

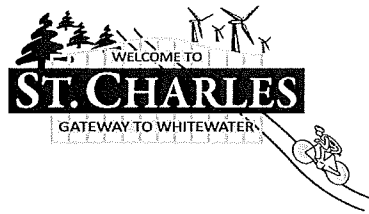


The City Council of the City of St. Charles welcomes you to its Regular Meeting of Tuesday, July 12, 2022 at 6:00 p.m. at 830 Whitewater Avenue, City Council Chambers, St. Charles, Minnesota.

ITEM	ACTION REQUESTED
1. Call to Order	
2. Pledge of Allegiance	
3. July 12, 2022 Agenda	APPROVE
4. Meeting Minutes	APPROVE
-June 14, 2022	
-June 28, 2022	
5. July Payables	APPROVE
6. Notices and Communications (if applicable)	INFORMATION
7. Reports of Boards and Committees:	INFORMATION
7a. Administrator's Report, Nick Koverman	
7b. Public Works Superintendent Report	
7c. Chief of Police Report, Jose Pelaez (TBD)	
7d. Ambulance Report, Josh Smith (TBD)	
7e. Library Board Report, David Kramer	
7f. School Board, John Steffel	
8. Resolution #32-2022 Approving JPA with City of St. Charles on Behalf of its City Attorney and Police Department	
- CJDN Fee Structure	
- Court Data Services Subscriber Amendment	
- State of MN JPA	APPROVE
9. Southfork Subdivision (Walch)-Minor Subdivision DA	APPROVE
10. Riverland Community College Ride-Along Agreement SC Amb.	APPROVE
11. Equipment Loan Agreement-Lewiston	APPROVE
12. Resolution #33-2022 Accepting Bids 2022 Trail Project	APPROVE
13. Resolution #34-2022 Accepting Bids 2022 Whitewater River Restoration	APPROVE
14. Resolution #35-2022 Approving Election Judges	APPROVE
15. Pay Request No. 6—Zenke, Inc. Chat. 2 nd Addition	APPROVE
16. WOW Request—Paint Supplies Little White Church	APPROVE
17. Tuesday, August 9, 2022 Primary Election -Council Date Change	APPROVE

UNSCHEDULED PUBLIC APPEARANCES: Members of the audience may address any item not on the agenda. State Statute prohibits the City Council from discussing an item that is not on the agenda, but the City Council does listen to your concerns and has staff follow up on any questions you raise.

ADJOURNMENT



The City Council of the City of St. Charles welcomes you to its Regular Meeting of Tuesday, July 12, 2022 at 6:00 p.m. at 830 Whitewater Avenue, City Council Chambers, St. Charles, Minnesota.

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ADJOURNMENT

MINUTES of the ST. CHARLES CITY COUNCIL
for Tuesday, June 14, 2022 held at 6:00 p.m. at
830 Whitewater Avenue,
St. Charles, Minnesota

MEMBERS PRESENT:

Councilmen:
Mayor John Schaber
Dave Braun
John Steffel
Wayne Getz
David Kramer

STAFF PRESENT: Melissa Krusmark (City Accountant), Cris Gastner (EDA Director) and Nick Koverman (City Administrator).

OTHERS IN ATTENDANCE: Daren Sikkink (WHKS) and Jack Moyer (WHKS), Mike Bubany (David Drown & Associates), and Kim Irhke (St. Charles Press).

1. ESTABLISH QUORUM/CALL TO ORDER

Quorum was established with Mayor Schaber calling the meeting to order at 6:00 p.m.

2. PLEDGE of ALLEGIANCE

3. APPROVAL of the AGENDA:

Motion to approve the agenda.
Motion to approve: **Dave Braun**
No further discussion.
Motion carried.

4. Meeting Minutes

May 10, 2022
Motion to approve: **John Steffel**
No further discussion.
Motion declared carried.

May 23, 2022
Motion to approve: **David Kramer**
No further discussion.
Motion declared carried.

5. June Payables. No questions were asked.
Motion to approve: **Wayne Getz**
No further discussion.
Motion declared carried.

6. Notices and communications: None.

7. Reports of Boards and Committee: Clm. Braun asked Chief Pelaez about the requirements for ATV permits and requirements of drivers and passengers. Chief relayed the various requirements and that information was going to be presented in various areas as educational updates.

14. Advertisement for Bids-2022 Stream Debris Project. Daren Sikkink of WHKS presented information and plans related to the 2022 Stream Debris Project. Sikkink reviewed the plans and requested permission to advertise for bids for the project. Hearing no further questions, a motion was made to

approve the advertisement for bids that would be opened July 7. A motion was made to approve as requested.

Motion to approve: **Dave Braun**

No further discussion.

Motion declared carried.

8. Public Hearing – Pine Ridge Second Tax Abatement. Mayor Schaber called for a motion to open the public hearing at 6:14 p.m. for the consideration of a tax abatement project.

Motion to approve: **Wayne Getz**

Seconded by: **Dave Braun**

No further discussion.

Motion carried.

Mayor Schaber called for anyone interested to make a comment on the proposed abatement to come forward and state their name and limit their comments to 5 minutes. He called once, twice, three times. Hearing none, he called for a motion to close the public hearing at 6:15 p.m.

Motion to approve: **David Kramer**

Seconded by: **Dave Braun**

No further discussion.

Motion carried.

9. Resolution #21-2022 Tax Abatement. EDA Director Cris Gastner presented information related to the request received from Dan Pearson for tax abatement for the proposed Pine Ridge Second Subdivision. Gastner outlined that this would be the first time consideration for a market rate housing proposal was ever received and recounted the request for TIF for workforce housing and the difference between the two requests. He relayed that over the last several years there are certainly extenuating circumstances that have made a request like this seem reasonable as costs and the economy have certainly played factors, but he reminded that the Council is certainly mindful of encouraging growth. The EDA also considered the request and recommended approval. Gastner highlighted the structure that he had worked with Mike Bubany to present. The proposal would provide 60 percent tax abatement to the developer, but would see 40 percent provided to the city. No county or school tax would be collected as part of this process. The potential abatement would be approximately \$10,000 a lot or a maximum of \$120,000.00. Mike Bubany of David Drown & Associates shared that technically the City is obligated to do another deal like this in the future and there are no legal ramifications. The first year of abatement would be in 2025 and Mr. Bubany relayed that if the abatement reaches the maximum sooner than the 10 years, the abatement would be closed. Conversely, if the maximum amount is not reached in that timeline, the tax abatement is closed irregardless. With no further questions, a motion to approve the proposed tax abatement plan as presented was moved.

Motion to approve: **Wayne Getz**

No further discussion.

Motion carried.

10. Public Hearing for Ordinance #638 Catalytic Converter Theft (1st Reading). A motion to open the public hearing at 6:41 p.m. was moved.

Motion to approve: **Dave Braun**

Seconded: **David Kramer**

No further discussion.

Motion carried.

Mayor Schaber called for anyone interested in speaking on behalf of the proposed ordinance that addresses the possession and theft of catalytic converters to state their name and keep their comments to 5 minutes. He called for comment once, twice, three times. Hearing none he called for a motion to close the public hearing at 6:42 p.m.

Motion to approve: **David Kramer**

Seconded by: **Wayne Getz**

No further discussion.

Motion carried.

11. Ordinance #638 Catalytic Converter (1st Reading). Chief Pelaez presented information on various thefts of catalytic converters and the reasoning behind the need for adopting the proposed ordinance. He outlined other steps that the State has discussed as a way to track and remedy the issue as these types of thefts have been on the rise over the last several years. Hearing no further questions, a motion to approve the first reading was moved.

Motion to approve: **Dave Braun**

No further discussion.

Motion carried.

12. Public Hearing Ordinance #639 Utility Billing Process. A motion to open the public hearing was moved at 6:53 p.m. for consideration of Ordinance #639 Utility Billing Process Language Amendments.

Motion to approve: **David Kramer**

Seconded by: **Wayne Getz**

No further discussion.

Motion carried.

Mayor Schaber called for comments regarding the proposed ordinance and asked that comments be kept to 5 minutes and to state their name and address. He called for comment once, twice, three times. Hearing none, he called for a motion to close the public hearing at 6:54 p.m. A motion was so moved.

Motion to approve: **David Kramer**

Seconded by: **Dave Braun**

No further discussion.

Motion carried.

13. Ordinance #639 Amending Utility Billing (1st Reading). Admin. Koverman highlighted the proposed language changes and noted that in working with the city attorney, it was determined that the current code did not allow for the city's practice of requiring owners of landlands, or representatives to maintain the account in their name when a renter moves out. There were additional changes to the Code that were reviewed and presented. No additional questions were asked and a motion to approve the first reading was moved.

Motion to approve: **Wayne Getz**

No further discussion.

Motion carried.

15. Summer PD Intern Request. Chief Pelaez presented a request to hire John Schmidt as the summer PD intern. Chief Pelaez reviewed his background and education and recommended him for the summer intern position. A motion was made to hire John Schmidt

Motion to approve: **Dave Braun**

No further discussion.

Motion carried.

16. Community Policing Letter Request. Chief Pelaez discussed various community policing initiatives that he has been working on with his department including Nite to Unite, Coffee with a Cop, Christmas with a Cop, and a Citizens Academy just to name a few. While many of the activities are low-cost options, some of the events he is hoping to seek partnerships/sponsorships. He requested permission to draft a letter seeking partnerships/sponsorships for some of the various activities. The Council expressed their support and applauded him for the various initiatives. A motion to approve the community policing request was moved.

Motion to approve: **Dave Braun**

No further discussion.

Motion carried.

17. Project Fine Public Mural Request. Admin. Koverman relayed that as part of Welcoming Week in September, Project Fine would like to paint a 4X8 mural which would be on display. This project was accomplished in Winona and displayed at the Winona County Historical Society Museum and was well received. The Park Board reviewed the request and recommended approval with placement to be found at City Park. Council concurred with the recommendation and a motion was made to approve.

Motion to approve: **John Steffel**
No further discussion.
Motion carried.

18. Accept EDA Resignation-Jon Marley. Mr. Marley submitted his resignation as he will be relocating for family reasons. Mayor Schaber thanked him for his service and a motion to approve his resignation was moved.

Motion to approve: **Dave Braun**
No further discussion.
Motion carried.

19. Tim Gossman-EDA Appointment. Admin. Koverman presented the application for Tim Gossman, who would serve the unexpired term of Marley as the representative from Merchants Bank. The EDA has had representation from both local banks for many years now, which has served the board well. The EDA recommended his appointment. A motion was moved.

Motion to approve: **Wayne Getz**
No further discussion.
Motion carried.

20. LMCIT Insurance Updates. Admin. Koverman provided the Council with a brief update on the various ongoing claims due to hail damage sustained in our area. Estimates will be sought to replace the asphalt shingles on many structures, but any structures with steel roofs were not felt to be damaged significantly enough to warrant replacement. Council concurred with staff's recommendation.

Unscheduled Public Appearances. None.

Motion to adjourn at 7:20 p.m.: **Wayne Getz**
No further discussion.
Motion carried.

ATTEST

John Schaber, Mayor

Nick Koverman, City Administrator

MINUTES of the ST. CHARLES CITY COUNCIL
for Tuesday, June 28, 2022 held at 6:00 p.m. at
830 Whitewater Avenue,
St. Charles, Minnesota

MEMBERS PRESENT:

Councilmen:

Mayor John Schaber (absent)

Dave Braun (absent)

John Steffel

Wayne Getz

David Kramer

STAFF PRESENT: Nick Koverman (City Administrator).

OTHERS IN ATTENDANCE: Kim Irlhke, (St. Charles Press).

1. ESTABLISH QUORUM/CALL TO ORDER

Quorum was established with Clm. Kramer calling the meeting to order at 6:00 p.m.

2. PLEDGE of ALLEGIANCE

3. APPROVAL of the AGENDA:

Motion to approve: **Wayne Getz**

No discussion.

Motion carried.

4. Notices and communications. Admin. Koverman relayed that the pool was going to be closed from 7-9 p.m. on July 4th due to a lack of staff. The fireworks will be held at 10 p.m. on the 4th and all are welcome to attend.

5. Review of Financials. No questions or comments. A motion was made to approve the financials as presented.

Motion to approve: **John Steffel**

No further discussion.

Motion carried.

6. Ordinance #638 Catalytic Converter Theft (2nd Reading). Clm. Kramer asked if there were any questions, comments or concerns. Hearing none, he called for a motion to approve the second reading. A motion was made.

Motion to approve: **Wayne Getz**

No further discussion.

Motion carried.

7. Ordinance #639 Utility Billing Process. Clm. Kramer presented the ordinance for consideration of the second reading and asked if there were any changes, comments or questions. Hearing none, he called for a motion to approve as presented. A motion was made to approve the second reading.

Motion to approve: **John Steffel**

No further discussion.

Motion carried.

8. Agreement for Assessment/Waiver WWIII. Admin. Koverman presented the agreement for assessment/waiver for Whitewater Industrial Park III for Dan Pearson. In consultation with the attorney, it was relayed that while the agreement could include water and sewer access charge fees, including parkland dedication fees was prohibited by Statute and went against City Code as well. Admin. Koverman relayed

that he relayed the information to Dan Pearson, the developer, and that he was understanding. With no further questions, a motion to approve the agreement was moved.

Motion to approve: **Wayne Getz**

No further discussion.

Motion declared carried.

UNSCHEDULED PUBLIC APPEARANCES

Clin. Kramer called for comment once, twice, three times. None.

A motion to adjourn at 6:06 p.m.

Motion to approve: **Wayne Getz**

No further discussion.

Motion carried.

John Schaber, Mayor

ATTEST:

Nick Koverman, City Administrator



Minnesota Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200
St. Paul, MN 55104-3825
(651) 643-3060 • Fax (651) 643-3072
www.post.state.mn.us

June 29, 2022

Nick Koverman, City Administrator
City of St. Charles
830 Whitewater Ave
St. Charles, MN 55972

Dear Mr. Koverman;

The Minnesota Board of Peace Officer Standards and Training (POST Board) is the occupational regulatory agency charged with the vital responsibility of maintaining selection, education and licensing standards for the 415 Minnesota law enforcement agencies that employ over 10,500 peace officers across our state.

While the POST Board performs many functions, a significant portion of the POST's responsibility is dedicated to conducting "compliance reviews" of Minnesota law enforcement agencies to ensure they are meeting legislatively mandated training and department policies on Use of Force/Firearms training, Emergency Vehicle Operation and Pursuit Driving training and mandated departmental policies.

On 6/27/2022, a POST Board Standards Coordinator conducted a review at the St. Charles Police Department. After a comprehensive review of their records concerning mandated employee training and department policies, I am pleased to inform you that your agency **passed the review**.

Ensuring all law enforcement agencies around the state are in compliance plays a pivotal role in maintaining the high level of professionalism we have enjoyed in Minnesota for many years and that professionalism translates into quality law enforcement services for the citizens of Minnesota.

Please take a moment to recognize your police department for this important accomplishment.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Misselt".

Erik Misselt
Executive Director



City Administrator's Report—June 2022

June 1—Mayor Schaber, Cln. Steffel, city attorney Brandon Fitzsimmons held a conference call with IBEW representatives and BMS representatives.

June 2—Attended a Community Leadership Team meeting with Winona County Partnership group.

June 6—Chief Pelaez, EDA Director Cris Gastner, Scott Bunke (PW Foreman), and myself met with a local property owner to discuss potential redevelopment plans for a maintstreet building. The owner is seeking assistance for any grants or funding available for exterior improvements that might be available.

June 8—Held a conference call with Mike Wohlferd of the Water Dept., Cassie Smith and myself along with staff from WHKS as we continue to understand the requirements for the Lead Copper Standards requirement that is being mandated by federal and state regulators. More information will be presented at a later date.

June 13—Met with vendor from Metron Solutions to investigate options for a possible service for water/electric meters to better capture and dispense data.

June 14-Council

June 16—Attended the CEDA annual meeting

June 21—Met with Sheila Harmes, the Winona County Water Planner, to discuss the goals and mission of storm water planning. Additional meetings are being scheduled as the plan is being updated.

June 29—Attended the SEMLM quarterly meeting in Blooming Prairie.

Public Works Report – June 2022

- Turned water on at Track and Field; delivered valve to concrete crew; hauled dirt: fixed leak & chlorine in well # 3; checked a few houses for leaks; lead & copper meeting: picked up pea rock in Winona; seeded behind city hall & alleys; cleaned south forklift station; set up shop for water school & attended water school; fixed chlorine line & changed cylinder at pool; cleaned truck; cleaned up trees on Wabasha (sprayed stumps); hauled compost; fixed Dave Braun's cable to pit meter
- 906, 907, 813, 837 East Ave disconnect and reconnect electric; make up elbows for Soppa Dr, Terry Dr, 20th St, Don Dr, Hillcrest Dr, Brownell St; make up riser pole; water & sewer inspection; Energize new wire/cut old wire down; meeting with Dunn Black Top; I-90 dirt work; call out to lift station; looking at projects; safety meeting with Gary; South Fork power plant substation digging wire, cover up, & set basement/Junction; dirt work (Stumps); setback inspection; bad underground light 74/1st; walk through generators with Gary; St. Charles Ave sewer line check; WHKS Rochester meeting about CIP;
- Ziegler maintenance (powerplant, substation, lift station, run generators); fix water issues from black topping alley; evaluating trees to cut; fixed wash out on bike path; fixed black top in Alley by White Pebble; 9th St alley fixing drain storm sewer; water complaint Whispering Hills; mowing (including poison hemlock); hydro & silt seed; clear out 7th St boulevard trees; clean ditch Wabasha Ave; drainage inspection; 414 Northern Hills Trail (curb stop); sewer check on Church Ave; 20th Street dirt and sand easement; black topping prep; weeds & drainage ditches: work on equipment; Fence/deck permits
- Safety inspection with Mark Hottle; compost piles; work on underground project on Brownell St; Work with Gary MMUA on generator run sheets; converted temporary electric to permanent at 1931 & 1937 Brownell St; cut trees at substation; run small gen sets; paperwork at power plant; spray weeds at city shop; cut brush at substation; cut grass at power plant; work with Gary at city shop; work on mapping with Gary
- Storm clean-up; dirt work at Bible Church, park and ride, 825 East 13th; Seeded park and ride, old shop, industrial park; direct traffic for senior parade; Sweep curbs; haul trees & compost; spray grease loader truck; patch blacktop
- Help Red Soppa on 20th, make tree path, & on hill; move table and chairs; locate for stop sign; put starter in grader; changed oil in truck; help Kurt on 11th; sweep and move rock pile; measure catch basin; check manholes, fix door at city hall; change gutter brooms, weed eat waterway; check well; black dirt on 11th St

- Power plant training; materials review, quotes and ordering; unload poles; call on damaged delivery; disconnect and final electric meter at 3 Lawrence Ln; disconnect and reconnect overhead service; stake manholes in the south Whitewater jungle; clean & stock truck; review 2022 bid list and email vendors; power plant black start instructions; download and print sub reclosure amps; talk with business manager and resident about weed issue around electrical equipment; cut weeds; South Wabasha tree clean up; meet with Resco rep on materials cabs; reattach meter socket, load and set transformer at South Fork; change out HPS to LED street lights; install new black street light at 20th St.; fix traffic light; start working on 2 year electrical tax rebate
- Daily/weekly/monthly - Utility locates; monthly rubber goods inventory and testing; MMUA safety meeting; ran power plant for monthly exercise; repaired street lights; located property pins; delivered disconnect notices and disconnected/reconnected electric meters for City Hall; daily Well checks; lift station and booster station checks; water samples; substation reporting; meter finals; checked and replaced water meters

**City of St. Charles
RESOLUTION #32-2022**

RESOLUTION APPROVING STATE OF MINNESOTA JOINT POWERS AGREEMENTS WITH THE CITY OF ST. CHARLES ON BEHALF OF ITS CITY ATTORNEY AND POLICE DEPARTMENT

WHEREAS, the City of St. Charles on behalf of its Prosecuting Attorney and Police Department desires to enter into Joint Powers Agreements with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension to use systems and tools available over the State's criminal justice data communications network for which the City is eligible. The Joint Powers Agreements further provide the City with the ability to add, modify and delete connectivity, systems and tools over the five year life of the agreement and obligates the City to pay the costs for the network connection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of St. Charles, Minnesota as follows:

1. That the State of Minnesota Joint Powers Agreements by and between the State of Minnesota acting through its Department of Public Safety, Bureau of Criminal Apprehension and the City of St. Charles on behalf of its Prosecuting Attorney and Police Department, are hereby approved.
2. That the Chief of Police, Jose Pelaez, or his or her successor, is designated the Authorized Representative for the Police Department. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.
3. That the Winona County Attorney, Karin Sonneman, or his or her successor, is designated the Authorized Representative for the Prosecuting Attorney. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.
4. That John Schaber, the Mayor for the City of St. Charles, and Nick Koverman, the City Administrator, are authorized to sign the State of Minnesota Joint Powers Agreements.

Adopted this 12th day of July, 2022 by the City Council of the City of St. Charles.

CITY OF ST. CHARLES

John Schaber, Mayor

ATTEST:

By: Nick Koverman, City Administrator

CJDN Fee Structure

Effective July 2018

Statements:

All agencies receiving data from the BCA or through the BCA will be charged at least \$50 per-month. (Regardless if they are connected directly to us or not)

Current paying agencies will continue to pay their current monthly fee regardless of the method of connection. (Exception: See VPN agency charges below)

New agencies will pay \$50 per-month.

Agencies that are currently not paying any fees will be charged \$50 per-month.

VPN agencies will pay \$50 per-month plus \$15.00 per-fob p/m (for CJA & Private Law Firm) or \$35 per-fob p/m (for NCJA).

\$100 one-time charge plus \$100.00 fob replacement charge (fobs have a 4-5 year renewal cycle).

* BCA Master Agreement with Agency will have language added to reflect Agency/PLF arrangement. Agreement will also allow PLF to support multiple agencies with single connection.

Connection types:

- 1. VPN – Site-Site Connection directly to BCA**
- 2. Direct (CJDN connection)**
(Additional MN-IT billing is direct to agency upon BCA approving MN-IT CJDN WAN Agreement
Agency shall have an appropriate agreement (Management Control Agreement with MN.IT))
- 3. Shared – Agency shares connection with another BCA connected agency**
(Agencies are advised to put in place an interagency Agreement (sometimes referred to as downstream agency or agency sitting behind another agency agreement).)
- 4. Extended – Extending a network connection from a BCA connected agency to an existing agency.**
(Agencies are advised to put in place an interagency Agreement (sometimes referred to as downstream agency or agency sitting behind another agency agreement).)

COURT DATA SERVICES SUBSCRIBER AMENDMENT TO CJDN SUBSCRIBER AGREEMENT

This Court Data Services Subscriber Amendment (“Subscriber Amendment”) is entered into by the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension, (“BCA”) and the City of St Charles on behalf of its Police Department (“Agency”), and by and for the benefit of the State of Minnesota acting through its State Court Administrator’s Office (“Court”) who shall be entitled to enforce any provisions hereof through any legal action against any party.

Recitals

This Subscriber Amendment modifies and supplements the Agreement between the BCA and Agency, SWIFT Contract number 212481, of even or prior date, for Agency use of BCA systems and tools (referred to herein as “the CJDN Subscriber Agreement”). Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes this Subscriber Amendment. The Agency desires to use one or more BCA systems and tools to access and/or submit Court Records to assist the Agency in the efficient performance of its duties as required or authorized by law or court rule. Court desires to permit such access and/or submission. This Subscriber Amendment is intended to add Court as a party to the CJDN Subscriber Agreement and to create obligations by the Agency to the Court that can be enforced by the Court. It is also understood that, pursuant to the Master Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA, the BCA is authorized to sign this Subscriber Amendment on behalf of Court. Upon execution the Subscriber Amendment will be incorporated into the CJDN Subscriber Agreement by reference. The BCA, the Agency and the Court desire to amend the CJDN Subscriber Agreement as stated below.

The CJDN Subscriber Agreement is amended by the addition of the following provisions:

1. **TERM; TERMINATION; ONGOING OBLIGATIONS.** This Subscriber Amendment shall be effective on the date finally executed by all parties and shall remain in effect until expiration or termination of the CJDN Subscriber Agreement unless terminated earlier as provided in this Subscriber Amendment. Any party may terminate this Subscriber Amendment with or without cause by giving written notice to all other parties. The effective date of the termination shall be thirty days after the other party's receipt of the notice of termination, unless a later date is specified in the notice. The provisions of sections 5 through 9, 12.b., 12.c., and 15 through 24 shall survive any termination of this Subscriber Amendment as shall any other provisions which by their nature are intended or expected to survive such termination. Upon termination, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

2. **Definitions.** Unless otherwise specifically defined, each term used herein shall have the meaning assigned to such term in the CJDN Subscriber Agreement.

a. **“Authorized Court Data Services”** means Court Data Services that have been authorized for delivery to CJDN Subscribers via BCA systems and tools pursuant to an Authorization Amendment to the Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA.

b. **“Court Data Services”** means one or more of the services set forth on the Justice Agency Resource webpage of the Minnesota Judicial Branch website (for which the current address is www.courts.state.mn.us) or other location designated by the Court, as the same may be amended from time to time by the Court.

c. **“Court Records”** means all information in any form made available by the Court to Subscriber through the BCA for the purposes of carrying out this Subscriber Amendment, including:

- i. **“Court Case Information”** means any information in the Court Records that conveys information about a particular case or controversy, including without limitation Court Confidential Case Information, as defined herein.
- ii. **“Court Confidential Case Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that conveys information about a particular case or controversy.
- iii. **“Court Confidential Security and Activation Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that explains how to use or gain access to Court Data Services, including but not limited to login account names, passwords, TCP/IP addresses, Court Data Services user manuals, Court Data Services Programs, Court Data Services Databases, and other technical information.
- iv. **“Court Confidential Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access, including without limitation both i) Court Confidential Case Information; and ii) Court Confidential Security and Activation Information.

d. **“DCA”** shall mean the district courts of the state of Minnesota and their respective staff.

e. **“Policies & Notices”** means the policies and notices published by the Court in connection with each of its Court Data Services, on a website or other location designated by the Court, as the same may be amended from time to time by the Court. Policies & Notices for each Authorized Court Data Service identified in an approved request form under section 3, below, are hereby made part of this Subscriber Amendment by this reference and provide additional terms and conditions that govern Subscriber’s use of Court Records accessed through such services, including but not limited to provisions on access and use limitations.

f. **“Rules of Public Access”** means the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time, including without limitation lists or tables published from time to time by the Court entitled *Limits on Public Access to Case Records or Limits on Public Access to Administrative Records*, all of which by this reference are made a part of this Subscriber Amendment. It is the obligation of Subscriber to check from time to time for updated rules, lists, and tables and be familiar with the contents thereof. It is contemplated that such rules, lists, and tables will be posted on the Minnesota Judicial Branch website, for which the current address is www.courts.state.mn.us.

g. **“Court”** shall mean the State of Minnesota, State Court Administrator's Office.

h. **“Subscriber”** shall mean the Agency.

i. **“Subscriber Records”** means any information in any form made available by the Subscriber to the Court for the purposes of carrying out this Subscriber Amendment.

3. REQUESTS FOR AUTHORIZED COURT DATA SERVICES. Following execution of this Subscriber Amendment by all parties, Subscriber may submit to the BCA one or more separate requests for Authorized Court Data Services. The BCA is authorized in the Master Authorization Agreement to process, credential and approve such requests on behalf of Court and all such requests approved by the BCA are adopted and incorporated herein by this reference the same as if set forth verbatim herein.

a. **Activation.** Activation of the requested Authorized Court Data Service(s) shall occur promptly following approval.

b. **Rejection.** Requests may be rejected for any reason, at the discretion of the BCA and/or the Court.

c. **Requests for Termination of One or More Authorized Court Data Services.** The Subscriber may request the termination of an Authorized Court Data Services previously requested by submitting a notice to Court with a copy to the BCA. Promptly upon receipt of a request for termination of an Authorized Court Data Service, the BCA will deactivate the service requested. The termination of one or more Authorized Court Data Services does not terminate this Subscriber Amendment. Provisions for termination of this Subscriber Amendment are set forth in section 1. Upon termination of Authorized Court Data Services, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

4. SCOPE OF ACCESS TO COURT RECORDS LIMITED. Subscriber's access to and/or submission of the Court Records shall be limited to Authorized Court Data Services identified in an approved request form under section 3, above, and other Court Records necessary for Subscriber to use Authorized Court Data Services. Authorized Court Data Services shall only be used according to the instructions provided in corresponding Policies & Notices or other materials and only as necessary to assist Subscriber in the efficient performance of Subscriber's duties

required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body. Subscriber's access to the Court Records for personal or non-official use is prohibited. Subscriber will not use or attempt to use Authorized Court Data Services in any manner not set forth in this Subscriber Amendment, Policies & Notices, or other Authorized Court Data Services documentation, and upon any such unauthorized use or attempted use the Court may immediately terminate this Subscriber Amendment without prior notice to Subscriber.

5. GUARANTEES OF CONFIDENTIALITY. Subscriber agrees:

a. To not disclose Court Confidential Information to any third party except where necessary to carry out the Subscriber's duties as required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body.

b. To take all appropriate action, whether by instruction, agreement, or otherwise, to insure the protection, confidentiality and security of Court Confidential Information and to satisfy Subscriber's obligations under this Subscriber Amendment.

c. To limit the use of and access to Court Confidential Information to Subscriber's bona fide personnel whose use or access is necessary to effect the purposes of this Subscriber Amendment, and to advise each individual who is permitted use of and/or access to any Court Confidential Information of the restrictions upon disclosure and use contained in this Subscriber Amendment, requiring each individual who is permitted use of and/or access to Court Confidential Information to acknowledge in writing that the individual has read and understands such restrictions. Subscriber shall keep such acknowledgements on file for one year following termination of the Subscriber Amendment and/or CJDN Subscriber Agreement, whichever is longer, and shall provide the Court with access to, and copies of, such acknowledgements upon request. For purposes of this Subscriber Amendment, Subscriber's bona fide personnel shall mean individuals who are employees of Subscriber or provide services to Subscriber either on a voluntary basis or as independent contractors with Subscriber.

d. That, without limiting section 1 of this Subscriber Amendment, the obligations of Subscriber and its bona fide personnel with respect to the confidentiality and security of Court Confidential Information shall survive the termination of this Subscriber Amendment and the CJDN Subscriber Agreement and the termination of their relationship with Subscriber.

e. That, notwithstanding any federal or state law applicable to the nondisclosure obligations of Subscriber and Subscriber's bona fide personnel under this Subscriber Amendment, such obligations of Subscriber and Subscriber's bona fide personnel are founded independently on the provisions of this Subscriber Amendment.

6. APPLICABILITY TO PREVIOUSLY DISCLOSED COURT RECORDS.

Subscriber acknowledges and agrees that all Authorized Court Data Services and related Court Records disclosed to Subscriber prior to the effective date of this Subscriber Amendment shall be subject to the provisions of this Subscriber Amendment.

7. LICENSE AND PROTECTION OF PROPRIETARY RIGHTS. During the term of this Subscriber Amendment, subject to the terms and conditions hereof, the Court hereby grants to Subscriber a nonexclusive, nontransferable, limited license to use Court Data Services Programs and Court Data Services Databases to access or receive the Authorized Court Data Services identified in an approved request form under section 3, above, and related Court Records. Court reserves the right to make modifications to the Authorized Court Data Services, Court Data Services Programs, and Court Data Services Databases, and related materials without notice to Subscriber. These modifications shall be treated in all respects as their previous counterparts.

a. Court Data Services Programs. Court is the copyright owner and licensor of the Court Data Services Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the Court Data Services Programs, and all information contained in documentation pertaining to the Court Data Services Programs, including but not limited to manuals, user documentation, and passwords, are trade secret information of Court and its licensors.

b. Court Data Services Databases. Court is the copyright owner and licensor of the Court Data Services Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the Court Data Services Databases and their structure, sequence and organization, including without limitation data schemas such as the Court XML Schema, are trade secret information of Court and its licensors.

c. Marks. Subscriber shall neither have nor claim any right, title, or interest in or use of any trademark used in connection with Authorized Court Data Services, including but not limited to the marks "MNCIS" and "Odyssey."

d. Restrictions on Duplication, Disclosure, and Use. Trade secret information of Court and its licensors will be treated by Subscriber in the same manner as Court Confidential Information. In addition, Subscriber will not copy any part of the Court Data Services Programs or Court Data Services Databases, or reverse engineer or otherwise attempt to discern the source code of the Court Data Services Programs or Court Data Services Databases, or use any trademark of Court or its licensors, in any way or for any purpose not specifically and expressly authorized by this Subscriber Amendment. As used herein, "trade secret information of Court and its licensors" means any information possessed by Court which derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of Court and its licensors" does not, however, include information which was known to Subscriber prior to Subscriber's receipt thereof, either directly or indirectly, from Court or its licensors, information which is independently developed by Subscriber without reference to or use of information received from Court or its licensors, or information which would not qualify as a trade secret under Minnesota law. It will not be a violation of this section 7, sub-section d, for Subscriber to make up to one copy of training materials and configuration documentation, if any, for each individual authorized to access, use, or configure Authorized Court Data Services, solely for its own use in connection with this Subscriber Amendment. Subscriber will take all steps reasonably necessary to protect the copyright, trade secret, and trademark rights of Court and its licensors and Subscriber will advise its bona fide personnel who are permitted access to any of the Court Data Services Programs and Court Data Services Databases, and trade secret information of Court and its licensors, of the restrictions upon duplication, disclosure and use contained in this Subscriber Amendment.

e. Proprietary Notices. Subscriber will not remove any copyright or proprietary notices included in and/or on the Court Data Services Programs or Court Data Services Databases, related documentation, or trade secret information of Court and its licensors, or any part thereof, made available by Court directly or through the BCA, if any, and Subscriber will include in and/or on any copy of the Court Data Services Programs or Court Data Services Databases, or trade secret information of Court and its licensors and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to Subscriber by Court directly or through the BCA, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

f. Title; Return. The Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration material, if any, and logon account information and passwords, if any, made available by the Court to Subscriber directly or through the BCA and all copies, including partial copies, thereof are and remain the property of the respective licensor. Except as expressly provided in section 12.b., within ten days of the effective date of termination of this Subscriber Amendment or the CJDN Subscriber Agreement or within ten days of a request for termination of Authorized Court Data Service as described in section 4, Subscriber shall either: (i) uninstall and return any and all copies of the applicable Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration materials, if any, and logon account information, if any; or (2) destroy the same and certify in writing to the Court that the same have been destroyed.

8. INJUNCTIVE RELIEF. Subscriber acknowledges that the Court, Court's licensors, and DCA will be irreparably harmed if Subscriber's obligations under this Subscriber Amendment are not specifically enforced and that the Court, Court's licensors, and DCA would not have an adequate remedy at law in the event of an actual or threatened violation by Subscriber of its obligations. Therefore, Subscriber agrees that the Court, Court's licensors, and DCA shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violations or breaches by Subscriber or its bona fide personnel without the necessity of the Court, Court's licensors, or DCA showing actual damages or that monetary damages would not afford an adequate remedy. Unless Subscriber is an office, officer, agency, department, division, or bureau of the state of Minnesota, Subscriber shall be liable to the Court, Court's licensors, and DCA for reasonable attorneys fees incurred by the Court, Court's licensors, and DCA in obtaining any relief pursuant to this Subscriber Amendment.

9. LIABILITY. Subscriber and the Court agree that, except as otherwise expressly provided herein, each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. Liability shall be governed by applicable law. Without limiting the foregoing, liability of the Court and any Subscriber that is an office, officer, agency, department, division, or bureau of the state of Minnesota shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, section 3.376, and other applicable law. Without limiting the foregoing, if Subscriber is a political subdivision of the state of Minnesota, liability of the Subscriber shall be governed by the provisions of Minn. Stat. Ch. 466 (Tort Liability, Political Subdivisions) or other applicable law. Subscriber and Court further acknowledge that the liability, if any, of the BCA is governed by a separate agreement between the Court and the BCA dated December 13, 2010 with DPS-M -0958.

10. AVAILABILITY. Specific terms of availability shall be established by the Court and communicated to Subscriber by the Court and/or the BCA. The Court reserves the right to terminate this Subscriber Amendment immediately and/or temporarily suspend Subscriber's Authorized Court Data Services in the event the capacity of any host computer system or legislative appropriation of funds is determined solely by the Court to be insufficient to meet the computer needs of the courts served by the host computer system.

11. [reserved]

12. ADDITIONAL USER OBLIGATIONS. The obligations of the Subscriber set forth in this section are in addition to the other obligations of the Subscriber set forth elsewhere in this Subscriber Amendment.

a. Judicial Policy Statement. Subscriber agrees to comply with all policies identified in Policies & Notices applicable to Court Records accessed by Subscriber using Authorized Court Data Services. Upon failure of the Subscriber to comply with such policies, the Court shall have the option of immediately suspending the Subscriber's Authorized Court Data Services on a temporary basis and/or immediately terminating this Subscriber Amendment.

b. Access and Use; Log. Subscriber shall be responsible for all access to and use of Authorized Court Data Services and Court Records by Subscriber's bona fide personnel or by means of Subscriber's equipment or passwords, whether or not Subscriber has knowledge of or authorizes such access and use. Subscriber shall also maintain a log identifying all persons to whom Subscriber has disclosed its Court Confidential Security and Activation Information, such as user ID(s) and password(s), including the date of such disclosure. Subscriber shall maintain such logs for a minimum period of six years from the date of disclosure, and shall provide the Court with access to, and copies of, such logs upon request. The Court may conduct audits of Subscriber's logs and use of Authorized Court Data Services and Court Records from time to time. Upon Subscriber's failure to maintain such logs, to maintain accurate logs, or to promptly provide access by the Court to such logs, the Court may terminate this Subscriber Amendment without prior notice to Subscriber.

c. Personnel. Subscriber agrees to investigate, at the request of the Court and/or the BCA, allegations of misconduct pertaining to Subscriber's bona fide personnel having access to or use of Authorized Court Data Services, Court Confidential Information, or trade secret information of the Court and its licensors where such persons are alleged to have violated the provisions of this Subscriber Amendment, Policies & Notices, Judicial Branch policies, or other security requirements or laws regulating access to the Court Records.

d. Minnesota Data Practices Act Applicability. If Subscriber is a Minnesota Government entity that is subject to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, Subscriber acknowledges and agrees that: (1) the Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court; (2) Minn. Stat. section 13.03, subdivision 4(e) requires that Subscriber comply with the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court for access to Court Records provided via the

BCA systems and tools under this Subscriber Amendment; (3) the use of and access to Court Records may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law; and (4) these applicable restrictions must be followed in the appropriate circumstances.

13. FEES; INVOICES. Unless the Subscriber is an office, officer, department, division, agency, or bureau of the state of Minnesota, Subscriber shall pay the fees, if any, set forth in applicable Policies & Notices, together with applicable sales, use or other taxes. Applicable monthly fees commence ten (10) days after notice of approval of the request pursuant to section 3 of this Subscriber Amendment or upon the initial Subscriber transaction as defined in the Policies & Notices, whichever occurs earlier. When fees apply, the Court shall invoice Subscriber on a monthly basis for charges incurred in the preceding month and applicable taxes, if any, and payment of all amounts shall be due upon receipt of invoice. If all amounts are not paid within 30 days of the date of the invoice, the Court may immediately cancel this Subscriber Amendment without notice to Subscriber and pursue all available legal remedies. Subscriber certifies that funds have been appropriated for the payment of charges under this Subscriber Amendment for the current fiscal year, if applicable.

14. MODIFICATION OF FEES. Court may modify the fees by amending the Policies & Notices as provided herein, and the modified fees shall be effective on the date specified in the Policies & Notices, which shall not be less than thirty days from the publication of the Policies & Notices. Subscriber shall have the option of accepting such changes or terminating this Subscriber Amendment as provided in section 1 hereof.

15. WARRANTY DISCLAIMERS.

a. WARRANTY EXCLUSIONS. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED HEREIN, COURT, COURT'S LICENSORS, AND DCA MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, NOR ARE ANY WARRANTIES TO BE IMPLIED, WITH RESPECT TO THE INFORMATION, SERVICES OR COMPUTER PROGRAMS MADE AVAILABLE UNDER THIS AGREEMENT.

b. ACCURACY AND COMPLETENESS OF INFORMATION. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING PARAGRAPH, COURT, COURT'S LICENSORS, AND DCA MAKE NO WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THE COURT RECORDS.

16. RELATIONSHIP OF THE PARTIES. Subscriber is an independent contractor and shall not be deemed for any purpose to be an employee, partner, agent or franchisee of the Court, Court's licensors, or DCA. Neither Subscriber nor the Court, Court's licensors, or DCA shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

17. NOTICE. Except as provided in section 2 regarding notices of or modifications to Authorized Court Data Services and Policies & Notices, any notice to Court or Subscriber

hereunder shall be deemed to have been received when personally delivered in writing or seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at the address set forth on page one of this Agreement or at such other address of which notice has been given in accordance herewith.

18. NON-WAIVER. The failure by any party at any time to enforce any of the provisions of this Subscriber Amendment or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, remedy or option or in any way affect the validity of this Subscriber Amendment. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

19. FORCE MAJEURE. Neither Subscriber nor Court shall be responsible for failure or delay in the performance of their respective obligations hereunder caused by acts beyond their reasonable control.

20. SEVERABILITY. Every provision of this Subscriber Amendment shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Subscriber Amendment so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Subscriber Amendment, and all other provisions shall remain in full force and effect.

21. ASSIGNMENT AND BINDING EFFECT. Except as otherwise expressly permitted herein, neither Subscriber nor Court may assign, delegate and/or otherwise transfer this Subscriber Amendment or any of its rights or obligations hereunder without the prior written consent of the other. This Subscriber Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including any other legal entity into, by or with which Subscriber may be merged, acquired or consolidated.

22. GOVERNING LAW. This Subscriber Amendment shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States and of the State of Minnesota.

23. VENUE AND JURISDICTION. Any action arising out of or relating to this Subscriber Amendment, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. Subscriber hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

24. INTEGRATION. This Subscriber Amendment contains all negotiations and agreements between the parties. No other understanding regarding this Subscriber Amendment, whether written or oral, may be used to bind either party, provided that all terms and conditions of the CJDN Subscriber Agreement and all previous amendments remain in full force and effect except as supplemented or modified by this Subscriber Amendment.

IN WITNESS WHEREOF, the Parties have, by their duly authorized officers, executed this Subscriber Amendment in duplicate, intending to be bound thereby.

1. SUBSCRIBER (AGENCY)

Subscriber must attach written verification of authority to sign on behalf of and bind the entity, such as an opinion of counsel or resolution.

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

Name: KARIN SONNEMAN
(PRINTED)

Signed: Karin Sonneman

Title: Winona County Attorney
(with delegated authority)

Date: 7-6-2022

I, Karin Sonneman, as prosecuting authority for the City of St. Charles do hereby verify that I have authority to sign this Agreement on behalf of the City of St. Charles and I also verify that the Mayor of St. Charles or the City Administrator of St. Charles, Nick Koverman has authority to bind the City of St. Charles to this Agreement upon the Approval and Resolution of the St. Charles City Council. - 7-6-2022

Karin Sonneman
Winona County Attorney
and Prosecution Authority
for the City of St. Charles, MN

2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

3. COMMISSIONER OF ADMINISTRATION delegated to Materials Management Division

By: _____

Date: _____

4. COURTS

Authority granted to Bureau of Criminal Apprehension

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with authorized authority)

Date: _____



State of Minnesota Joint Powers Agreement

This Agreement is between the State of Minnesota, acting through its Department of Public Safety on behalf of the Bureau of Criminal Apprehension ("BCA"), and the City of St Charles on behalf of its Police Department ("Governmental Unit"). The BCA and the Governmental Unit may be referred to jointly as "Parties."

Recitals

Under Minn. Stat. § 471.59, the BCA and the Governmental Unit are empowered to engage in agreements that are necessary to exercise their powers. Under Minn. Stat. § 299C.46, the BCA must provide a criminal justice data communications network to benefit political subdivisions as defined under Minn. Stat. § 299C.46, subd. 2 and subd. 2(a). The Governmental Unit is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in this Agreement. In addition, BCA either maintains repositories of data or has access to repositories of data that benefit authorized political subdivisions in performing their duties. The Governmental Unit wants to access data in support of its official duties.

The purpose of this Agreement is to create a method by which the Governmental Unit has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access.

Agreement

1 Term of Agreement

- 1.1 **Effective Date.** This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2.
- 1.2 **Expiration Date.** This Agreement expires five years from the date it is effective.

2 Agreement Between the Parties

- 2.1 **General Access.** BCA agrees to provide Governmental Unit with access to the Minnesota Criminal Justice Data Communications Network (CJDN) and those systems and tools which the Governmental Unit is authorized by law to access via the CJDN for the purposes outlined in Minn. Stat. § 299C.46.

- 2.2 **Methods of Access.**

The BCA offers three (3) methods of access to its systems and tools. The methods of access are:

- A. **Direct access** occurs when individual users at the Governmental Unit use the Governmental Unit's equipment to access the BCA's systems and tools. This is generally accomplished by an individual user entering a query into one of BCA's systems or tools.
- B. **Indirect Access** occurs when individual users at the Governmental Unit go to another Governmental Unit to obtain data and information from BCA's systems and tools. This method of access generally results in the Governmental Unit with indirect access obtaining the needed data and information in a physical format like a paper report.
- C. **Computer-to-Computer System Interface** occurs when the Governmental Unit's computer exchanges data and information with BCA's computer systems and tools using an interface. Without limitation, interface types include: state message switch, web services, enterprise service bus and message queuing.

For purposes of this Agreement, Governmental Unit employees or contractors may use any of these methods to use BCA's systems and tools as described in this Agreement. Governmental Unit will select a

method of access and can change the methodology following the process in Clause 2.10.

- 2.3 Federal Systems Access.** In addition, pursuant to 28 CFR §20.30-38 and Minn. Stat. §299C.58, BCA may provide Governmental Unit with access to the Federal Bureau of Investigation (FBI) National Crime Information Center.
- 2.4 Governmental Unit Policies.** Both the BCA and the FBI's Criminal Justice Information Systems (FBI-CJIS) have policies, regulations and laws on access, use, audit, dissemination, hit confirmation, logging, quality assurance, screening (pre-employment), security, timeliness, training, use of the system, and validation. Governmental Unit has created its own policies to ensure that Governmental Unit's employees and contractors comply with all applicable requirements. Governmental Unit ensures this compliance through appropriate enforcement. These BCA and FBI-CJIS policies and regulations, as amended and updated from time to time, are incorporated into this Agreement by reference. The policies are available at <https://bcanextest.x.state.mn.us/launchpad/>.
- 2.5 Governmental Unit Resources.** To assist Governmental Unit in complying with the federal and state requirements on access to and use of the various systems and tools, information is available at <https://sps.x.state.mn.us/sites/bcaservicecatalog/default.aspx>. Additional information on appropriate use is found in the Minnesota Bureau of Criminal Apprehension Policy on Appropriate Use of Systems and Data available at <https://bcanextest.x.state.mn.us/launchpad/cjisdocs/docs.cgi?cmd=FS&ID=795&TYPE=DOCS>.
- 2.6 Access Granted.**
- A. Governmental Unit is granted permission to use all current and future BCA systems and tools for which Governmental Unit is eligible. Eligibility is dependent on Governmental Unit (i) satisfying all applicable federal or state statutory requirements; (ii) complying with the terms of this Agreement; and (iii) acceptance by BCA of Governmental Unit's written request for use of a specific system or tool.
 - B. To facilitate changes in systems and tools, Governmental Unit grants its Authorized Representative authority to make written requests for those systems and tools provided by BCA that the Governmental Unit needs to meet its criminal justice obligations and for which Governmental Unit is eligible.
- 2.7 Future Access.** On written request from the Governmental Unit, BCA also may provide Governmental Unit with access to those systems or tools which may become available after the signing of this Agreement, to the extent that the access is authorized by applicable state and federal law. Governmental Unit agrees to be bound by the terms and conditions contained in this Agreement that when utilizing new systems or tools provided under this Agreement.
- 2.8 Limitations on Access.** BCA agrees that it will comply with applicable state and federal laws when making information accessible. Governmental Unit agrees that it will comply with applicable state and federal laws when accessing, entering, using, disseminating, and storing data. Each party is responsible for its own compliance with the most current applicable state and federal laws.
- 2.9 Supersedes Prior Agreements.** This Agreement supersedes any and all prior agreements between the BCA and the Governmental Unit regarding access to and use of systems and tools provided by BCA.
- 2.10 Requirement to Update Information.** The parties agree that if there is a change to any of the information whether required by law or this Agreement, the party will send the new information to the other party in writing within 30 days of the change. This clause does not apply to changes in systems or tools provided under this Agreement.

This requirement to give notice additionally applies to changes in the individual or organization serving the Governmental Unit as its prosecutor. Any change in performance of the prosecutorial function must be provided to the BCA in writing by giving notice to the Service Desk, BCA.ServiceDesk@state.mn.us.

- 2.11 Transaction Record.** The BCA creates and maintains a transaction record for each exchange of data utilizing its systems and tools. In order to meet FBI-CJIS requirements and to perform the audits described in Clause 7, there must be a method of identifying which individual users at the Governmental Unit conducted a

particular transaction.

If Governmental Unit uses either direct access as described in Clause 2.2A or indirect access as described in Clause 2.2B, BCA's transaction record meets FBI-CJIS requirements.

When Governmental Unit's method of access is a computer-to-computer interface as described in Clause 2.2C, the Governmental Unit must keep a transaction record sufficient to satisfy FBI-CJIS requirements and permit the audits described in Clause 7 to occur.

If a Governmental Unit accesses data from the Driver and Vehicle Services Division in the Minnesota Department of Public Safety and keeps a copy of the data, Governmental Unit must have a transaction record of all subsequent access to the data that are kept by the Governmental Unit. The transaction record must include the individual user who requested access, and the date, time and content of the request. The transaction record must also include the date, time and content of the response along with the destination to which the data were sent. The transaction record must be maintained for a minimum of six (6) years from the date the transaction occurred and must be made available to the BCA within one (1) business day of the BCA's request.

2.12 Court Information Access. Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Governmental Unit if the Governmental Unit completes the Court Data Services Subscriber Amendment, which upon execution will be incorporated into this Agreement by reference. These BCA systems and tools are identified in the written request made by the Governmental Unit under Clause 2.6 above. The Court Data Services Subscriber Amendment provides important additional terms, including but not limited to privacy (see Clause 8.2, below), fees (see Clause 3 below), and transaction records or logs, that govern Governmental Unit's access to and/or submission of the Court Records delivered through the BCA systems and tools.

2.13 Vendor Personnel Screening. The BCA will conduct all vendor personnel screening on behalf of Governmental Unit as is required by the FBI CJIS Security Policy. The BCA will maintain records of the federal, fingerprint-based background check on each vendor employee as well as records of the completion of the security awareness training that may be relied on by the Governmental Unit.

3 Payment

The Governmental Unit currently accesses the criminal justice data communications network described in Minn. Stat. §299C.46. The bills are sent annually for a total annual cost of Six Hundred Dollars (\$600.00).

The Governmental Unit will identify its contact person for billing purposes, and will provide updated information to BCA's Authorized Representative within ten business days when this information changes.

If Governmental Unit chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, additional fees, if any, are addressed in that amendment.

4 Authorized Representatives

The BCA's Authorized Representative is the person below, or her successor:

Name:	Dana Gotz, Deputy Superintendent
Address:	Minnesota Department of Public Safety; Bureau of Criminal Apprehension 1430 Maryland Avenue Saint Paul, MN 55106
Telephone:	651.793.1007

Email Address: Dana.Gotz@state.mn.us

The Governmental Unit's Authorized Representative is the person below, or his/her successor:

Name: Jose Pelaez, Chief
Address: 830 Whitewater Ave
St Charles, MN 55972
Telephone: 507.932.3020
Email Address: jpelaez@stcharlesmn.org

5 Assignment, Amendments, Waiver, and Agreement Complete

- 5.1 Assignment.** Neither party may assign nor transfer any rights or obligations under this Agreement.
- 5.2 Amendments.** Any amendment to this Agreement, except those described in Clauses 2.6 and 2.7 above must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, their successors in office, or another individual duly authorized.
- 5.3 Waiver.** If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or the right to enforce it.
- 5.4 Agreement Complete.** This Agreement contains all negotiations and agreements between the BCA and the Governmental Unit. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

6 Liability

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern the BCA's liability. The Minnesota Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws, governs the Governmental Unit's liability.

7 Audits

- 7.1** Under Minn. Stat. § 16C.05, subd. 5, the Governmental Unit's books, records, documents, internal policies and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA, the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

Under Minn. Stat. § 6.551, the State Auditor may examine the books, records, documents, and accounting procedures and practices of BCA. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to this Agreement.

- 7.2** Under applicable state and federal law, the Governmental Unit's records are subject to examination by the BCA to ensure compliance with laws, regulations and policies about access, use, and dissemination of data.
- 7.3** If the Governmental Unit accesses federal databases, the Governmental Unit's records are subject to examination by the FBI and BCA; the Governmental Unit will cooperate with FBI and BCA auditors and make any requested data available for review and audit.
- 7.4** If the Governmental Unit accesses state databases, the Governmental Unit's records are subject to examination by the BCA: the Governmental Unit will cooperate with the BCA auditors and make any requested data available for review and audit.
- 7.5** To facilitate the audits required by state and federal law, Governmental Unit is required to have an inventory of the equipment used to access the data covered by this Agreement and the physical location of each.

8 Government Data Practices

- 8.1 BCA and Governmental Unit.** The Governmental Unit and BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data accessible under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Governmental Unit under this Agreement. The remedies of Minn. Stat. §§ 13.08 and 13.09 apply to the release of the data referred to in this clause by either the Governmental Unit or the BCA.
- 8.2 Court Records.** If Governmental Unit chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, the following provisions regarding data practices also apply. The Court is not subject to Minn. Stat. Ch. 13 but is subject to the *Rules of Public Access to Records of the Judicial Branch* promulgated by the Minnesota Supreme Court. All parties acknowledge and agree that Minn. Stat. § 13.03, subdivision 4(e) requires that the BCA and the Governmental Unit comply with the *Rules of Public Access* for those data received from Court under the Court Data Services Subscriber Amendment. All parties also acknowledge and agree that the use of, access to or submission of Court Records, as that term is defined in the Court Data Services Subscriber Amendment, may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. All parties acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

9 Investigation of Alleged Violations; Sanctions

For purposes of this clause, "Individual User" means an employee or contractor of Governmental Unit.

- 9.1 Investigation.** The Governmental Unit and BCA agree to cooperate in the investigation and possible prosecution of suspected violations of federal and state law referenced in this Agreement. Governmental Unit and BCA agree to cooperate in the investigation of suspected violations of the policies and procedures referenced in this Agreement. When BCA becomes aware that a violation may have occurred, BCA will inform Governmental Unit of the suspected violation, subject to any restrictions in applicable law. When Governmental Unit becomes aware that a violation has occurred, Governmental Unit will inform BCA subject to any restrictions in applicable law.
- 9.2 Sanctions Involving Only BCA Systems and Tools.**
The following provisions apply to BCA systems and tools not covered by the Court Data Services Subscriber Amendment. None of these provisions alter the Governmental Unit internal discipline processes, including those governed by a collective bargaining agreement.
- 9.2.1** For BCA systems and tools that are not covered by the Court Data Services Subscriber Amendment, Governmental Unit must determine if and when an involved Individual User's access to systems or tools is to be temporarily or permanently eliminated. The decision to suspend or terminate access may be made as soon as alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. Governmental Unit must report the status of the Individual User's access to BCA without delay. BCA reserves the right to make a different determination concerning an Individual User's access to systems or tools than that made by Governmental Unit and BCA's determination controls.
- 9.2.2** If BCA determines that Governmental Unit has jeopardized the integrity of the systems or tools covered in this Clause 9.2, BCA may temporarily stop providing some or all the systems or tools under this Agreement until the failure is remedied to the BCA's satisfaction. If Governmental Unit's failure is continuing or repeated, Clause 11.1 does not apply and BCA may terminate this Agreement immediately.
- 9.3 Sanctions Involving Only Court Data Services**
The following provisions apply to those systems and tools covered by the Court Data Services Subscriber Amendment, if it has been signed by Governmental Unit. As part of the agreement between the Court and the BCA for the delivery of the systems and tools that are covered by the Court Data Services Subscriber

Amendment, BCA is required to suspend or terminate access to or use of the systems and tools either on its own initiative or when directed by the Court. The decision to suspend or terminate access may be made as soon as an alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. The decision to suspend or terminate may also be made based on a request from the Authorized Representative of Governmental Unit. The agreement further provides that only the Court has the authority to reinstate access and use.

9.3.1 Governmental Unit understands that if it has signed the Court Data Services Subscriber Amendment and if Governmental Unit's Individual Users violate the provisions of that Amendment, access and use will be suspended by BCA or Court. Governmental Unit also understands that reinstatement is only at the direction of the Court.

9.3.2 Governmental Unit further agrees that if Governmental Unit believes that one or more of its Individual Users have violated the terms of the Amendment, it will notify BCA and Court so that an investigation as described in Clause 9.1 may occur.

10 Venue

Venue for all legal proceedings involving this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

11 Termination

11.1 Termination. The BCA or the Governmental Unit may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party's Authorized Representative.

11.2 Termination for Insufficient Funding. Either party may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written notice to the other party's authorized representative. The Governmental Unit is not obligated to pay for any services that are provided after notice and effective date of termination. However, the BCA will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Neither party will be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. Notice of the lack of funding must be provided within a reasonable time of the affected party receiving that notice.

12 Continuing Obligations

The following clauses survive the expiration or cancellation of this Agreement: Liability; Audits; Government Data Practices; 9. Investigation of Alleged Violations; Sanctions; and Venue.

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The Parties indicate their agreement and authority to execute this Agreement by signing below.

1. GOVERNMENTAL UNIT

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

3. COMMISSIONER OF ADMINISTRATION
As delegated to the Office of State Procurement

By: _____

Date: _____

(reserved for recording information)

DEVELOPMENT AGREEMENT

SOUTH FORK ADDITIONS FOURTH MINOR SUBDIVISION

AGREEMENT (the “Agreement”) dated _____, 2022, by and between the **CITY OF ST. CHARLES**, a municipal corporation under the laws of the State of Minnesota, with its principal office located at 830 Whitewater Avenue, St. Charles, MN 55972-1129 (the “City”); and **WHITEWATER PROPERTIES, LLC**, a limited liability company under the laws of the State of Minnesota, with its principal office located at 20687 County Road 33, Altura, MN 55910 (the “Developer”); (collectively the “parties”).

RECITALS

WHEREAS, the Developer is the fee owner of real property located in the City of St. Charles, Winona County, Minnesota, which is legally described in **Exhibit A**, which is attached hereto and incorporated herein by reference, (the “Development Property”);

WHEREAS, the Development Property is located within Outlot A of the South Forks Additions Third (“Outlot A”), and the development of said Outlot is subject to an agreement between the parties known as the Development Agreement for South Fork Additions Third, which is attached hereto as **Exhibit B** and incorporated herein by reference, (the “South Fork Third Agreement”);

WHEREAS, the dividing of Outlot A into two lots, as described in **Exhibit A**, forms no more than two lots, and the newly created lots will not be in violation of the St. Charles Zoning Ordinance or St. Charles Subdivision Ordinance, as required by Section 803.01 of the St. Charles Subdivision Ordinance to proceed as a Minor Subdivision;

WHEREAS, the Developer proposes a project consisting of the creation of a single single-family home to be occupied by the owner on the Development Property, which will be connected to City utilities by temporary connection to the existing water main and permanent connection to the existing sewer main, and will contain temporary access from the existing roadways to home's driveway (the "Project"); and

WHEREAS, the Developer and the City, desire to enter into this Agreement in satisfaction of applicable City requirements and to set out the undertakings and obligations of each party from this point forward with respect to the Project and with respect to the City Approval Process, all as required by the City's Code of Ordinances (the "Code").

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties hereto, each does hereby covenant and agree with the other as follows:

1. **REQUEST FOR MINOR SUBDIVISION.** The Developer has sought and received conditional approval to divide Outlot A into two lots as a minor subdivision under Section 803.01 of the St. Charles Subdivision Ordinance. The minor subdivision will change the boundaries of Outlot A and add an additional lot to those currently platted as South Fork Additions Third ("the plat").
2. **CONDITIONS OF LOT SPLIT.** The City has approved the lot split on the conditions that (1) the Developer enter into this Agreement, (2) records the lot split with the County Recorder or Registrar of Titles within 60 days after the City Council approves this Agreement, and (3) submits evidence of recording the lot split to the City within 60 days after the date of recording.
3. **RIGHT TO PROCEED/CONDITIONS PRECEDENT.** Unless separate written approval has been given by the City, within the Development Property, the Developer may not grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings within the Development Property until all of the following conditions have been satisfied:

- a. This Agreement has been fully executed by both parties and filed with the City Administrator. This Agreement shall be recorded by the Developer within 60 days following execution hereof;

- b. The attached Easement Agreement (**Exhibit C**) has been fully executed by both parties and filed with the City Administrator and recorded by the Developer within 60 days following execution thereof;
 - c. The approved minor subdivision has been approved by the City Council and recorded by the Developer with the County Recorder's Office within 60 days of passage;
 - d. The site plan for the project on the Development Property and the plans and specifications for the Improvements related thereto have been approved and signed by the City Engineer with such conditions as required by the City Code;
 - e. The construction plans and other such plans as required by the City have been approved and signed by the City Engineer;
 - f. The City Engineer has issued a letter that all conditions have been satisfied and that the Developer may proceed.
4. **EASEMENT.** The Developer shall sign the attached Temporary Easement Agreement, attached hereto as **Exhibit C**, and record it with the County Recorder's Office within 60 days following execution thereof. The Developer shall then remove the temporary easement and record perpetual easements specifically depicting all public utilities, drainage easements, or other easements required by law, this Agreement, or the South Fork Additions Third Development Agreement located within the area depicted on the South Fork Additions Third plat, including all outlots and future platted areas, either two (2) years after the signing of this Agreement or in conjunction with the recording of the final plat of any future developments of the area depicted on the South Fork Additions Third plat, whichever comes first.
5. **FURTHER SUBDIVISION.** The City may refuse to approve further subdivision within the plat if the Developer has breached this Agreement and the breach has not been remedied. The City may refuse to approve final plats of subsequent phases if the Developer has breached this Agreement and the breach has not been remedied. Development of subsequent phases may not proceed until Development Agreements for such phases are approved by the City and executed by the parties.
6. **CHANGES IN OFFICIAL CONTROLS.** For two (2) years from the date of this Agreement, no amendments to the City's Comprehensive Plan or official controls shall apply to or affect the use, development density, lot

size, lot layout, or dedications of the approved final plat unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Agreement to the contrary, to the full extent permitted by state law, the City may require that any future development of the Development Property comply with any amendments to the City's Comprehensive Plan, official controls, platting, or dedication requirements enacted after the date of this Agreement.

7. **DEVELOPMENT PLANS.** The Project shall be developed in accordance with the following plans where applicable. The plans shall not be attached to this Agreement. If the plans vary from the written terms of this Agreement, the written terms shall control. The plans are:

- a. Plan A – Certificate of Survey
- b. Plan B - Final Grading, Drainage, and Erosion Control Plan
- c. Plan C - Final Construction Plans for Private Improvements
- d. Plan D - Traffic Signing and Control Plan (for construction)
- e. Plan E - Stormwater Pollution Prevention Plan
- f. Plan F - Wetland mitigation plan (if applicable)
- g. Plan G - Landscape Plan (if applicable)
- h. Plan H - Utility Plan

The foregoing plans and specifications shall be prepared by a competent registered professional engineer engaged by the Developer and shall be subject to the City's review and approval. The required Improvements below shall be installed in accordance with the City approved plans for such improvements and the policies, rules, regulations, standards, and ordinances of the City. No work shall commence on the Project or the required Improvements until the Developer obtains a building permit for the Project and the Improvements and pays all costs and fees required in connection with the procurement of the building permit.

8. **IMPROVEMENTS.**

- a. The Developer shall construct and install, at its sole cost and expense and subject to the terms and conditions contained herein, the following private improvements and connections to public improvements (together, the "Improvements") in compliance with City approved plans and

specifications prepared in accordance with all policies, rules, regulations, standards, specifications, and ordinances of the City and as shown on the final construction plans and summarized below:

- i. Grading, Drainage, and Erosion Control
 - ii. Utilities (gas, electric, cable, telephone, etc.)
 - iii. Temporary water service lateral and connection to the existing water main
 - iv. Permanent sanitary sewer lateral and connection to the existing sewer main
 - v. Temporary access road from existing streets to home, sufficient for public safety and emergency response access
 - vi. Surveying and Monuments Required by Minnesota Statutes
 - vii. Miscellaneous Facilities or other elements defined by the guiding documents.
- b. The Improvements shall be constructed and installed in accordance with the latest versions in place at the time of this Agreement of the City Code, zoning ordinance and subdivision regulations, City standard specifications for utilities and streets, and the City's engineering guidelines and standard detail plates, as applicable. The Developer shall submit plans and specifications that have been prepared by a competent registered professional engineer to the City for approval by the City Engineer. The Developer, its contractors and subcontractors, shall follow all instructions received from the City's inspectors and City Engineer to the extent applicable to comply with the approved plans and specifications, or applicable City Code or statutes for which the City inspectors have jurisdiction. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor. As required by the City, the Developer or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at City Hall, or another location acceptable to the City, with all parties concerned, including the City staff, to review the program for the construction work.
- c. All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications. No deviations from the approved plans and specifications will be permitted unless approved in writing by the City Engineer, which approval shall

not be unreasonably withheld. The Developer shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of this Agreement, for which reimbursement is expected from the City, unless such work is first ordered in writing by the City Engineer as provided in the plans and specifications.

- d. The Developer shall replace or repair any damage or destruction to any property or improvements located on County or City land or in County or City streets, boulevards and rights-of-way, or adjacent private property not owned by Developer, caused by Developer, or its contractors and subcontractors, during the construction of the required Improvements and the Project. Any contaminated soils encountered during the construction of the Improvements and development on the Development Property shall be addressed as set forth in a Response Action Plan to be approved by the Minnesota Pollution Control Agency (MPCA) or other applicable agency having jurisdiction.
- e. The Developer shall be solely responsible for the costs of constructing the required Improvements. The costs of constructing the Improvements shall include the actual construction costs, the actual engineering, administration and any legal costs related thereto, and all other costs relating to the construction of the Improvements. The engineering, administration and legal costs shall include the actual outside construction engineering assistance costs and the legal costs.
- f. If this Agreement is terminated for any reason the City shall have no obligation to construct the Project or Improvements.

9. **CONTRACTORS/SUBCONTRACTORS.** City Council members, City employees, and City Planning Commission members, and corporations, partnerships, and other entities in which such individuals have greater than a 25% ownership interest or in which they are an officer or director may not act as contractors or subcontractors for the public improvements identified in this Agreement.

10. **PERMITS.** The Developer shall obtain or require its contractors and subcontractors to obtain all necessary and required permits for the Project from the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Health (MDOH), and all other agencies and governmental authorities with jurisdiction over the Project and the Improvements before proceeding with construction of the Project and the Improvements.

Copies of these permits shall be provided to the City Engineer, and may include but are not limited to the following:

- Minnesota Department of Health for Watermains
- MN/DOT for State Highway Access
- County Road Access and Work in County Road Right-of-Way
- NPDES Permit for Stormwater Management
- MPCA for Sanitary Sewer Extensions/Connections and Hazardous Material Removal and Disposal
- Wetlands permits as applicable
- DNR for Dewatering
- City of St. Charles for Building Permits

The Developer or its engineer shall schedule a pre-construction meeting for the required Improvements with all the parties concerned, including City staff, to review the program for the construction work.

11. **TIME OF PERFORMANCE.** Except as otherwise provided in this Agreement, the Developer shall install all required improvements and other work required by this Agreement by July 31, 2023. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and the extended completion date.
12. **LICENSE.** The Developer hereby grants the City, its agents, employees, officers, and contractors a license to enter the Property to perform all work and inspections deemed appropriate by the City in conjunction with this Agreement, the Project and Improvements, as applicable. The license shall expire upon final approved inspection of all related permits. The City shall thereafter have the right to enter the Property to perform inspections as authorized by City Code.
13. **CONSTRUCTION ACCESS.** Construction traffic access and egress for grading, public utility construction, and street construction is restricted to access the subdivision via Brownell or Roberts Street. No construction traffic is permitted on the adjacent local streets other than identified herein.
14. **GRADING PLAN.** The Development Property shall be graded in accordance with the approved grading development and erosion control plan. The plan shall conform to City of St. Charles requirements and specifications, City Code and applicable law. The plan shall include field verified elevations of the following:
 - a) cross sections of ponds;
 - b) location and elevations along all swales, wetlands, wetland mitigation areas if any,

ditches, locations and dimensions of borrow areas/stockpiles; c) lot corner elevations and building/house pads. Final lot grades shall be shown on the plan. Final grading shall substantially comply with the approved grading plan.

15. **EROSION AND SEDIMENT CONTROL.** Prior to initiating site grading, the erosion and sediment control plan shall be implemented by the Developer and inspected and approved by the City Engineer. The Erosion Control Plan and Storm Water Pollution Prevention Plan (SWPPP) shall be implemented by the Developer and inspected and approved by the City Engineer. Erosion and sediment control practices must comply with the Minnesota Pollution Control Agency's (MPCA) Best Management Practices and applicable MPCA NPDES permit requirements for construction activities and the Developer's SWPPP. The City may impose additional erosion and sediment control requirements if they would be beneficial in the City's judgment. All areas disturbed by the excavation and backfilling operations shall be reseeded within 48 hours after the completion of the work or in an area that is inactive for more than fourteen (14) days unless authorized and approved by the City Engineer. Except as otherwise provided in the erosion and sediment control plan, seed shall be in accordance with the City's current seeding specifications, if any, which may include certified oat seed to provide a temporary ground cover as rapidly as possible. All seeded areas shall be fertilized, mulched, and disc anchored, and watered as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the erosion control plan and schedule or supplementary instructions received from the City Engineer, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work, the City may draw down the letter of credit or any other security required herein to pay any costs. No development, utility or street construction will be allowed and no building permits will be issued unless the plat and Project plans for the Development Property, as applicable, are in full compliance with the approved erosion control plan.

16. **AGREEMENT FOR OPERATION AND MAINTENANCE OF STORMWATER FACILITIES.**

- a. In order to provide stormwater management and control, to meet the City's stormwater permitting requirements, City Code and state law and regulations, as applicable, and to promote the water quality and volume control to the City's stormwater system and water bodies, the Developer and the City agree that it is reasonable for the City to require the Developer to construct, inspect, operate, repair, maintain and replace, at the Developer's cost and expense, City required stormwater facilities.
- b. The Developer agrees that the stormwater pond facility located within Outlot A, as depicted on the plat, and serving the Project shall be dedicated to the City as part of the plat in accordance with Paragraph 19 of the South Fork Additions Third Agreement.
- c. The Developer and City agree that operation and maintenance of the above-referenced dedicated stormwater pond shall be at the Developer's cost and expense until such time as all phases of the approved preliminary plat have been finally platted and stormwater facilities serving the developments on the same have been installed and constructed by the Developer, at the Developer's cost and expense, in compliance the City's stormwater permitting requirements, City Code and state law and regulations, as applicable.
- d. The Developer shall ensure that the stormwater facilities for the Project are installed and constructed according to the City Engineer approved plans and specifications, and are subsequently operated and maintained, at the Developer's cost and expense, to meet the current standards in law and City Code.
- e. At the completion of the Project construction, the Developer, at the Developer's cost and expense, in compliance with the City's stormwater permitting requirements, City Code and state law and regulations, as applicable, will repair and clean the stormwater pond facilities serving the Project.
- f. To the extent Developer fails to operate and maintain the stormwater facilities in compliance with applicable standards or as directed by the City Engineer and as provided in this Agreement, the City shall have the right, but no obligation, to enter upon the property and complete all work necessary to bring the stormwater facilities into compliance. The Developer shall reimburse the City within thirty (30) days after receipt of an invoice from the City for any and all costs incurred by the City in connection with all work completed by the City to bring the stormwater facilities back into compliance.

- g. If the Developer does not timely reimburse the City, the City may recover its costs by levying a special assessment against the Developer's property certifying the same to the Winona County Auditor for collection in the same manner as property taxes upon the Developer's property. The Developer, on behalf of itself and its successors and assigns, hereby acknowledges the benefit of such inspection/maintenance/repair/replacement of the stormwater facilities to the Developer's property and hereby expressly waives any rights to hearings, notice of hearings, objections or appeal relating to the levying of any City assessments, the right to contest the City levied assessments under Minnesota Statutes § 429.081 or the certification of such levied assessments to the Winona County Auditor for collection with property taxes upon the Property.

17. AGREEMENT FOR INSTALLATION OF TEMPORARY WATER SERVICE LATERAL AND TEMPORARY EMERGENCY ACCESS ROADWAY

- a. The Developer shall construct and install a temporary water service lateral and a temporary emergency access roadway in accordance with the latest versions in place at the time of this Agreement of the City Code, zoning ordinance and subdivision regulations, City standard specifications for utilities and streets, and the City's engineering guidelines and standard detail plates, as applicable.
- b. The Developer agrees the temporary water service lateral and temporary emergency access roadway will be removed at the Developer's cost and replaced with a permanent water services lateral, permanent water main extension (as applicable), and permanent roadway at such time the area containing the temporary improvements is platted. Such replacement shall be at the Developer's cost and be in accordance with the latest versions in place at the time of the replacement of the City Code, zoning ordinance and subdivision regulations, City standard specifications for utilities and streets, and the City's engineering guidelines and standard detail plates, as applicable.

- 18. PARK DEDICATION.** The Developer shall pay a cash contribution of \$650/residential lot (Ordinance #489) in satisfaction of the City's park dedication requirements. The total amount due is based on one (1) lot X \$650.00/lot for a total cost of \$650.00.

19. **SANITARY SEWER AND WATER TRUNK UTILITY CHARGES.** The Developer is subject to sanitary sewer and water access/availability area charges for the Development Property. The sanitary sewer and water access/availability area charges are as follows:

- a. Sanitary Sewer Availability Charge: The developer shall pay a sanitary sewer availability charge of \$2,500.00 per acre. The area charge is based on the number of units in the minor subdivision and is calculated as follows: .55 acre x \$2,500.00/acre = \$1,375.00.
- b. Water Availability Charge: The Developer shall pay a watermain availability charge of \$1,350.00 per acre. The access charge is based on the number of units in the minor subdivision and is calculated as follows: .55 acre x \$1,350.00/acre = \$742.00.

20. **WETLAND MITIGATION.** No wetland mitigation is planned for the site. The Developer is responsible for any undisclosed mitigation on the land, and will be required to submit any necessary security should subsequent wetlands be identified.

21. **BUILDING PERMITS/CERTIFICATES OF OCCUPANCY.** Breach of the terms of this Agreement by the Developer, including nonpayment of billings from the City within 30 days of the date of an invoice from the City to the Developer, shall be grounds for denial of building permits, including lots sold to third parties, and the halting of all work in the plat or on the Development Property.

22. **UNDERGROUND UTILITIES – PRIVATE.** This section covers those smaller private utilities such as gas, electric, phone, cable, etc.

- a. The Developer is responsible for the cost of installing all private utilities of any nature or kind whatsoever.
- b. The Developer shall contact the utility companies to coordinate the installation of the utilities. Private utilities shall not be installed until the curb and gutter are completed and backfilled, as applicable. All utilities shall be installed underground or as otherwise approved in writing by the City Engineer.
- c. The City Engineer must approve of the final location for all private utilities. Joint trenching of the utilities is mandatory where possible. All utilities must be located in public rights-of-way or within drainage and utility easements.

- d. If any conditions set forth in this Agreement conflict with the City's utility franchise agreements, the franchise agreements shall in all cases prevail.

23. RESPONSIBILITY FOR COSTS.

- a. Except as otherwise specified herein, the Developer shall pay all costs incurred by it and the City in conjunction with this Agreement, the lot split, the grading and development of the Development Property and the construction of the Improvements required by this Agreement, including but not limited to, all costs of persons and entities doing work or furnishing skills, tools, machinery, equipment and materials; insurance premiums; legal, planning and engineering fees; the preparation and recording of this Agreement and all easements and other documents relating to the lot split and the Development Property, as applicable; all Response Action Plans, traffic studies, environmental assessments and/or engineering and other studies and reports; all permits and approvals; and all City's costs incurred pertaining to the inspection and monitoring of the work performed in connection with approval and acceptance of the plat, and the Project and the construction of the Improvements and the other work done and improvements constructed on the Development Property or otherwise related to the Project.
- b. The City shall not be obligated to pay Developer or any of its agents or contractors for any costs incurred in connection with the construction of the Improvements or the development of the Development Property. Developer agrees to defend, indemnify, and hold the City and its mayor, council members, employees, agents and contractors harmless from any and all claims of whatever kind or nature and for all costs, damages or expenses which the City may pay or incur in consequence of such claims, including reasonable attorneys' fees, which may arise as a result of Plat approval, the Project, this Agreement, the construction of the Improvements (except for the negligence or intentional misconduct of the City with respect to the construction of the Improvements), the development of the Development Property or the acts of Developer, and its employees, agents, contractors or subcontractors, in relationship thereto.
- c. The Developer hereby covenants and agrees that Developer will not permit or allow any mechanic's or materialman's liens to be placed on the City's interest in any property that is the subject of the

Project or this Agreement during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on the City's interest, the Developer shall take all steps necessary to see that it is removed within thirty (30) business days of its being filed; provided, however, that the Developer may contest any such lien provided the Developer first posts a surety bond, in favor of and insuring the City, in an amount equal to 125% of the amount of any such lien.

- d. The Developer shall reimburse the City for reasonable costs incurred in the enforcement of this Agreement, including engineering and attorneys' fees.
- e. The Developer shall pay, or cause to be paid when due, and in any event before any penalty is attached, all special assessments referred to in this Agreement. This is a personal obligation of the Developer and shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it.
- f. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Agreement within 30 days of the date of the City's invoice to Developer. If Developer fails to pay a required bill, then after providing the Developer with at least fifteen (15) days prior written notice, the City may draw on the Security or alternatively declare the same an event of default, and the City may thereafter assess and certify such unpaid charges to the County Auditor for collection in like manner with property taxes on the Development Property, or the City may take any other actions as may be available under this Agreement, at law, or in equity. Bills not paid within sixty (60) days shall accrue interest at the rate of eight percent (8%) per year.
- g. In addition to the charges and special assessments referred to herein, other charges and special assessments may be imposed such as but not limited to sewer availability charges ("SAC"), City water connection ("WAC") charges, City sewer connection charges, City storm water connection charges, building permit fees and plat review fees, which shall be paid by Developer.

24. **SPECIAL PROVISIONS.** The following special provisions shall apply:

- a. Individual homes must comply with the overall grading plan for the site. Each individual building permit will be reviewed for compliance with the overall grading plan and is subject to review and approval of the City Engineer.
- b. Utility hook-ups are subject to review and approval by the City Engineer.
- c. The Developer must obtain approval of a Site Plan as provided by current City Code and complete the required plan review and approval thereof, as applicable.
- d. The home must be owner-occupied for at least one (1) year after completion of construction.

25. MISCELLANEOUS.

- a. The Developer may not assign this Agreement without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of the Development Property.
- b. As applicable, in compliance with the Response Action Plan approved by the MPCA for the Development Property, the Developer shall remove and properly dispose of any environmental contamination within the Development Property.
- c. Retaining walls that require a building permit shall be constructed in accordance with plans and specifications prepared by a structural or geotechnical engineer licensed by the State of Minnesota. Following construction, a certification signed by the design engineer shall be filed with the City Engineer evidencing that the retaining wall was constructed in accordance with the approved plans and specifications. All retaining walls identified on the development plans or by special conditions referred to in this Agreement shall be constructed before any other building permit is issued for a lot on which a retaining wall is required to be built.
- d. Third parties shall have no recourse against the City or Developer under this Agreement.
- e. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Agreement is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Agreement.
- f. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties and approved

by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.

- g. This Agreement shall run with the land and shall be binding upon Developer and its successors and assigns.
- h. This Agreement will be recorded against the title to the Development Property within 60 days following execution hereof.
- i. The Developer covenants with the City, its successors and assigns, that the Developer is well seized in fee title of the Development Property and/or has obtained consents to this Agreement, in the form attached hereto, from all parties who have an interest in the Development Property; that there are no unrecorded interests in the Development Property; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.
- j. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.
- k. The Developer agrees to comply with all local, state and federal laws, ordinances and regulations applicable to the development of the Development Property and Improvements.
- l. The City's approval of the final plat or this Agreement does not include approval of building permits for any structures to be constructed within the Development Property. The Developer must submit and the City approve building plans prior to the issuance of building permits for structures within the Development Property.

26. **DEVELOPER'S DEFAULT.** In the event of default by the Developer as to any of the work to be performed by it hereunder or the failure to comply with all terms and conditions of this Agreement, the City may, at its option, take one or more of the following actions:

- a. Perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer, except in an emergency as determined by the City, is first given notice of the work in default, not less than forty-eight (48) hours in advance. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part for collection with the property taxes on the Development Property;
- b. Obtain an order from a court of competent jurisdiction requiring Developer to perform its obligations pursuant to the terms and provisions of this Agreement;
- c. Obtain an order from a court of competent jurisdiction enjoining the continuation of an event of default;
- d. Halt all development work and construction of improvements until such time as the event of default is cured;
- e. Withhold the issuance of a building permit or permits or certificates of occupancy and/or prohibit the occupancy of any structure(s) for which permits have been issued until the event of default has been cured;
- f. Draw upon and utilize the Security to cover the City's costs to correct the default, the costs to complete any unfinished Project Improvements and/or the costs to enforce this Agreement; or
- g. Exercise any other remedies which may be available to it at law or in equity.

In addition to the remedies and amounts payable set forth or permitted above, upon the occurrence of an event of default by the Developer, the Developer shall pay to the City all fees and expenses, including reasonable attorney's fees, incurred by the City as a result of the event of default, whether or not a lawsuit or other action is formally taken.

- h. to be satisfactory and again after the base bituminous layer has been placed.

27. SUMMARY OF CASH REQUIREMENTS.

- a. **DUE AT TIME OF APPROVAL.** The following is a summary of the cash requirements under this Agreement which must be furnished at the time of approval of this Agreement. The Developer shall not proceed with the Project until these cash requirements have been paid to the City:

Park Dedication	\$650.00
Sanitary Sewer Availability Charge	\$1,375.00
Water Availability Charge	\$742.50

TOTAL CASH REQUIREMENTS	\$ <u>2,767.00</u>
--------------------------------	---------------------------

28. **NOTICES.** Required notices to the Developer shall be in writing, and shall be either hand-delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: 20687 County Rd 33, Altura, MN 55910. Notices to the City shall be in writing and shall be either hand-delivered to the City Administrator, or mailed to the City by certified mail in care of the City Administrator at the following address: St. Charles City Hall, 830 Whitewater Avenue, St. Charles, MN 55972-1129.

29. **CONSTRUCTION MANAGEMENT.** During construction of the Improvements and the Project, the Developer and its contractors and subcontractors shall minimize impacts from construction on the surrounding neighborhood, as follows:

- a. **Definition of Construction Area.** The limits of the Project Area shall be as shown in the City approved Grading, Drainage and Erosion Control Plan and shall be demarcated with construction fencing approved by the City Engineer. Any grading, construction or other work outside this area requires approval by the City Engineer and the affected property owner.
- b. **Parking and Storage of Materials.** Adequate on-site parking for construction vehicles and workers must be provided or provisions must be made to have workers park off site and be shuttled to the Project Area. No fill, excavating material or construction materials shall be stored in the public right-of-way.
- c. **Hours of Construction.** Hours of construction, including moving of equipment shall be limited to the hours between 7 a.m. and 10 p.m. on weekdays and 8 a.m. and 10 p.m. on weekends or as otherwise provided in City Code.
- d. **Site Maintenance.** Developer shall ensure that its contractor maintains a clean work site. Measures shall be taken to prevent debris, refuse or other materials from leaving the site. Construction debris and other refuse generated from the Project shall be removed from the site in a timely fashion and/or upon the

request by the City Engineer. After Developer has received at least forty-eight (48) hour verbal notice, the City may complete or contract to complete the site maintenance work at Developer's expense.

- e. Project Identification Signage. Project identification signs shall comply with City Code.

30. **EXPIRATION OF AGREEMENT.** This Agreement shall remain in effect until such time as the Developer shall have fully performed all of its duties and obligations under this Agreement. Upon the written request of the Developer and upon the adoption of a resolution by the City Council finding that the Developer has fully complied with all the terms of this Agreement and finding that the Developer has completed performance of all Developer's duties mandated by this Agreement, the City shall issue to the Developer on behalf of the City an appropriate Certificate of Compliance/Completion. Upon issuance of the Certificate of Compliance/Completion by the City, this Agreement shall terminate.

31. **TERMINATION; CONDITIONS PRECEDENT.**

- a. If Developer fails to: a) acquire fee simple title to all of the Development Property, and b) record this Agreement and the Plat in the office of the Winona County Recorder, as applicable and as provided herein, within one (1) year after approval of the Final Plat or this Agreement, as applicable, by the City Council, this Agreement shall terminate and the approval of the Plat shall be null and void, subject to the following:
 - i. All costs, fees and other amounts previously paid to the City in connection with the Plat, the Project Improvements, this Agreement and the Project shall belong to and be retained by the City;
 - ii. The obligations of the Developer for costs incurred shall survive such termination and continue with respect to unpaid costs, fees and expenses incurred prior to such termination;
 - iii. The indemnifications of Developer shall survive and continue after such termination; and
 - iv. The parties shall be released from all other obligations and liabilities under this Agreement not specified above.
- b. The City shall have no obligation to construct the Improvements and Developer shall have no right to construct the Improvements or construct the Project on the Development Property unless the Developer

acquires fee simple title to the Development Property and records this Agreement and the Plat in the office of the Winona County Recorder as required herein within one (1) year after approval of the final Plat by the City Council.

- c. In the event of the termination of this Agreement, the parties agree, if requested by the other party, to execute and deliver to the other party a written termination acknowledgment in a form reasonably satisfactory to both parties.
- d. Developer's right to construct the Improvements is contingent upon its (i) obtaining a building permit from the City following submission of a complete and valid application for same. Nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, for Developer to close on its purchase of the Development Property, commence the development of the Development Property as set forth herein, or sell or lease homes constructed and located on the Development Property.

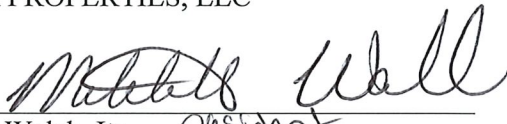
32. **ADOPTED BY REFERENCE.** The provisions of the City's Code, Chapters 152 and 153 are hereby adopted by reference in their entirety, unless specifically excepted, modified, or varied by the terms of this Agreement, or by the final plat as approved by the City, as applicable. In the event that a provision of this Agreement is inconsistent with or in conflict with the City's Code, the City Code shall govern.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

DEVELOPER:


WHITEWATER PROPERTIES, LLC

BY: 
Mitchell Walch, Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 15th day of July, 20 22, by Mitchell Walch, the President of WHITEWATER PROPERTIES, LLC, a limited liability company under the laws of the State of Minnesota, on behalf of the company and pursuant to the authority granted by its board of governors/members.




NOTARY PUBLIC

CITY OF ST. CHARLES

(SEAL)

BY: _____
John Schaber, Its Mayor

AND _____
Nick Koverman, Its City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF WINONA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by John Schaber and by Nick Koverman, the Mayor and City Administrator of the City of St. Charles, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

NOTARY PUBLIC

THIS INSTRUMENT WAS DRAFTED BY:

City of St. Charles
Community Development Department
St. Charles City Hall
830 Whitewater Avenue
St. Charles, MN 55972-1129
507-932-3020

**EXHIBIT A
TO
DEVELOPMENT AGREEMENT**

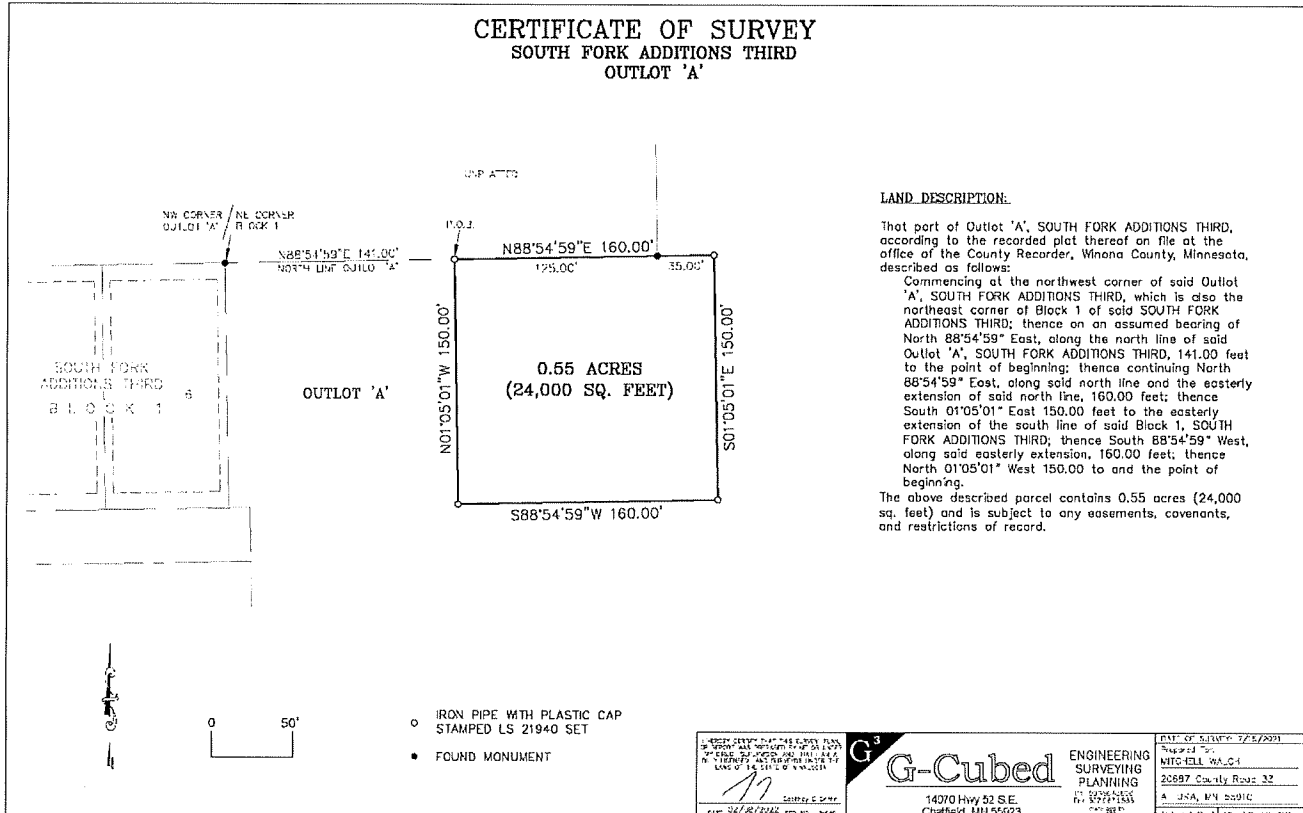
LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

That .55-acre part of Outlot 'A', SOUTH FORK ADDITIONS THIRD, according to the recorded plat thereof on file at the office of the County Recorder, Winona County, Minnesota, described as follows:

Commencing at the northwest corner of said Outlot 'A', SOUTH FORK ADDITIONS THIRD, which is also the northeast corner of Block 1 of said SOUTH FORK ADDITIONS THIRD; thence on an assumed bearing of North 88°54'59" East, along the north line of said Outlot 'A', SOUTH FORK ADDITIONS THIRD, 141.00 feet to the point of beginning; thence continuing North 88°54'59" East, along said north line and the easterly extension of said north line, 160.00 feet; thence South 01°05'01" East 150.00 feet to the easterly extension of the south line of said Block 1, SOUTH FORK ADDITIONS THIRD; thence South 88°54'59" West, along said easterly extension, 160.00 feet; thence North 01°05'01" West 150.00 to and the point of beginning.

EXHIBIT A TO DEVELOPMENT AGREEMENT

DEPICTION OF DEVELOPMENT PROPERTY



**EXHIBIT B
TO
DEVELOPMENT AGREEMENT**

RECORDED SOUTH FORK ADDITIONS THIRD DEVELOPMENT AGREEMENT

**EXHIBIT C
TO
DEVELOPMENT AGREEMENT
TEMPORARY EASEMENT AGREEMENT**

**STATE OF MINNESOTA
MINNESOTA STATE COLLEGES AND UNIVERSITIES**

MEMORANDUM OF AGREEMENT

BETWEEN

Riverland Community College

AND

St. Charles Ambulance Service

This Agreement is entered into between the State of Minnesota, acting through its **Board of Trustees of the Minnesota State Colleges and Universities**, on behalf of Riverland Community College (hereinafter "College/University"), St. Charles Ambulance Service (hereinafter "Facility").

This Agreement and any amendments and supplements thereto, shall be interpreted pursuant to the laws of the State of Minnesota.

WITNESSETH THAT:

WHEREAS, the College/University has established an Emergency Medical Technician Program for qualified students preparing for and/or engaged in emergency medical careers; and

WHEREAS, the Board of Trustees of the Minnesota State Colleges and Universities is authorized by Minnesota Statutes, Chapter 136F to enter into Agreements regarding academic programs and has delegated this authority to the College/University; and

WHEREAS, the Facility has suitable clinical facilities in emergency medical services for the educational needs of the EMT programs of the College/University; and

WHEREAS, it is in the general interest of the Facility to assist in educating persons to be qualified or better qualified emergency response personnel; and

WHEREAS, the College/University and the Facility are desirous of cooperating to furnish a clinical experience program for students of EMT enrolled at the College/University;

NOW, THEREFORE, it is mutually agreed by and between the College/University and the Facility:

I. COLLEGE/UNIVERSITY RESPONSIBILITIES

- A. The College/University, which is accredited by the North Central Association of Colleges and Secondary Schools, is responsible for offering one or more of the following programs: Emergency Medical Technician courses; a Practical Nursing Program; a Nursing Assistant Program; an Associate Degree Program in Nursing; a Baccalaureate Program in Nursing; a Baccalaureate Program for Registered Nurses; and/or a Nurse Refresher Program. Each program shall be either: 1) approved by the Minnesota Board of Nursing; and/or 2) approved by the Minnesota Department of Health.
- B. The Ambulance Service will supervise Riverland students during the clinical experience program at the Facility and will provide preceptors holding a minimum of current EMT level certification to effectively implement the clinical experience program at the Facility.
- C. The College/University faculty will be responsible for planning, directing and evaluating the students' learning experiences. The College/University faculty will attend the Facility's orientation for clinical experience instructors as deemed necessary by the College/University and the Facility.
- D. The College/University will provide the Facility, at its request, with objectives for the clinical experience program. Implementation of those objectives will be accomplished by the College/University in cooperation with the Facility's designated representative.
- E. The College/University will provide the Facility with a list of the students who are participating in the clinical experience program, the units within the Facility where they are assigned, and the dates of each student's participation in the program.
- F. The College/University will inform its faculty and students of the Facility's policies and regulations which relate to the clinical experience program at the Facility.
- G. The College/University will inform its faculty and the students who are participating in the clinical experience program that they are encouraged to carry their own health insurance and are responsible for carrying their own professional liability insurance if professional liability insurance is not provided by the College/University.
- H. The College/University will maintain a record of students' health examinations and current immunizations and shall obtain students' permission to submit data regarding their health status to the Facility.

II. FACILITY RESPONSIBILITIES

- A. The Facility will maintain current accreditation by the Joint Commission on Accreditation of Health Care Organizations or any other appropriate and required accrediting body.
- B. The Facility is responsible for the safety and quality of care provided to its patients by the students who are participating in the clinical experience program at the Facility.
- C. The Facility will provide the College/University with a copy of its policies and regulations which relate to the clinical experience program.
- D. The Facility will permit the College/University faculty and students to use its patient care and patient service facilities for clinical instruction according to a mutually-approved plan.
- E. The Facility will allow a reasonable amount of Facility staff time for orientation and joint conferences with College/University faculty, for planning with College/University faculty, and for such other assistance as shall be mutually agreeable.
- F. The College/University faculty and students participating in the clinical experience program will be permitted to use the Facility's library in accordance with the Facility's policies.
- G. The Facility will make locker or cloak room facilities available for the College/University faculty and students during assigned clinical experience program hours. These facilities may be shared by other faculty and students.
- H. The Facility assumes no responsibility for the cost of meals, uniforms, housing, parking or health care of College/University faculty and students who are participating in the clinical experience program. The Facility will permit College/University faculty and students who are participating in the clinical experience program to use any cafeteria on the same basis as employees of the Facility. The Facility will permit College/University faculty to use Facility parking spaces under the same policies governing Facility personnel.
- I. The Facility recognizes that it is the policy of the College/University to prohibit discrimination and ensure equal opportunities in its educational programs, activities, and all aspects of employment for all individuals regardless of race, color, creed, religion, gender, national origin, sexual orientation, veteran's status, marital status, age, disability, status with regard to public assistance, or inclusion in any group or class against which discrimination is prohibited by federal, state, or local laws and regulations. The Facility agrees to adhere to this policy in implementing this Agreement.

III. MUTUAL RESPONSIBILITIES

- A. The College/University and the Facility assume joint responsibility for the orientation of the College/University faculty to Facility policies and regulations before the College/University assigns its faculty to the Facility.
- B. Personnel of the College/University and the Facility will communicate regarding planning, development, implementation, and evaluation of the clinical experience program. The communication may include but not be limited to:
 - a. Communication to familiarize Facility personnel with the clinical experience program's philosophy, goals and curriculum;
 - b. Communication to familiarize the College/University faculty with the Facility's philosophy, policy and program expectations;
 - c. Communication to keep both parties and the parties' personnel who are assigned to the clinical experience program informed of changes in philosophy, policies and any new programs which are contemplated;
 - d. Communication about jointly planning and sponsoring in-service or continuing education programs (if appropriate);
 - e. Communication to identify areas of mutual need or concern;
 - f. Communication to seek solutions to any problems which may arise in the clinical experience programs; and
 - g. Communication to facilitate evaluation procedures which may be required for approval or accreditation purposes or which might improve patient care or the College/University's nursing curriculum.

IV. STUDENT REQUIREMENTS

- A. Each student will be required, as a condition for participation in the clinical experience program, to submit the results of a health examination to the College/University and, if requested, to the Facility, to verify that no health problems exist which would jeopardize student or patient welfare. The health examination shall include an update of required immunizations.
- B. Students participating in the clinical experience program shall be encouraged to carry their own health insurance.
- C. Students participating in the clinical experience program shall be responsible for carrying their own professional liability insurance if professional liability insurance is not provided by the College/University.

V. EMERGENCY MEDICAL CARE & INFECTIOUS DISEASE EXPOSURE

- A. Any emergency medical care available at the Facility will be available to College/University faculty and students. College/University faculty and students will be responsible for payment of charges attributable to their individual emergency medical care at either the Facility or the College/University.

- B. Any College/University faculty member or student who is injured or becomes ill while at the Facility shall immediately report the injury or illness to the Facility and receive treatment (if available) at the Facility as a private patient or obtain other appropriate treatment as they choose. Any hospital or medical costs arising from such injury or illness shall be the sole responsibility of the College/University faculty member or student who receives the treatment and not the responsibility of the Facility or the College/University.
- C. The Facility shall follow, for College/University faculty and students exposed to an infectious disease at the Facility during the clinical experience program, the same policies and procedures which the Facility follows for its employees.
- D. College/University faculty and students contracting an infectious disease during the period of time they are assigned to or participating in the clinical experience program must report the fact to their College/University and to the Facility. Before returning to the Facility, such a College/University faculty member or student must submit proof of recovery to the College/University or Facility, if requested.

VI. LIABILITY

Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof. The College/University's liability shall be governed by the Minnesota Tort Claims Act, Minnesota Statutes § 3.736, and other applicable laws.

VII. TERM OF AGREEMENT

This Agreement is effective on the later of July 1, 2022, or when fully executed, and shall remain in effect until June 30, 2023. This Agreement may be terminated by either party at any time upon one year written notice to the other party. Termination by the Facility shall not become effective with respect to students then participating in the clinical experience program.

VIII. FINANCIAL CONSIDERATION

- A. The College/University and the Facility shall each bear their own costs associated with this Agreement and no payment is required by either the College/University or the Facility to the other party, except that, where applicable, the Facility shall pay the tuition and other educational fees of students it places in the clinical experience program.
- B. The Facility is not required to reimburse the College/University faculty or students for any services rendered to the Facility or its patients pursuant to this Agreement.

IX. AMENDMENTS

Any amendment to this Agreement shall be in writing and signed by authorized officers of each party.

X. ASSIGNMENT

Neither the College/University or the Facility shall assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party.

XI. STATE AUDIT

The books, records, documents and accounting procedures and practices of the Facility relevant to this Agreement shall be subject to examination by the College/University and the Legislative Auditor.

XII. VOTER REGISTRATION (When Applicable)

The Facility shall provide nonpartisan voter registration services and assistance, using forms provided by the College/University, to employees of the Facility and the public as required by Minnesota Statutes Chapter 201.162.

XIII. AMERICANS WITH DISABILITIES ACTS (ADA) COMPLIANCE

The Facility agrees that in fulfilling the duties of this Agreement, the Facility is responsible for complying with the American with Disabilities Act, 42 U.S.C. Chapter 12101 et seq., and any regulations promulgated to the Act. The College/University is not responsible for issues or challenges related to compliance with the ADA beyond its own routine use of facilities, services and other areas covered by the ADA.

XIV. GOVERNMENT DATA PRACTICES ACT

The Facility and College/University must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the College/University in accordance with this contract, and as it applies to all data, created, collected, received, stored, used, maintained, or disseminated by the Facility in accordance with this contract. The civil remedies of Minnesota Statute §13.08 apply to the release of the data referred to in this clause by either the Facility or the College/University.

In the event the Facility receives a request to release the data referred to in this clause, the Facility must immediately notify the College/University. The College/University will give the Facility instructions concerning the release of the data to the requesting party before the data is released.

XV. OTHER PROVISIONS [attach additional page(s) if necessary]

N/A

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

APPROVED:

1. FACILITY:

St. Charles Ambulance Service
830 Whitewater Avenue
St. Charles, MN 55972
Attn: Josh Smith

By (authorized signature and printed name)
Title
Date

2. COLLEGE/UNIVERSITY:

By (authorized signature and printed name)
Title
Date

3. AS TO FORM AND EXECUTION:

By (authorized signature and printed name)
Title
Date

**EQUIPMENT LOAN AGREEMENT
BETWEEN THE CITY OF ST. CHARLES AND THE CITY OF LEWISTON**

**Prepared by Chris Smith, Risk Management Attorney
League of Minnesota Cities Insurance Trust**

This agreement ("Agreement") is made and entered into by and between the City of St. Charles, Minnesota (the "Lender") and the City of Lewiston, Minnesota (the "Borrower").

1. Loaned Equipment. In exchange for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Lender agrees to loan the following equipment (the "Equipment") to the Borrower:
 - a. St. Charles Ambulance #621 & All Equipment in the Truck
 - b. Stryker Stretcher/Cot
2. Fees. No fee shall be paid by the Borrower for the use of the Equipment.
3. Term. The Borrower shall be entitled to use the Equipment until the Lender recalls the Equipment or the Borrower returns the Equipment, whichever date is the earliest. The Lender may recall the Equipment at any time. The Lender and any officer, employee or agent of the Lender may not be held liable for recalling the Equipment.
4. Return of Equipment. The Borrower is responsible for examining the Equipment prior to receiving it from the Lender and must return the Equipment in the same condition in which it was received, except normal wear and tear. Any Equipment using fuel or other fluids must be returned with the same level of fuel that the Equipment had when loaned to the Borrower. Any disposable supplies used out of the vehicle must also be replaced.
5. Routine Maintenance. The Borrower is responsible for any routine maintenance required to operate the Equipment while in the Borrower's possession. Routine maintenance would include fuel, lubricants, fluids, repair of a flat tire, and other items that are typically incidental to the use of the Equipment.
6. Trained Personnel. The Borrower agrees that only trained personnel shall be allowed to operate the Equipment. The Borrower will ensure that all City of Lewiston Personnel who will operate the vehicle are properly trained when the equipment is received.
7. Transportation. Personnel from the St. Charles Ambulance & Lewiston Ambulance will work together to move the vehicle from City to City depending on staffing needs. Ultimately the City of St. Charles will decide when the Ambulance should be at their facility.

8. Storage. Borrower shall store the Equipment in a safe place while in the Borrower's possession. The vehicle will be stored inside the Lewiston Fire Station.
9. Insurance. The Borrower agrees to maintain the appropriate automobile, property, and liability coverages with the League of Minnesota Cities Insurance Trust under standard LMCIT liability coverage forms. The Borrower shall add the Lender as an "additional insured" to the Borrower's liability coverage for purposes of this Agreement. The Borrower's coverage shall be primary and non-contributory to any other coverage available to the Lender.
10. Workers' Compensation. The Borrower shall be responsible for injuries to or death of its own personnel while using the Equipment. The Borrower will maintain workers' compensation insurance covering its own personnel while they are using the Equipment. The Borrower waives the right to sue the Lender for any workers' compensation benefits paid to its own personnel or their dependents, even if the injuries were caused wholly or partially by the negligence of the Lender or its officers, employees, volunteers or agents.
11. Damage to Equipment. The Borrower shall be responsible for any damage to or loss of the Equipment while the Equipment is in the Borrower's possession.
12. Indemnification. To the fullest extent permitted by law, the Borrower agrees to defend, indemnify, and hold the Lender harmless against any claims brought or actions filed against the Lender or any officer, employee or agent of the Lender for injury to, death of, or damage to the property of any third person or persons, arising from the Borrower's negligent use of the Equipment or the Borrower's failure to perform its obligations under this Agreement.
13. Entire Agreement. This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Borrower and Lender and contains the entire agreement.
14. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both the Borrower and the Lender.
15. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota.
16. Captions. Captions or headings contained in this Agreement are included for convenience only and form no part of the agreement between the Borrower and the Lender.
17. Waivers. The waiver by either the Borrower or the Lender of any breach or failure to comply with any provision of this Agreement by the other party shall not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

18. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
19. Savings Clause. If any court finds any portion of this Agreement to be contrary to law or invalid, the remainder of the Agreement will remain in full force and effect.
20. Effective Date. This Agreement is effective on the date last executed by one of the Parties below.

IN WITNESS WHEREOF, the Borrower and Lender, by action of their respective governing bodies, caused this Agreement to be approved.

CITY OF ST. CHARLES, MINNESOTA

CITY OF LEWISTON, MINNESOTA

Dated: _____

Dated: _____

BY: _____
Its Mayor

BY: _____
Its Mayor

AND: _____
Its Administrator

AND: _____
Its Administrator

**City of St. Charles
Resolution #33-2022**

**A RESOLUTION ACCEPTING QUOTES
AND AWARDING THE SCHOOL TRAIL IMPROVEMENTS CONTRACT**

WHEREAS, pursuant to request for quotes for the Municipal Capital Expenditure for the 2022 School Trail Improvement projects, bids were received, opened, and tabulated, and the following were received complying with the request:

<u>Bidder</u>	<u>Base Bid</u>
Schumacher Excavating, Inc.	\$262,690.00
Dunn Blacktop Company	\$348,015.080
O’Laughlin Trucking & Excavating, Mechanical	\$358,799.68

WHEREAS, upon tabulation of the quotes with respect to the specifications, it appears that Schumacher Excavating, Inc. is the lowest responsible bidder that meets the required specifications.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ST. CHARLES, MINNESOTA THAT:

1. The Mayor and the City Administrator are authorized and directed to enter into a contract with Schumacher Excavating, Inc. for the School Trail Improvement project in the amount of \$262,690.00.

Adopted by the Council of the City of St. Charles, Minnesota this 12th day of July, 2022.

John Schaber, Mayor

Attest: _____
Nick Koverman, City Administrator

School Trail Improvements (#8231049)

Owner: City of St. Charles

Solicitor: WHKS & Company

07/07/2022 02:00 PM CDT

WHKS No. 9300

		Unit of		Schumacher Excavating Inc.		Dunn Blacktop Company		O'Laughlin Trucking & Excavating, Mechanical	
Item Code	Item Description	Measure	Quantity	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	Mobilization	L.S.	1	\$18,000.00	\$18,000.00	\$55,435.00	\$55,435.00	\$13,544.00	\$13,544.00
2	Traffic Control	L.S.	1	\$1,000.00	\$1,000.00	\$5,000.00	\$5,000.00	\$1,000.00	\$1,000.00
3	Clearing	Acre	1.6	\$18,000.00	\$28,800.00	\$20,000.00	\$32,000.00	\$16,781.25	\$26,850.00
4	Grubbing	Acre	1.6	\$5,000.00	\$8,000.00	\$20,000.00	\$32,000.00	\$16,781.25	\$26,850.00
5	Temporary Rock Construction Entrance	Each	1	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00	\$1,082.00	\$1,082.00
6	Type 2 Ditch Check	Each	12	\$80.00	\$960.00	\$75.00	\$900.00	\$258.50	\$3,102.00
7	Silt Fence, Machine Sliced	L.F.	3720	\$2.00	\$7,440.00	\$1.95	\$7,254.00	\$6.00	\$22,320.00
8	Seeding	Acres	2	\$3,000.00	\$6,000.00	\$2,500.00	\$5,000.00	\$2,745.50	\$5,491.00
9	Erosion Control Blanket, Category 30	S.Y.	5700	\$2.00	\$11,400.00	\$1.70	\$9,690.00	\$1.50	\$8,550.00
10	Common Excavation (CV)	C.Y.	3625	\$10.00	\$36,250.00	\$20.00	\$72,500.00	\$28.00	\$101,500.00
11	Bituminous Wearing Course Mixture SPWEB240B	Ton	640	\$160.00	\$102,400.00	\$121.12	\$77,516.80	\$157.86	\$101,030.40
12	Aggregate Base, Class 5 (CV) (P)	C.Y.	820	\$35.00	\$28,700.00	\$40.00	\$32,800.00	\$40.00	\$32,800.00
13	18" GS Apron	Each	1	\$500.00	\$500.00	\$603.00	\$603.00	\$575.00	\$575.00
14	F&I 18" HDPE Culvert Pipe	L.F.	26	\$40.00	\$1,040.00	\$79.50	\$2,067.00	\$78.73	\$2,046.98
15	F&I 24" Nyloplast Structure with Dome Gate	Each	1	\$4,000.00	\$4,000.00	\$4,200.00	\$4,200.00	\$4,857.00	\$4,857.00
16	Riprap Class III	C.Y.	10	\$50.00	\$500.00	\$80.00	\$800.00	\$90.00	\$900.00
17	Pedestrian Ramp	Each	2	\$3,000.00	\$6,000.00	\$3,500.00	\$7,000.00	\$1,639.00	\$3,278.00
18	Topsoil Borrow	C.Y.	70	\$10.00	\$700.00	\$25.00	\$1,750.00	\$43.19	\$3,023.30
	Total				\$262,690.00		\$348,015.80		\$358,799.68

**City of St. Charles
Resolution #34-2022**

**A RESOLUTION ACCEPTING QUOTES
AND AWARDING WHITEWATER RIVER RESTORATION CONTRACT**

WHEREAS, pursuant to request for quotes for the Municipal Capital Expenditure for the 2022 Whitewater River Restoration (Phase 1) projects, bids were received, opened, and tabulated, and the following were received complying with the request:

<u>Bidder</u>	<u>Base Bid</u>
Sunram Construction, Inc.	\$295,135.00
Barth Construction	\$325,187.51
Schumacher Excavating Inc.	\$347,975.00

WHEREAS, upon tabulation of the quotes with respect to the specifications, it appears that Sunram Construction, Inc. is the lowest responsible bidder that meets the required specifications.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ST. CHARLES, MINNESOTA THAT:

1. The Mayor and the City Administrator are authorized and directed to enter into a contract with Sunram Construction, Inc. for the Whitewater River Restoration project in the amount of \$295,135.00.

Adopted by the Council of the City of St. Charles, Minnesota this 12th day of July, 2022.

John Schaber, Mayor

Attest: _____
Nick Koverman, City Administrator

Whitewater River Restoration, Phase 1 (#8236900)

Owner: City of St. Charles

Solicitor: WHKS & Company

07/07/2022 11:00 AM CDT

WHKS NO. 9460

Item Code	Item Description	Unit of Measure	Quantity	Sunram Construction, Inc.		Barth Construction		Schumacher Excavating Inc.	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	MOBILIZATION	LS	1	\$34,000.50	\$34,000.50	\$3,000.00	\$3,000.00	\$70,000.00	\$70,000.00
2	CLEARING & GRUBBING	LS	1	\$7,550.00	\$7,550.00	\$5,000.00	\$5,000.00	\$21,000.00	\$21,000.00
3	COMMON EXCAVATION (P)	CY	3700	\$7.75	\$28,675.00	\$10.25	\$37,925.00	\$5.00	\$18,500.00
4	F&I 18-INCH RCP PIPE	LF	30	\$220.00	\$6,600.00	\$150.00	\$4,500.00	\$120.00	\$3,600.00
5	REMOVE AND REINSTALL 18" RCP PIPE APRON	EA	1	\$3,500.00	\$3,500.00	\$500.00	\$500.00	\$500.00	\$500.00
6	F&I SILT FENCE	LF	2110	\$2.50	\$5,275.00	\$3.75	\$7,912.50	\$2.00	\$4,220.00
7	F&I FLOTATION SILT CURTAIN	LF	50	\$20.00	\$1,000.00	\$42.00	\$2,100.00	\$30.00	\$1,500.00
8	F&I STABILIZED CONSTRUCTION EXIT	EA	2	\$850.00	\$1,700.00	\$1,500.00	\$3,000.00	\$1,000.00	\$2,000.00
9	SEED AND MULCH WITH MNDOT SEED MIX 34-261	ACRE	3.7	\$2,210.00	\$8,177.00	\$3,878.38	\$14,350.01	\$5,000.00	\$18,500.00
10	SITE RESTORATION (HYDROSEED WITH MNDOT SEED MIX 25-131)	ACRE	1.6	\$3,000.00	\$4,800.00	\$3,300.00	\$5,280.00	\$9,000.00	\$14,400.00
11	F&I CATEGORY 30 EROSION CONTROL MATTING	SY	4300	\$2.65	\$11,395.00	\$3.75	\$16,125.00	\$2.00	\$8,600.00
12	RIPRAP CLASS V	CY	2025	\$63.50	\$128,587.50	\$80.00	\$162,000.00	\$45.00	\$91,125.00
13	F&I CROSS VANE	EA	2	\$1,675.00	\$3,350.00	\$4,000.00	\$8,000.00	\$5,750.00	\$11,500.00
14	F&I ROCK VANE	EA	2	\$1,550.00	\$3,100.00	\$2,000.00	\$4,000.00	\$2,940.00	\$5,880.00
15	F&I J-HOOK	EA	5	\$1,505.00	\$7,525.00	\$2,125.00	\$10,625.00	\$4,050.00	\$20,250.00
16	F&I ROOT-WAD STRUCTURES	EA	14	\$350.00	\$4,900.00	\$500.00	\$7,000.00	\$600.00	\$8,400.00
17	F&I ROCK RIFFLE WITH RANDOM BOULDER PLACEMENT	EA	2	\$14,000.00	\$28,000.00	\$14,935.00	\$29,870.00	\$13,000.00	\$26,000.00
18	F&I TEMPORARY STREAM CROSSING	EA	2	\$3,500.00	\$7,000.00	\$2,000.00	\$4,000.00	\$11,000.00	\$22,000.00
	TOTAL				\$295,135.00		\$325,187.51		\$347,975.00

**City of St. Charles
Resolution #35-2022**

**A RESOLUTION APPOINTING ELECTION JUDGES FOR THE SPECIAL
PRIMARY ELECTION MAY 24, 2022; THE PRIMARY ELECTION ON
AUGUST 9, 2022 AND THE GENERAL AND MUNICIPAL
ELECTION ON NOVEMBER 8, 2022**

The Council of the City of St. Charles hereby resolves that:

1. The persons below named are hereby appointed Judges for the Special Primary Election May 24, 2022; the Primary Election on August 9, 2022 and the General and Municipal Election on November 8, 2022. The judges appointed, the precinct and hours of voting are as follows:

City-wide Precinct:	Ward 1, Precinct 1
Voting Place:	St. Charles Community Center 830 Whitewater Avenue
Voting Time:	7:00 a.m. to 8:00 p.m.

<u>Name</u>	<u>Address</u>
Janell Dahl	1549 Whitewater Ave.
Aleshia Crouch	1554 Church Ave.
Carol Davitt	1500 Oakview Dr.
John Gregoire	549 St. Charles Ave.
Teresa Hegard	1373 Sunset Dr.
Cindy Kahn	1361 Soppa Dr.
Nick Koverman	110 Nicholas Dr. Lewiston, MN
Janis Martin	1600 Bluff Ave.
Charles Meyer	1507 Whispering Hills Dr.
Wendy Miller	997 East 15 th St.
Lindsey Olson	1384 Terry Dr.
Mary Polley	183 Northern Hills Dr.
Sid Polley	183 Northern Hills Dr.
Glen Seresse	1325 Soppa Dr.
Cassie Smith	513 Church Ave.
Kris Slavin	926 East 15 th St.
Gene Steward	194 Northern Hills Dr.
Nancy Steward	194 Northern Hills Dr.
Jack Thoreson	831 Richland Ave.
Sue Vermilya	301 Northern Hills Dr.
Steve Sinn	28184 Hwy 74
Mara Ruhoff	606 Wabasha Avenue
Shelly Schossow	1360 Sunset Drive
Joann Wohlferd	10007 Frisby Drive, Saint Charles
Dennis Wohlferd	10007 Frisby Drive, Saint Charles
Ken Splittstoesser	140 Gladiola Drive

Adopted this 12th day of July 2022 by the Council of the City of St. Charles, Minnesota.

John Schaber, Mayor

Attest: _____
Nick Koverman, Administrator

2905 South Broadway
Rochester, MN 55904-5515
Phone: 507.288.3923
Email: rochester@whks.com
Website: www.whks.com



July 6, 2022

Mr. Kyle Karger
Public Works Director
City of St. Charles
830 Whitewater Avenue
St. Charles, MN 55972

RE: St. Charles, MN
Chattanooga 2nd Addition
Pay Request No. 6

Dear Kyle:

Enclosed is Pay Request No. 6 for work on the above referenced project. We recommend payment in the amount of \$38,525.20 to:

Zenke, Inc.
87 Main St. #5
La Crescent, MN 55947

Please contact me if you have any questions.

Sincerely,

WHKS & co.

A handwritten signature in black ink, appearing to read "D. Sikkink".

Daren D. Sikkink, P.E.

DS/cf

Enclosure

cc: Nick Koverman, City of St. Charles
Travis Zenke, Zenke, Inc.

2905 South Broadway
Rochester, MN 55904
Phone 507-288-3923



engineers + planners + land surveyors

PARTIAL PAYMENT ESTIMATE
FOR CONSTRUCTION WORK COMPLETED

Project: 2021 Chattanooga 2nd Addition
Project No.: 9159.00
Location: St. Charles, MN
Contractor: Zenke, Inc.

Bid Price: \$997,354.58
Date: Jun. 15, 2022
Estimate #: 6
% Complete: 97%

Item No.		Contract Quantity	Unit	Unit Price	Quantity Completed Previous Estimates	Quantity Completed This Estimate	Quantity Completed to Date	Total
1.	Mobilization	1	L.S.	\$24,200.00	1		1	\$24,200.00
2.	Topsoil Stripping (P)	33,260	C.Y.	\$4.25	33,260		33,260	\$141,355.00
3.	Common Excavation (P)	16,591	C.Y.	\$3.10	16,591		16,591	\$51,432.10
4.	Geotextile Fabric Type 5 (P)	7,100	S.Y.	\$1.50	6,990		6,990	\$10,485.00
5.	Subgrade Preparation 12"	14	RD STA	\$300.00	9		9	\$2,700.00
6.	Aggregate Base Class 5 (P)(CV)	1,978	C.Y.	\$28.20	1,934		1,934	\$54,538.80
7.	Breaker Run Stabilizing Aggregate	260	C.Y.	\$27.80	1,100		1,100	\$30,580.00
8.	Type SP 12.5 Wearing Course Mix (2:B)	586	Ton	\$77.17	45	525.5	570.5	\$44,025.49
9.	Type SP 12.5 Non Wear Course Mix (2:B)	1,560	Ton	\$76.51	1,382		1,382	\$105,736.82
10.	Concrete Curb & Gutter, Design B618	2,800	L.F.	\$11.57	2,834		2,834	\$32,789.38
11.	Concrete Apron	19	S.Y.	\$77.76			-	\$0.00
12.	Aggregate For Pipe Foundation(CV)	308	C.Y.	\$46.00			-	\$0.00
13.	Remove Bituminous Pavement	192	S.Y.	\$5.00	191		191	\$955.00
14.	F&I 6" PVC Pipe Service	400	L.F.	\$38.60	400		400	\$15,440.00
15.	F&I 8" PVC Pipe Sewer	1,290	L.F.	\$41.50	1,290		1,290	\$53,535.00
16.	F&I 8" x 6" PVC Wye	9	Each	\$295.00	9		9	\$2,655.00
17.	Construct Structure, Type 3, (48") (Adjusted)	5	Each	\$3,650.00	5		5	\$18,250.00
18.	Connect to Existing Sanitary Sewer	1	Each	\$500.00	1		1	\$500.00
19.	F&I 6" Water Main	430	L.F.	\$32.60	430		430	\$14,018.00
20.	F&I 8" Water Main	1,246	L.F.	\$35.80	1,246		1,246	\$44,606.80
21.	F&I 6" Gate Valve & Box	14	Each	\$1,570.00	14		14	\$21,980.00
22.	F&I 8" Gate Valve & Box	3	Each	\$2,160.00	3		3	\$6,480.00
23.	F&I 6" Hydrant	4	Each	\$4,160.00	4		4	\$16,640.00
24.	F&I Watermain Fittings	1,208	Pound	\$9.80	1,208		1,208	\$11,838.40
25.	Connect to Existing Watermain	1	Each	\$1,200.00	1		1	\$1,200.00
26.	F&I 15" RCP Storm Sewer	125	L.F.	\$48.20	115		115	\$5,543.00
27.	F&I 18" RCP Storm Sewer	543	L.F.	\$52.80	563		563	\$29,726.40
28.	F&I 30" RCP Storm Sewer	763	L.F.	\$82.60	740		740	\$61,124.00
29.	F&I 30" HDPE Storm Sewer	721	L.F.	\$59.50	721		721	\$42,899.50
30.	Construct Structure, Type 4 (48")	2	Each	\$2,440.00	2		2	\$4,880.00
31.	Construct Structure, Type 4 (60")	7	Each	\$3,940.00	7		7	\$27,580.00
32.	Construct Structure, Type 4 (72")	1	Each	\$4,900.00	1		1	\$4,900.00
33.	Construct Structure, Type 4 (84")	1	Each	\$7,290.00	1		1	\$7,290.00
34.	Construct Structure Type 1	10	Each	\$1,946.00	10		10	\$19,460.00
35.	F&I 30" RCP Apron	1	Each	\$1,120.00	1		1	\$1,120.00
36.	Ditch Check Type 2	3	Each	\$1,545.00			-	\$0.00
37.	Traffic Control	1	L.S.	\$300.00	1		1	\$300.00
38.	Erosion Control Blanket, Category 3	2,470	S.Y.	\$2.10	1,160		1,160	\$2,436.00
39.	Turf Establishment, Seed & Mulch	16	Acre	\$1,000.00	16		16	\$16,000.00
40.	Silt Fencing, Type Machine Sliced	2,358	L.F.	\$1.90	1,959		1,959	\$3,722.10
41.	Inlet Protection	11	Each	\$90.00	1		1	\$90.00
42.	Stabilized Vehicle Exit	1	L.S.	\$10.00	1		1	\$10.00
43.	4" PVC Conduit	344	L.F.	\$15.00	532		532	\$7,980.00
44.	4" Insulation	1,240	SF	\$3.90	1,240		1,240	\$4,836.00
45.	Trench Rock Excavation	1,290	L.F.	\$26.00	1,000		1,000	\$26,000.00
46.	Material testing allowance \$1,000	1	L.S.	\$1,000.00	0.06		0.06	\$60.00
Materials on Hand								
	30" HDPE pipe from Core & Main Invoice 6/14/21	740	LF	\$22.92	0		-	\$0.00
	Sanitary Manhole structures	5	Each	\$1,004.02	0		-	\$0.00

Total Work Completed \$971,897.79

Less 5% Retainage \$48,594.89
Less Previous Payments \$884,777.70

Net Payment this Estimate **\$38,525.20**

**Request for City Council Action**

Date: July 8, 2022

Requested Council Date: July 12, 2022

Originating Department: Admin.

Council Action Requested: Reimburse up to \$500.00 for paint/supplies for church floor

Background Information: Members of the WOW committee have asked if the city would participate and cost share paint and supplies as the group of volunteers is willing to repaint the floors inside the church. The \$500.00 is a guestimate on the total cost and a motion could simply be to reimburse the necessary cost.

