

MUTUAL RELEASE OF ALL CLAIMS

For and in consideration of the mutual covenants herein set forth, the City of Ste. Genevieve, a municipal corporation, whose address is 165 S. Fourth Street, Ste. Genevieve, Missouri 63670 (hereinafter referred to as "City"), and James T. Beckerman, whose mailing address is 1380 Market Street, Ste. Genevieve, Missouri 63670 (hereinafter referred to as "Beckerman"), hereby agree, declare and warrant as follows:

1. City agrees to file a release of the easement document recorded with the Ste. Genevieve County Recorder of Deeds Office at Book 1271, Page 91 and to convey the real estate described in the deed, which was recorded at Book 147, Page 36 of the records of the Recorder of Deeds for the City of Ste. Genevieve, Missouri, pursuant to the terms and conditions of this release.

2. City and Beckerman do hereby mutually release, acquit and forever discharge the other of and from any and all claims, actions and causes of actions of every kind and nature whatsoever that now exists, or which may hereafter arise, on account of or in any way growing out of or in any way connected with the construction, maintenance and operation of the Blain Street water tank in the City of Ste. Genevieve, Missouri.

3. This release, in addition to the parties listed above, shall include and extend to all of their agents, officers, directors, partners, servants, employees, predecessors, successors and attorneys.

4. The making, execution and performance of this release is within the power of the undersigned and has been duly authorized by all necessary actions and received any requisite approval.

Dated the _____ day of _____, 2023.

City of Ste. Genevieve

By: Happy Welch, City Administrator

James T. Beckerman

STATE OF MISSOURI)
) SS.
COUNTY OF STE. GENEVIEVE)

On this ____ day of _____, 2023, before me personally appeared Happy Welch, City Administrator for the City of Ste. Genevieve, Missouri, to me being personally known, who, being by me duly sworn, did say that he is the City Administrator of the City of Ste. Genevieve, Missouri, whose address is 165 S. Fourth St., Ste. Genevieve, Missouri, and that he has the authority to execute the foregoing instrument on behalf of the City of Ste. Genevieve, Missouri and acknowledged that he executed the same as his free act and deed and as the free act and deed of the City of Ste. Genevieve, Missouri.

Notary Public

My commission expires:

STATE OF MISSOURI)
) SS.
COUNTY OF STE. GENEVIEVE)

On this ____ day of _____, 2023, before me, a notary public in and for said state, personally appeared James T. Beckerman, known to me to be the person who executed the within document and acknowledged to me that he executed the same for the purposes therein stated.

Notary Public

My commission expires:

BILL NO. 4590

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN SAAS SERVICES AGREEMENT WITH GENASYS, INC. FROM SAN DIEGO, CALIFORNIA IN AN AMOUNT NOT TO EXCEED \$6,885.00 OVER A 36-MONTH CONTRACT FOR AN EMERGENCY ALERT TEXTING PROGRAM.

WHEREAS, the City of Ste. Genevieve (“City”) has indicated a need for an emergency alert texting program to alert Citizens when an important notification exists; and

WHEREAS, staff has reviewed three proposals and recommend the one from Genasys; and

WHEREAS, the three year contract will cost \$2,295.00 per year dependent upon the appropriation of the Board of Aldermen; and

WHEREAS, the admin department fiscal year 2024 budget has appropriated funds for this expenditure in line item 10-13-8223; and

WHEREAS, the Board of Aldermen believe this to be in the best interests of the Ste. Genevieve and its residents to approve the attached agreement. (Exhibit “A”)

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

SECTION 1. The Board of Aldermen hereby approves the Mayor to enter into the SaaS Services Agreement in an amount not to exceed six thousand eight hundred eighty-five dollars (\$6,885.00) over a 36-month period pursuant to future appropriation by the Board each budget year.

SECTION 2. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its date of passage by the Board of Aldermen.

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

SECTION 4. SEVERABILITY. The invalidity of any section, sentence, or provision of this ordinance shall not affect the validity of any 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

- ALDERMAN PATRICK FAHEY
- ALDERMAN ERIC BENNETT
- ALDERMAN BOB DONOVAN
- ALDERWOMAN KRISTI CLEGHORN
- ALDERMAN JOE PRINCE
- ALDERMAN JOE STEIGER
- ALDERMAN MIKE RANEY
- ALDERMAN JEFF EYDMANN

___ Yes ___ No ___ Absent

Approved as to form:

Brian Keim, Mayor

Mark Bishop, City Attorney

SEAL

Reviewed by:

Pam Meyer, City Clerk

Happy Welch, City Administrator



16262 West Bernardo Drive
San Diego, CA 92127
www.genasys.com

SAAS SERVICES AGREEMENT

This SaaS Services Agreement (the "Agreement"), dated effective as of the date signed by both parties below (the "Effective Date") is between **Genasys Inc.**, with a principal address at 16262 W Bernardo Drive, San Diego, CA 92127 ("Genasys") and **Ste. Genevieve, City of, MO** with a principal address at 165 S. 4th Street Ste. Genevieve MO 63670 ("Customer").

RECITALS:

- A. Genasys has developed certain software that is available to access online as a subscription service, together with other software applications, content and materials provided by Genasys as part of the hosted Software system or otherwise.
- B. Customer desires to access and use the Genasys Software, and Genasys desires to provide such rights to Customer, subject to the terms and conditions of this Agreement.

In consideration of the mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Genasys and Customer agree as follows:

AGREEMENTS:

1. General Definitions.

- (a) "Confidential Information" means the Software, Customer Data, technology, business plans and information, trade secrets, written materials marked as confidential and other information that is identified as confidential or proprietary at the time of disclosure or that the receiving party reasonably should understand to be confidential. Confidential Information excludes information that: (i) is or becomes generally available to the public without fault of the receiving party; (ii) was rightfully in the receiving party's possession prior to its disclosure by the other party; (iii) is independently developed without the use of any Confidential Information of the disclosing party; or (iv) is obtained without obligation of confidentiality from a third party who has the right to disclose it.
- (b) "Customer Data" means all content, data and information generated by Customer and provided by Customer and its Users to Genasys, including through inputting into the Software, such as Personal Data and Notification contents. Customer Data does not include Feedback or data created by Genasys.
- (c) "Documentation" means Genasys' written or online user instructions and/or manual for the Software, as updated by Genasys from time to time.
- (d) "Feedback" means any suggestions, enhancement requests, complaints or other feedback from Customer or Users relating to the System or Genasys' Services.
- (e) "Malicious Code" means any virus, worm, trap door, back door, snoop ware, spyware, malicious logic, Trojan horse, time bomb or other malicious software functionality that would intentionally erase or render the Software unusable or intentionally interfere with the use of the Software or a User's computer system or software.
- (f) "Notifications" means notifications sent through or provided by the Software at Customer's instruction, such as emergency and safety alerts.
- (g) "Personal Data" means information that identifies a particular individual, such as name, birthdate, address, telephone number, e-mail, identification numbers, financial account information, and personal health information. If applicable law in the jurisdiction where a person resides defines personal information or data, that definition shall apply.
- (h) "Quote" means a quote provided by Genasys and agreed to by Customer, for the provision of the Software and other Services to Customer. Quotes may be attached as an exhibit to this Agreement, but not doing so shall not affect their validity.

- (i) **"Services"** means Genasys' hosting services for the Software, onboarding services, Software support and maintenance, and any additional consulting, professional, or other services offered by Genasys to its customers as part of or in connection with the Software, including services provided under a separate statement of work ("**SOW**") or order form for which Genasys may charge a separate fee.
- (j) **"Software"** means the hosted Genasys software that Customer is entitled to access and use under this Agreement, including updates, upgrades, enhancements, fixes, additional features, and other modifications provided by Genasys. "Software" also includes any downloadable mobile applications and onsite software provided to Customer and its Users by Genasys.
- (k) **"Term"** means the Initial Term of this Agreement together with any and all Renewal Terms, as those terms are defined in Section 6(a).
- (l) **"Third-Party Offerings"** means any applications, services, software (open source or proprietary), and other products owned by third parties that are incorporated into or interoperate with the Software.
- (m) **"Users"** means individuals whose agency or entity is listed on Exhibit A, and who are authorized by Customer and Genasys to access and use the Software and who have been provided user identifications and passwords by Customer.
2. **Subscription to Software; Rights and Restrictions.** Genasys grants Customer a non-exclusive, non-transferable right to access and use the Software during the Term, and solely for use by Users who are authorized under Exhibit A, or a supplemental order or SOW agreed to by the parties. Customer and its Users will be provided online access to the Software and any related products and Services offered by Genasys that are made available online as part of the hosted Software. Customer is also granted a license to install and use downloadable or onsite Software at Client's location(s), and in the case of mobile apps, a license to download and use such apps on the electronic devices of Client's Users, subject to the terms of the Genasys end user license agreement for the apps. Hosted Software will reside either on Genasys' servers or on the servers of a third party that is in the business of hosting web- or cloud-based software applications (currently AWS). The Software is subject to the following terms and limitations:
- (a) **Usage.** Use of the Software is limited to Customer's own internal business. Customer may authorize Users to access and use the Software and related materials that Genasys makes available with the Software. Customer and Users are authorized to use the Software only as part of the Software, except as otherwise specifically set forth in this Agreement. Genasys' representations, warranties and commitments set forth in this Agreement are made only to Customer, not to Users.
- (b) **Updates and Modifications.** Customer acknowledges and agrees that the Software, Software, Documentation and other materials that may be made available by Genasys as part of the Software may be updated and modified from time to time, in Genasys' sole and reasonable discretion. Updates to the Software will be made available to Customer at no additional charge; this does not include optional features or different versions of the Software for which Genasys has a separate charge. Customer agrees that its purchase of the Services is not contingent on Genasys' delivery of any particular future functionality or features in the Software.
- (c) **Restrictions.** Customer will not reverse engineer, disassemble, decompile or otherwise attempt to derive source code, trade secrets, algorithms, data programming methods or Confidential Information from the Software. Customer will not modify or create derivative works of the Software or use it in order to build a competitive product or service, or copy any features, functions or graphics of the Software.
- (d) **Acceptable Use Terms.** Customer agrees that it and its Users:
- will not share the Software or its data with any unauthorized third party or user.
 - will not use the Software in any manner that is unlawful or is prohibited by this Agreement, or that may damage, disable, overburden, or impair the Software or interfere with any other party's use and enjoyment of the Software.
 - will not obtain or attempt to obtain any materials or information on or through the Software through circumventing any access or use restrictions or by any other unauthorized methods, such as hacking or password mining.
 - will not use any bots, spiders, page-scraping or other automated or manual processes or methods to copy or monitor this Software or any of its contents.
 - will not upload to the Software any libelous or unlawful content or any materials or instructions that may cause harm or injury, or that violate any person's right of privacy or any copyright, trademark, or other intellectual property rights.
 - will not modify, publish, transmit, reverse engineer, participate in the transfer or sale, create derivative works, or in any other way use or exploit any of the content of the Software or other Provider Materials other than for their authorized purposes.

- will not delete or alter any proprietary rights or attribution notices in any content or Provider Materials obtained through the Software.
- (e) Customer Responsibilities. Customer agrees to conduct only authorized business on the Software and to limit the number of Users who may send Notifications through the Software to those that are reasonably necessary. Customer is responsible for any breach of these terms by its Users. Customer is responsible for its users' compliance with the restrictions and other terms of this Agreement and will promptly notify Genasys of any material breach by any of them. Customer is solely responsible for all content uploaded by it and its Users to the Software and for all Notifications transmitted through the Software. Genasys may monitor the Software to verify compliance with this Agreement.
- (f) Third-Party Offerings. The Software may contain features designed to interoperate with Third-Party Offerings. To use such features, Customer may be required to obtain access to such Third-Party Offering from its provider. If the provider of a Third-Party Offering ceases to make it available for use with the Software on terms acceptable to Genasys, Genasys may cease providing such features without entitling Customer to any refund, credit, or other compensation. If Third-Party Offerings are embedded in the Software (such as open-source components) or provided by Genasys as an integrated part of the Software, they are governed by the applicable terms of this Agreement unless Genasys provides a separate third-party license or subscription agreement for such Third-Party Offerings to Customer. Third-Party Offerings are authorized only for use in connection with the Software, unless otherwise permitted under an open-source license.
3. Other Services.
- (a) Technical Support and Maintenance. Genasys will provide Customer with technical support and maintenance Services to assist Customer in utilizing the Software. Genasys will provide Customer with telephone, email and/or web-based technical support and maintenance Services to assist Customer in utilizing the Software. Critical requests (Software system is down or unusable) will be addressed by Genasys on a 24/7 basis. Less critical requests will be addressed during Genasys' business hours. Genasys support personnel will use reasonable, good faith efforts to resolve material support issues in a timely manner. Genasys may update its support and maintenance policies from time to time, upon notice to Customer. Genasys is not responsible for problems caused by third-party software or services or by other causes outside of Genasys' reasonable control.
- (b) Professional Services. Upon Customer's request and subject to a separate written order, SOW or Agreement addendum between the parties, Customer may purchase additional Services from Genasys. All such Services are subject to the terms and conditions set forth in such SOW, order or addendum as well as this Agreement. If there is a conflict, such SOW, order or addendum will have priority over the terms of this Agreement.
4. Ownership.
- (a) Genasys Ownership. Genasys owns and retains all right, title and interest in and to the Software, Genasys' trademarks and service marks, Genasys' website and its contents, any custom developments, training and other written or electronic documents and materials provided by Genasys that relate to the Software, and all intellectual property rights in the foregoing ("Genasys IP"), subject to the rights granted in this Agreement. Genasys IP may be used by Customer and Users only for the purposes described in this Agreement. Any rights not expressly granted herein are reserved by Genasys.
- (b) Data Ownership and License. As between the parties, Customer owns all Customer Data provided by it and its Users. Customer shall deliver Customer Data to Genasys as reasonably requested by Genasys. Genasys owns all data and materials developed or created by it in connection with this Agreement, including any GIS-formatted databases. Customer hereby grants to Genasys a non-exclusive, royalty-free, perpetual, irrevocable, worldwide, transferable, fully paid-up license to use, reproduce, modify, prepare derivative works, distribute, sublicense, perform, display, and otherwise exploit Customer Data in connection with the Services and Genasys' business, including without limitation for the purpose of promoting and providing its Software's and services to others. Genasys may use and share Customer Data with third parties as necessary or appropriate to provide the Services to Customer, to comply with Genasys' legal obligations, and to exercise its legal rights.
- (c) Usage Data. The Software tracks metadata and other usage data and statistics related to Customer's and Users' use of the Software ("Usage Data") and provides such data to Genasys. Genasys shall own such Usage Data and may aggregate, use, distribute and sell Usage Data for any legal purpose, including without limitation to provide services, for marketing, and to improve the Software and Genasys' other products and services. Usage Data does not include any Personal Data, and except as otherwise provided herein, Genasys shall not provide such data to any third party unless it has been anonymized and/or aggregated with other customers' and users' data, so that it is not identifiable as to any particular individual or customer.

(d) Feedback. Genasys shall have a royalty-free, worldwide, irrevocable, perpetual license to use Feedback and incorporate it into Genasys' software, products and services. Genasys shall exclusively own all right, title and interest in and to any software and intellectual property developed or delivered to Customer in the performance of this Agreement, regardless of whether it is based on or incorporates any Feedback.

5. Fees.

(a) Fees. Customer's access to the Software is subject to timely payment of the fees specified in the applicable Quote (the "Fees"). Fees for the Services are based on the type of Software for which access rights are purchased, regardless of actual usage. Subscription Fees are due and payable in advance. Invoices are due and payable within thirty (30) days of the date of the invoice.

(b) Taxes. Customer is responsible for any applicable sales, use or other taxes or duties associated with this Agreement, other than taxes on Genasys' net income. If Customer is a tax-exempt entity, Customer shall provide a tax-exemption certificate to Genasys upon request.

(c) Past Due Amounts. If any amounts owed by Customer are thirty (30) or more days overdue, Genasys may, without limiting its other rights and remedies: (i) charge interest at the rate of 1.5% per month or the highest rate permitted by law, whichever is less, on the past due amounts; (ii) suspend Customer's access to the Software under Section 6(d); or (iii) terminate this Agreement under Section 6(b) and accelerate Customer's unpaid fee obligations so that all such obligations become immediately due and payable.

(d) Other. All amounts paid under this Agreement are payable in U.S. dollars. Payment obligations are non-cancellable, and payments are non-refundable, other than as expressly set forth in this Agreement. All amounts payable under this Agreement will be made without setoff or counterclaim, and without any deduction or withholding, except as may be required by law.

6. Term and Termination; Suspension.

(a) Term. This Agreement begins on the Effective Date specified above and will continue for the initial term specified in the applicable Quote (the "Initial Term"). At the end of the Initial Term, this Agreement will automatically renew for additional twelve (12) month renewal terms (each a "Renewal Term") at Genasys' then-current rates or as otherwise agreed in writing by the parties, subject to termination as set forth below. Either party may give the other party written notice of non-renewal of this Agreement at least ninety (90) days prior to the expiration of the then-current Initial Term or Renewal Term.

(b) Termination for Cause. Either party will have the right to terminate this Agreement for cause at any time, upon written notice, in the event of (i) any material breach of this Agreement by the other party, subject to thirty (30) days prior written notice and opportunity to cure such breach; or (ii) the other party's dissolution, distribution of a substantial portion of its assets, or cessation of all or substantially all of its normal business affairs.

(c) Suspension. Genasys may suspend Customer's and its Users' access to the Software (i) upon ten (10) days' prior written notice and opportunity to cure the breach, if Customer is in material breach of this Agreement, including past-due fees; or (ii) immediately, if improper use of the Software is causing or is likely to cause material harm to the Software or to Genasys, or if there is an actual or suspected violation of law. Genasys will promptly notify Customer of the suspension. Genasys will limit a suspension under subsection (ii) to that which is reasonable under the circumstances.

(d) Effect of Termination. Upon final termination of this Agreement, Customer will no longer have access to the Software. Customer will promptly pay all outstanding amounts owed to Genasys and, if this Agreement was terminated for cause by Genasys, any unpaid fees covering the remainder of the Term. The termination or expiration of this Agreement for any reason shall not affect a party's rights or obligations that expressly or by their nature continue and survive, including without limitation terms regarding payment, ownership, perpetual licenses, confidentiality, limitations of liability, indemnity, and disclaimers.

(e) Non-Appropriation. Customer shall be permitted to cancel, without penalty, at the end of each fiscal period if its governing body elects not to include in the budget an appropriation for the contractual payments coming due in the next fiscal period.

7. Confidential Information.

(a) Confidentiality Obligations. The receiving party of Confidential Information (i) shall not disclose any Confidential Information to any person other than its employees and independent contractors who have a need to know such information and who are obligated to keep such information confidential; or (ii) use the Confidential Information for any purpose except as expressly permitted by this Agreement. The receiving party shall give Confidential Information at least the same level of protection as it gives its own information of similar sensitivity, but not less than a reasonable level of protection. Confidentiality obligations shall survive any termination of this Agreement.

(b) Legally Required Disclosures. The receiving party also may disclose Confidential Information to the extent required under a judicial or legislative order or proceeding or as necessary to comply with a public records act, open records act or other similar laws or regulations; provided that (i) it gives the disclosing party, if legally permissible, reasonable prior notice of the disclosure request; and (ii) it reasonably cooperates with the disclosing party in any responses to such request, including any reasonable objections to the disclosure request. Where Customer is a governmental agency, Customer may disclose, pursuant to a public records act disclosure request, any information that appears on a publicly available website in static form. The parties acknowledge and agree, however, that the GIS-formatted database developed and made available online by Genasys as part of the Software is dynamic and Genasys' proprietary intellectual property and may be accessed by third parties only through such Software, and is not itself to be provided to third parties unless the parties agree, or it is so ruled by a court of competent jurisdiction, that disclosure of such GIS-formatted database is required by applicable law in a particular case. Where disclosure of the GIS-formatted database is required by law, Customer must obtain the recipient's written agreement to use it only for informational purposes and not for commercial purposes, unless such usage restrictions violate applicable law. The parties further acknowledge and agree that the data contained in this GIS-formatted database pertains to a serious public safety interest, including dynamic evacuation information for humans and animals during a public safety event, and includes data that is critical to the accurate accumulation, management and dissemination of life-saving evacuation information. Thus, where disclosure of the GIS-formatted database is or may be required by law, Customer shall redact or segregate the information contained in the GIS-formatted database to the extent that exact dynamic evacuation information cannot be obtained from the database so as to prevent public confusion on dynamic evacuation information during a public safety event.

8. Data Security.

- (a) Reasonable Safeguards. Each party will collect and process any Personal Data of individuals contained in the Customer Data in compliance with applicable data privacy and protection laws, statutes, and regulations. Genasys agrees to maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, including Personal Data. Customer will also maintain commercially reasonable administrative, physical, and technical safeguards and processes for protecting the security and confidentiality of its users' passwords and account IDs for the Software. Please refer to Genasys' privacy policy on its website, which informs users of Genasys' policies and practices related to collection, storage, processing, destruction, and other use of Personal Data.
- (b) Breach Notifications. Customer will promptly notify Genasys if any account IDs or passwords are compromised, or unauthorized persons are accessing the Software. Genasys will promptly inform Customer if there is a material breach of the security or confidentiality of Personal Data in Genasys' possession or control. Genasys and Customer will coordinate and cooperate regarding informing any affected individuals and competent governmental authorities of a data breach as required under applicable laws and regulations.

9. Customer's Warranties. Customer represents and warrants to Genasys that:

- (a) Customer has full power and authority to enter into this Agreement and make the agreements specified herein.
- (b) Customer has all necessary rights and consents required to upload all Customer Data, including Personal Data, into the Software or otherwise provide such Customer Data to Genasys. Customer Data will not violate any person's right of privacy or copyright, trademark, or other intellectual property rights, and Customer and its Users will not transmit any unauthorized data or content to Genasys or the Software.
- (c) Customer and its Users will use the Software only as permitted by applicable laws and regulations, including without limitation federal and state privacy laws, FCC laws, text messaging laws, and anti-spam laws. Customer shall not send Notifications to emergency phone numbers and other numbers that may not legally be called by an automated Software. Customer agrees that it is Customer's sole responsibility to ensure that Customer and its Users are using the Software in a manner that does not violate any law or regulation.
- (d) The parties acknowledge that a third-party service provider may request that Genasys block Customer's access to certain telephone numbers ("Blocked Numbers") and in such case Genasys may deactivate access to the Blocked Numbers. At Customer's request, Genasys may provide Customer with the ability to unblock the Blocked Numbers so that Customer may send communications to the Blocked Numbers via the Software. In such event, Customer represents and warrants to Genasys that it has all rights, licenses and permits necessary to unblock, access and use the Blocked Numbers for the purposes of this Agreement. At Genasys' request, Customer will cooperate with Genasys and produce evidence of such rights to any third party that challenges the unblocking, access or use of the unblocked Blocked Numbers by Customer. Customer will defend, indemnify and hold harmless Genasys and such service provider(s) from and against any and all claims, suits, proceedings, damages, costs and expenses, including court costs and reasonable attorneys'

fees, arising out of or incurred with respect to the unblocking for, access to and/or use of the Blocked Numbers by Customer under this Agreement.

10. Genasys Warranties and Disclaimers.

(a) Genasys Warranties. Genasys warrants to Customer as follows:

- (i) Genasys has full power and authority to enter into this Agreement and make the agreements specified herein.
- (ii) Genasys warrants, from and after the go-live date of the Software for Customer, that the Software, when used properly and in accordance with its Documentation and this Agreement, will comply in all material respects with its Documentation.
- (iii) Genasys will use commercially reasonable, industry-standard efforts and means to keep Malicious Code out of the Software.
- (iv) Genasys will perform Services in a professional and workmanlike manner and in material compliance with the terms of the applicable Quote.

(b) Exclusions. Genasys' warranties exclude non-performance issues that result from (i) modification of the Software by Customer or any person or entity other than Genasys; (ii) defects or problems that are outside the reasonable control of Genasys, including defects or damage resulting from use of the Software in other than its normal and authorized manner; (iii) Third-Party Offerings; or (iv) Customer's or its Users' failure to comply with due standards of care.

(c) Remedies. In the event of a breach of any Genasys warranty, Customer shall contact Genasys within thirty (30) days of Customer's discovery of the breach, specifying the breach in reasonable detail. Customer's sole and exclusive remedies and Genasys' entire liability for breach of any warranty will be:

- (i) in the case of a breach of warranty with respect to the Software, at Genasys' option, Genasys will repair any material, reproducible defect in the Software, or replace the defective part with reasonably equivalent functionality. If Genasys is unable or fails to cure the warranty breach within a reasonable time, Genasys or Customer may, within three months of the initial occurrence of the breach, terminate this Agreement upon fifteen (15) days' prior written notice.
- (ii) in the case of a breach related to other Services, Genasys shall, at its option, either re-perform the Service at no additional charge to Customer or refund to Customer the applicable fees for such Service.

(d) Limitation of Warranties. Except as expressly set forth herein, **THE SOFTWARE AND ALL PRODUCTS AND SERVICES ARE PROVIDED BY GENASYS "AS IS" AND GENASYS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE**, whether arising by law, by reason of custom or usage of trade, or by course of dealing. Genasys does not warrant that the Software or its Services are error-free. Genasys is not responsible or liable for any problems or interruptions in the Software due to issues with third-party hosting services or Internet service providers. Open-source copyright holders have no liability to Customer for any reason. Warranties are not transferable to a third party, other than in connection with a permitted assignment of this entire Agreement under Section 14.

(e) Outgoing Software Notifications. Customer acknowledges and agrees that: (i) Notifications sent via SMS and some other channels may not be delivered to the intended telephone if it is not in range of a transmission site or if sufficient network capacity is not available at a particular time; (ii) even within a coverage area, factors beyond the control of Genasys or the wireless or telecom carrier may interfere with Notification delivery, including without limitation Customer's or the intended recipient's equipment, terrain, proximity to buildings, foliage, weather or other conditions; (iii) Notifications to certain numbers may be blocked; and (iv) urgent Notifications may not be timely received. Neither Genasys nor the wireless carrier warrants or guarantees that Notifications will be delivered.

11. Indemnification.

(a) Mutual Indemnity. Each party (as the "Indemnifying Party") shall defend or settle at its expense any third-party claim or action brought against the other party (the "Indemnified Party") arising out of the Indemnifying Party's breach of this Agreement or any grossly negligent acts or willful misconduct of the Indemnifying Party or its personnel.

- (b) Genasys Indemnity. Genasys shall defend or settle at its option and expense any third-party claim or action brought against Customer alleging that the Software infringes a U.S. registered patent or copyright or misappropriates a trade secret. Genasys shall have no liability for any infringement claim to the extent such claim is based on: (i) modification of the Software other than by Genasys personnel; (ii) any open source or other Third-Party Offering; or (iii) the combination, operation or use of the Software with any software, hardware or other materials not furnished by Genasys. In the event of an infringement claim, Genasys may at its option and expense replace or modify the Software with reasonably equivalent non-infringing functionality or procure for Customer the right to continue using the Software. If neither of these alternatives is available on a commercially reasonable basis, Genasys may terminate this Agreement and refund to Customer any prepaid fees for the period after termination. This Section 11(b) states the entire extent of the liability and obligations of Genasys with respect to any alleged infringement or misappropriation of intellectual property rights.
- (c) Customer Indemnity. Customer shall defend or settle at its option and expense any third party claim or action brought against Genasys arising out or relating to (i) any infringement claims or privacy breaches arising out of the Customer Data, other than a security breach for which Genasys is responsible; (ii) use of the Software in violation of law or the terms of this Agreement; or (iii) bodily injury, death of any person or damage to real or tangible, personal property resulting from Customer's use of the Software, including the posting, sending or failure of any Notifications or other notices and information through the Software.
- (d) Indemnification Procedure. The Indemnified Party shall promptly notify the Indemnifying Party of the claim, grant the Indemnifying Party sole control of the defense of the claim and all related settlement negotiations, and provide the Indemnifying Party with the assistance, information and authority reasonably necessary to defend the claim, at the Indemnifying Party's expense. The Indemnified Party may, at its option and expense, be represented by separate counsel in any such action. The Indemnifying Party shall pay all damages, costs and expenses, including reasonable attorneys' fees and court costs, payable to the third-party claimant.
12. Limitations of Liability. **IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOST PROFITS, LOST DATA, INTERRUPTIONS OF BUSINESS, OR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE OR OTHER GENASYS MATERIALS, REGARDLESS OF WHETHER SUCH PARTY HAD NOTICE OF THE POTENTIAL FOR SUCH LOSS OR DAMAGE. GENASYS IS NOT RESPONSIBLE FOR ANY DELAYS OR DELIVERY FAILURES WITH RESPECT TO THE SOFTWARE OR NOTIFICATIONS, OR ANY DAMAGES RESULTING FROM SUCH PROBLEMS. AS BETWEEN THE PARTIES, CUSTOMER IS SOLELY RESPONSIBLE FOR ALL DECISIONS THAT IT MAKES IN RELIANCE ON INFORMATION PRESENTED THROUGH THE SOFTWARE. GENASYS SHALL NOT BE LIABLE FOR ANY BODILY INJURY, DEATH, OR PROPERTY DAMAGES RESULTING FROM SOFTWARE NOTIFICATIONS (INCLUDING ANY ERRORS OR DELAYS) OR OTHER USE OF THE SOFTWARE OR SERVICES, INCLUDING ANY ERRORS IN OR UNAVAILABILITY OF THE SOFTWARE. GENASYS'S TOTAL AGGREGATE LIABILITY FOR ANY CLAIM OR DAMAGE ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY CUSTOMER TO GENASYS DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE CLAIM.** Genasys' fees reflect this allocation of risk and limitations of liability. These limitations shall apply notwithstanding the failure of the essential purpose of any limited remedy. The above limitations may be superseded by law in some jurisdictions.
13. Publicity. Any press releases or other public statement regarding this Agreement may be made only with the other party's consent, which shall not be unreasonably withheld, except that a party may make public disclosures to the extent required by law, and Genasys is permitted to include Customer's name on customer lists that may be posted on Genasys' website or provided to potential customers and other third parties.
14. Assignment. Customer may not assign or transfer this Agreement or any of its rights or duties hereunder to any third party without prior written consent of Genasys. Genasys may elect to use third-party service providers to perform any of Genasys' obligations under this Agreement. This Agreement is binding on and inures to the benefit of the parties and their respective successors and permitted assigns.
15. General.
- (a) Entire Agreement; Amendment; Waiver. This Agreement, including the attached exhibits and any related purchase orders, constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior or oral agreements or understandings with respect thereto. Any preprinted terms in a purchase order submitted by Customer to Genasys are expressly agreed to be of no force or effect. This Agreement may not be amended except by a writing signed by authorized representatives of both parties. The waiver by either party of any default or breach of this Agreement, or any obligation hereunder, shall be ineffective unless in writing. No failure to exercise any right or power under this Agreement or to insist on strict compliance by the other party shall constitute a waiver of the right subsequently to exercise such right or power or to insist on strict compliance.

- (b) Choice of Law. This Agreement shall be construed in accordance with the laws of the State of California, excluding conflicts of law's provisions. However, if Customer is a governmental agency, the laws of the state where Customer is located will govern. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply.
- (c) Severability. If any provision of this Agreement is deemed invalid or unenforceable by a court or governmental authority, that provision shall be modified, if possible, to the minimum extent necessary to make it valid and enforceable, or if it cannot be so modified, then severed, and the remainder of this Agreement shall remain in full force and effect.
- (d) Notices. All legal notices between the parties shall be in writing and shall be sent by certified or registered mail, with provisions for a receipt, or commercial overnight delivery service, to the address of the other party listed above (or to such other address as a party may furnish to the other in writing). Non-legal written notices in the ordinary course of business may also be sent by email to the other party.
- (e) Independent Contractors. The parties are independent contractors, and neither party shall have any right or authority to make any representations or warranties on the other party's behalf, or to assume or create any obligations or responsibilities, express or implied, on behalf of the other party.
- (f) Injunctive Relief. Each party acknowledges that the other party's intellectual property and Confidential Information is highly valuable to the other party, that any breach of such party's obligations with respect to confidentiality and/or use of the other party's intellectual property, including any breach by Customer of any restrictions on use of the Software or the scope of the rights granted by Genasys herein, may severely damage the other party, the extent of which damage would be difficult to ascertain and, therefore, that the other party is entitled to seek, among other remedies, temporary and permanent injunctive relief and other equitable relief for any such breach, without the necessity of posting bond or other security, to the extent permitted by law.
- (g) Force Majeure. A party shall be excused from delays or failure to perform its duties (other than payment obligations) to the extent such delays or failures result from acts of nature, riots, war, acts of public enemies, fires, epidemics, labor disputes, or any other causes beyond its reasonable control (a "Force Majeure Event"). The parties will promptly inform and consult with each other as to any of the above causes that in their judgment may or could be the cause of a substantial delay in the performance of this Agreement.
- (h) U.S. Government Restricted Rights. Any software provided as part of the Software for or on behalf of the United States of America, its agencies and/or instrumentalities is provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable, and any other applicable federal laws or regulations.
- (i) Electronic Signatures; Signature Authority. A copy of this Agreement signed or delivered by e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement. The person accepting this Agreement and any related purchase orders on behalf of Customer represents that he or she has the authority to bind Customer to this Agreement.

GENASYS, INC.

Ste. Genevieve, City of, MO

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

AUTHORIZED SYSTEM USERS AND AGENCIES

1. Customer's direct employees and consultants who are authorized by Customer to access and use the Software.
2. Customer's affiliates that have agreed to a contract addendum with Genasys, making them subject to the terms of the Agreement.
3. For the Zonehaven Service: if Customer is a county governmental agency and wishes to share access to Zonehaven with other agencies within its county, the agencies listed below are approved by Genasys as Users, provided that such agencies must first agree to a contract addendum with Genasys making them subject to the terms of the Agreement:

Agency Name:

Email Domain:

Ste. Genevieve, City of, MO

stegenevieve.gov

EXHIBIT B - QUOTE

PRICING

GEM-PS-CL-SYS	Email notification SMS notification Phone notification IPAWS connector Social Media connector RSS feed connector Premium 24x7x365 support Genasys supplied data
GEM-WE-CL-SYS	Automated Weather
GEM-SMSOPT-SYS	GEM Short Code & Key Word Op-In/Out
GEM-PS-10K	Notification by phone, email, and SMS to residents based on a population of 5,000

SKU	Description	Annual Price	Years	Final Price
GEM-PS-CL-SYS	GEM Foundation	\$2,295	3	\$6,885
GEM-WE-CL-SYS	Automated Weather	NC	3	
GEM-SMSOPT-SYS	GEM Short Code & Key Word Op-In/Out	NC	3	
GEM-PS-10K	Public Notification	NC	3	
Total		\$2,295	3	\$6,885

Payment Schedule	
Year 1	\$2,295
Year 2	\$2,295
Year 3	\$2,295

THE QUOTE IS VALID FOR 45 DAYS FROM THE DAY OF THE QUOTE



CITY OF STE. GENEVIEVE POLICE DEPARTMENT



165 SOUTH FOURTH STREET, STE. GENEVIEVE, MO 63670

Staff Report

October 3, 2023

To: Board of Aldermen
From: Jasen Crump
Re: Lease agreement with FSCB

Issue:

While seeking quotes on new patrol vehicles for the 2023/2024 budget year, I located a Dodge Durango that meets all our requirements for a patrol vehicle. The vehicle was ordered in a bulk purchase in December of 2022 and is just now being delivered. The vehicle had not been spoken for and we were allowed the opportunity to place a hold on the vehicle allowing us the opportunity to avoid having to order a 2024 and wait for delivery. This also allowed us the opportunity to avoid the price increase of over \$2,000 for the 2024 model year. This vehicle will be purchased from Landmark Dodge, who holds the State Bid for the Dodge Durango.

Recommendation:

I am asking for 2 readings on the lease agreement from FSCB at the October 12, 2023, BOA meeting. Landmark Dodge will only hold the vehicle until October 13, 2023, for us to secure the purchase and financing.

BILL NO. 4591

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF STE. GENEVIEVE, MISSOURI
APPROVING A TAX-EXEMPT EQUIPMENT LEASE PURCHASE
AGREEMENT WITH FIRST STATE COMMUNITY BANK FOR THE
PURCHASE OF TWO POLICE VEHICLES.**

WHEREAS, CITY OF STE. GENEVIEVE (Lessee), desires to obtain funds to pay the costs of acquiring the Equipment described in the attached Tax-Exempt Equipment Lease Purchase Agreement; and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for Lessee to enter into the Tax-Exempt Equipment Lease Purchase Agreement with First State Community Bank, as Lessor (Lessor), pursuant to which Lessee will lease the Equipment, with an option to purchase, from Lessor, on an annually renewable basis, and commencing on the date Lessor deposits funds equal to the initial principal amount of the Equipment Lease Purchase Agreement into an account held pursuant to the below-mentioned Account Control Agreement, to be used to pay the costs of acquiring and installing the Equipment and to pay related costs; and

WHEREAS, the Equipment is not available for immediate delivery, therefore, it is necessary and desirable for Lessee to also enter into an Account Control Agreement, in substantially the form attached to this Ordinance, pursuant to which the proceeds of the Tax-Exempt Equipment Lease Purchase Agreement will be held by the bank therein-named as Deposit Bank (Deposit Bank), in an account established in Lessee's name, but subject to Lessor's security interest and Lessor's approval of disbursements; and

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

Section 1. Authorization and Approval of the Tax-Exempt Equipment Lease Purchase Agreement. The Tax-Exempt Equipment Lease Purchase Agreement, together with all exhibits thereto, including but not limited to the Account Control Agreement (Lease Documentation) is hereby approved in substantially the form attached to this Ordinance, with such changes therein as are approved by the officer of Lessee hereafter authorized to execute and deliver the Lease Documentation, the execution of the Lease Documentation by such officer being conclusive evidence of such approval, provided that the Lease Documentation shall be consistent with the following terms:

- a) The aggregate principal portion of Rental Payments will not exceed \$113,120.
- b) The interest portion of Rental Payments will be calculated at an annual interest rate not exceeding 6.23%.

- c) Rental Payments will be due in five approximately equal installments, with the first Rental Payment due on the first anniversary of the Commencement Date of the Tax-Exempt Equipment Lease Purchase Agreement, and succeeding Rental Payments due on the annual anniversary of the Commencement Date (as defined in the Tax-Exempt Equipment Lease Purchase Agreement).
- d) The final scheduled Rental Payment will be due on the fifth anniversary of the Commencement Date.

Moneys sufficient to pay all Rental Payments required to be paid under the Tax-Exempt Equipment Lease Purchase Agreement during Lessee's current fiscal year are hereby appropriated to such payment, and such moneys will be applied in payment of all Rental Payments due and payable during the current fiscal year.

Lessee's obligation to pay Rental Payments (as defined in the Tax-Exempt Equipment Lease Purchase Agreement) is subject to annual appropriation, will constitute a current expense, and will not in any way be construed to be an indebtedness or liability of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness or liability by Lessee, nor will anything contained in the Tax-Exempt Equipment Lease Purchase Agreement constitute a pledge of the general tax revenues, funds or moneys of Lessee, and all provisions of the Tax-Exempt Equipment Lease Purchase Agreement will be construed so as to give effect to such intent.

The below-named officer of Lessee is hereby authorized and directed to execute and deliver the Lease Documentation on behalf of and as the act and deed of Lessee:

Name: Happy Welch

Title: City Administrator

Section 2. Further Authority. Lessee will, and the officials and agents of Lessee are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of Lessee with respect to the Lease Documentation and the Equipment. If Lessee acquires any portion of the Equipment prior to the Commencement Date of the Tax-Exempt Equipment Lease Purchase Agreement, it is the intention of the Lessee's governing body that Lessee will be reimbursed for the cost of such acquisition from the proceeds of the Tax-Exempt Equipment Lease Purchase Agreement upon the Commencement Date.

Section 3. Repeal of Conflicting Ordinances. All prior Ordinances approved by Lessee's governing body that are in conflict with this Ordinance are hereby repealed to the extent of any conflict.

Section 4. Effective Date. This Ordinance will take effect and be in full force from and after its passage by the Board of Aldermen of City of Ste. Genevieve, and approval by the Mayor.

DATE OF FIRST READING: _____

DATE OF SECOND READING: _____

PASSED AND APPROVED THIS ____ DAY OF _____, 2023 BY A ROLL CALL VOTE OF THE STE. GENEVIEVE BOARD OF ALDEREMEN AS FOLLOWS:

VOTE

- ALDERMAN PATRICK FAHEY
- ALDERWOMAN KRISTI CLEGHORN
- ALDERMAN ERIC BENNETT
- ALDERMAN BOB DONOVAN
- ALDERMAN MIKE RANEY
- ALDERMAN JOE PRINCE
- ALDERMAN JOE STEIGER
- ALDERMAN JEFF EYDMANN

___ YES ___ NO ___ ABSENT

APPROVED AS TO FORM:

Brian Keim, Mayor

Mark Bishop, City Attorney

ATTEST:

REVIEWED BY:

Pam Meyer, City Clerk

Happy Welch, City Administrator

TAX-EXEMPT EQUIPMENT LEASE PURCHASE AGREEMENT

Dated as of October 5, 2023

Legal Name of Lessee		Federal Tax I.D. No.	
City of Ste. Genevieve		43-6003164	
Legal Name of Lessor			
First State Community Bank			
KEY TERMS	Commencement Date	Acquisition Amount	BANK QUALIFICATION
	See Exhibit B	\$113,120.00	
	End of Maximum Lease Term	Rental Payments	
	10/12/2028	See Payment Schedule attached as Exhibit B.	
	Fiscal Year Ending Date	Interest Rate	
09/30	6.230%	By checking the box below, Lessee hereby designates this Agreement as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended (the "Code"), and represents that the aggregate face amount of all tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds issued or to be issued by Lessee and its subordinate entities during the calendar year in which the Commencement Date occurs, is not reasonably expected to exceed \$10,000,000. <input checked="" type="checkbox"/> Bank-Qualification Elected _____ (initialed by Lessee's authorized representative)	

TERMS AND CONDITIONS

1. Lease and Term. Subject to the terms of this Agreement, Lessor agrees to provide the Acquisition Amount shown above to acquire and install the Equipment listed on **Exhibit A** hereto (the "Equipment"). Lessor hereby leases, transfers and lets the Equipment to Lessee, and Lessee hereby acquires, rents and leases the Equipment from Lessor, in accordance with the provisions of this Agreement. Lessee's obligation to pay rent under this Agreement commences on the date that funds are advanced to Lessee or the seller or vendor of the Equipment ("Vendor") to pay all or a portion of the cost of the Equipment (the "Commencement Date"), which is also the date that the interest portion of the Rental Payments begins to accrue. The initial term of this Agreement will end on the last day of Lessee's current fiscal year ("Original Term"). This Agreement may be continued, solely at the option of Lessee, for additional one-year renewal terms ("Renewal Term") ending on the last day of each succeeding fiscal year of Lessee, up to the Maximum Lease Term shown above. At the end of the Original Term and at the end of each Renewal Term until the Maximum Lease Term has been completed, Lessee will be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee has terminated this Agreement pursuant to paragraphs 4 or 23 hereof. The terms and conditions during any Renewal Term will be the same as the terms and conditions during the Original Term, except that the Rental Payments will be as provided in the Payment Schedule attached as **Exhibit B** ("Payment Schedule"), for each such Renewal Term. The Original Term and all Renewal Terms are referred to collectively as the "Lease Term."

2. Delivery of Equipment; Payment of Acquisition Amount. Upon Lessee's satisfaction of the conditions stated in paragraph 5 of this Agreement, Lessor will disburse funds equal to the Acquisition Amount to Lessee for deposit in the account established and held pursuant to an Account Control Agreement in substantially the form attached as **Exhibit C**. Title to the Equipment will vest in Lessee, as described in paragraph 11 of this Agreement. Lessee has selected, or will select the Equipment and cause it to be delivered to Lessee at the location specified in **Exhibit A**.

3. Rental Payments. Lessee will pay Rental Payments, exclusively from legally available funds, in lawful money of the United States of America to Lessor in the amounts and on the dates set forth on the Payment Schedule, as it may be revised from time to time as provided herein. Rental Payments will be in consideration for Lessee's use of the Equipment during the fiscal year in which such payments are due. Lessee will pay a charge on any Rental Payment not received on or before its due date at a rate equal to 10% per annum or the maximum amount permitted by law, whichever is less, from the due date. As set forth on the Payment Schedule, a portion of each Rental Payment is paid as, and represents payment of, interest. *Except as provided in paragraph 4, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events, without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Equipment or related equipment, or any accident, condemnation or unforeseen circumstances.*

4. Continuation of Lease Term; Nonappropriation. Lessee currently intends, subject to the provisions of this paragraph, to continue the Lease Term and to pay the Rental Payments through the Maximum Lease Term. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Maximum Lease Term can be obtained. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for the Rental Payments in each annual budget submitted for approval in accordance with applicable procedures of Lessee. Notwithstanding the foregoing, the decision to appropriate funds and to extend this Agreement for any Renewal Term is solely within the discretion of Lessee's then current governing body, and Lessee is obligated only to pay such Rental Payments as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. If sufficient funds have not been appropriated or are not otherwise legally available to pay the Rental Payments required to be paid in the next occurring Renewal Term, this Agreement will be deemed to be terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination within 10 days following the end of the Original Term or Renewal Term of Lessee's failure to renew this Agreement, but failure to give such notice will not extend the Lease Term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this paragraph, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Equipment to Lessor at the location or locations specified by Lessor. The obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee. Lessee's obligation hereunder will not in any way be construed to be an indebtedness of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor will anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of Lessee.

NOTE: TERMS AND CONDITIONS ARE CONTINUED ON PAGES 2 THROUGH 5 OF THIS AGREEMENT, AND IN EXHIBITS A, B, C AND D HERETO, ALL OF WHICH ARE INCLUDED BY REFERENCE AND BECOME PART HEREOF. BY SIGNING BELOW, EACH PARTY AGREES TO ALL TERMS AND CONDITIONS OF THE AGREEMENT.

LESSEE SIGNATURE	Lessee: City of Ste. Genevieve
	By: _____
	Printed Name: <u>Happy Welch</u>
	Title: <u>City Administrator</u>
	Notice Address: 165 S 4th Street Ste. Genevieve, MO 63670

LESSOR SIGNATURE	Lessor: First State Community Bank
	By: _____
	Printed Name: <u>Nikki Jarrett</u>
	Title: <u>Support Services Officer</u>
	Notice Address: 201 E. Columbia Farmington, MO 63640

5. Conditions to Lessor's Performance. The performance by Lessor of any of its obligations under this Agreement is conditioned upon Lessee's delivery to Lessor of the following within 30 days of the effective date of this Agreement:

- (a) A copy of a fully executed Account Control Agreement, in substantially the form attached as **Exhibit C**;
- (b) A certified copy of a resolution of Lessee's governing body, substantially in the form attached hereto as **Exhibit D**, authorizing the execution and delivery of this Agreement and the Account Control Agreement, and performance by Lessee of its obligations under this Agreement and the Account Control Agreement;
- (c) Evidence of insurance as required by paragraph 14 hereof;
- (d) A fully completed and executed IRS Form 8038-G or 8038-GC, as applicable, with respect to this Agreement, to be filed by Lessor with the IRS; and
- (e) Such other items reasonably required by Lessor.

6. Lessee's Representations, Warranties and Covenants. Lessee represents, warrants and covenants for Lessor's benefit:

- (a) Lessee is a political subdivision duly organized and existing under the constitution and laws of the State of Missouri, and Lessee will do or cause to be done all things to preserve and keep in full force and effect its existence as a body corporate and politic;
- (b) Lessee has been duly authorized to execute and deliver this Agreement by proper action and approval of its governing body at a meeting duly called, regularly convened and attended throughout by a requisite majority of the members thereof;
- (c) This Agreement constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally;
- (d) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the Commencement Date;
- (e) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term, and such funds have not been expended for other purposes;
- (f) Lessee has complied with public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment;
- (g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best Lessee's knowledge is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or any other document, agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement;
- (h) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained;
- (i) The entering into and performance of this Agreement or any other document or agreement contemplated hereby to which Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest of other encumbrance on any assets of Lessee or the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided;
- (j) Each item of the Equipment is essential to Lessee's governmental function or to the service it provides to its citizens;
- (k) Lessee has an immediate need for, and expects to make immediate use of, substantially all of the Equipment, which need is not temporary or expected to diminish in the foreseeable future;

- (l) The Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of Lessee's authority;
- (m) Neither the payment of the Rental Payments hereunder nor any portion thereof is (1) secured by any interest in property used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code) or in payments in respect of such property or (2) derived from payments in respect of property, or borrowed money, used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code);
- (n) None of the Equipment will be used directly or indirectly in any trade or business carried on by any non-exempt person (within the meaning of Section 103 of the Code);
- (o) Lessee will comply with all applicable provisions of the Code, including without limitation Sections 103 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest portions of Rental Payments from gross income for purposes of federal income taxation;
- (p) Lessee will use the proceeds of this Agreement as soon as practicable and with all reasonable dispatch for the purpose for which this Agreement has been entered into;
- (q) No part of the proceeds of this Agreement will be invested in any securities, obligations or other investments or used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of this Agreement, would have caused any portion of this Agreement to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the applicable regulations of the Treasury Department;
- (r) If, on the first page of this Agreement, Lessee has designated this Agreement as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code, Lessee and its subordinate entities will not issue tax-exempt obligations, including this Agreement, in an aggregate amount exceeding \$10,000,000 during the calendar year in which the Commencement Date occurs; and
- (s) Lessee will take such other actions as may be necessary to comply with the Code and with other applicable future law, in order to ensure that the interest portion of the Rental Payments will remain excluded from federal gross income, to the extent any such actions can be taken by Lessee.

7. Enjoyment of Equipment. Lessor will provide Lessee with quiet use and enjoyment of the Equipment during the Lease Term, and Lessee will peaceably and quietly have and hold and enjoy the Equipment during the Lease Term, without suit, trouble or hindrance from Lessor, except as otherwise expressly set forth in this Agreement.

8. Right of Inspection. Lessor will have the right at all reasonable times during regular business hours to enter into and upon Lessee's property for the purpose of inspecting the Equipment.

9. Use of the Equipment. Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee will obtain all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; provided, however, that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the Lessor's opinion, adversely affect the Lessor's interest in and to the Equipment or its interest or rights under this Agreement.

10. Maintenance and Location of Equipment. Lessee agrees that it will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition. Lessor will have no responsibility to maintain, or repair or to make improvements or additions to the Equipment. If requested to do so by Lessor, Lessee will enter into a maintenance contract for the Equipment with Vendor. The location of the primary use, or garaging, of the Equipment will be as set forth on **Exhibit A**, or at such other location within

Lessee's boundaries. Lessee will provide prompt written notice to Lessor of the new primary use, or garaging, location.

11. Title to the Equipment. Title to the Equipment is deemed to vest in Lessor on the Commencement Date upon payment of the Acquisition Amount to the vendor, and immediately and automatically (without any further action by Lessor or Lessee) title to the Equipment and any and all additions, repairs, replacements or modifications will vest in Lessee, subject to Lessor's rights under this Agreement. Title will, immediately and without any action by Lessee, vest in Lessor, and Lessee will immediately surrender possession of the Equipment to Lessor, upon (a) any termination of this Agreement other than termination pursuant to paragraph 23 hereof or (b) the occurrence of an Event of Default. It is the intent of the parties hereto that any transfer of title to Lessor pursuant to this paragraph will occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee will, nevertheless, execute and deliver any such instruments as Lessor may request to evidence such transfer. Lessee, irrevocably designates, makes, constitutes and appoints Lessor and its assignee as Lessee's true and lawful attorney (and agent in-fact) with power, at such time of termination or times thereafter as Lessor in its sole and absolute discretion may determine, in Lessee's or Lessor's or such assignee's name, to endorse Lessee's name upon any bill of sale, document, instrument, invoice, freight bill, bill of lading or similar document relating to the Equipment in order to vest title in Lessor and transfer possession to Lessor.

12. Retention of Security Interest. To secure the payment of all of Lessee's obligations under this Agreement and to the extent permitted by law, Lessor retains a security interest constituting a first lien on the Equipment and on all additions, attachments and accessions thereto and substitutions therefor and proceeds therefrom. Lessee agrees to execute such additional documents in form satisfactory to Lessor, that Lessor deems necessary or appropriate to establish and maintain its security interest. Lessee agrees that financing statements may be filed with respect to the security interest granted herein. Lessee will, at Lessee's expense, file an application for and obtain the first certificate of title for each of the vehicles leased hereunder, designating Lessee as owner and Lessor as first lienholder, and a certificate of registration issued in Lessee's name. Lessee will, at Lessee's expense, take such action as shall be necessary from time to time to avoid suspension or revocation of any certificates of title and to renew and maintain all certificates of registration. If Lessee is required to obtain any new certificate of title or of registration, Lessee will, at Lessee's expense and with written notice to Lessor of such action, obtain such new certificate of title or of registration in the form described above. Immediately upon receipt, Lessee will deliver the original certificate of title to Lessor and will notify the Lessor of the license plate number of each vehicle constituting Equipment leased hereunder. Lessee will provide Lessor with all license, registration and vehicle identification numbers relating to each vehicle and will arrange for the registration and titling of all such vehicles. Lessee will notify Lessor of any changes to the certificate of registration or license plate within 10 days of such change. Lessee will comply with all present and future laws, regulations, and orders relating to the Equipment leased hereunder.

13. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee will keep the Equipment free and clear of all liens, charges and encumbrances, except those created under this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Equipment will be exempt from all property taxes. If the use, possession or acquisition of the Equipment is found to be subject to taxation in any form, Lessee will pay all taxes and governmental charges lawfully assessed or levied against or with respect to the Equipment. Lessee will pay all charges incurred in the use and maintenance of the Equipment. Lessee will pay such taxes and charges as the same become due; provided that, with respect to any such taxes and charges that may lawfully be paid in installments over a period of years, Lessee will be obligated to pay only such installments that accrue during the Lease Term.

14. Insurance. At its own expense, Lessee will maintain (a) casualty insurance insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in Missouri and any other risks reasonably required by Lessor in an amount at least equal to the then applicable Purchase Price of the Equipment, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by

the laws of Missouri; provided that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clauses (a) and (b). All insurance proceeds from casualty losses will be payable as hereinafter provided. Lessee will furnish to Lessor certificates evidencing such coverage throughout the Lease Term. All such casualty and liability insurance will be with insurers that are acceptable to Lessor, will name Lessee and Lessor as insureds and will contain a provision to the effect that such insurance will not be cancelled or modified materially without first giving written notice thereof to Lessor at least ten days in advance of such cancellation or modification. All such casualty insurance will contain a provision making any losses payable to Lessee and Lessor, as their respective interests may appear.

15. Advances. In the event Lessee fails to maintain the insurance required by this Agreement or fails to keep the Equipment in good repair and operating condition, Lessor may (but will be under no obligation to) purchase the required policies of insurance and pay the premiums on the same and make such repairs or replacements as are necessary and pay the cost thereof. All amounts so advanced by Lessor will become additional rent for the then current Original Term or Renewal Term. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 10% per annum or the maximum permitted by law, whichever is less. In accordance with Section 427.120 of the Revised Statutes of Missouri, unless Lessee provides evidence of the insurance coverage required by this Agreement, Lessor may purchase insurance at Lessee's expense to protect Lessor's interests hereunder. This insurance may, but need not, protect Lessee's interests. The coverage that Lessor may purchase may not pay any claim that Lessee may make or any claim that may be made against Lessee in connection with the Equipment. Lessee may later cancel any insurance purchased by Lessor, but only after providing evidence that Lessee has obtained insurance as required by this Agreement. If Lessor purchases insurance for the Equipment, Lessee will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges Lessor may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance will be added as additional rent. The costs of the insurance may be more than the cost of insurance Lessee may be able to obtain on its own.

16. Financial Information. Lessee will annually provide Lessor with current financial statements, budgets, proofs of appropriation for the ensuing fiscal year and such other financial information relating to Lessee's ability to continue this Agreement as may be requested by Lessor.

17. Release and Indemnification. To the extent permitted by law, Lessee will indemnify, protect and hold harmless Lessor from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith (including, without limitation, counsel fees and expenses and any federal income tax and interest and penalties connected therewith imposed on interest received) arising out of or as the result of (a) the entering into this Agreement, (b) the ownership of any item of the Equipment, (c) the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, (d) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury or death to any person or (e) the breach of any covenant herein or any material misrepresentation contained herein. The indemnification arising under this paragraph will continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

18. Risk of Loss. Lessee assumes, from and including the Commencement Date, all risk of loss of or damage to the Equipment from any cause whatsoever. No such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof will relieve Lessee of the obligation to make Rental Payments or to perform any other obligation under this Agreement.

19. Damage, Destruction and Condemnation. If (a) any of the Equipment is damaged or destroyed, or (b) title to, or the temporary use of, the Equipment or any part thereof or the interest of Lessee or Lessor in the Equipment or any part thereof will be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to the

prompt replacement or repair of the Equipment, unless Lessee has exercised its option to purchase all the Equipment pursuant to paragraph 23 hereof. Any balance of the Net Proceeds remaining after such repair or replacement has been completed will be paid to Lessee.

20. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any replacement or repair referred to in paragraph 19 hereof, Lessee will either (a) complete such replacement or repair and pay any costs thereof in excess of the amount of the Net Proceeds, (b) purchase Lessor's interest in all the Equipment pursuant to paragraph 23 hereof or (c) with Lessor's consent, pay the Net Proceeds to Lessor to be applied as a prepayment in accordance with paragraph 3 hereof. If Lessee will make any payments pursuant to this paragraph, Lessee will not be entitled to any reimbursement therefrom from Lessor nor will Lessee be entitled to any diminution of the amounts payable under this Agreement, except as a result of a partial prepayment.

21. Disclaimer of Warranties. *LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR USE OR PURPOSE OF THE EQUIPMENT OR AGAINST INFRINGEMENT, OR ANY OTHER WARRANTY OR REPRESENTATION WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEE'S USE OR MAINTENANCE OF ANY EQUIPMENT OR SERVICES PROVIDED FOR IN THIS AGREEMENT.*

22. Vendor's Warranties. Lessee may have rights under the contract evidencing the purchase of the Equipment; Lessee is advised to contact the Vendor for a description of any such rights. Lessor hereby assigns to Lessee during the Lease Term all warranties running from Vendor to Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee will not be in default hereunder, to assert from time to time whatever claims and rights (including without limitation warranties) related to the Equipment that Lessor may have against the Vendor. Lessee's sole remedy for the breach of any such warranty, indemnification or representation will be against the Vendor, and not against Lessor. Any such matter will not have any effect whatsoever on Lessor's rights and obligations with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties by the Vendor.

23. Purchase Option; Partial Prepayments. (a) Lessee will have the option to purchase the Equipment (all, not part), upon giving written notice to Lessor at least 30 days before the date of purchase, on any date, upon payment in full of the Rental Payments then due hereunder plus the accrued interest portion of Rental Payments to the purchase date plus any other amounts then due hereunder plus (i) the Purchase Price designated on the Payment Schedule for such purchase date if such purchase date is a Rental Payment Date or the Purchase Price for the immediately preceding Rental Payment Date if such purchase date is not a Rental Payment Date, and (ii) if such day is not a Rental Payment Date, an amount equal to the portion of the interest portion of the Rental Payment scheduled to come due on the following Rental Payment Date accrued from the immediately preceding Rental Payment Date to such purchase date, computed on the basis of actual days elapsed over a 360-day year. Upon the exercise of the option to purchase set forth above, title to the Equipment will be vested in Lessee, free and clear of any claim by or through Lessor. Lessee and Lessor hereby agree and determine that the Rental Payments hereunder during the Original Term and each Renewal Term represent the fair value of the use of the Equipment and that the amount required to exercise Lessee's option to purchase the Equipment pursuant to this paragraph represents, as of the end of the Original Term or any Renewal Term, the fair purchase price of the Equipment. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew this Agreement or to exercise its option to purchase the Equipment hereunder. In making such determinations, Lessee and Lessor have given consideration to (i) the costs of the Equipment, (ii) the uses and purposes for which the Equipment will be employed by Lessee, (iii) the benefit to Lessee by reason of the acquisition and installation of the Equipment and the use of the Equipment pursuant to the terms and provisions of this Agreement, and (iv) Lessee's option to purchase the Equipment. Lessee hereby determines and declares that the acquisition and

installation of the Equipment and the leasing of the Equipment pursuant to this Agreement will result in equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by Lessee other than pursuant to this Agreement. Lessee hereby determines and declares that the Maximum Lease Term does not exceed the useful life of the Equipment.

(b) Rental Payments may be prepaid on any date, upon giving written notice to Lessor at least 30 days before the date of prepayment. Amounts received will be applied first to the interest portion of Rental Payments due hereunder, and then to reduce the principal portion of Rental Payments, applied in inverse order of payments due.

24. Assignment by Lessor. Lessor's interest in, to and under this Agreement and the Equipment may be assigned and reassigned in whole or in part to one or more assignees by Lessor without the necessity of obtaining Lessee's consent; provided that any assignment will not be effective until Lessee has received written notice, signed by the assignor, of the name, address and tax identification number of the assignee. Lessee will retain all such notices as a register of all assignees and will make all payments to the assignee or assignees designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interest in the Equipment and in this Agreement and agrees to the filing of financing statements with respect to the Equipment and this Agreement. Lessee will not have the right to and will not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor.

25. Assignment and Subleasing by Lessee. None of Lessee's right, title and interest in, to and under this Agreement and in the Equipment may be assigned or encumbered by Lessee for any reason, except that Lessee may sublease all or part of the Equipment if Lessee obtains the prior written consent and an opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor that such subleasing will not adversely affect the exclusion of the interest portions of the Rental Payments from gross income for federal income tax purposes. Any such sublease of all or part of the Equipment will be subject to this Agreement and the rights of Lessor in, to and under this Agreement and the Equipment.

26. Events of Default Defined. Subject to the provisions of paragraph 4 hereof, any of the following will be "Events of Default" under this Agreement:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder at the time specified herein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in paragraph (a) above, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to Lessee by Lessor, unless Lessor will agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance will prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(d) Any provision of this Agreement will at any time for any reason cease to be valid and binding on Lessee, or will be declared to be null and void, or the validity or enforceability thereof will be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee will deny that it has any further liability or obligation under this Agreement;

(e) Lessee will (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of Lessee's assets, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any

answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(f) An order, judgment or decree will be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of Lessee's assets, in each case without its application, approval or consent, and such order, judgment or decree will continue unstayed and in effect for any period of 30 consecutive days.

27. Remedies on Default. Whenever any Event of Default exists, Lessor will have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps: (a) by written notice to Lessee, Lessor may declare all Rental Payments and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term to be due; (b) with or without terminating this Agreement, Lessor may enter the premises where the Equipment is located and retake possession of the Equipment or require Lessee at Lessee's expense to promptly return any or all of the Equipment to the possession of Lessor at a place specified by Lessor, and sell or lease the Equipment or, for Lessee's account, sublease the Equipment, holding Lessee liable for the difference between (i) the Rental Payments and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term, and (ii) the net proceeds of any such sale, lease or sublease (after deducting all expenses of Lessor in exercising its remedies under this Agreement, including without limitation, all expenses of taking possession, storing, reconditioning and selling or leasing the Equipment and all brokerage, auctioneers' and attorneys' fees); and (c) Lessor may take whatever other action at law or in equity may appear necessary or desirable to enforce its rights as the owner of the Equipment. In addition, Lessee will remain liable for all covenants and indemnities under this Agreement and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

28. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy will be cumulative and will be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it hereunder, it will not be necessary to give any notice, other than such notice as may specifically be required in this Agreement.

29. Termination of Lease Term. The Lease Term will terminate upon the earliest of any of the following events: (a) the expiration of the Original Term or any Renewal Term of this Agreement and the nonrenewal of this Agreement in the event of nonappropriation of funds pursuant to paragraph 4 hereof; (b) the exercise by Lessee of the option to purchase the Equipment granted under paragraph 23 hereof and payment of the Purchase Price and all amounts payable

in connection therewith; (c) a default by Lessee and Lessor's election to terminate this Agreement under paragraph 27 hereof; or (d) the payment by Lessee of all Rental Payments authorized or required to be paid by Lessee hereunder during the Maximum Lease Term.

30. Notices. All notices, certificates or other communications hereunder will be sufficiently given and will be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto will designate in writing to the other for notices to such party), to any assignee at its address as it appears on the register maintained by Lessee.

31. Binding Effect. This Agreement will inure to the benefit of and will be binding upon Lessor and Lessee and their respective successors and assigns.

32. Severability. In the event any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

33. No Other Agreements. ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE, REGARDLESS OF THE LEGAL THEORY UPON WHICH IT IS BASED THAT IS IN ANY WAY RELATED TO THE CREDIT AGREEMENT. TO PROTECT LESSEE AND LESSOR FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS REACHED COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN LESSEE AND LESSOR, EXCEPT AS LATER AGREED IN WRITING.

34. Amendments. This Agreement may be amended, changed or modified in any manner only by written agreement of Lessor and Lessee. Any waiver of any provision of this Agreement or any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

35. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

36. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

37. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of Missouri.

38. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

39. Effective Date. This Agreement will be effective as of the date first written above.

CERTIFICATION OF CLERK OR SECRETARY OF LESSEE

I, the undersigned, being the duly appointed or elected clerk or secretary of Lessee, do hereby certify that the officer of Lessee who executed the foregoing Agreement on behalf of Lessee and whose genuine signature appears thereon, is the duly qualified and acting officer of Lessee as stated beneath his or her signature and has been authorized by to execute the foregoing Agreement on behalf of Lessee.

DATED: _____

By: _____
Printed Name: Pam Meyer
Title: City Clerk

Legal Name of Lessee	Federal Tax I.D. No.
City of Ste. Genevieve	43-6003164
Legal Name of Lessor	
First State Community Bank	

EXHIBIT A TO TAX-EXEMPT EQUIPMENT LEASE PURCHASE AGREEMENT

Dated as of October 5, 2023

SCHEDULE OF EQUIPMENT

The Equipment leased pursuant to this Agreement includes each vehicle listed below, and all additions, attachments and accessions thereto and substitutions therefor and proceeds therefrom:

Equipment Description (make, model, etc.)	Serial Number/VIN	Location of Primary Use/Garaging	Vendor Name & Address
2023 Dodge Durango	See Payment Request Form	City of Ste. Genevieve	Landmark Dodge
2024 Chevrolet Silverado	See Payment Request Form	City of Ste. Genevieve	Don Brown Chevrolet
Vehicle Upfittings			Public Safety Upfitters
Vehicle Lettering			High Caliber Graphics
Additional upfitting equipment			

_____ (initialed by Lessee's authorized representative)

Legal Name of Lessee	Federal Tax I.D. No.
City of Ste. Genevieve	43-6003164
Legal Name of Lessor	
First State Community Bank	

EXHIBIT B TO TAX-EXEMPT EQUIPMENT LEASE PURCHASE AGREEMENT

Dated as of October 5, 2023

PAYMENT SCHEDULE

(To be updated by Lessor as of the Commencement Date)

Commencement Date: October 12, 2023 *(The Commencement Date is the date on which (a) funds in an amount equal to the Acquisition Amount are either advanced to the Vendor of the Equipment or deposited in the account established and held pursuant to an Account Control Agreement (referenced in the Agreement), and (b) Lessee's obligation to pay Rental Payments commences.)*

Acquisition Amount: \$113,120.00

Interest Rate: The Interest Rate used to calculate Interest Portions of Rental Payments is 6.230% (based upon an actual/360 day-count), subject to increase upon a Determination of Taxability, as described in the following paragraph:

Increased Interest Rate Upon Determination of Taxability: Notwithstanding anything in the Agreement to the contrary, Lessee agrees that, upon a Determination of Taxability, Rental Payments shall be adjusted to reflect that the Interest Rate used to calculate Interest Portions of Rental Payments will be increased by 100 basis points retroactive to the date that, according to the Determination of Taxability, the Interest Portions of Rental Payments are no longer excludable from gross income for federal income tax purposes. Lessee agrees to promptly acknowledge an amended Payment Schedule. "Determination of Taxability" means (a) a determination by the commissioner or any district director of the Internal Revenue Service, (b) a determination by any court of competent jurisdiction, or (c) receipt by Lessee or Lessor of an opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor that the Interest Portions of the Rental Payments is includible in gross income for federal income tax purposes of Lessor; provided, however, that no such Determination of Taxability under clause (a) or (b) shall be deemed to have occurred if Lessee has been afforded the opportunity to contest such determination, has elected to contest such determination in good faith and is proceeding with all reasonable dispatch to prosecute such contest until the earlier of (i) a final determination from which no appeal may be taken with respect to such determination or (ii) abandonment of such appeal by Lessee.

Payment Dates and Amounts: Rental Payments are due, subject to paragraph 4 of the Agreement, on the dates and in the amounts shown on the attached "Amortization Schedule." The term "Purchase Price" (as used in the Agreement), for an applicable Payment Date, refers to the Remaining Balance shown on the Amortization Schedule, after applying the Rental Payment due on the corresponding Payment Date.

Lessee's Billing Address:
City of Ste. Genevieve
165 S 4th Street
Ste. Genevieve, MO 63670
Attn: City Clerk

Lessor's Payment Address:
First State Community Bank
201 E. Columbia
Farmington, MO 63640
Attn: Government Lending Department

The undersigned acknowledge the above provisions and the attached Amortization Schedule *(which has been initialed by Lessee's representative):*

LESSEE SIGNATURE	Lessee: City of Ste. Genevieve
	By: _____
	Printed Name: <u>Happy Welch</u>
	Title: <u>City Administrator</u>

LESSOR SIGNATURE	Lessor: First State Community Bank
	By: _____
	Printed Name: <u>Nikki Jarrett</u>
	Title: <u>Support Services Officer</u>

City of Ste. Genevieve

\$113,120.00

Schedule of Lease Payments

<u>Payment Date</u>	<u>Principal</u>	<u>Rate</u>	<u>Interest</u>	<u>Total P&I</u>
10/12/2023				
10/12/2024	19,926.29	6.23%	7,164.83	27,091.12
10/12/2025	21,204.52	6.23%	5,886.60	27,091.12
10/12/2026	22,543.90	6.23%	4,547.22	27,091.12
10/12/2027	23,967.89	6.23%	3,123.23	27,091.12
10/12/2028	25,477.40	6.23%	1,613.72	27,091.12
Total	113,120.00		22,335.60	135,455.60

Initials _____

Legal Name of Lessee	Federal Tax I.D. No.
City of Ste. Genevieve	43-6003164
Legal Name of Lessor	
First State Community Bank	

EXHIBIT C TO TAX-EXEMPT EQUIPMENT LEASE PURCHASE AGREEMENT
Dated as of October 5, 2023

ACCOUNT CONTROL AGREEMENT

Legal Name of Deposit Bank	Deposit Bank's ABA Number	
First State Community Bank	081918425	
Account Name		
Acquisition Account for Equipment Lease Purchase Agreement		
Commencement Date	Account No.	Amount of Initial Deposit
October 12, 2023		\$113,120.00

TERMS AND CONDITIONS

1. Incorporation into the Agreement. This Account Control Agreement is among the Lessee and the Lessor and Deposit Bank identified above, and relates to and is made a part of the Tax-Exempt Equipment Lease Purchase Agreement (the "Agreement") dated as of the Commencement Date shown above between Lessor and Lessee. *Except as otherwise defined herein, all terms defined in the Agreement will have the same meaning for the purposes of this Account Control Agreement as in the Agreement.*

2. Establishment and Maintenance of Account. Deposit Bank has agreed to establish and maintain for Lessee, the Acquisition Account identified above.

3. Security Interest. As collateral security for the obligations and liabilities of Lessee under the Agreement, Lessee has and hereby does grant to Lessor, a present and continuing security interest in the following, or proceeds thereof: (a) the Acquisition Account, and (b) all contract rights, claims and privileges in respect of the Acquisition Account, and all proceeds of the foregoing, and Deposit Bank acknowledges that this Account Control Agreement constitutes notice of Lessor's security interest in such collateral and does hereby consent thereto.

4. Control of Account. In order to give Lessor control over the Acquisition Account, as control is defined in the Uniform Commercial Code, Lessee and Deposit Bank agree that no withdrawals may be made from the Acquisition Account, without written approval by Lessor. Deposit Bank agrees to comply with any and all instructions (the "Instructions") from time to time originated by Lessor directing disposition of funds in the Acquisition Account, without further consent by Lessee. Deposit Bank further agrees that it will institute procedures to prevent Lessee from making withdrawals from the Acquisition Account, without approval of Lessor. The parties hereto agree that (i) the Instructions may include, without limitation, the giving of stop payment orders and may further include instructions to transfer funds to or for Lessor's benefit and (ii) Deposit Bank shall have no duty to inquire or determine whether Lessor is entitled, under the Agreement, to give any Instructions. Lessee hereby agrees that Deposit Bank shall be entitled to rely on any Instructions, as set forth herein, even if (i) the Instructions are contrary to any instructions or demands that Lessee may deliver to Deposit Bank and/or (ii) a result of such Instructions is the dishonoring by Deposit Bank of items which may be presented for payment.

5. In accordance with the Agreement, Lessor will deposit in the Acquisition Account the Amount of Initial Deposit specified above. Moneys

held by Deposit Bank hereunder will be held in accordance with the Arbitrage Instructions attached as Schedule 1 to this Account Control Agreement, in an FDIC-insured account, fully collateralized as required by Missouri law for deposits of public funds. All interest and gain earned on deposits in the account will be deposited in the Acquisition Account.

6. Moneys in the Acquisition Account will be used to pay for the cost of acquisition of the Equipment listed in the Agreement. Such payment will be made from the Acquisition Account upon presentation to Deposit Bank of one or more properly executed Payment Request, a form of which is attached to this Account Control Agreement as **Schedule 2**, executed by Lessee, and consented to by Lessor, together with an invoice for the cost of the acquisition of said Equipment. In making any disbursement pursuant to this paragraph 6, Deposit Bank may conclusively rely as to the completeness and accuracy of all statements in such Payment Request and Acceptance Certificate, and Deposit Bank will not be required to make any inquiry, inspection or investigation in connection therewith. The submission of each Payment Request and Acceptance Certificate will constitute unto Deposit Bank and Lessor an irrevocable determination by Lessee that all conditions precedent to the payment of the amounts set forth therein have been completed.

7. The Acquisition Account will terminate upon the occurrence of the earlier of (a) the presentation a Payment Request and Acceptance Certificate, properly executed by Lessee, certifying that all of the Equipment has been accepted, or (b) the presentation of written notification by Lessor that the Agreement has been terminated pursuant to paragraph 4 or paragraph 26 of the Agreement. Upon termination as described in clause (a) of the previous sentence, any amount remaining in the Acquisition Account will be, *first*, applied to pay all reasonable fees and expenses incurred by Deposit Bank in connection with this Account Control Agreement, as evidenced by its statement forwarded to Lessor and Lessee, and, *second*, paid to Lessor, for application against the outstanding principal portion of Rental Payments under the Agreement, as provided therein, unless Lessor consents that payment of such amount be made in such other manner requested by Lessee, so long as Lessee delivers to Lessor an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, that such alternative disposition will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is used to prepay principal, the Rental Payment Schedule attached to the Agreement

will be revised accordingly as specified by Lessor. Upon termination as described in clause (b) of the first sentence of this paragraph, any amount remaining in the Acquisition Account will immediately be paid to Lessor.

8. Deposit Bank may at any time resign by giving at least 30 days' written notice to Lessee and Lessor, but such resignation will not take effect until the appointment of a successor Deposit Bank. The substitution of another Deposit Bank or trust company to act as Deposit Bank under this Account Control Agreement may occur by written agreement of Lessor and Lessee. In addition, Deposit Bank may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of Deposit Bank, a successor Deposit Bank will be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Deposit Bank will indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Deposit Bank. Thereupon such successor Deposit Bank will, without any further act or deed, be fully vested with all the powers, rights, duties and obligations of Deposit Bank under this Account Control Agreement and the predecessor Deposit Bank will deliver all moneys and securities held by it under this Account Control Agreement to such successor Deposit Bank whereupon the duties and obligations of the predecessor Deposit Bank will cease and terminate. If a successor Deposit Bank has not been so appointed with 90 days of such resignation or removal, Deposit Bank may petition a court of competent jurisdiction to have a successor Deposit Bank appointed.

9. Any corporation or association into which Deposit Bank may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, will be and become successor Deposit Bank hereunder and will be vested with all the powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

10. Deposit Bank incurs no responsibility to make any disbursements pursuant to this Account Control Agreement, except from funds held in the Acquisition Account. Deposit Bank makes no representations or warranties as to the title to any Equipment listed in the Agreement or as to the performance of any obligations of Lessor or Lessee.

11. Deposit Bank may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. Deposit Bank will not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of this Account Control Agreement other than its own execution thereof or any instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder will be limited to those specifically provided herein.

12. Unless Deposit Bank is guilty of negligence or willful misconduct with regard to its duties hereunder, Lessee, to the extent permitted by law,

and Lessor jointly and severally hereby agree to indemnify Deposit Bank and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Deposit Bank under this Account Control Agreement; and in connection therewith, to indemnify Deposit Bank against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

13. The aggregate amount of the costs, fees, and expenses of Deposit Bank in connection with the creation of the account described in and created by this Account Control Agreement and in carrying out any of the duties, terms or provisions of this Account Control Agreement is a one-time fee in the amount of \$-0-, to be paid by Lessee concurrently with the execution and delivery of this Account Control Agreement. Notwithstanding the foregoing, Deposit Bank will be entitled to its customary deposit account fees and reimbursement from Lessee of reasonable out-of-pocket, legal or extraordinary expenses incurred in carrying out the duties, terms or provisions of this Account Control Agreement. Claims for such reimbursement may be made to Lessee and in no event will such reimbursement be made from funds held by Deposit Bank pursuant to this Account Control Agreement. Deposit Bank agrees that it will not assert any lien whatsoever on any of the money on deposit in the Deposit Account for the payment of fees and expenses for services rendered by Deposit Bank under this Account Control Agreement or otherwise.

14. If Lessee, Lessor or Deposit Bank are in disagreement about the interpretation of the Lease or this Account Control Agreement, or about the rights and obligations, or the propriety of any action contemplated by Deposit Bank hereunder, Deposit Bank may, but will not be required to, file an appropriate civil action to resolve the disagreement. Deposit Bank will be indemnified by Lessor and Lessee, to the extent permitted by law, for all costs, including reasonable attorneys' fees and expenses, in connection with such civil action, and will be fully protected in suspending all or part of its activities under this Account Control Agreement until a final judgment in such action is received.

15. Deposit Bank may consult with counsel of its own choice and will have full and complete authorization and protection for any action or non-action taken by Deposit Bank in accordance with the opinion of such counsel. Deposit Bank will otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or willful misconduct.

16. This Account Control Agreement will be governed by and construed in accordance with the laws of the State of Missouri.

17. In the event any provision of this Account Control Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

18. This Account Control Agreement may be amended, changed or modified in any manner only by written agreement of Lessor, Deposit Bank and Lessee. Any waiver of any provision of this Account Control Agreement or any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

[Remainder of page intentionally left blank]

19. This Account Control Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

20. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

LESSEE SIGNATURE	Lessee: City of Ste. Genevieve
	By: _____
	Printed Name: _____ Happy Welch
	Title: _____ City Administrator
Notice Address: 165 S 4th Street Ste. Genevieve, MO 63670	

LESSOR SIGNATURE	Lessor: First State Community Bank
	By: _____
	Printed Name: _____ Nikki Jarrett
	Title: _____ Support Services Officer
Notice Address: 201 E. Columbia Farmington, MO 63640	

DEPOSIT BANK SIGNATURE	Deposit Bank: FIRST STATE COMMUNITY BANK
	By: _____
	Printed Name: _____ Scott Williams
	Title: _____ Senior Vice President
Notice Address: 710 Parkwood Dr. Ste. Genevieve, MO 63670	

Legal Name of Lessee	Federal Tax I.D. No.
City of Ste. Genevieve	43-6003164
Legal Name of Lessor	
First State Community Bank	

**SCHEDULE 1
TO ACCOUNT CONTROL AGREEMENT**

ARBITRAGE INSTRUCTIONS AND REPRESENTATIONS

These Arbitrage Instructions provide procedures for complying with § 148 of the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exclusion from federal gross income of the interest portions of the Rental Payments under the Tax-Exempt Equipment Lease Purchase Agreement, dated as of October 5, 2023 (the "Agreement"), between the above-referenced Lessee and Lessor.

1. **Temporary Period/Yield Restriction.** Except as described in this paragraph, money in the Acquisition Account must not be invested at a yield greater than the yield on the Agreement. Proceeds of the Agreement in the Acquisition Account and investment earnings on such proceeds may be invested without yield restriction for three years after the Commencement Date of the Agreement. If any unspent proceeds remain in the Acquisition Account after three years, such amounts may continue to be invested without yield restriction so long as Lessee pays to the IRS all yield reduction payments under § 1.148-5(c) of the Treasury Regulations.

2. **Lease Proceeds Exempt from the Rebate Requirement.**

(a) *The Agreement Qualifies as a Rebate-Exempt Small Issue.* Lessee hereby represents the following:

- (1) Lessee is a governmental unit under State law with general taxing powers;
- (2) the Agreement is not a "private activity bond" as defined in Code § 141;
- (3) 95% or more of the net proceeds of the Agreement are to be used for local governmental activities of Lessee; and

(4) the aggregate face amount of all tax-exempt bonds and obligations (other than private activity bonds), and qualified tax credit bonds as defined in Code § 54A(d)(1) to be issued by Lessee during the calendar year in which the Commencement Date occurs, is not reasonably expected to exceed \$5,000,000. Lessee understands that, for this purpose; (a) Lessee and all entities which issue bonds on behalf of Lessee are treated as a single issuer; (b) all bonds or obligations issued by an entity subordinate to Lessee are treated as issued by Lessee; and (c) bonds or obligations issued by Lessee to currently refund any other bond are not taken into account to the extent that the amount of the refunding bonds does not exceed the outstanding amount of the refunded obligations.

If any tax-exempt bonds or obligations issued or to be issued during the current calendar year are attributable to financing the construction of public school facilities, then Lessee makes the following representations, in lieu of paragraph (4) above:

The aggregate face amount of all tax-exempt bonds and obligations (other than private activity bonds), and qualified tax credit bonds as defined in Code § 54A(d)(1) to be issued by Lessee during the calendar year in which the Commencement Date occurs, is not reasonably expected to exceed the sum of (A) \$5,000,000 plus (B) the lesser of \$10,000,000 or the portion of the face amount of all bonds and other obligations expected to be issued in the calendar year in which the Commencement Date occurs, which will be attributable to the financing of the construction of public school facilities. Lessee understands that, for this purpose; (a) Lessee and all entities which issue bonds on behalf of Lessee are treated as a single issuer; (b) all bonds or obligations issued by an entity subordinate to Lessee are treated as issued by Lessee; and (c) bonds or obligations issued by Lessee to currently refund any other bond are not taken into account to the extent that the amount of the refunding bonds does not exceed the outstanding amount of the refunded obligations. Lessee further understands that the term "construction" generally means capital expenditures incurred to construct, reconstruct, renovate, rehabilitate, or improve buildings or structures, but does not include expenditures to acquire land, any interest in land, or other real property, or to acquire or improve moveable personal property, such as furniture, computers, photocopiers, books, or vehicles.

3. **Opinion of Special Tax Counsel.** These Arbitrage Instructions may be modified or amended in whole or in part upon receipt of an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations, satisfactory to Lessor, that such modifications and amendments will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes.

* * *

Legal Name of Lessee	Federal Tax I.D. No.
City of Ste. Genevieve	43-6003164
Legal Name of Lessor	
First State Community Bank	

**SCHEDULE 2
TO ACCOUNT CONTROL AGREEMENT**

FORM OF PAYMENT REQUEST AND ACCEPTANCE CERTIFICATE

To: First State Community Bank, as Deposit Bank
 Attn: Nikki Jarrett, Government Lending Specialist
 (Send by e-mail to njarrett@FSCB.com)

Re: Payment Requested from **Account No.** _____, "**City of Ste. Genevieve**
Acquisition Account for Equipment Lease Purchase Agreement" held pursuant to the Account Control Agreement dated as of
 October 5, 2023, between Lessee and Lessor identified above, and Deposit Bank (the "*Deposit Bank*")

Ladies and Gentlemen:

Deposit Bank is hereby requested to pay from the Acquisition Account to the person or corporation designated below as Payee, the sum set forth below in payment of a portion or all of the cost of the Acquisition Cost of the Equipment, as described below. The amount shown below is due and payable under the invoice of the Payee **attached hereto** with respect to the cost of the acquisition and installation of the Equipment, and has not formed the basis of any prior request for payment.

The Equipment described below is part or all of the property described on the Equipment Schedule attached as Exhibit A to the Tax-Exempt Equipment Lease Purchase Agreement dated as of October 5, 2023 (the "*Agreement*") described in the Account Control Agreement.

Payee Name and Address & Description of Cost Paid	Amount to be Paid	Payment Delivery Instructions (if not provided on attached invoice)
First State Community Bank Filing Fees for UCC, Notice of Lien and IRS Form 8038-G	\$120.00	

Lessee hereby certifies and represents to and agrees with Lessor and Deposit Bank as follows:

- (1) (a) The Equipment described herein has been delivered, installed and accepted on the date hereof, or (b) the amount requested is in payment of closing costs relating to the Agreement.
- (2) If (1)(a) is applicable, Lessee has conducted such inspection and/or testing of said Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts said Equipment for all purposes.
- (3) If (1)(a) is applicable, Lessee is currently maintaining the insurance coverage required by paragraph 14 of the Agreement.
- (4) No event or condition that constitutes, or with notice or lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

DATED: _____

LESSEE SIGNATURE	Lessee: City of Ste. Genevieve
	By: _____
	Name: <u>Happy Welch</u>
	Title: <u>City Administrator</u>

LESSOR APPROVAL OF PAYMENT	Lessor: First State Community Bank
	By: _____
	Name: <u>Nikki Jarrett</u>
	Title: <u>Support Services Officer</u>

[Attach Invoice(s) to be Paid]

EXHIBIT D TO TAX-EXEMPT EQUIPMENT LEASE PURCHASE AGREEMENT
Dated as of October 5, 20

COPY OF AUTHORIZING RESOLUTION OR ORDINANCE APPROVED BY LESSEE'S GOVERNING BODY
(per paragraph 5)

(Attach approved and signed authorizing resolution or ordinance, in substantially the form attached.)

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
 ► See separate instructions.
Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name City of Ste. Genevieve		2 Issuer's employer identification number (EIN) 43-6003164
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) 165 S 4th Street	Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Ste. Genevieve, MO 63670		7 Date of issue 10/12/2023
8 Name of issue Tax-Exempt Equipment Lease Purchase Agreement dated October 5, 2023		9 CUSIP number None
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Happy Welch, City Administrator		10b Telephone number of officer or other employee shown on 10a 573-883-5400

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.		
11 Education		
12 Health and hospital		
13 Transportation	113,120	00
14 Public safety		
15 Environment (including sewage bonds)		
16 Housing		
17 Utilities		
18 Other. Describe ►		
19 If obligations are TANs or RANs, check only box 19a		<input type="checkbox"/>
If obligations are BANs, check only box 19b		<input type="checkbox"/>
20 If obligations are in the form of a lease or installment sale, check box		<input type="checkbox"/>

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	10/12/2028	\$ 113,120	\$ 113,120	3.1226 years	6.2266 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)		
22 Proceeds used for accrued interest		
23 Issue price of entire issue (enter amount from line 21, column (b))	113,120	00
24 Proceeds used for bond issuance costs (including underwriters' discount)	120	00
25 Proceeds used for credit enhancement		
26 Proceeds allocated to reasonably required reserve or replacement fund		
27 Proceeds used to currently refund prior issues		
28 Proceeds used to advance refund prior issues		
29 Total (add lines 24 through 28)	120	00
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	113,000	00

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.	
31 Enter the remaining weighted average maturity of the bonds to be currently refunded	_____ years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	_____ years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	_____
34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)	_____

Part VI Miscellaneous

- | | | |
|------------|--|--|
| 35 | | |
| 36a | | |
| 37 | | |
- 35** Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)
 - 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)
 - b** Enter the final maturity date of the GIC ▶ _____
 - c** Enter the name of the GIC provider ▶ _____
 - 37** Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units
 - 38a** If this issue is a loan made from the proceeds of another tax-exempt issue, check box and enter the following information:
 - b** Enter the date of the master pool obligation ▶ _____
 - c** Enter the EIN of the issuer of the master pool obligation ▶ _____
 - d** Enter the name of the issuer of the master pool obligation ▶ _____
 - 39** If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box
 - 40** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box
 - 41a** If the issuer has identified a hedge, check here and enter the following information:
 - b** Name of hedge provider ▶ _____
 - c** Type of hedge ▶ _____
 - d** Term of hedge ▶ _____
 - 42** If the issuer has superintegrated the hedge, check box
 - 43** If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box
 - 44** If the issuer has established written procedures to monitor the requirements of section 148, check box
 - 45a** If some portion of the proceeds was used to reimburse expenditures, check here and enter the amount of reimbursement ▶ _____
 - b** Enter the date the official intent was adopted ▶ _____

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	Signature of issuer's authorized representative	Date	Happy Welch, City Administrator	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Nicole Jarrett			PTIN P03007890
	Firm's name ▶ First State Community Bank	Firm's EIN ▶ 43-0688689		Phone no. ▶ 573-756-4547
	Firm's address ▶ 201 E. Columbia, Farmington, MO 63640			

AGENDA

Work Session

STE. GENEVIEVE BOARD OF ALDERMEN

Thursday – October 12, 2023

#44 Plaza Dr.

Immediately Following 6:00 p.m. Regular Board Meeting

CALL TO ORDER

APPROVAL OF AGENDA

BUSINESS ITEMS

1. **Maple Street Water Main Extension**

ANY OTHER BUSINESS

ADJOURNMENT

Any person requiring special accommodations (i.e. qualified interpreter, large print, hearing assistance) in order to attend the meeting please notify this office at 573-883-5400 no later than forty-eight hours prior to the scheduled commencement of the meeting.

Join us on the Zoom app at:

<https://us02web.zoom.us/j/84811211564?pwd=VnR5QVppTEhYMWYxWGszT2xqTW1YZz09>

Or by phone at (312) 626-6799 Meeting ID: 848 1121 1564 Passcode: 808225

Find the Zoom Link at www.facebook.com/stegenevievecityhall/

Posted 10/9/2023

Happy Welch

Staff Report

October 12, 2023

To: Board of Aldermen
From: Happy Welch
Re: Water Line Extension



Issue:

The Ste. Genevieve R-2 School District is working on plans for the new Early Childhood Center and are working through the necessary utilities for the building. One item they have discovered is the lack of water volume at the end of Maple on the 4 inch main.

The school has requested discussion with the City to look at moving up a future proposed improvement that is in the consolidated plan that includes replacing the 4 inch main with a 6 inch.

Recommendation:

Discuss and determine if the City wishes to expedite this improvement.

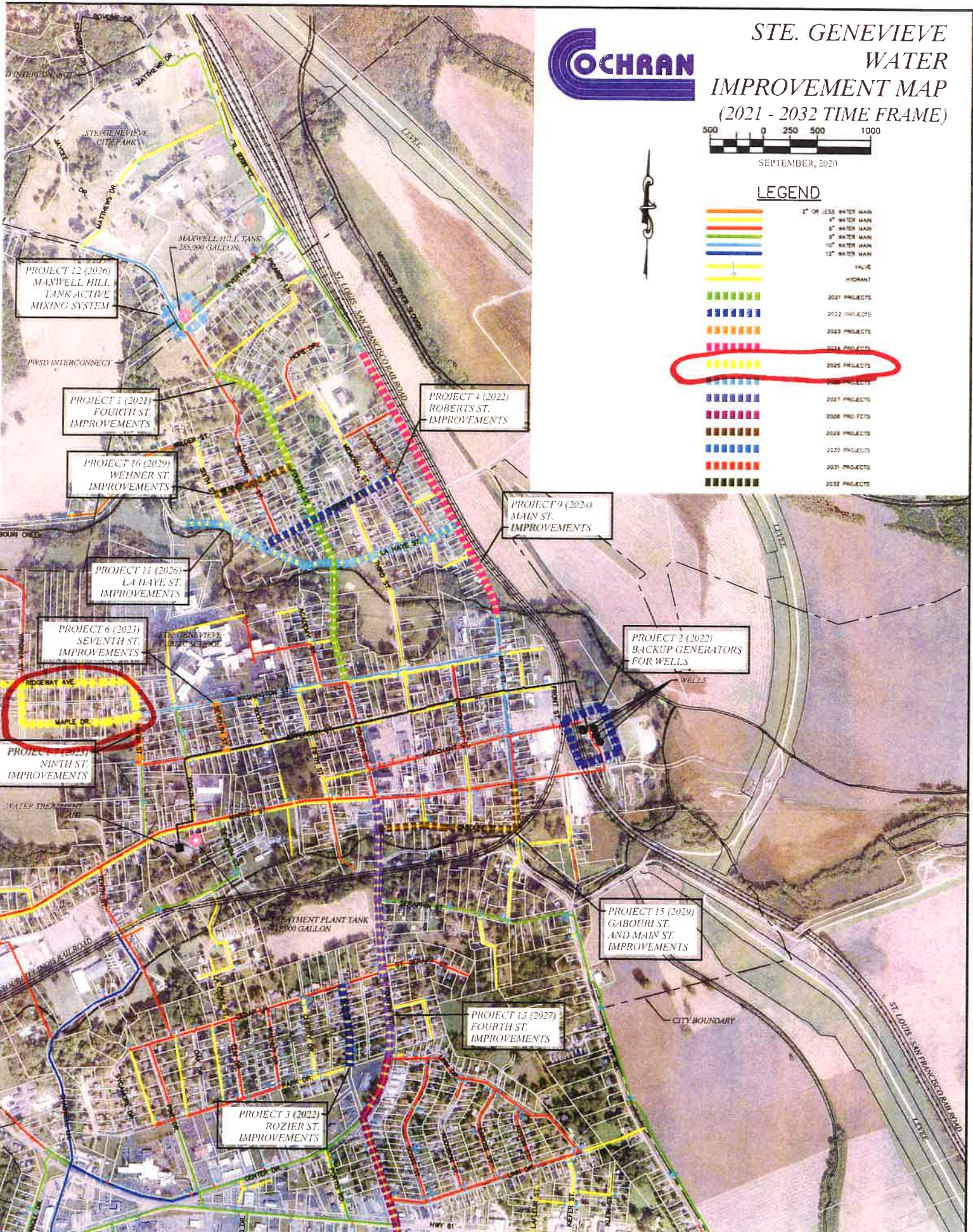
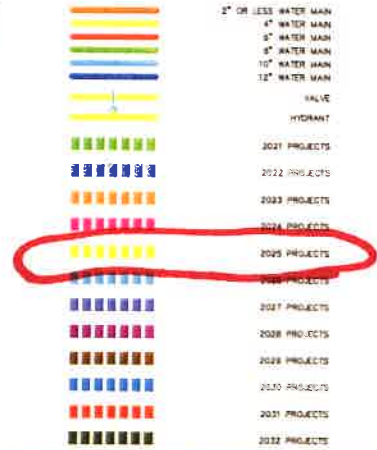


STE. GENEVIEVE WATER IMPROVEMENT MAP (2021 - 2032 TIME FRAME)



SEPTEMBER, 2020

LEGEND





STE. GENEVIEVE COUNTY R-II SCHOOL DISTRICT

375 North Fifth Street • Ste. Genevieve, MO 63670-1249

Phone: 573.883.4500 • Fax: 573.883.5957 • www.sqdragons.org

Dr. Paul Taylor
Superintendent

Dr. Lance McClard
Assistant Superintendent

Dr. Jami Drury
Director of Student Services

Oct. 12, 2023

To the Ste. Genevieve Board of Aldermen:

The Ste. Genevieve County R-II School District community successfully passed a bond issue in April of 2021. Prior to the placement of the bond issue on the ballot, years of planning and community meetings were held to prioritize and plan for the future phases of District improvements. Throughout the process, the committees continued to place the expansion of the District's early childhood education program at the top of the list. After looking at multiple sites and scenarios to accommodate program growth, it was decided that the best solution would be to construct a new Early Childhood Center. The site at Maple Drive and Virginia Street was selected by the District, and the purchase was coordinated with the multiple land owners. This site is ideal for the Early Childhood Center due to its size and proximity to the District's main campus. The site is also large enough to accommodate future growth of the early childhood program, or possibly other District programs or uses.

The new Early Childhood Center will consist of 10 classrooms, increasing the number of children and families that will receive early childhood education and special education services through the District prior to entering kindergarten. The building will also include offices for the early childhood program administration, Parents As Teachers, therapy services and screening services. There will also be a large multipurpose room and kitchen. It is also intended for the Early Childhood Center to provide before and after school care and have the capability to host events in the multipurpose room. The building will total approximately 31,500 square feet.

The District's architect, Kromm, Rikimaru & Johansen, Inc. has involved the design team throughout the design process of the new building to ensure building code compliance. The design team also includes Taylor Engineering and G&W Engineering. The International Building Code 2018, per Section 903, requires that a new educational building, over 12,000 square feet, be equipped with a full building fire sprinkler/suppression system. The 2018 International Building Code is the latest building code adopted by the City of Ste. Genevieve.

Alliance Water has supplied the design team with the water pressure readings for the hydrant adjacent to the site. After analyzing those readings and enlisting the help of the District's Construction Manager at Risk (Brockmiller Construction), it became clear that there was inadequate water volume and pressure to implement a fire sprinkler/suppression system. In addition to a concern for adequate water flow for suppression, there are also concerns about the water pressure for the domestic water service. The existing water main, in Maple Drive, is a 4-inch water line.

DRAGONS: Family • Tradition • Excellence