



The City Council of the City of St. Charles welcomes you to its Regular Meeting of Tuesday, July 9, 2019 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 9, 2019 Agenda	APPROVE
4. Meeting Minutes -June 11, 2019	APPROVE
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, Kyle Karger	
7c. Chief of Police Report, Ken Frank (TBG)	
7d. Library Board Report, David Kramer	
7e. Park Board, Dave Braun	
7f. School Board, Craig Hilmer	
8. 2018 Audit Presentation-Smith Schafer & Associates	INFORMATION
9. 2020 Budget Timeline and Process	INFORMATION
10. 2019 Junior American Legion Baseball Tournament	APPROVE
11. St. Charles Avenue Closer Request-WOW Events	APPROVE
12. Public Hearing Ordinance #609 Veterans Memorial	HOLD
13. Ordinance #609 Veterans Memorial (1 <sup>st</sup> Reading)	APPROVE
14. Resolution #23-2019 Amending JPA with GRRC	APPROVE
15. Refuse/Recycling Contract Amendment-Advanced Disposal	APPROVE
16. Closed Session-Administrator Review—Minn. Stat. 13D.05 Subd. 3(a)	HOLD

**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

**\*Attachment. Questions? Contact Nick Koverman at St. Charles City Hall at 932-3020 or by email at [nkoverman@stcharlesmn.org](mailto:nkoverman@stcharlesmn.org).**



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**MEMORANDUM for the CITY COUNCIL of St. Charles for**  
**Tuesday, July 9, 2019**

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**8. 2018 Audit Presentation—Smith Schafer & Associates.** Jason Boynton will be present to give Council the 2018 Audit.

**9. 2020 Budget Timeline and Process.** Included in the packet is information related to the upcoming 2020 budget process. Any questions will be answered at that time.

**10. 2019 Junior American Legion Baseball Tournament.** St. Charles is hosting the event August 9-11 and as part of the event, a request from the committee to close a section off of Bluff and East Avenue by the high school ballfields along with the drive at the top of the hill by the Aquatic Center turn in from Thursday, August 8 until Sunday evening, August 11. Mayor Schaber will provide additional information and highlight the request of the committee and their work to date. A map highlighting the requested blocked area is included for consideration.

**11. St. Charles Avenue Closer Request—What's On Wednesday.** A representative from WOW will be present to request the potential street closer for the upcoming July 17<sup>th</sup> WOW event and potentially the August events. July 17<sup>th</sup> will feature Farm To City night and SEMA has volunteered to bring equipment down for display. It is anticipated that blacktop space needs may exceed the parking area directly behind City Hall due to vendors and crafters utilizing the space.

**12. Public Hearing Ordinance #609 Veterans Memorial.** A public hearing will be held for the proposed ordinance that is included for Council consideration.

**13. Ordinance #609 Veterans Memorial (1<sup>st</sup> Reading).** Please see the enclosed ordinance for consideration.

**14. Resolution #23-2019 Amending JPA with GRRC.** Please see enclosed resolution for consideration. The amendment adds Washington County Regional Railroad Authority as the new Financial Party and formally changes the name of the organization to the Great River Rail Commission.

**15. Refuse/Recycling Contract Amendment – Advanced Disposal.** In discussion with David Meyer of Advanced Disposal, an amendment to the contract that expires December 31, 2019 was reviewed to allow for an extension of the term. It was determined that December was not an ideal time for either St. Charles residents or Advanced Disposal to switch companies, if Advanced Disposal did not receive the bid for the new contract. A proposed amendment is included for consideration.

**16. Closed Session—Administrator Review—Minn. Stat. 13D.05 Subd. 3 (a).**

**MINUTES of the ST. CHARLES CITY COUNCIL**  
**for Tuesday, June 11, 2019 held at 6:00 p.m. at**  
**830 Whitewater Avenue,**  
**St. Charles, Minnesota**

**MEMBERS PRESENT:**

Councilmen:

Mayor John Schaber

Dave Braun

Craig Hilmer

Wayne Getz

David Kramer

**STAFF PRESENT:** Police Chief Ken Frank, Cris Gastner (EDA Director) and Nick Koverman (City Administrator).

**OTHERS IN ATTENDANCE:** Amy Berends (What's On Wednesdays), Emily Streiff (Roasted Bliss), Denise Myers (Roasted Bliss), Alison Johnson (Roasted Bliss), Karen DuCharme (Southeast Minnesota Multi-County Housing and Redevelopment Authority), Buffy Beranek (SEMMCHRA) and Jill Veerkamp (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 discussion.

Motion carried.

**4. Meeting Minutes**

May 14, 2019

Motion to approve: **Craig Hilmer**

No further discussion.

Motion declared carried.

May 28, 2019

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:**

Various reports were given.

**8. Small Cities Development Program—SEMMCHRA.** Karen DuCharme from the Southeast Minnesota Multi-County Housing and Redevelopment Authority presented information related to a proposed Community Development Block Grant (CDBG) application to assist the City with low to moderate income

housing, along with rental and commercial rehabilitations. She briefly reviewed the income guidelines, process, and outlined the portion of forgivable grants and the loan portion. The City had previously worked with SEMMCHRA on a similar grant in 1991. The CDBG application would look at a target area in the community of older homes, DuCharme stated. She relayed that as part of the application, it is requested that Cities cost share and she relayed that a minimum \$10,000 is requested once the application is approved. She relayed that SEMMCHRA is planning to submit for \$1,000,000.00 in grant dollars. All councilmembers concurred that this sounded like a wise investment to help homeowners who qualify. If funds are used and property owners leave the program earlier than the required timeline, those dollars remain in the city. All agreed it was a good program and partnership with SEMMCHRA.

**9. Resolution #21-2019 Proposed SCDP Rehab Application.** Hearing no further discussion regarding the program and guidelines, Mayor Schaber called for a motion to approve the resolution as presented.

Motion to open the hearing: **Dave Braun**

No further discussion.

Motion carried.

**10. Revolving Loan Request #02-2019.** Cris Gastner, EDA Director with the St. Charles Economic Development Authority, presented information related to a \$25,000 revolving loan request for Roasted Bliss and owners Alison Johnson and Denise Myers. The \$25,000 loan would be used for equipment, furniture and fixtures. The EDA reviewed the business plan and recommended approval of the application. Gastner relayed that personal guarantees will be signed and all the documents drafted if approved. Invoices will be submitted and reimbursed through the loan funds. Hearing no questions, Mayor Schaber called for a motion to approve the revolving loan request as presented.

Motion to approve: **Wayne Getz**

No further discussion.

Motion carried.

**11. WOW Event-Liquor Sales Request.** Amy Berends highlighted that close to 300 residents and guests attended the first WOW event held June 5. Several vendors and crafters were on hand in addition to children's inflatables, music, and food vendors. She thanked city staff for help with the electric service, spools for tables, picnic tables, garbage cans, etc. She asked about recycling containers and Admin. Koverman relayed he had two delivered shortly after the event for the rest of the season. She relayed all was a success but relayed that it was asked whether or not liquor could be brought or sold. Admin. Koverman reviewed that section of the City Code that discussed how City Council could authorize public spaces to allow liquor. In speaking with the Park & Rec director, the history of the parks and pavilions has been that residents and guests are allowed to consume beer on the premise. He also brought several past resolutions whereby a nonprofit organization sold beer as part of an event. Through the State of Minnesota nonprofit organizations are able to request a temporary 1-4 day liquor license, which is how events have typically provided liquor. Representatives of the WOW group reached out to the Lewiston Rec Bar & Café as they have their catering license for liquor as well as their catering license for food and have a State licensed onsale license along with their restaurant. Koverman relayed that up until now, it has been just a green space. Is it a park, what function does it serve? These were just some of the questions he said the space raises for the Council. Trying to provide guidelines and a process for who can use the space, how is the space used, etc. are all additional questions. With the request for liquor to be sold, the proper licensed operator would be available and Koverman added that the group's intention was not to over indulge, but rather to enjoy the evening. Berends added that because of the different ages and the youth, they will help to police the event. Through the ordinance the Council has the ability to permit consumption, he reminded them, but recommended that perhaps the remaining WOW events would be permitted which would allow staff time to review a process and guidelines. A motion to allow sales during the operations of the remaining WOW season from 5-8 p.m. and to direct city staff to review the process and guidelines for future use of the space was moved.

Motion to approve: **Craig Hilmer**

No further discussion.

Motion carried.

**12. Veterans License Agreement.** Admin. Koverman presented the license agreement that had been presented to the Veteran's Memorial Committee for review and comment. After speaking with the committee chair, Ken Bloom, the request from the committee was for a 75 year agreement with subsequent renewals. The ordinance was also reviewed by the committee and it was discussed that changes could be made in the future if necessary but that it was a good compromise of trying to regulate the decorum of the space while looking to remain a public space that is used by both residents and guests of the City. The ordinance would need to have a public hearing that will be scheduled at a later date in order to allow for the proper publication timelines. The Council could delay the approval of the license agreement or approve it at their discretion. All councilmembers agreed the Veteran's Memorial was a great addition to the 11<sup>th</sup> Street project. A motion was made to approve the license agreement as presented.

Motion to approve: **Dave Braun**

No further discussion.

Motion carried.

**13. Ordinance #609 Veterans Memorial.** No comments were made. The public hearing will be scheduled and the first reading will be conducted.

**14. Request for Advertisement of Part-time Officers.** Police Chief Ken Frank was present and gave an update that Officer Brady Jones will be filling in the vacant position of Sergeant Jose Pelaez. Chief Frank relayed that part-time support is very limited currently and that he would like to advertise for one, potentially two, part-time officers to help with vacations, extended sick leave, etc. He discussed the option of potentially working with Winona County who is also advertising for an open part-time spot. He is hoping to recruit some of the latest graduates and will look to hire one or two positions depending on the applications received. A motion was made to approve the advertisement for the part-time positions.

Motion to approve: **Wayne Getz**

No further discussion.

Motion carried.

**15. Memorandum of Understanding—TZD Coalition.** Chief Frank highlighted the benefits of the partnership for the Toward Zero Death enforcement hours which pays for additional traffic patrol inside and outside of St. Charles limits. He requests that patrols are restricted to no more than a range of 5-6 miles outside city limits. He also shared that funding of equipment through TZD funds has been cut, which helped to provide some additional supports to law enforcement. Regardless, he felt the program and participation was still worth while for St. Charles. A motion to approve the Memorandum as presented was moved.

Motion to approve: **David Kramer**

No further discussion.

Motion carried.

**16. Resolution #22-2019 St. Charles Interconnection Process.** Admin. Koverman briefly highlighted the information contained in the packet provided by Kristie Robinson of Star Energy Services. Robinson works with electric municipals around the State as part of MMUA's collaboration. After the Public Utilities Commission approved new rules and guidelines, Robinson has updated the policies and applications for the City to be adopted. After a brief review, a motion to adopt the new resolution as presented that adopted the new policies, standards and applications was moved.

Motion to approve: **Craig Hilmer**

No further discussion.

Motion declared carried.

**17. 2019 City Cleanup Day Review.** Koverman briefly touched on the costs related to City Cleanup Day activities. A total of 758 tires were collected for \$2,639.00 while 31.06 tons of garbage were collected for a cost of \$6,359.93. this was up slightly from 2018 (27.59 tons) but still significantly less than 2016 and 2017 at 71.56 and 66 tons.

**18. Gladiolus Days button Winner.** After reviewing the button design selections, staff recommended the approval of the button submitted by Mira Paul of Mrs. Backes' 6<sup>th</sup> grade class. A motion to approve the button was moved.

Motion to approve: **David Kramer**

No further discussion.

Motion carried.

#### **UNSCHEDULED PUBLIC APPEARANCES**

None.

Motion to adjourn at 6:38 p.m.

Motion to approve: **David Kramer**

Motion declared carried.

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**John P. Schaber, Mayor**

ATTEST

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**Nick Koverman, City Administrator**



## City Administrator's Report—June 2019

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**June 3**—Met with the new owners and staff at Cabin Coffee to congratulate on the regrand opening of their business.

**June 4**—Mayor Schaber and I met with Buffy Beranek and Karen DuCharme of the Southeast Minnesota Multi-County Housing and Redevelopment Authority to discuss potential next steps to explore a Small Communities Block Grant. Additional information will be presented to Council for consideration.

Met with Anne Morse, the Winona County Environmental Services and Sustainability Coordinator, to discuss the County recycling contract as well as the upcoming 2020 Request for Proposal for garbage and recycling.

Met with Ken Bloom to continue discussions on the Veteran's Memorial ordinance and agreement.

**June 11**—Met with Tim and Hunter Johnston regarding a proposed solar installation on Wabasha Avenue.

**June 13**—SCACF members met with Winterfest organizers to discuss the possibility of becoming a subfund under the Southern Minnesota Initiative Foundation.

**June 20**—Mayor Schaber, Clm. Getz, Shawn Elsbury and I met with Jason Boynton and Smith Schafer staff to review the full audit.

**June 21**—Held a conference call with representatives from the American Lung Association, Public Law Health Center, and the MN Dept. of Health to discuss a possible ordinance revision for the St. Charles cigarette ordinance. Jeff Peterson of Winona County Health referred the City to the group for consideration.

**June 24**—Janell Dahl, Cassie Smith, and I met with one of the new Resource Center staff members to walk through the City process for disconnects and utilities. Offered assistance to the staff and welcomed any phone calls.

**June 25**—Attended a Winona County PartnerSHIP meeting in Winona. Received several updates on programs and learned of possible mini-grant dollar projects that St. Charles could be eligible for.

**June 26**--Met with representatives from the Federal Communications Commission to receive tips and strategies to share with community members for robocalls. The City can access brochures and pamphlets to distribute as well for the senior center and library.

-Held a brief conversation with Katie from Project Fine to begin planning for the September 18 Welcoming Week event which would be held on Wednesday. Project Fine will also reach out to Father Tim of the Catholic Church about the possibility of partnering as well. Because of the success of WOW, Project Fine is hoping to structure a similar event in the green space.

## Public Works Report – June 2019

- Hauled black dirt from Dodge dealership to City shop; mowing & spraying poison hemlock and other weeds; pulled two poles; installed new street light pole; checked sewer manhole at South fork; meeting with Gary Greenwald on St. Charles phasing and mapping; and installed new primary underground on 15<sup>th</sup> street.
- Located property pins; locates for underground projects; checked on solar farm; maintenance on equipment; disconnected Dale Henry's service; reinstalled clean up rock, dirt and seed I-90 entrance to Chattanooga park; working on total patcher & lights on truck; sewer back up on Sunset drive and total patching Dell's City parking lot.
- Delinquent slips delivered for City Hall; checked ampage at City Shop; exercised City power plant and stand-by generators; energized Excel three phase transformer; electric reconnect; unloaded, sanded and stained reels for WOW celebration; DOT meeting; disconnect & final reads for school building by tennis court; hung banners on HWY 74; and put electrical material into inventory.
- Trimmed trees at 1207 Church Avenue; repair/rebuilding catch basins; breaking out curbs for replacement; water trees; street sweeping; moved aluminum hand trailer to City Hall; picked up firehose after races at fairground; and cleaned City Shop.
- Water Samples; picked up cement pads; replaced water hydrant; read meters; seeded east side of Sherwood road; replaced water meters; filled potholes; Well 3 maintenance; weed whipped and treated Hwy 14 east lift station; exercised Well 4; flushed dead end mains; and helped with flow test at Dodge dealership.
- Meeting with uniform company about discounted bills; ordered street signs; discussed switchover of Whitewater power line with Chad from MiEnergy and discussions on future solar farm energizing testing/coming online in Mid-July.

Sincerely,

Kyle Karger  
Public Works Director





# 2020 Budget Timeline and Process

The City of St. Charles budget timeline and process fosters collaboration and partnership to help better achieve the City's goals and directives, while maintaining fiscal responsibility utilizing historical trend analysis and prioritizing the needs and desires of the community and Council. A two-step process that divides the budget into two focal points is utilized.

First, all funds associated with the governmental administration of the City of St. Charles as it relates directly to the certified levy and taxation of the City's residents is completed. The following funds are reviewed as part of that process: administration, park, recreation, street, library, fire, swimming pool, police, bond issuance payments, TIF and Economic Development.

In the second part of the budget process, all funds associated with the City of St. Charles as Enterprise Funds, which include electric, water, sewer, garbage, stormwater and ambulance are all reviewed. In addition, Mike Bubany of David Drown & Associates provides additional analysis of the Capital Improvement Plan and an analysis of utility rates as they relate to current and future spending needs as identified by department heads and administration.



# 2020 Budget Timeline and Process

## Timeline

### **Governmental Funds**

July 10, 2019 - August 13, 2019

August 27, 2019

September 10, 2019

September 24, 2019

### **Enterprise Funds**

October 8, 2019

October 22, 2019

November 12, 2019

December 10, 2019

## Process

City administrator/accountant to meet with department heads

Copy of preliminary budget and proposed Capital Improvement Plan

Discuss Governmental Levy Budget

Certify Preliminary Governmental Levy to Winona County

Preliminary Enterprise Fund Budgets

Discuss Enterprise Budget Changes, CIP (Mike Bubany)

Finalize Enterprise Budget

Truth In Taxation. Allows public input. Finalize and approve 2019 budget

Can utilize special meeting date of Monday, December 23, 2019 or Tuesday, December 31, 2019 if needed.



Overview



### Legend

#### Roads

- Other
- Interstate
- US/State Highway
- City Streets
- County Road
- Township Road
- Private Drive
- Winona Boundary
- Parcel

Parcel ID	290000370	Alternate ID	n/a	Owner Address	INDEPENDENT SCHOOL DIST #858
Sec/Twp/Rng	20-106-010	Class	901 - K-12 SCH-PUBLIC		600 6TH ST E
Property Address	600 6TH ST E	Acreage	n/a		ST CHARLES, MN 55972
	ST CHARLES				
District	SAINT CHARLES CITY				
Brief Tax Description	Sect-20 Twp-106 Range-010 LIMITS ST CHARLES Lot-014 LIMITS (HIGH SCHOOL) ALL SOUTH OF HWY #14 EX: CITY 156' X 210'				
	(Note: Not to be used on legal documents)				

Note: This map is created from data contained in Winona County GIS and is for reference purposes only. While significant effort has been invested to depict boundary extents as accurately as possible per existing records, this map should not be considered a replacement for professional land survey.

Date created: 7/2/2019  
Last Data Uploaded: 7/2/2019 5:12:42 AM

Developed by  **Schneider**  
GEOSPATIAL

**City of St. Charles**  
830 Whitewater Avenue  
St. Charles, MN 55972

Phone (507) 932-3020  
FAX (507) 932-5301

[www.stcharlesmn.org](http://www.stcharlesmn.org)



Mayor: John Schaber, Council: David Kramer, Craig Hilmer, Wayne Getz, David Braun, Adm.: Nick Koverman

Dear Minnesota American Legion Junior State Tournament player, coach and fan:

First of all, congratulations on your successful journey that has led you to one of the State's premier tournaments! On behalf of our local American Legion, VFW, and planning committee, we would like to welcome you to St. Charles for three days of great baseball. Our committee has worked for the past year preparing and planning to insure your time here in St. Charles is truly a memorable one.

While most of your time will be spent enjoying America's favorite past-time and watching the athletes compete at the highest level, we hope you may be able to find time to enjoy some of our St. Charles amenities. Whether you enjoy one of the many restaurants or shops in town, visit one of our seven parks, or take a short 7-minute drive north to the majestic Whitewater State Park, St. Charles is truly a treasure to explore.

We wish you all great success and thank all those you have made this tournament possible.

Sincerely,

A handwritten signature in blue ink that reads "John Schaber". The signature is fluid and cursive, with the first name "John" and last name "Schaber" clearly visible.

John Schaber, Mayor



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Complaints of discrimination should be sent to: USDA, Director, Office of Civil Rights, Washington DC 20250-9410





**CITY OF ST. CHARLES**

**ORDINANCE #609**

**AN ORDINANCE OF THE CITY OF ST. CHARLES, MINNESOTA,  
ESTABLISHING A VETERANS MEMORIAL.**

**THE CITY OF ST. CHARLES DOES ORDAIN:**

SECTION 1. Table I: Streets, Easements and Public Ways, of the City Code of St.

Charles, Minnesota, be amended as follows:

**VETERANS MEMORIAL.**

(A) *Findings and Purpose.* The City Council finds that there should be an area within the City's park and open space system set aside as a memorial for and to honor our Nation's, State's and City's men and women currently serving in or who have served in the Armed Forces of the United States (the "Veterans Memorial").

(B) *Establishment.* Pursuant to Minnesota Statutes, Section 416.01, a Veterans Memorial is hereby established and designated upon that certain portion of City-owned land located at northwest corner of 11<sup>th</sup> Street and Whitewater Avenue within the City and respectively described and depicted on Exhibits A and B, which are attached hereto and incorporated herein by reference. The Veterans Memorial hereby designated is set aside for purposes of the public honoring and remembering the service and sacrifice of our Nation's veterans.

(C) *Licenses.* In carrying out the purposes hereof, the City may license(s) local veterans organizations, or other agents or contractors for purposes, including but not limited to the following: supervising, managing, controlling, obtaining monuments, placing of monuments, operating, and maintaining the Veterans Memorial, and such other services or responsibilities as the City Council shall designate or require in its judgment and discretion in the public interest.

(D) *City Management and Funding.* This ordinance does not require or establish any obligations upon the City to operate, manage, maintain or fund the Veterans Memorial, or and City approved monuments or improvements thereto. The City may rely entirely on the licensing and contracting authority established herein for the Veterans Memorial whereby the Veterans Memorial will be funded along with such other obligations or responsibilities as the City may require, by licensed organizations and/or private individuals or contractors, with or without City funding. Any City funding for the Veterans Memorial shall be approved by the City Council in its discretion.

(E) *Rules of Conduct.* In carrying out the purposes hereof, the City recognizes that activities inconsistent with purposes of the Veterans Memorial occurring at the Veterans Memorial inherently contravene, interfere with and are injurious to such purpose of the Veterans Memorial and that there are other areas of the City where such legal activities may otherwise

freely occur. Accordingly, the City has a compelling interest in imposing time, place and manner restrictions on those activities inconsistent with the purpose for which the Veterans Memorial is designated on a content neutral basis and in a manner that does not unreasonably infringe upon the rights of the City's inhabitants and visitors to engage in free speech or the free exercise of religion. Therefore, the rules of this section define the standards of conduct required of all the City's inhabitants and visitors to the Veterans Memorial, which is a shrine to honor present and past members of the Armed Forces of the United States and may contain monuments for the Civil War, World War I, World War II, Korea, Vietnam, Desert Storm and an All Wars Monument. In addition, POWs, MIAs, Gold Star Spouses and Parents, and Purple Heart holders may also be honored.

- (1) All visitors, including those attending or taking part in a military memorial service or ceremony, shall observe proper standards of conduct, decorum and decency. Military memorial service or ceremony means a formal group activity conducted by an established military service group or organization intended to honor the active service or memory of members of the Armed Forces.
- (2) Specifically, no person shall within the designated grounds of Veterans Memorial:
  - (a) deface, climb on, sit on, stand on or otherwise damage any monuments;
  - (b) use the grounds for playing sports or participating in athletics;
  - (c) use the grounds for grilling or other cooking activities;
  - (d) erect a tent, hammock or other structure unless the use of the same is part of a military memorial service or ceremony authorized by this ordinance;
  - (e) deposit or throw litter or other debris;
  - (f) drive any motor vehicle other than in a parking lot or street;
  - (g) engage in any disorderly conduct as defined in State Statute or City Code;
  - (h) display or distribute commercial advertising for the purpose of soliciting business or otherwise solicit business; or
  - (i) be within the boundaries of the Veterans Memorial between the hours of 10:00 p.m. and 4:00 a.m. of the following day, unless the use of the same is part of a military memorial service or ceremony authorized by this ordinance.
- (3) *Exceptions.* This Section E shall not apply to the following:
  - (a) *Public safety.* The operations of authorized public safety or other City personnel or emergency or City vehicles, including without limitation police vehicles, fire vehicles, ambulances and City, county or state snowplowing vehicles, the use of

sirens, warning devices, sound amplification devices or other equipment by public safety personnel or other City personnel in emergency situations or otherwise.

(b) *Emergency or other City work.* Activities or work by City personnel in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard or such other work as the City Administrator or City Council deems necessary or appropriate in the public interest.

(c) *Government sponsored or permitted or licensed activities.* Those certain City, and/or government permitted or licensed activities shall be exempt from the provisions of this Section.

(4) *Penalty.* Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor.

SECTION 2: This Ordinance shall take effect thirty days after its publication.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2019 by the City Council of the City of St. Charles, Minnesota.

\_\_\_\_\_  
**John Schaber, Mayor**

Attest:

\_\_\_\_\_  
**Nick Koverman, City Administrator**

*First Reading:*

Date: \_\_\_\_\_

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Abstain \_\_\_\_\_

*Second Reading:*

Date: \_\_\_\_\_

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Abstain \_\_\_\_\_

*Published:*

Date: \_\_\_\_\_

**CITY OF ST. CHARLES  
RESOLUTION #23-2019**

**A RESOLUTION AMENDING THE RESTATED GREAT RIVER  
RAIL COMMISSION JOINT POWERS AGREEMENT**

**WHEREAS,** The Minnesota High Speed Rail Commission (Commission) was established in 2009 as a joint powers board under the provisions of Minnesota Statutes Section 471.59 and Chapter 398A and;

**WHEREAS,** The Commission is established by a Joint Powers Agreement by and between Dakota County Regional Railroad Authority, Goodhue County Regional Railroad Authority, Ramsey County Regional Railroad Authority, Wabasha County Regional Railroad Authority, Winona County Regional Railroad Authority, La Crosse Area Planning Committee, City of Cottage Grove, City of Goodview, City of Hastings, City of Lake City, City of Red Wing, City of Saint Charles, City of Saint Paul, City of Saint Paul Park, City of Utica, City of Wabasha, City of Winona; and

**WHEREAS,** The Commission is working to establish the Twin Cities-Milwaukee-Chicago second daily round-trip passenger train along the current Amtrak Empire Builder route (TCMC Corridor), serving the current station stops; and

**WHEREAS,** The Commission advocates for faster and more frequent passenger rail service between Chicago and Saint Paul along the TCMC Corridor, and

**WHEREAS,** The Commission desires to amend the Joint Powers Agreement to change its legal name and to conduct business as the Great River Rail Commission; and

**WHEREAS,** The Commission desires to add Washington County, Minnesota as a Financial Party member; Now, Therefore Be It

**RESOLVED,** The St. Charles City Council approves the Third Amended and Restated Great River Rail Commission Joint Powers Agreement and authorizes the Chair and Chief Clerk to execute the Agreement.

Adopted by the Council of the City of St. Charles, Minnesota this 9<sup>th</sup> day of July 2019.

\_\_\_\_\_  
**John Schaber, Mayor**

Attest: \_\_\_\_\_  
**Nick Koverman, City Administrator**



**THIRD AMENDED AND RESTATED JOINT POWERS AGREEMENT  
RE-ESTABLISHING THE  
MINNESOTA HIGH SPEED RAIL COMMISSION AS  
THE GREAT RIVER RAIL COMMISSION**

**THIS THIRD AMENDED AND RESTATED JOINT POWERS AGREEMENT (Third Amended JPA)**, is entered into by and between the undersigned Regional Railroad Authorities, Cities, and Metropolitan Planning Organizations, all being governmental units, pursuant to the authority contained in the Minn. Statutes §§471.59 or 398A.

**RECITALS TO THIRD AMENDED JPA**

- A. The Minnesota High Speed Rail Commission Joint Powers Agreement (Agreement) was adopted and executed by the member Parties in 2009.
- B. The Agreement was amended to include the La Crosse Area Planning Committee, a Metropolitan Planning Organization, as a Financial Party in 2016.
- C. The Agreement was amended to clarify its mission, definitions of membership and funding formula in 2017.
- D. The Minnesota High Speed Rail Commission agreed to revisit the Agreement to change its legal name to Great River Rail Commission and add Washington County Regional Railroad Authority as a Financial Party.

**NOW THEREFORE** in consideration of the foregoing Recitals and other technical corrections, this Agreement is amended and restated in its entirety as follows:

**WITNESSETH**

**WHEREAS**, the Twin Cities-Milwaukee-Chicago Passenger Rail Corridor (TCMC Corridor) in Minnesota is defined as the Canadian Pacific Railway corridor from La Crescent to Union Depot in St. Paul, traveling along the Mississippi River; and

**WHEREAS**, Amtrak's *Empire Builder* runs on the TCMC Corridor and connects Minnesota to Chicago, the hub of the Midwest Regional Rail System, and to the rest of the national passenger rail network, and

**WHEREAS**, Amtrak conducted a feasibility study in 2015 that showed one additional round-trip between Saint Paul and Chicago on the *Empire Builder* route would attract 155,000 riders annually, and

**WHEREAS**, the one additional round-trip would run at a maximum speed of 79 miles per hour and serve the same stations as the *Empire Builder* plus two additional stations in Wisconsin, and

**WHEREAS**, a Phase 1 alternatives analysis conducted by a multi-state study group in 2018 identified two service alternatives that could be integrated with forecasted freight traffic and recommended them for further evaluation of their environmental impacts, and

**WHEREAS**, implementation of a second round-trip passenger train from Saint Paul to Chicago on the TCMC Corridor will provide economic, mobility and safety benefits to residents and businesses in Minnesota, and

**WHEREAS**, the communities along the TCMC Corridor wish to collaboratively plan for and realize the benefits of additional passenger train service between Saint Paul and Chicago on the TCMC Corridor, Now Therefore Be It

**RESOLVED**, in consideration of the mutual benefits that each Party shall derive here from, the Parties agree as follows:

## **ARTICLE 1.**

## **DEFINITIONS**

Unless the context otherwise requires, the terms defined in this section shall for all purposes of this agreement have the meanings herein stated:

**Agreement** means this Amended Joint Powers Agreement as it now exists and as it may hereafter be amended.

**Alternate** means the individual appointed to the Commission as provided in Article 4 of this Agreement as a substitute to the appointed Member.

**Commission (Great River Rail Commission)** shall mean the joint powers board herein established.

**Party** shall mean any Regional Railroad Authority, City or Metropolitan Planning Organization identified in Article 6 of this Agreement as eligible to participate in this Agreement and which approves and executes this Agreement.

**Financial Party** shall mean any Regional Railroad Authority or Metropolitan Planning Organization identified in Article 6 of this Agreement that has approved and executed this Agreement and is financially contributing to the Commission.

**Twin Cities-Milwaukee-Chicago Passenger Rail Corridor (TCMC Corridor)** in Minnesota shall be defined as the Canadian Pacific Railway corridor from La Crescent to the Union Depot in St. Paul, Minnesota traveling along the Mississippi River.

**Passenger Rail** shall mean an electric or diesel-powered railway that connects multiple regions and the cities in between. Service is focused on moving people between regional centers at speeds not exceeding 90 miles per hour.

**Member** shall mean an individual appointed to the Commission as provided in Article 4 of this Agreement.

**Quorum** shall consist of a majority of the Financial Parties to this Agreement as defined in Article 6 that have approved and executed this Agreement and at least two cities that have approved and executed this Agreement or as otherwise defined in the Bylaws.

**Host Railroad** shall mean the owner of the railroad track upon which Passenger Rail will travel.

## **ARTICLE 2.**

### **PURPOSE**

The purpose of this Agreement is to form a Joint Powers Board under the provisions of Minnesota Statutes Section 471.59 and 398.A to enable the Parties to cooperatively advocate for, and analyze the feasibility of, enhanced rail transportation options and an integrated rail transportation system in the TCMC Corridor that includes passenger and freight rail along with associated economic, mobility and safety benefits, and land use and development impacts. To accomplish these activities the Joint Powers Board may acquire and manage federal, state, and local funding in conjunction with the Minnesota Department of Transportation, Metropolitan Council, La Crosse Area Planning Committee, and the Wisconsin Department of Transportation and the performance of any responsibilities delegated by the Commissioner of Transportation, Chair of the Metropolitan Council, Chair of the La Crosse Area Planning Committee, and/or the Secretary of Transportation subject to the conditions that sufficient funds are received.

The Parties will communicate and coordinate the Commission's activities as necessary with Canadian Pacific Railway, Burlington Northern Santa Fe Railway, Union Pacific Railway, Amtrak, state agencies, counties, municipalities, the Federal Railroad Administration, other regulatory, planning, and funding agencies, tribal authorities, and other stakeholders for advancement of the Commission's purposes.

## **ARTICLE 3.**

### **TERM**

Until such time that this Third Amended JPA is executed by all Parties, the joint powers board shall continue to exercise all powers and duties pursuant to the most recent Amended and Restated Joint Powers Agreement. This Agreement shall remain in full force and effect until terminated by the Parties pursuant to Article 10 of the Agreement.

## **ARTICLE 4.**

### **JOINT POWERS BOARD**

- A. There is hereby created a Joint Powers Board as a public entity, to be known as the Great River Rail Commission. The Commission shall be an entity separate from its

member Parties and shall not be deemed an agent or partner of the member Parties and the member Parties shall not be liable for the actions of the Commission. The Commission shall have full authority to exercise all powers stated herein.

- B. The Commission shall consist of one Member and one Alternate appointed through resolution by each Party. Each Member or Alternate from a county railroad authority or city must be a member of the governing body, commission, or council which appoints him or her, and must remain so during his or her term. Metropolitan Planning Organizations may appoint their Executive Director as their Member or Alternate in place of a member of their governing body.
- C. Each Member and Alternate shall be appointed for one-year terms, beginning January 15, by resolution of the governing body, commission, or council. In the event that any Member or alternate shall not have been appointed by January 15 in any year, the incumbent Member shall serve until a successor has been appointed. Removal of any Member or alternate during the term for which the Member has been appointed may be done at any time but shall be done only by resolution of the appointing governing body, commission, or council.

## **ARTICLE 5.**

## **VOTING**

Board voting shall be as follows: Each Financial Party receives three (3) votes and each Party that is a non-Financial Party receives one (1) vote.

- A. In the event that the appointed Member is not present at a meeting, their alternate may cast all of their Party's allocated votes. Alternates must be present at the Commission meeting to cast their Party's vote(s).
- B. All actions of the Commission require both a simple majority vote of the Parties present and a simple majority vote of the Financial Parties present. However, for all actions involving the expenditure of funds and adoption of the budget, a simple majority of the whole Commission plus a super majority vote of all Financial Parties is required. A super majority vote is defined as at least 2/3 of the Financial Parties.

## **ARTICLE 6.**

## **PARTIES**

Membership on the Commission is open to governmental units as defined in Minn. Stat. Sections 471.59 or 398A, that are in or near the TCMC Corridor as defined in Article 1. The governmental units that are eligible for participation in the Commission upon adoption of this Agreement by their respective governing body are:

- A. Financial Parties:
  - a. Dakota County Regional Railroad Authority
  - b. Goodhue County Regional Railroad Authority
  - c. Ramsey County Regional Railroad Authority
  - d. Wabasha County Regional Railroad Authority

- e. Washington County Regional Railroad Authority
  - f. Winona County Regional Railroad Authority
  - g. La Crosse Area Planning Committee, a Metropolitan Planning Organization
- B. Non-Financial Parties:
- a. City of Cottage Grove
  - b. City of Goodview
  - c. City of Hastings
  - d. City of Lake City
  - e. City of Red Wing
  - f. City of St. Charles
  - g. City of St. Paul
  - h. City of St. Paul Park
  - i. City of Utica
  - j. City of Wabasha
  - k. City of Winona
- C. Following the initial term, Commission Members terms shall commence on January 15 of a calendar year and end on January 14 of the next succeeding year, or until a successor is appointed.

## **ARTICLE 7.**

## **POWERS OF COMMISSION**

The Commission has such authority as is necessary and proper to make all decisions to carry out its purpose as described in Article 2. Such powers shall be subject to the provisions of Minn. Stat. § 471.59 and 398.A and will include, but not be limited to, any or all of the following powers to the extent provided by law or not otherwise limited by this Agreement.

- A. Adopt an annual budget, together with a statement of the sources of funding and an estimated amount required of each Financial Party.
- B. For the purpose of advocacy and analysis as established and as provided in Article 2 above, enter into transactions, including contracts or leases, required in furtherance of this Agreement and statutory mandate, and enforce such transactions to the extent available in equity or at law. The contracting and purchasing requirements of the Commission's designated fiscal agent as identified in Article 9 E shall apply hereto. The Commission may approve any contract relating to this Agreement up to the amount approved in the annual budget and may authorize the Chair of the Commission to execute those contracts.
- C. The Commission shall have the power to adopt such by-laws that it may deem necessary or desirable for the conduct of its business. Such by-laws shall be consistent with this Agreement and any applicable laws or regulations. The by-laws may provide for the appointment by the Commission of ex-officio, non-voting

members to the Board, including but not limited to the appointment of representatives from the Prairie Island Indian Community to serve as ex-officio non-voting members, and may establish such conditions as it deems appropriate for such appointment. Approval of the by-laws shall be in accordance with Article 5 of this Agreement.

- D. Apply for and accept gifts, grants, and loans of money, other property, or assistance from the United States government, the State of Minnesota and its political subdivisions, the State of Wisconsin and its political subdivisions, the Prairie Island Indian Community, or any person, corporation, partnership, association, or agency, public or private for any of its purposes; enter into any agreement in connection therewith, to hold, use and dispose of such money, other property, and assistance in accordance with the terms of the gifts, grants, or loans relating thereto.
- E. Acquire and hold personal property as may be required to accomplish the advocacy and analysis purposes of this Agreement as established and as provided in Article 2 above, and, upon termination of this Agreement, make distribution of such property as is provided for in this Agreement.
- F. Employ agents and employees, and to fix the compensation and all other terms and conditions of employment thereof.
- G. Incur debts, liabilities, or obligations which do not constitute a debt of any of the parties. The Commission does not have authority to incur debts, liabilities, or obligations which constitute a debt of any of the parties.
- H. For the purposes of advocacy and analysis as established and as provided in Article 2 above, enter into agreements and non-binding memoranda of understanding between the Commission and the Prairie Island Indian Community, Host Railroads including Canadian Pacific Railway, Burlington Northern Santa Fe Railway, Union Pacific Railway, and Amtrak in accordance with applicable law.
- I. Sue and be sued in its own name.
- J. Purchase such insurance in its own name as the Commission deems necessary
- K. The Commission agrees to indemnify and defend any Party against any and all liability, costs, damages, and expenses sustained or incurred by the Party pursuant to this agreement. Furthermore, pursuant to Minnesota Statute 471.59 subd 1a., the Parties and each one of them hereby affirmatively declare that they will not be responsible for the acts or omissions of any other Party under this agreement.

All powers granted herein shall be exercised by the Commission in accordance with the legal requirements applicable to the regional railroad authorities.

## **ARTICLE 8.**

## **OFFICERS, EMPLOYEES, AND SERVICES**

### **A. Chair and Vice-Chair**

The Commission shall elect a Chair and Vice-Chair from its membership at its first regular meeting each year. The Chair and Vice Chair shall consist of at least one Financial Party member. The Chair and Vice-Chair shall be elected by the Commission for a term of one (1) year. The Chair shall preside at all meetings of the Commission, may establish such committees as may be needed from time to time and shall perform other duties and functions as may be determined by the Commission. The Vice-Chair shall assume the duties of the Chair during the absence of the Chair and perform such other duties as may be determined by the Commission. If both the Chair and Vice-Chair are absent, the Commission may elect a temporary Chair to conduct its business, provided a quorum is present. Notwithstanding any other provision of this Agreement, election of a temporary chair shall be by a simple majority vote of the quorum.

### **B. Executive Committee**

The Commission may establish an Executive Committee of the Commission consisting of one (1) representative of each Financial Party. The Executive Committee shall develop and make recommendations to the Commission regarding the ongoing responsibilities of the Commission and shall have such other duties as set forth in the Commission's by-laws.

### **C. Staff**

Each Party may provide staff support to the Commission, subject to the approval of the Commission.

### **D. Vacancies**

If an appointment of any Member or alternate is vacated before the end of his or her term, the vacancy shall be filled by appointment by the appropriate Party pursuant to Articles 4 and 6 of this Agreement. Vacancies shall be filled within thirty (30) days of their occurrence. A vacancy shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist.

### **E. Meetings**

The Commission shall meet at regular intervals at such times and places as the Commission shall establish in its by-laws. Special meetings may be held on reasonable notice by the Chair or any two members upon terms and conditions as the Commission may determine and that conform to the Minnesota Open Meeting Law, Minn. Stat. Chapter 13D.

### **F. Committees**

The Commission may establish standing committees of the Commission by providing for such committees by resolution. The Chair may establish ad hoc committees of the Commission.

It is understood by the Parties that the activities and duties of the Commission may be funded primarily by grant monies from the United States Government, the State of Minnesota or any other association or agency. The Financial Parties identified in this Agreement agree to contribute funding, to the extent not covered by grant funds, to cooperatively advocate for, and analyze the feasibility of, enhanced rail transportation options and an integrated rail transportation system in the TCMC Passenger Rail Corridor including passenger and freight rail along with the associated land use and development impacts proportionately as provided in Article 9 A below.

**A. Funding Allocation**

Funding responsibility shall be allocated among the Financial Parties for the purpose of advocating for, and analyzing the feasibility of, enhanced rail transportation options and an integrated rail transportation system in the TCMC Corridor including passenger and freight rail along with the associated land use and development impacts as follows:

1. 50% of the annual operating budget of the Commission shall be allocated among the Financial Parties on the basis of each Financial Party's proportionate share of the total population of all Financial Parties.
2. 10% of the annual operating budget of the Commission shall be allocated among the Financial Parties on the basis of each Financial Party's proportionate share of Corridor Mileage for all Financial Parties.
3. 31% of the annual operating budget of the Commission shall be allocated based upon the number and size of passenger rail stations planned to be located within a Financial Party's jurisdiction as follows:

- |  |     |
|--|-----|
| A. Ramsey County Regional Railroad Authority     |     |
| a. Passenger Rail                                |     |
| i. Union Depot                                   | 13% |
| B. Dakota County Regional Railroad Authority     |     |
| a. Passenger Rail                                |     |
| i. None  | 0%  |
| C. Goodhue County Regional Railroad Authority    |     |
| a. Passenger Rail                                |     |
| i. Red Wing                                      | 6%  |
| D. Wabasha County Regional Railroad Authority    |     |
| a. Passenger Rail                                |     |
| i. None  | 0%  |
| E. Washington County Regional Railroad Authority |     |
| a. Passenger Rail                                |     |
| i. None  | 0%  |
| F. Winona County Regional Railroad Authority     |     |



- a. Passenger Rail
      - i. Winona 6%
  - G. La Crosse Area Planning Committee
    - a. Passenger Rail
      - i. La Crosse 6%
- 4. 9% of the annual operating budget of the Commission and any other funding requirements shall be allocated among the Financial Parties equally.
- 5. If a Financial Party withdraws from the Commission, such Financial Party's share of the Funding Allocation as calculated according to this Article 9A shall be recalculated among the remaining Financial Parties. If a Financial Party that has an allocation as described in Article 9 (3) withdraws from the Commission, the share to the remaining Financial Parties shall be recalculated as closely to the existing proportions as possible, rounded to the nearest 1%.
- 6. In calculating the funding responsibility of the financial Parties, all percentages shall be rounded to the nearest .1%. If this rounding results in a total combined percentage from Article 9 (1), (2), (3), and (4) that is over 100% the overage shall be credited to one or more Financial Parties at the discretion of a majority vote of the Financial Parties.
- 7. Beginning with the budget allocation for the year 2012 and every four years thereafter, the Commission shall update the population estimates and reallocate the financial share of each Financial Party.

**B. Annual Budget**

For the calendar year next following the calendar year in which the Effective Date occurs and all subsequent years on or before November 15, the Commission shall establish and approve a budget. Each Financial Party shall be assessed for its proportionate share of the budget according to the schedule above.

**C. Financial Parties Budget Approval**

Adoption of the budget shall be in accordance with Article 5 of this Agreement.

**D. Contribution Date**

Except for any initial contribution required by this Agreement, assessments made under the provisions of this article shall be paid by each Financial Parties within 60 days of receiving the request for payment by the Commission's fiscal agent.

**E. Budgeting, Accounting, Fiscal Agent, and Other Service**

The Commission may contract with any Financial Party to provide contract management, legal review, and budgeting and accounting services necessary or convenient for the Commission and otherwise act as the Commission's fiscal agent. Such services shall include, but not be limited to, management of all funds, including contributions and grant monies, payment for contracted services, and relevant

bookkeeping and record keeping. The contracting and purchasing requirements of the Financial Party so selected shall apply to transactions of the Commission. Such member shall identify the staff person to work as a liaison with the Commission.

**F. Accountability for Funds**

All funds shall be accounted for according to generally acceptable accounting principles. A report on all receipts and disbursements shall be forwarded to the Commission on an annual basis. The Parties have the authority to request reports pertaining to any and all budgeting and accounting services. All interest earned from established Commission funds shall be credited back to that same fund.

**ARTICLE 10.**

**WITHDRAWAL AND TERMINATION**

**A. Withdrawal**

Any Party may withdraw from this Agreement upon 90-days prior written notice evidenced by resolution of the party's governing body to the Commission. In the event of withdrawal by any member Party, this Agreement shall remain in full force and effect as to all remaining Parties.

**B. Effect of Withdrawal, Disposition of Property, Funds, and Obligations**

A Party withdrawing from this Agreement shall, prior to such withdrawal, pay the full amount of any unpaid assessments to the Commission as defined in Article 9. A member Party withdrawing from this Agreement shall not receive a distribution of property or funds until such time as this Agreement is terminated by all Parties pursuant to this Article 10. Such disposition of property shall be in accordance with the provisions of Section D of this Article 10.

Any Party withdrawing shall be liable for any assessment in the year in which the withdrawal becomes final only for the period in such year that the member Party remains a Party. The Party's assessment shall not exceed the sum of one-twelfth (1/12<sup>th</sup>) the full assessment multiplied by the number of months or fractions thereof in the year during which the Party remains a Party to this Agreement.

**C. Termination**

This Agreement shall terminate upon the occurrence of any one of the following events:

- a. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction; or
- b. When all the Financial Parties agree, by resolution adopted by the respective governing bodies, to terminate this Agreement and all obligations of the Commission shall have been paid or otherwise defeased in full.

**D. Disposition of Property and Funds**

At such time as this Agreement is terminated, any property interest remaining in the Commission, following discharge of all obligations owed by the Commission, shall be disposed of and the proceeds of the property shall be returned to the member Parties in proportion to their contribution over the life of the agreement.

**E. Effect of Withdrawal of Financial Party on Budget**

In the event a Financial Party withdraws, the unpaid assessment allocable to such Party in the year of withdrawal and subsequent years shall be reallocated to the remaining Financial Parties in proportion that the assessment allocations under Article 9(A) hereof bear to each other. Any reallocated assessments to the remaining Financial Parties due to the withdrawal of a Financial Party(ies) are due within sixty (60) days of the reallocation.

**F. Effect of an Eligible Financial Party not joining on Budget**

In the event a Financial Party chooses not to join the Agreement, the financial allocation allocable to such Financial Party in the year of their choosing not to join and subsequent years shall be reallocated to the remaining Financial Parties in proportion that the assessment allocations under Article 9(A) hereof bear to each other. Any reallocated assessments to the remaining Financial Parties due to the withdrawal of a Financial Party(ies) are due within sixty (60) days of the reallocation.

**ARTICLE 11.**

**ADDITION OF NEW PARTIES**

In addition to the Financial Parties and Non-Financial Parties named in Article 6 above, membership on the Commission is open to governmental units, as defined in Minn. Stat. Sections 471.59 or in 398A, that are in or near the TCMC Passenger Rail Corridor as defined in Article 1 upon invitation to the prospective Party by the Commission. To join the Commission, prospective Parties must approve and execute this Agreement as evidenced by a signed resolution provided to the Commission. Upon receipt of the resolution and executed Agreement, the Commission shall recognize the new Party at its next scheduled meeting and recorded in the meeting minutes as the effective date of membership.

Upon recognition by the Commission, the new Financial Party will be included in the funding allocation described in Article 9 and a dues assessment will be prepared and sent by the Commission's fiscal agent. The new Financial Party will be part of subsequent Commission budgets.

**ARTICLE 12.**

**MISCELLANEOUS**

**A. Amendments**

This Agreement may be amended by unanimous agreement of the member Parties as evidenced by resolutions adopted by the respective governing bodies.

**B. Records, Accounts, and Reports**

The Commission shall establish and maintain such funds and accounts as may be required by good accounting practices. The books and records of the Commission shall be subject to the provisions of Minn. Stat. Ch. 13, the Minnesota Government Data Practices Act, and Minn. Stat. § 16C.05, subd. 5. The Commission, within one hundred twenty (120) days after the close of each fiscal year, which shall be January 1 to December 31, shall give a complete written report of all financial activities for such fiscal year to the Parties.

**C. Counterparts**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**D. Severability**

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of the Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.

**E. Entire Agreement**

This Agreement constitutes the entire agreement between the member Parties and supersedes all prior written or oral agreements relating to the Commission.

**F. Alternate Dispute Resolution**

In the event of a dispute arising under this Agreement, the member Parties and the Commission agree to attempt to resolve their dispute by following the process described below:

1. A member Party or Parties shall provide written notice to the Commission describing perceived conflict, positions, and underlying reasons.
2. The Commission shall provide written response to notice within seven (7) days of receipt of notice.
3. The Parties and Commission shall meet within 14 days of receipt of response with a neutral facilitator. The neutral facilitator will be a representative from the Minnesota Office of Dispute Resolution. Costs of such facilitator shall be shared equally by all parties to the dispute.
4. At the first meeting, the neutral facilitator will assist the parties to the dispute in identifying the appropriate Parties and participants in the dispute resolution process, their concerns, a meeting agenda and design for any subsequent meetings. The Parties shall agree on a process for resolving the problem that would involve additional negotiations, mediation, or arbitration.
5. In developing the process, the parties will be guided by the following principles:

- i. the Parties will attempt in good faith to reach a negotiated settlement;
  - ii. the Parties agree that there must be fair representation of the parties directly involved in the dispute;
  - iii. the Parties will use legal proceedings as a last resort; and
  - iv. in the event the Parties are unable to resolve the dispute, each party retains all rights, remedies, or defenses it had prior to entering the process.
6. The Parties will report to the Commission within 60-days of their first meeting on the resolution of the dispute or a recommendation to commence legal proceedings.

**G. Minnesota Laws Govern**

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the Parties and their performance and the appropriate venue and jurisdiction for any litigation regarding this Agreement shall be in State district court located within the County of Ramsey, State of Minnesota. Litigation, however, in the federal courts involving the Parties will be in the appropriate federal court within the State of Minnesota. If any provision of this Agreement is invalid, illegal, or unenforceable the remaining provisions will not be affected.

**IN WITNESS WHEREOF**, the parties to this Agreement have hereunto set their hands on the date written below.

**FIRST AMENDMENT TO CONTRACT FOR COLLECTION AND DISPOSAL OF SANITARY  
REFUSE AND RECYCLING CURBSIDE SERVICE**

This First Amendment (this "Amendment") to that certain Contract for Collection and Disposal of Sanitary Refuse and Recycling Curbside Service (the "Agreement") is made as of this \_\_\_\_ day of July 2019 ("Effective Date") by and between the City of St. Charles, Minnesota (the "City") and Advanced Disposal Services Solid Waste Midwest, LLC ("Contractor").

WITNESSETH:

WHEREAS, the parties entered into the Agreement dated May 21, 2010, as amended by that certain Addendum dated December 26, 2014;

WHEREAS, the parties have agreed to extend the term of the Agreement for a period of three months upon expiration of the current term;

NOW, THEREFORE, in consideration of the mutual grants and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Defined Terms. All capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed thereto in the Agreement.

Section 2. Amendments. This Amendment shall be deemed to be an amendment to the Agreement and shall not be construed in any way as a replacement or substitution therefor. All of the terms and provisions of this Amendment are hereby incorporated into the Agreement as if such terms and provisions were set forth therein in full. Subject to the foregoing and to the terms hereof, the parties hereby agree that the Agreement is amended, in part, as follows:

- (a) The term of the Agreement shall be extended for a period of three months upon the expiration of the current term and therefore shall expire on March 31, 2020 (the "Renewal Term"). Except as otherwise modified herein, all other terms and conditions remain in full force and effect, including, but not limited to the annual price increase effective January 1<sup>st</sup> of each year during the Term.

Section 3. Reference to and Effect upon the Existing Agreement.

(a) Effectiveness; Recitals. This Amendment shall be effective as of the date set forth above. Upon the effectiveness of this Amendment, each reference in the Agreement to "this Agreement", this "Contract", "hereunder", "hereof", "herein", or words of like import, and each reference to the Agreement in any other related document shall mean and be a reference to the Agreement as amended hereby. The parties agree that the "whereas" recitals set forth above are true and correct and are hereby incorporated into this Amendment by reference.

(b) Authority. Each party represents and warrants to the other party that (i) this Amendment has been duly and validly authorized, executed and delivered by it, and is a valid and binding agreement enforceable against it accordance with its terms; (ii) the persons executing this Amendment on behalf of the applicable party has been authorized and empowered to do so; (iii) each party has full power

and authority to enter into and perform this Amendment in accordance with its terms. The parties acknowledge and agree that this Amendment shall inure to the benefit of and be enforceable by the parties hereto.

(c) Ratification and Confirmation Generally. Except as specifically amended above, the Agreement shall remain in full force and effect and all of its respective terms and conditions are hereby ratified and confirmed.

(d) Reaffirmation of Representations, Covenants, Etc. Each of the parties hereby reaffirms to the other parties each of the representations, warranties, covenants and agreements set forth in the Agreement with the same force and effect as if each were fully restated herein and made as of the date hereof, except to the extent that any such representations or warranties relate to a specific prior date or period.

Section 4. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Minnesota.

Section 5. Counterparts. This Amendment may be executed in any number of separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

Section 6. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized representatives as of the date first above written.

**ADVANCED DISPOSAL SERVICES SOLID WASTE  
MIDWEST, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CITY OF ST. CHARLES**

By: \_\_\_\_\_  
Name:  
Title: