as required by written contract under the General Liability Policy with respect to work performed by the named insured on the above listed project."**

THE CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

By \_\_\_\_\_  
City of Ste. Genevieve

Title \_\_\_\_\_  
Mayor

\_\_\_\_\_  
Paul Hassler  
(Print Name)

\_\_\_\_\_  
Title

By \_\_\_\_\_  
"Contractor"

## **ARTICLE X**

### **Enumeration of The Contract Documents**

The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

- (a) Owner-Contractor Agreement
- (b) General Conditions of the Owner-Contractor Agreement
- (c) Construction Schedule
- (e) State Wage Determination
- (f) Bid Form Proposal

# GENERAL CONDITIONS OF OWNER-CONTRACTOR AGREEMENT

## ARTICLE 1

### CONTRACT DOCUMENTS

#### **1.1 DEFINITIONS**

1.1.1 The Contract Documents. The Contract Documents include the Owner-Contractor Agreement, General Conditions of the Owner-Contractor Agreement, State Wage Determination, Non-Collusion Affidavit the Construction Schedule and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, or (2) a written Change Order.

1.1.2 The Contract. The Contract Documents form the Contract. The Contract represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, both written and oral, including the Bidding Documents. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1.

1.1.3 The Work. The term Work means the construction and services required or reasonably inferable from the Contract Documents, and includes all labor necessary to complete the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such construction.

1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.

1.1.5 Notice to Proceed. The written notice from the Owner notifying the Contractor of the date on or before which he is to begin execution of the Work.

#### **1.2 EXECUTION, CORRELATION, INTENT AND INTERPRETATIONS**

1.2.1 The Contract Documents shall be signed in not less than duplicate by the Owner and Contractor.

1.2.2 The Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, materials, equipment and other items as provided in Subparagraph 3.3 necessary for execution and completion of the Work. Words which have well-known technical or trade meanings are used herein in accordance with such recognized meanings.

1.2.4 In the event of any conflict or inconsistency in the Contract Documents, the better quality and quantity of Work, as determined by the Engineer, shall be provided without change in the Contract Sum.

### **1.3 COPIES FURNISHED AND OWNERSHIP**

Not Applicable.

## **ARTICLE 2**

### **OWNER**

#### **2.1 DEFINITION**

2.1.1 The Owner is the person or organization identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term "Owner" means the Owner or its authorized representative.

#### **2.2 OWNER'S RIGHT TO STOP THE WORK**

2.2.1 If the Contractor fails to correct defective work, or fails to supply labor, materials or equipment in accordance with the Contract Documents, the Owner may order the Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated; however, the Owner's right to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any third party.

#### **2.3 OWNER'S RIGHT TO CARRY OUT THE WORK**

2.3.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform any provision of the Contract, the Owner may, after seven (7) days' written notice to the Contractor and without prejudice to any other remedy he may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner promptly upon request.

## **ARTICLE 3**

### **CONTRACTOR**

#### **3.1 DEFINITION**

3.1.1 The Contractor is the person or organization identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term "Contractor" means the Contractor or his authorized representative.

#### **3.2 SUPERVISION AND CONSTRUCTION PROCEDURES**

3.2.1 The Contractor shall perform the Work in accordance with the Contract Documents, and shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for



coordinating all portions of the Work, and shall be solely responsible for job-site safety precautions, procedures and programs.

### **3.3 LABOR AND MATERIALS**

3.3.1 Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work.

3.3.2 The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him. If the Owner reasonably objects to any person employed by the Contractor, the employee shall be immediately dismissed.

3.3.3 The Contractor shall comply with, and is bound by, the provisions of Missouri law pertaining to the payment of wages on public works projects contained in MO.Rev.Stat. SS290.210 (2000) through 290.340 (2000), and any amendments thereto, including, but not limited to the following:

1. In accordance with MO.Rev.Stat. S290.250 (2000), the Contractor shall not pay less than the prevailing hourly rate of wages specified by the Missouri Department of Labor and Industrial Relations Division of Labor Standards to all workers performing Work under the Contract.

2. In accordance with MO.Rev.Stat. S290.250 (2000), the Contractor shall forfeit as a penalty to the Owner one hundred and 00/100 dollars (\$100.00) for each worker employed for each calendar day, or portion thereof, such worker is paid less than the said stipulated rates for any Work done under the Contract, by him or by any Subcontractor under him and shall include provisions in all bonds guaranteeing the faithful performance of said prevailing hourly wage clause.

3. In accordance with MO.Rev.Stat. S290.265 (2000), the Contractor and each Subcontractor shall post a clearly legible statement of all prevailing hourly wage rates to be paid to all workers employed to complete the Work in a prominent and easily accessible place at the site of the Work and such notice shall remain posted during the full time that any workers shall be employed on the Work.

The contractor and all subcontractors must require all on-site employees to complete the ten-hour construction safety training program required under Section 292.675, RSMo.

Certified payrolls shall also be submitted prior to final payment for all work completed by the Contractor or Subcontractors.

4. In accordance with MO.Rev.Stat. S290.290 (2000), before final payment is made an affidavit must be filed by the Contractor stating that he has fully complied with the prevailing wage law.

Final payment shall not be due unless and until this affidavit is filed in proper form and order.

3.3.4 The Contractor shall comply with MO.Rev.Stat. SS290.550 (2000) through 290.580 (2000) regarding the utilization of Missouri laborers and laborers from nonrestrictive states for employment on Missouri public works projects, when the unemployment rate exceeds 5% for two consecutive months. The Contractor shall advise all of its subcontractors of this obligation prior to entering into any subcontract with them, and Contractor shall be liable for, and shall promptly reimburse Owner for, all fines, penalties or costs (including attorney's fees) imposed upon or incurred by Owner as a result of any failure of the Contractor any of its subcontractors to comply with this requirement.

3.3.5 The Contractor shall execute and complete the Work in such a manner that avoids jurisdictional and other disputes among labor unions.

### **3.4 WARRANTY**

3.4.1 Contractor warrants that it shall use sound construction principles and practices in the performance of the Work and that it shall apply to the Work a high degree of skill, care, judgment and supervision to assure that the Work is performed properly and in accordance with the Contract Documents. Contractor further warrants that the Work shall be free from defects due to faulty materials, equipment or workmanship for one year from the date of Final Completion of the Project. If any defect exists in the Work within such period, Contractor shall promptly, upon notice from Owner, at Contractor's expense, make suitable repairs or replacements. If Contractor fails to make or commence such repairs or replacements as required above, Owner may make such repairs, and Contractor shall promptly reimburse Owner for its costs in making suitable repairs or replacements. In either case, Contractor shall also pay for any resulting damage to other property and work occasioned by Contractor's breach of any of the aforementioned warranties or guaranties.

3.4.2 The Contractor agrees to assign to the Owner at the time of final completion of the Work, all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work so as to preserve all such warranties.

3.4.3 Owner's rights under Section 3.4 are in addition to all other rights or remedies which it may have under the Contract or at law or equity.

### **3.5 PERMITS, FEES AND NOTICES**

3.5.1 The Contractor shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the Work.

3.5.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, he shall promptly notify the Owner in writing and any necessary changes shall be adjusted by appropriate Modification. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the Owner, the Contractor shall assume full responsibility thereof and shall bear all costs attributable thereto.

### **3.6 SUPERINTENDENT**

3.6.1 The Contractor shall employ a competent superintendent who shall be in attendance at the Project site during performance of the Work. This person shall be a superintendent who will be responsible for the satisfactory progression of the Work and to ensure that all Work is being completed in accordance with the Drawings and Specifications. He is also to relay any conflicts or discrepancies that arise in the Drawings to the Owner's representative for resolution or interpretation. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor.

### **3.7 RESPONSIBILITY FOR THOSE PERFORMING THE WORK**

3.7.1 The Contractor shall be responsible to the Owner for the acts and omissions of all his employees and all Subcontractors, their agents and employees and all other persons performing any of the Work under the Contract with the Contractor.

### **3.8 DRAWINGS AND SPECIFICATIONS AT THE SITE**

Not Applicable

### **3.9 CLEANING UP**

3.9.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. The Contractor shall not "stockpile" any material on the jobsite and all excavated material shall be hauled off the site at the time of excavation. However, stockpiling of materials delivered and used on the same day will be allowed if all materials are in place or removed at the end of the day.

3.9.2 The Contractor is responsible for securing his own project storage site which shall not be located on Owner's property without prior written consent of the Owner. After completion of the Work the Contractor shall remove all remaining waste materials and rubbish from and about the Project as well as all tools, construction equipment, machinery and surplus materials, and shall clean all surfaces and leave the Work "broom clean" or its equivalent, except as otherwise specified.

### **3.10 INDEMNIFICATION**

3.10.1 The Contractor shall indemnify and hold harmless the Owner and its agents and employees from and against any and all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the Work, including, but not limited to, any such claim, damage, loss or expense that is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from, except to the extent that such claims, damages or losses are caused by the negligent act or omission of the Owner.

3.10.2 In any and all claims against the Owner or any of its agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any one of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 3.10 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Worker's Compensation acts, disability benefit acts or other employee benefit acts.

### **3.11 CASH ALLOWANCES**

3.11.1 The Contractor acknowledges and agrees that the Contract Sum includes all cash allowances specified in the Contract Documents.

## **ARTICLE 4**

### **SUBCONTRACTORS**

#### **4.1 DEFINITION**

4.1.1 A Subcontractor is a person or organization who has a direct contract with the Contractor to perform any of the Work. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative.

4.1.2 A Sub-subcontractor is a person or organization who has a direct or indirect contract with a Subcontractor to perform any of the Work. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Sub-subcontractor or an authorized representative thereof.

4.1.3 Nothing contained in the Contract Documents shall create any contractual relation between the Owner and any Subcontractor or Sub-subcontractor.

#### **4.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

4.2.1 Unless otherwise specified in the Contract Documents or in the Instructions to Bidders, the Contractor shall submit a list of subcontractors, along with other required Contract Documents, to the Owner. Contractor shall complete and submit a revised list to the Owner in the event of any substitution or addition of a Subcontractor by the Contractor. No work shall be performed by a Subcontractor until such Subcontractor has been approved by the Owner.

4.2.2 Prior to the award of the Contract, the Owner will notify the bidder in writing if the Owner, after due investigation, objects to any such person or entity proposed by the bidder pursuant to Subparagraph 4.2.1 above. If the Owner objects to any such proposed person or entity, the bidder may, at his option, (1) withdraw his bid, or (2) submit an acceptable substitute person or entity with no adjustment in his bid price.

4.2.3 Contractor shall not subcontract more than sixty-five percent (65%) of the total Contract cost.

4.2.4 The Owner reserves the right to reject a Subcontractor, if in the Owner's sole discretion, delays may result in the performance of work as a result of Subcontractor's other obligation. The Contractor shall be held responsible, in addition to the submission of the "Subcontractor Approval Form," to apprise the Owner of any additional work which a Subcontractor accrues throughout the duration of the project. This shall include work for the Owner under a different contract, or any other person or entity. If such said additional work shall detrimentally impact the progression of the Work under this Contract, the Owner retains the right to require the Contractor to submit a substitute Subcontractor for this work at no additional cost to the Owner.

4.2.5 The Contractor shall not contract with any Subcontractor or any person or organization (including those who are to furnish materials or equipment fabricated to a special design), for proposed portions of the Work designated in the Contract Documents or in the Instruction to Bidders or, if none is so designated, with any Subcontractor proposed for the principal portions of the Work, who has been rejected by the Owner.

4.2.6 If the Owner requires a change of any proposed Subcontractor or person or organization during the execution of the Work approved under the present Contract, the Contract Sum shall be increased or decreased by the difference in cost resulting from such change and an appropriate Change Order shall be issued.

4.2.7 The Contractor shall not make any substitution for any proposed Subcontractor or person or organization who has not been accepted by the Owner prior to the Contract Award, unless the substitution is accepted by the Owner in writing prior to such substitution.

### 4.3 SUBCONTRACTUAL RELATIONS

4.3.1 All work performed for the Contractor by a Subcontractor shall be pursuant to an appropriate written agreement between the Contractor and Subcontractor (and where appropriate between Subcontractors and Sub-subcontractors) which shall contain provisions that:

1. require the Work to be performed in accordance with the requirements of the Contract Documents;

2. require submission to the Contractor of applications for payment under each Subcontract to which the Contractor is a party, in reasonable time to enable the Contractor to apply for payment in accordance with Article VIII hereof;

3. require that all claims for additional costs, extensions of time, damages for delays or otherwise with respect to Subcontracted portions of the Work shall be submitted to the Contractor (via any Subcontractor or Sub-subcontractor where appropriate) in sufficient time so that the Contractor may comply in the manner provided in the Contract Documents for like claims by the Contractor upon the Owner;

4. waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by the property insurance described in Paragraph 10.2, except such rights as they may have to the proceeds of such insurance held by the Owner as trustee under Paragraph 10.2;

5. obligate each Subcontractor specifically to consent to the provisions of this Paragraph 4.3; and

6. require the Subcontractor (and the Sub-subcontractor) to indemnify and hold harmless the Owner against all claims, damages, losses, expenses and attorneys' fees arising out of or resulting from the performance of the Work by Subcontractor, and its agents and

employees, except to the extent such claims, damages or losses are caused by the negligent act or omission of the Owner.

#### **4.4 PAYMENTS TO SUBCONTRACTORS**

4.4.1 The Contractor shall pay each Subcontractor upon receipt of payment from the Owner, an amount equal to the percentage of completion allowed to the Contractor on account of such Subcontractor's work, less the percentage retained from payments to the Contractor. The Contractor shall also require each Subcontractor to make similar payments to his Subcontractors.

4.4.2 If the Owner withholds payment to the Contractor for any cause which is the fault of the Contractor and not the fault of a particular Subcontractor, the Contractor shall pay that Subcontractor on demand for its Work to the extent completed.

4.4.3 The Owner shall not have any obligation to pay or to see to the payment of any sum to any Subcontractor or Sub-subcontractor.

### **ARTICLE 5**

#### **SEPARATE CONTRACTS**

##### **5.1 OWNER'S RIGHT TO AWARD SEPARATE CONTRACTS**

5.1.1 The Owner reserves the right to award other contracts on other terms and conditions in connection with other portions of the Project.

##### **5.2 MUTUAL RESPONSIBILITY OF CONTRACTORS**

5.2.1 The Contractor shall afford other contractors reasonable opportunity for the delivery and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate the Work with theirs.

5.2.2 If any part of the Work depends for proper execution or results upon the work of any other separate contractor, the Contractor shall inspect and promptly report to the Owner any apparent discrepancies or defects in such work that render it unsuitable for proper execution of the Work. Failure of the Contractor to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper to receive the Work, except as to defects which may develop in the other contractor's work after the execution of the Contractor's Work that could not have been discovered by the Contractor upon reasonable inspection.

5.2.3 If the Contractor causes damage to the Work or property of any other contractor on the project, and such separate contractor sues the Owner or initiates a legal proceeding on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall defend such proceedings at his own expense, and if any judgment or award against the Owner arises there from the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court costs which the Owner has incurred.

### **5.3 OWNER'S RIGHT TO CLEAN UP**

5.3.1 If a dispute arises between the separate contractors as to their responsibility for cleaning up as required by Paragraph 3.9, the Owner may clean up and charge the cost thereof to the separate contractors.

## **ARTICLE 6**

### **MISCELLANEOUS PROVISIONS**

#### **6.1 GOVERNING LAW**

6.1.1 The Contract shall be governed by the laws of the State of Missouri.

#### **6.2 SUCCESSORS AND ASSIGNS**

6.2.1 The Owner and the Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract without the prior written consent of the other, nor shall the Contractor assign any sums due or to become due to him hereunder, without the prior written consent of the Owner.

#### **6.3 NOTICES**

6.3.1 Any notice to any party pursuant to or in relation to the Contract shall be in writing and shall be deemed to have been duly given when delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or when deposited in the United States mail, registered or certified with postage prepaid addressed to the last business address known to the party giving the notice.

#### **6.4 RIGHTS AND REMEDIES**

6.4.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

#### **6.5 ROYALTIES AND PATENTS**

6.5.1 The Contractor shall pay all royalties and license fees payable on all designs, processes or products used in connection with the Work or incorporated therein, unless otherwise agreed upon by the Owner. The Contractor shall defend all suits or claims for infringement of any patent rights and shall indemnify and hold the Owner harmless from and against any loss on account thereof.

#### **6.6 TESTS**

6.6.1 The Contractor shall bear all costs of any inspections, tests, or approvals required under any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction.

6.6.2 The Owner will provide special inspection and testing services to verify the Work is performed in accordance with the Contract. The Owner will provide the Contractor with a listing of tests to be performed and approximate locations or frequency. The Contractor will be required to notify the Owner forty-eight (48) hours prior to the time the Contractor will be ready for specific tests required by the Owner. If such special inspection or testing reveals failure of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, the Contractor shall bear the cost of the Owner's inspection and retesting and such cost shall be deducted then or thereafter due Contractor. In all other cases, the Owner shall bear such costs.

## **6.7 PERFORMANCE AND PAYMENT BONDS**

6.7.1 A Performance & Payment Bond in an amount equivalent to one hundred percent (100%) of the Contract price must be furnished and executed by the successful bidder, this bond to be in the form contained in this Contract. The Surety shall be a corporate surety company or companies of recognized standing, licensed to do business in the State of Missouri and acceptable to the Owner.

## **6.8 SHOP DRAWINGS AND SUBMITTALS**

Not Applicable

# **ARTICLE 7**

## **TIME**

### **7.1 DEFINITIONS**

7.1.1 The Contract Time is the period of time allotted in the Contract Documents for completion of the Work. Said Work shall include all punch list items deemed necessary by the Owner. The date of completion of the Contract shall be the date when all work including Owner punch list items have been approved in writing by the Owner.

7.1.2 The date of commencement of the Work is the date established in the written Notice to Proceed from the Owner to the Contractor.

7.1.3 The term "day" as used in the Contract Documents shall mean calendar day.

### **7.2 PROGRESS AND COMPLETION**

7.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

7.2.2 The Contractor shall begin the Work on the date of commencement provided in the Owner-Contractor Agreement. The Contractor shall carry the Work forward expeditiously with adequate forces and shall complete it within the Contract Time and in accordance with the Construction Schedule.



## ARTICLE 8

### PAYMENTS AND COMPLETION

#### **8.1 CONTRACT SUM**

8.1.1 The Contract Sum is stated in the Owner-Contractor Agreement and is the total amount payable by the Owner to the Contractor for the performance of the Work.

#### **8.2 APPLICATION FOR PAYMENT**

8.2.1 Upon final completion of the Work, the Contractor shall submit to the Owner an itemized Application for Payment pursuant to the Owner-Contractor Agreement on supported by such data substantiating the Contractor's right to payment as the Owner may require.

8.2.2 The Contractor warrants and guarantees that title to all Work, materials and equipment covered by an Application for Payment, whether incorporated into the Work or not, will pass to the Owner upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances (hereinafter referred to as "liens").

#### **8.3. PAYMENT**

If the Contractor has made Application for Payment as above, the Owner will, in accordance with the Owner-Contractor Agreement, make payment to the Contractor for such amount as it determines to be properly due pursuant to the Contractor's Application for Payment, or state in writing the Owner's reasons for withholding all or any portion of such payment.

#### **8.4 COMPLETION AND FINAL PAYMENT**

8.4.1 Upon receipt of written notice from the Contractor that the Work is fully completed and ready for final inspection and acceptance, and upon receipt of a final Application for Payment, the Owner will promptly make such inspection and, when the Owner finds the Work acceptable under the Contract Documents and the Contract fully performed, the Owner will make final payment to the Contractor in accordance with the Owner-Contractor Agreement.

8.4.2 The final payment shall not become due until the Contractor submits to the Owner (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness incurred in connection with the execution and completion of the Work for which the Owner or its property might in any way be responsible, have been paid or otherwise satisfied, (2) an affidavit stating the Contractor has fully complied with the provisions and requirements of the Prevailing Wage Law, Section 290.210 through 290.340 as amended by MO.Rev.Stat. 1969, and (4) if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner indemnifying the Owner against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

8.4.3 The acceptance of final payment shall constitute a waiver of all claims by the Contractor, except those previously made in writing and still unsettled.

## ARTICLE 9

### PROTECTION OF PERSONS AND PROPERTY

#### **9.1 SAFETY PRECAUTIONS AND PROGRAMS**

9.1.1 The Contractor shall initiate, maintain and supervise safety precautions and programs in connection with the performance of the Work.

#### **9.2 SAFETY OF PERSONS AND PROPERTY**

9.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

1. all employees on the Work and all other persons who may be affected thereby;
2. all the Work, all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

9.2.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction over the safety of persons or property to protect them from damage, injury or loss. The Contractor shall erect and maintain all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Owner and users of adjacent utilities. The Contractor shall provide signs, barrels, or any other safety devices which the Owner deems necessary for public safety. No additional payment will be made and this work shall be considered incidental to the Contract. The Owner will place safety devices as it deems necessary if the Contractor fails to provide the required items within 24 hours of notification. The Contract Sum shall be reduced by the cost of these devices.

9.2.3 All damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor, or any Sub-subcontractor, or anyone directly or indirectly employed by anyone for whose acts they may be liable, shall be remedied by the Contractor. The Owner shall document any complaint by any person regarding damage or loss to property caused by Contractor by requesting such complainant to complete a Damage Claim Form. A copy of the Damage Claim Form shall be submitted by the Owner to the Contractor and the Contractor shall correct the problem, repair such damage or otherwise compensate the complainant or file a claim for such damage with Contractor's insurance company within ten (10) days of the receipt of the Damage Claim Form from the Owner. If the Owner shall have a legitimate basis for believing that such claim is valid, the Owner shall have the option to withhold payment of funds until (i) such damages are repaired; or (ii) the Owner has been provided with evidence that the Contractor has made restitution to the complainant.

9.2.5 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the Owner.

## ARTICLE 10

### INSURANCE

#### **10.1 CONTRACTOR'S LIABILITY INSURANCE**

10.1.1 The Contractor shall purchase and maintain such insurance required in the Owner-Contractor Agreement to protect him from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

10.1.2 The insurance shall be written for not less than any limits of liability specified in the Owner-Contractor Agreement, or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under Paragraph 3.10.

10.1.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. Certificate of Insurance must state: **"The City of Ste. Genevieve and Employees, are included as an additional insured as required by written contract under the General Liability Policy with respect to work performed by the named insured on the above listed project."** These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled until at least fifteen days prior written notice has been given to the Owner.

#### **10.2 PROPERTY INSURANCE**

10.2.1 Unless otherwise provided, the Contractor shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work and shall insure against the perils of fire, extended coverage, vandalism and malicious mischief.

10.2.2 The Contractor shall purchase and maintain such machinery insurance as may be required by the Contract Documents or by law. This insurance shall include the interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work.

10.2.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the work. Certificates of Insurance must state on the certificate: **"The City of Ste. Genevieve and Employees, are included as an additional insured as required by written contract under the General Liability Policy with respect to work performed by the named insured on the above listed project."** These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled until at least fifteen days' prior written notice has been given to the Owner.

10.2.4 Any loss insured by property insurance maintained by the Owner shall be adjusted with the Owner and made payable to the Owner as trustee for the insured, as their interests may appear, subject to the requirements of any applicable mortgagee clause.

10.2.5 The Owner and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under this Paragraph 10.2 and the Contract Documents, Owner-Contractor Agreement, except such rights as they may have to the proceeds of such insurance held by the Owner as trustee. The Contractor shall require similar waivers by Sub-contractors and Sub-subcontractors in accordance with Subparagraph 4.3.1.

## ARTICLE 11

### CHANGES IN THE WORK

#### **11.1 CHANGE ORDERS**

11.1.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with the Contract Sum and the Construction Schedule being adjusted in accordance with the Owner-Contractor Agreement. All such changes in the Work shall be authorized by Change Order, and shall be executed and performed under the applicable conditions of the Contract Documents.

11.1.2 A Change Order is a written order to the Contractor signed by the Owner, issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Construction Schedule. The Contract Sum and the Contract Time may be changed only by Change Order. The Contractor shall receive no compensation or extension of time for performing any additional or extra work unless Contractor receives a written Change Order or other written direction signed by the Owner before performing such work.

11.1.3 The cost or credit to the Owner resulting from a change in the Work shall be determined in accordance with the Owner-Contractor Agreement.

#### **11.2 MINOR CHANGES IN THE WORK**

11.2.1 The Owner shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or the Construction Schedule and not inconsistent with the intent of the Contract Documents. Such changes may be effected by written Field Order or by other written order. Such changes shall be binding on the Owner and the Contractor.

#### **11.3 CLAIMS AND DISPUTES**

11.3.1 If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner notice after the occurrence of the event-giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work. No such claim shall be valid unless so made. If the Owner and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined in accordance with Paragraph 11.3.5. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

11.3.2 The Contractor shall carry on the Work and adhere to the Construction Schedule pending all disputes or disagreements with the Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements. The Owner agrees to pay the Contractor, in accordance with the Contract Documents, for Work performed that is not subject to dispute or disagreement.

11.3.3 If conditions are encountered at the site which are subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, then the Contractor shall give notice thereof to the Owner. The Owner will promptly investigate such conditions and, if they differ materially from those indicated in the Contract Documents and cause an increase or decrease in the Contractor's cost of or time required for performance of the Work, will adjust the Contract Sum or the Contract Time, or both. If the Owner and the Contractor cannot agree on the amount of the adjustment to the Contract Sum or the Contract Time, it shall be determined in accordance with Paragraph 11.3.5.

11.3.4 If the Contractor wishes to make a claim for an increase in the Contract Time, he shall give the Owner notice thereof after the occurrence of the event-giving rise to such claim. Adjustment to the Contract Time shall be in accordance with Article VI of the Owner-Contractor Agreement.

11.3.5 In the case of any legal or equitable action taken by either party in connection with a default or breach of the other party, the prevailing party shall be entitled to recover from the other party all costs and reasonable attorney fees incurred in connection therewith. This contract shall be governed and interpreted in accordance with the laws of the State of Missouri and the venue for any cause of action shall be the 24th Judicial Court in Ste. Genevieve County, Missouri.

## ARTICLE 12

### UNCOVERING AND CORRECTION OF WORK

#### **12.1 UNCOVERING OF WORK**

Not applicable.

#### **12.2 CORRECTION OF WORK**

12.2.1 The Contractor shall promptly correct all Work rejected by the Owner as defective or as failing to conform to the Contract Documents, whether observed before or after substantial completion of the Work, and whether or not fabricated, installed or completed. The Contractor shall bear all cost of correcting such rejected Work.

12.2.2 If, within one year after the date of substantial completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner.

12.2.3 All such defective or non-conforming Work under Subparagraphs 12.2.1 and 12.2.2 shall be removed from the site if necessary, and the Work shall be corrected to comply with the Contract Documents without additional cost to the Owner.

12.2.4 The Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.

12.2.5 If the Contractor fails to correct such defective or non-conforming Work, the Owner may correct it in accordance with Paragraph 2.3.

#### **12.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK**

12.3.1 If the Owner prefers to accept defective or non-conforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect an appropriate reduction in the Contract Sum or, if the amount is determined after final payment, it shall be paid by the Contractor.

## ARTICLE 13

### SPECIAL PROVISIONS

#### **13.1 SCHEDULING OF WORK AND INTERFERENCE WITH TRAFFIC**

The Contractor's Work must be scheduled such that local traffic is maintained or properly detoured during construction. It shall be the Contractor's responsibility to provide a traffic way or detour that is usable in all weather conditions.

#### **13.2 ACCESS**

13.2.1 Areas of intersections and roadways within the construction limits shall be constructed in phases so that at no time will access be denied.

13.2.2 Access to private driveways will be limited by the nature of the Work. The Contractor shall schedule his work such that at no time during the life of this Contract will any driveway be denied access for any reason other than the placing and compacting of the asphalt.

All temporary materials used for access will be the responsibility of the Contractor and shall be included in his unit bid price for each related item. No separate payment will be made for the placement, maintenance or removal of said access.

If said access is not supplied as set out above, the Owner will supply said access with its own forces, without notification to the Contractor, and will deduct such costs from the sums due the Contractor, notwithstanding any other provisions given this Contract. Wherever excavation affects pedestrian access to houses or public buildings, plank or other suitable bridges shall be placed at convenient intervals.

#### **13.3 PRECONSTRUCTION CONFERENCE**

13.3.1 A preconstruction conference may be held prior to the issuance of a Notice to Proceed with the Work. This meeting will be attended by the Contractor, the Owner, and representatives of the various utility companies that have facilities in the project area. The meeting date will be established after the taking of bids and at a time convenient to all parties.

#### **13.4 SEQUENCE OF WORK**

13.4.1 A schedule of the Contractor's Work shall be submitted to the Owner for approval as required under Article V of the Owner-Contractor Agreement.

13.4.2 The Contractor shall furnish the Owner his proposed sequence and schedule for the completion of all Work for their review and approval prior to the time of the preconstruction

conference. The Owner shall have the right to specify the order of construction as deemed necessary.

### **13.5 CONSTRUCTION LIMITS**

13.11.1 The construction limits consist of the public rights-of-way and acquired easement areas. The Contractor shall limit his operations accordingly. The Contractor shall acquire the property owners' permission for any activity outside the public right-of-way or easement areas.

### **13.6 ALTERED QUANTITIES**

13.6.1 The Owner reserves the right to make changes which may vary the accepted quantities from those shown on the Itemized Bid Form.

13.6.2 The Contractor shall accept, as payment in full, payment at the original Contract unit bid prices for the accepted quantities of work done. No allowance will be made for any increase expense or loss of expected profit suffered by the Contractor resulting directly from such altered quantities or indirectly from expenses derived by handling small quantities of materials or performing operations within restricted areas. No allowance shall be made for any increased expense or loss of expected profit suffered because of the anticipated use of specific equipment which was not used.

### **13.7 ADDITIONS TO CONTRACT**

13.7.1 Unit prices in this Contract may be used to negotiate a Change Order for additional work involving similar projects.

### **13.8 PURCHASE OF MATERIALS AND EQUIPMENT**

13.8.1 Sales to contractors who purchase construction materials and supplies to fulfill their contracts for exempt organizations are not subject to sales tax provided the exempt organizations furnish a copy of their current Exemption Letter and a project Exemption Certificate to the contractor authorizing the purchases for the project. The exempt organization may monitor all supplies purchased, used, and consumed in fulfilling the project.

13.8.2 A project Exemption Certificate shall include, but may not be limited to, the following:

1. The exempt entity's name, address, Missouri Tax Identification Number and signature of authorized representative of the exempt entity;
2. The project location, description and unique identification number;
3. Date the Contract is entered into;
4. The estimated project completion date; and
5. The certificate expiration date.

13.8.3 Contractors must provide a copy of the exempt organization's Exemption Letter and the project Exemption Certificate to suppliers when purchasing materials and supplies to be consumed in the project.

13.8.4 Contractors are not exempt from sales tax on the purchase of machinery, equipment or tools used in fulfilling these contracts.

13.8.5 Suppliers shall render to the Contractor invoices bearing the name of the exempt organization and the project identification number. These invoices must be retained by the purchasing Contractor for a period of five (5) years.

13.8.6 Contractors must file a sales tax return for all excess resalable materials and supplies which are not returned to the supplier. This return must be filed and paid not later than the due date of the Contractor's sales tax return following the month in which the contractor determines that the materials were not used in the project.

13.8.7 An exempt organization that fails to revise the project Exemption Certificate expiration date as necessary to complete any Work required by the Contract will be liable for any sales tax due as determined by an audit of the Contractor.

### **13.9 TESTING**

13.16.1 Materials Testing and Inspection Service: Owner may employ and pay for a qualified independent materials and geotechnical testing laboratory to perform testing and inspection service during construction operations. Contractor shall coordinate all Work and cooperate to allow for testing procedures as required by the Owner.

### **13.10 TECHNICAL SPECIFICATIONS**

13.10.1 Where the term "Standard Specifications" is used, such reference shall mean the 2011 edition of the Missouri Standard Specifications for Highway Construction, except as otherwise provided in the contract documents. Where reference is made to a specific part of the Standard Specifications, such applicable part shall be considered as part of this Section of the Specifications. In case of conflict in the requirements of the Standard Specifications and the requirements stated herein, the requirements here shall prevail.





## **Staff Report**

Date: Feb. 23, 2023

To: Board of Aldermen

From: D. Bova, Community Dev. Admin.

RE: Marijuana Zoning Ordinance

### **Issue:**

This past year, Amendment 3 passed and legalized recreational marijuana use. The constitutional amendment specifies and defines the type of marijuana facilities allowed in the state and allows for nearly the same time-place-manner zoning restrictions that have been allowed for medical marijuana facilities. Thus our zoning ordinances must be updated to allow for these changes to the state constitution. The new definitions & new uses (comprehensive facilities & microbusiness facilities) are proposed to be added to existing zoning sections / districts, and Section 405.201 is proposed to be amended from applying to "Medical Marijuana" uses to all "Marijuana" uses.

### **Recommendation:**

Approve the amendments to municipal code.

**165 S. Fourth Street, Ste. Genevieve, MO 63670**

**573-883-5400**

**[www.stegenevieve.org](http://www.stegenevieve.org)**

**AN ORDINANCE AMENDING THE CITY OF STE. GENEVIEVE  
MUNICIPAL CODE OF ORDINANCES CHAPTER 405 ZONING  
REGULATIONS AS SET FORTH BELOW**

**WHEREAS**, the recent passing of Amendment 3 legalized recreational marijuana use; and

**WHEREAS**, the Constitutional Amendment specifies and defines the type of marijuana facilities allowed in the state; and

**WHEREAS**, the Community Development Department recommends the proposed changes to the Ste. Genevieve Code of Ordinances to allow for the changes to the state constitution; and

**WHEREAS**, this has been reviewed by legal counsel and approved by the Planning & Zoning Commission; and

**WHEREAS**, the Board believes these changes are in the best interests of the City of Ste. Genevieve and recommend adopting.

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF STE. GENEVIEVE, MISSOURI AS FOLLOWS:**

**SECTION 1. Chapter 405 ZONING REGULATIONS - Article II - Definitions – Section 405.020 is hereby amended by addition and/or replacing the following definitions:**

**Comprehensive Facility**

A comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused product manufacturing facility.

**Comprehensive Marijuana Cultivation Facility**

A facility licensed by the State of Missouri to acquire, cultivate, process, package, store on site or off site, transport to or from, and sell marijuana, marijuana seeds, and marijuana vegetative cuttings to a medical facility, comprehensive facility, or marijuana testing facility.

**Comprehensive Marijuana Dispensary Facility**

A facility licensed by the State of Missouri to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings, marijuana-infused products, and drug paraphernalia used to administer marijuana to a qualifying patient, primary caregiver, or consumer. Comprehensive dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party.

**Comprehensive Marijuana-Infused Products Manufacturing Facility**

A facility licensed by the State of Missouri to acquire, process, package, store, manufacture, transport to or from a medical facility, comprehensive facility, or marijuana testing facility, and sell marijuana-infused products to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facility.

**Marijuana Facility**

A comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, marijuana testing facility, comprehensive marijuana-infused products manufacturing facility, microbusiness wholesale facility, microbusiness dispensary facility, or any other type of marijuana-related facility or business.

**Marijuana Microbusiness Facility**

A microbusiness dispensary facility or a microbusiness wholesale facility.

**Microbusiness Dispensary Facility**

A facility licensed by the State of Missouri to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings, marijuana-infused products, and drug paraphernalia used to administer marijuana to a consumer, qualifying patient, or primary caregiver. Microbusiness dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party.

**Microbusiness Wholesale Facility**

A facility licensed by the State of Missouri to acquire, cultivate, process, package, store on site or off site, manufacture, transport to or from, deliver, and sell marijuana, marijuana seeds, marijuana vegetative cuttings, and marijuana infused products to a microbusiness dispensary facility, other microbusiness wholesale facility, or microbusiness testing facility. A microbusiness wholesale facility may cultivate up to 250 flowering marijuana plants at any given time.

**Marijuana Testing Facility**

A facility certified by the State of Missouri to acquire, test, certify, and transport marijuana, including medical marijuana testing facilities.

**SECTION 2. Section 405.080 "C-1" General Commercial District Regulations A.1.(ag) is hereby deleted in its entirety and replaced as follows:**

**A.** The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations of the "C-1" General Commercial District.

- 1. Use regulations.** A building or premises shall be used only for the following purposes:

ag. Comprehensive marijuana dispensary facility, medical marijuana dispensary, or microbusiness dispensary facility entirely within enclosed building, in accordance with the State of Missouri Code of State Regulations, and with a special use permit.

**Section 3. Section 405.090 "C-2" Central Business District Regulations A.1.(g) is hereby deleted in its entirety and replaced as follows:**

A. The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the district regulations of the "C-2" Central Business District.

1. *Use regulations.* A building or premises shall be used only for the following purposes:

g. Wholesale establishments but not including microbusiness wholesale facilities.

**Section 4. Section 405.120 "1-1" Light Industrial District Regulations. A.1.(b) is hereby deleted in its entirety and replaced as follows:**

A. The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations of the "1-1" Light Industrial District.

1. *Use regulations.* A light industrial use is one which creates a minimum amount of nuisance outside the plant; is conducted entirely within enclosed buildings; does not use the open area around such buildings for storage of raw materials or manufactured products or for any other industrial purpose other than transporting goods between buildings; provides for enclosed loading and unloading berths; is not noxious or offensive by reason of the emission of smoke, dust, fumes, gas, odors, noises or vibrations beyond the confines of the building; and includes, but is not limited to, the following:

b. Wholesale merchandising or storage warehouses, including microbusiness wholesale facilities.

**Section 5. "1-2" Heavy Industrial District Regulations. A.1. (o) (p) is hereby deleted in its entirety and replaced as follows:**

A. The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations of the "I-2" Heavy Industrial District.

1. *Use regulations.* A building or premises shall be used only for the following purposes:

o. Comprehensive marijuana cultivation facility, medical marijuana

cultivation facility, comprehensive marijuana-infused products manufacturing facility, or medical marijuana-infused products manufacturing facility entirely within enclosed building and in accordance with the State of Missouri Code of State Regulations.

p. Comprehensive marijuana cultivation facility, or medical marijuana cultivation facility in a greenhouse or not entirely within enclosed building,

in accordance with the State of Missouri Code of State Regulations, and with a special use permit.

**SECTION 6. Section 405.201 Marijuana Related Uses A.B.(1)(2)(3)C. is hereby deleted in its entirety and replaced as follows:**

A. Marijuana related facilities must have the appropriate license from the Missouri Department of Health and Senior Services. Dispensary and outdoor cultivation applicants may apply for a special use permit upon a showing that the applicant has applied for such a license, but the special use permit will not be issued until such license has been obtained.

B. Marijuana related uses and marijuana facilities as defined in Section 405.020 shall meet the following standards in addition to all other zoning requirements in order to operate within the City of Ste. Genevieve:

1. No marijuana related uses shall be operated or maintained within one thousand (1,000) feet of any school, child day-care center, or church, as measured in accordance with State of Missouri Code of State Regulations.

2. No marijuana related uses shall be operated or maintained within two hundred (200) feet of a residentially zoned district or public park as measured from the property line of the nearest residentially zoned district or public park to the nearest point of the marijuana related use facility structure.

3. No marijuana related uses shall be operated or maintained within five hundred (500) feet of another marijuana related use except when marijuana sales represents less than five percent (5%) of the dollar volume of business in a State or Federally licensed pharmacy, as measured from the property line to property line of the facilities.

C. Marijuana related facilities shall provide a plan which reasonably shows that the facility is capable, when functioning properly, of preventing odors of marijuana from being detected by a person of ordinary sense of smell beyond the boundary of the parcel on which the facility is located.

**SECTION 7. EFFECTIVE DATE:** This ordinance shall be in full force and effect from and after its date of passage and codified in the Municipal Code of Ordinances.

**SECTION 8. REPEALER:** All ordinance and parts thereof in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 9. SEVERABILITY:** The invalidity of any section, clause, sentence or provision of this ordinance shall be given effect without such invalid part or parts.

**DATE OF FIRST READING:** \_\_\_\_\_

**DATE OF SECOND READING:** \_\_\_\_\_

**PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023 BY A ROLL CALL VOTE OF THE BOARD OF ALDERMEN AS FOLLOWS:**

**VOTE**

**ALDERWOMAN KRISTI CLEGHORN  
ALDERWOMAN SUSAN JOHNSON  
ALDERMAN BOB DONOVAN  
ALDERMAN MIKE JOKERST  
ALDERMAN JEFFREY EYDMANN  
ALDERMAN MICHAEL RANEY  
ALDERWOMAN ASHLEY  
ARMBRUSTER ALDERMAN JOE  
PRINCE**

**YES\_\_ NO\_\_ ABSENT\_\_**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Paul Hassler, Mayor

\_\_\_\_\_  
Mark Bishop, City Attorney

SEAL

Reviewed by:

\_\_\_\_\_  
Pam Meyer, City Clerk

\_\_\_\_\_  
Happy Welch, City Administrator

**BILL NO. 4546**

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF STE. GENEVIEVE, MISSOURI AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF STE. GENEVIEVE AND THE STE. GENEVIEVE MUNICIPAL BAND.**

**WHEREAS**, the Ste. Genevieve Municipal Band has operated the City Municipal Band Services for many years providing the public with municipal band services for the enjoyment of the general public and the citizens of Ste. Genevieve; and

**WHEREAS**, the Mayor and Board of Aldermen recognize the value of these past efforts of the Municipal Band and desire to hire a municipal band for the FY 2023 Band Services; and

**WHEREAS**, due to the success of the Municipal Band, the City and the Band hereby wish to continue the joint effort to fund the operation of the Band and provide a written statement of those covenants pursuant to the terms of this agreement; and

**WHEREAS**, the proposed agreement was reviewed and negotiated by the City and the President of the Band, and the City Budget for FY 2023 Line Item 25-25-7060 contains appropriate resources to carry out the goals of the proposed Agreement; and

**WHEREAS**, the Board of Aldermen of the City of Ste. Genevieve after review accept and enter into this Agreement, a copy of which is attached as “Exhibit A”.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF STE. GENEVIEVE, MISSOURI AS FOLLOWS:**

SECTION 1. The Mayor is hereby authorized and directed by the Board of Aldermen of the City of Ste. Genevieve, Missouri to execute and deliver on behalf of the City the Agreement hereby accepted and approved with the Ste. Genevieve Municipal Band in substantially the form of the contract “Exhibit “A” as attached hereto.

SECTION 2. This ordinance shall be in full force and effect from and after its passage and approve as provided by law.

SECTION 3. All ordinances and parts thereof that are in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. The invalidity of any section, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

DATE OF FIRST READING: \_\_\_\_\_

DATE OF SECOND READING: \_\_\_\_\_

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ BY A ROLL CALL VOTE OF THE STE. GENEVIEVE BOARD OF ALDERMEN AS FOLLOWS:**

VOTE

- ALDERWOMAN KRISTI CLEGHORN
- ALDERWOMAN SUSAN JOHNSON
- ALDERMAN BOB DONOVAN
- ALDERMAN MIKE JOKERST
- ALDERMAN JEFF EYDMANN
- ALDERMAN MIKE RANEY
- ALDERWOMAN ASHLEY ARMBRUSTER
- ALDERMAN JOSEPH PRINCE

\_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Absent

Approved as to form:

\_\_\_\_\_  
Paul Hassler, Mayor

\_\_\_\_\_  
Mark Bishop, City Attorney

SEAL

Reviewed by:

\_\_\_\_\_  
Pam Meyer, City Clerk

\_\_\_\_\_  
Happy Welch, City Administrator



## **AGREEMENT**

**THIS AGREEMENT**, executed this \_\_\_\_ day of \_\_\_\_\_, 2023 is made between the City of Ste. Genevieve, Missouri, hereafter "City" and the Ste. Genevieve Municipal Band, hereafter "Band".

**WITNESSETH:**

- A. The Ste. Genevieve Municipal Band has operated the City Municipal Band services for years providing the public with Municipal Band services for the enjoyment of the general public and the citizens of Ste. Genevieve and the Band has offered their services to perform a series of concerts for the public benefit.
- B. The Mayor and the Board of Aldermen recognize the value of these past efforts of the Municipal Band and desire to hire a municipal band for the FY 2023 Band Services.
- C. Due to the success of the Municipal Band over the past many years, the City and the Band hereby wish to continue the joint effort to fund the operation of the Band and provide a written statement of those covenants pursuant to the terms of this agreement.

**NOW THEREFORE**, the parties hereto do mutually agree as follows:

**1. MUNICIPAL BAND HIRED**

The City hereby retains the services of the Ste. Genevieve Municipal Band as its municipal band for the term of this Agreement, January 1, 2023 to December 31, 2023.

**2. RESPONSIBILITIES OF THE BAND**

- A. The Band shall continue to provide municipal band services to the City and County residents. Details are listed in this agreement.
- B. **CONCERTS:** The band will perform a total of ten (10) summer concerts during the term of this agreement. Additionally, the German Band Section of the band shall perform two (2) concerts during the Jour de Fete Celebration of the second weekend of August. Such performances shall be held outdoors, weather permitting, in a location reasonably convenient to the public.

- C. OTHER PERFORMANCES. The Band shall perform concerts for the benefit of the general public during the Memorial Day services and shall perform an annual Holiday Season Concert during the month of December. The Band and/or its designee shall perform at civic events when requested by the officials of the organizations involved.
- D. INSTRUMENTS, SUPPLIES, ETC. The band will provide all instruments, equipment, tools, sheet music, lubricants, reeds and other related items necessary to perform this contract. The City shall not be held liable for any damages or repairs to such instruments, equipment, tools, sheet music or related items used in the performance of this agreement.
- E. The band shall maintain all perils insurance coverage in the amount of \$1,000,000 and annually provide the City Clerk with a Certificate of Insurance with the listed as an additional insured. When using privately owned property for concerts, the Band shall provide a Certificate of Insurance to the property owner(s) prior to using the property.
- F. ANNUAL REPORT TO THE BOARD OF ALDERMEN. The Band shall submit an annual report to the Ste. Genevieve Board of Aldermen on or before March 1, 2024. The report shall include as a minimum, an itemized listing of all expenditures made in the performance of this Agreement; a roster of names and addresses; a listing of the dates of all concerts performed under the provisions of this Agreement; and an itemized inventory of all instruments, , equipment, new music, etc.

### 3. CITY RESPONSIBILITIES.

- A. In exchange for the successful operation of the Band, the City will pay to the Ste. Genevieve Municipal Band the sum of **forty two thousand seven hundred fifty dollars (\$42,750.00)** to fund staff salaries and annual operations and the City will also appropriate up to **six thousand five hundred dollars (\$6,500.00)** for the Ste. Genevieve Municipal Band Musical Grant Program. (Exhibit "B").

B. The City will make the following payments to the Municipal Band as follows:

<u>Amount</u>	<u>Date</u>
\$14,250.00	May 15, 2023
\$14,250.00	July 15, 2023
\$14,250.00	September 15, 2023

C. The City will provide other assistance to the Band regarding consideration to allow the use of other City facilities as requested by the Band and other assistance as may be necessary during the year.

**4. STATUS OF THE STE. GENEVIEVE MUNICIPAL BAND.**

Municipal Band and their agents and employees are independent contractors performing services for the City of Ste. Genevieve, and are not employees of the City of Ste. Genevieve nor is the band or its agent or employees entitled to any City benefit.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the day and year above mentioned.

CITY OF STE. GENEVIEVE

STE. GENEVIEVE MUNICIPAL BAND

\_\_\_\_\_  
Paul Hassler, Mayor

\_\_\_\_\_  
James Donze, President

ATTEST:

\_\_\_\_\_  
Pam Meyer, City Clerk

Approved as to form:

\_\_\_\_\_  
Mark Bishop, City Attorney