

# FAIRMONT CITY COUNCIL AGENDA

Monday, July 13, 2020, 5:30 p.m.

1. **Roll Call / Determination of Quorum**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
4. **Recognition / Presentations**
  - 4.1 Small Cities Development Program Update **(03)**
5. **Public Discussion / Comment** **(04)**
6. **Consent Agenda** (Items removed from consent will be placed at the end of the items under new business.)
  - A. **Minutes**
    - 6.A.1 Regular Meeting, June 22, 2020 **(05-07)**
  - B. **Check Registers**
  - C. **Other**
    - 6.C.1 Resolution approving Multi-Jurisdictional Hazard Mitigation Plan **(08)**
    - 6.C.2 Professional Services Agreement for Lake Avenue Reconstruction **(16)**
    - 6.C.3 Professional Services Agreement for Wastewater Facility Improvements **(28)**
7. **Public Hearings**
8. **Old Business**

## **9. New Business**

**9.1** Rural and Urban Service Districts – Second Reading of Ordinance **(33)**

**9.2** Modification to Lake Access Lease **(39)**

**9.3** Call for Public Hearing on Natural Gas Franchise Fee **(40)**

## **10. Staff/Liaison Reports**

**A. Public Works**

**B. Finance**

**C. City Administrator**

**D. Mayor / Council**

Peters – Board of Zoning Appeals, FEDA

Lubenow – Board of Zoning Appeals

Hawkins – Planning Commission, HRA, FEDA

## **11. Adjournment**

**CITY OF FAIRMONT---AGENDA CONTROL SHEET---AGENDA ITEM NO. 4.1**

**MEETING DATE:** July 13, 2020

**SUBJECT:** Small Cities Development Program Update

**REVIEWED BY:** Cathy Reynolds, City Administrator

**SUBJECT INITIATION BY:**

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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**SUBJECT BACKGROUND:** Cathy Reynolds, City Administrator

**INTRODUCED BY:** Linsey Preuss, Economic Development Coordinator

**COUNCIL LIAISON:** Bruce Peters and Tom Hawkins

**TYPE OF ACTION:**

<input type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 <sup>st</sup> Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input checked="" type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 <sup>nd</sup> Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

**RECOMMENED ACTION BY:**

<input type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

**STATEMENT:** The City of Fairmont was awarded a Small Cities Development Program Grant. Judd Schultz from Minnesota Valley Action Council will present on the next steps in the process.

**MOTION:**

**VOTE REQUIRED:**

**ATTACHMENTS:**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

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Council Action: \_\_\_\_\_ Date: \_\_\_\_\_

**CITY OF FAIRMONT---AGENDA CONTROL SHEET---AGENDA ITEM NO. 5.1**

**MEETING DATE:** July 13, 2020

**SUBJECT:** Public Discussion/Comment

**REVIEWED BY:** Cathy Reynolds, City Administrator

**SUBJECT INITIATION BY:**

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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**SUBJECT BACKGROUND:**

**INTRODUCED BY:** Mayor Deborah J. Foster

**COUNCIL LIAISON:**

**TYPE OF ACTION:**

<input type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 <sup>st</sup> Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input checked="" type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 <sup>nd</sup> Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

**RECOMMENED ACTION BY:**

<input type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input checked="" type="checkbox"/>	No action needed	<input type="checkbox"/>	

**STATEMENT:** Prior to regular business, is there any public discussion/comment?

**MOTION:** None

**VOTE REQUIRED:**

**ATTACHMENTS:**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

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Council Action: \_\_\_\_\_ Date: \_\_\_\_\_

The minutes of the Fairmont City Council meeting held on Monday, June 22, 2020 at the City Hall Council Chambers.

Mayor Deborah J. Foster called the meeting to order at 5:30 p.m.

Council Members Ruth Cyphers, Wayne Hasek, Tom Hawkins, Randy Lubenow and Bruce Peters were present. Also, in attendance: City Administrator Cathy Reynolds, Public Works Director/City Engineer Troy Nemmers, Finance Director Paul Hoye, Police Chief Mike Hunter, City Attorney Mark Rahrlick and City Clerk Patricia J. Monsen.

Council Member Hasek made a motion to approve the agenda as presented. Council Member Lubenow seconded the motion and the motion carried.

The following employees were recognized for their years of service: Ten years – Amy Bejarano, Michael Beletti and Tegan Quade; Fifteen years – James Bohlsen, Kevin Brockmann, Dean Sandberg, Shawn Schaefer and Todd Steuber; Thirty years – Michael Munsterman.

The following citizens spoke during public discussion/comment:

Doug Landsteiner, Verlys Burkhart and Steve Chase from the Martin County Veteran's Memorial Committee called and spoke about the upcoming Dedication of Bell Cobra Helicopter 327 to be held on August 1, 2020.

Lowell Abelson of 522 N. Elm Street, Connie Sathoff of 309 E. Fifth Street and Staci Thompson of Habitat for Humanity of Martin and Faribault Counties gave comment regarding the sale of 512 North Elm Street.

Todd Smith of 827 East First Street questioned why the Charter Commission was not currently meeting.

Council Member Hawkins made a motion to approve the Consent Agenda. Council Member Hasek seconded the motion and the motion carried. Items on the consent agenda were: City Council minutes from June 8, 2020; Resolution to Change Polling Place for 2020 General Election; Truman Fire Department Relief Association – Temporary On-Sale Liquor License; Airport Board Appointment; Event Permit for Pubic Reading of Tolstoy's "The Death of Ivan Ilyich"; Event Permit for Opera House "Her Crooked Heart"; Event Permit for Opera House July 2<sup>nd</sup> and 3<sup>rd</sup> Events; Event Permit for Dayna Johnson, Greenbriar Consulting for July 4<sup>th</sup>; Event Permit for Red Rock Center for the Arts – Music in the Park; Event Permit for Jamie Kueker – Extreme Tour 2020; Fairmont Economic Development Authority Board Appointment; Award 2019-A Contract for I-90 Pedestrian/Bike Trail and Event Permit – Parade Permit & Dedication of Bell Cobra Helicopter 327.

Mayor Foster opened the public hearing on proposed **Ordinance 2020-08**, an ordinance amending **Ordinance 2019-12** Establishing a Rural and Urban Service District Within the Municipal Limits of the City of Fairmont. No public comment was received. Council Member Cyphers made a motion to close the public hearing. Council Member Peters seconded the motion and the motion carried.

Council Member Peters made a motion to approve **Ordinance 2020-05**, an Ordinance to sell 512 North Elm Street to Habitat for Humanity of Martin & Faribault Counties. Council Member Hawkins seconded the motion. On roll call: Council Members Peters, Cyphers, Hawkins and Lubenow all voted aye. Council Member Hasek voted nay. Mayor Foster declared said motion passed.

Council Member Lubenow made a motion to approve funding for the Martin County Veterans Memorial Committee in the amount of \$8,500.00. Council Member Hasek seconded the motion and the motion carried.

Nemmers reported that Fourth Street and Winnebago Avenue are now open to traffic, signage has been removed and sod has been laid. He is waiting to hear from the Contractor on the Lake Avenue project and once he is aware of their construction schedule, neighborhood meetings will be planned.

Hoye reported that the Aquatic Park's Preparedness Plan was approved today, the pools are filled with water and hopefully by Wednesday training of staff can begin. The pool is scheduled to be open July 1<sup>st</sup> from noon to 8:00 p.m.

Reynolds stated that she has received many inquiries regarding placing lifeguards on the beaches. Currently, the City does not have any lifeguards who are trained for open water and all outside training facilities have been closed due to COVID.

The City received a \$885,500.00 grant to assist with owner occupied housing and commercial rehabilitation in the Downtown area. The grant will be administered through Minnesota Valley Action Council.

Reynolds will be hosing a meet and greet on July 8<sup>th</sup> from 3:00 p.m. – 6:00 p.m. in Citizens Plaza Park to get to know the community.

Council Member Cyphers reported that she attended an Airport Board meeting last night and they got to tour the new T-Hangar. Cyphers thanked Reynolds for attending. The Board is working on developing a strategic plan.

Council Member Cyphers also reported on Region Nine.

Council Member Lubenow stated that the Park Board received an update from CER and is working on prioritizing items for the upcoming budget.

Council Member Hawkins reported that the HRA received bids from four realtors for marketing the Burton Lane and Poettters Circle properties. Hawkins also thanked Rich Johnson for his six years of service on the FEDA Board.

A motion was made by Council Member Peters, seconded by Council Member Hasek and carried to adjourn the meeting at 6:28 p.m.

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Deborah J. Foster, Mayor

ATTEST:

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Patricia J. Monsen, City Clerk

**CITY OF FAIRMONT---AGENDA CONTROL SHEET---AGENDA ITEM NO. 6.C.1**

**MEETING DATE:** July 13, 2020

**SUBJECT:** Martin County Multi-Jurisdictional Hazard Mitigation Plan

**REVIEWED BY:** Cathy Reynolds, City Administrator

**SUBJECT INITIATION BY:**

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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**SUBJECT BACKGROUND:** Troy Nemmers, Director of Public Works/City Engineer

**INTRODUCED BY:** Troy Nemmers, Director of Public Works /City Engineer

**COUNCIL LIAISON:**

**TYPE OF ACTION:**

<input type="checkbox"/>	Motion (Voice Vote)	<input checked="" type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 <sup>st</sup> Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 <sup>nd</sup> Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

**RECOMMENED ACTION BY:**

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

**STATEMENT:** Staff has been working with Abigail Nesbit, the County’s Emergency Management Director, on updating the Martin County Multi-Jurisdictional Hazard Mitigation Plan as it applies to the City of Fairmont. This plan identifies hazards across the County that have been encountered during past emergency events or ones that need to be planned for based on location, climate, or future uses. This document provides some guidance and identifies projects that would be eligible for future FEMA funds. I have attached a couple pages from the document for more background. The entire 322-page document is available for review.

**MOTION:** To adopt the Martin County Multi-Jurisdictional Hazard Mitigation Plan

**VOTE REQUIRED:** Simple majority

**ATTACHMENTS:**

1. Resolution 2020-31
2. Excerpts from the Mitigation Plan (5 pages)
3. \_\_\_\_\_

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Council Action: \_\_\_\_\_ Date: \_\_\_\_\_

**RESOLUTION 2020-31**

**RESOLUTION OF THE CITY OF FAIRMONT ADOPTING  
THE MARTIN COUNTY MULTI-JURISDICTIONAL  
HAZARD MITIGATION PLAN**

WHEREAS, the City of Fairmont has experienced natural hazards that result in public safety hazards and damage to private and public property; and,

WHEREAS, the hazard mitigation planning process set forth by the State of Minnesota and the Federal Emergency Management Agency offers the opportunity to consider natural hazards and risks, and to identify mitigation actions to reduce future risks; and,

WHEREAS, the Minnesota Homeland Security and Emergency Management provided federal mitigation funds to support development of the mitigation plan; and,

WHEREAS, a *Martin County Multi-Jurisdictional Hazard Mitigation Plan* has been developed by the Mitigation Planning Committee; and,

WHEREAS, FEMA Region V has approved the *Martin County Multi-Jurisdictional Hazard Mitigation Plan*; the purpose of this Plan is to reduce the loss of life and property due to natural disaster; and,

WHEREAS, the implementation of the *Martin County Multi-Jurisdictional Hazard Mitigation Plan* will protect the health, safety, and welfare of the residents of the City of Fairmont, as well as, reduce potential damage and shorten the disaster recovery period; and,

WHEREAS, the *Martin County Multi-Jurisdictional Hazard Mitigation Plan* includes a prioritized list of mitigation actions including activities that, over time, will help minimize and reduce safety threats and damage to private and public property, and,

WHEREAS, the County of Martin conducted a web-based public survey to introduce the planning concept and to solicit questions and comments, and to present the Plan and request comments, as required by law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fairmont that:

1. The Martin County Multi-Jurisdictional Hazard Mitigation Plan is hereby adopted as an official plan of the City of Fairmont; minor revisions recommended by the Federal Emergency Management Agency and/or the Minnesota Homeland Security Emergency Management may be incorporated without further action.
2. The City of Fairmont, as identified in the Plan are hereby directed to pursue implementation of the recommended high priority activities that are assigned to the City of Fairmont.

3. Any action proposed by the Plan shall be subject to and contingent upon budget approval, if required, which shall be at the discretion of the City Council, and this resolution shall not be interpreted so as to mandate any such appropriations.
4. The Emergency Management Director is designated to coordinate with other offices and shall periodically report on the activities, accomplishments, and progress to the Minnesota Homeland Security and Emergency Management Department.

Motion by:  
Seconded by:  
All in Favor:  
Opposed:  
Abstained:  
Absent:

PASSED, APPROVED AND ADOPTED this 13<sup>th</sup> day of July 2020.

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Deborah J. Foster, Mayor

ATTEST:

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Patricia J. Monsen, City Clerk

# Section 1 – Introduction

## 1.1 Introduction

Hazard mitigation is defined as any sustained action to reduce or eliminate long-term risk to human life and property from hazards. The Federal Emergency Management Agency (FEMA) has made reducing hazards one of its primary goals; hazard mitigation planning and the subsequent implementation of resulting projects, measures, and policies is a primary mechanism in achieving FEMA's goal.

From 1980-2018, the cost of damages due to natural disasters in the U.S. has exceeded \$1.6 trillion. 2017 was a record year with \$306 billion in damage (NOAA, n.d.). While the costliest disasters may occur in the coastal states, in 2018, wildfires, hailstorms, drought, and tornadoes caused many billion-dollar disasters across the nation.

Hazard mitigation planning and preparedness will be the most effective instrument to diminish losses by reducing the impact of disasters upon people and property. Although mitigation efforts will not eliminate all disasters, each county shall endeavor to be as prepared as possible for a disaster.

The Multi-Hazard Mitigation Plan (MHMP) is a requirement of the Federal Disaster Mitigation Act of 2000 (DMA 2000). The development of a local government plan is required in order to maintain eligibility for federal hazard mitigation grant funding programs. In order for communities to be eligible for future mitigation funds, they must adopt an MHMP.

Researchers at the National Institute of Building Sciences looked at the results of 23 years of federally funded mitigation grants provided by the Federal Emergency Management Agency (FEMA), U.S. Economic Development Administration (EDA) and U.S. Department of Housing and Urban Development (HUD) and found mitigation funding can save the nation \$6 in future disaster costs, for every \$1 spent on hazard mitigation (National Institute of Building Sciences, 2017).

Martin County is vulnerable to a variety of potential natural disasters, which threaten the loss of life and property in the county. Hazards such as tornadoes, flooding, wildfires, blizzards, straight-line winds, ice storms and droughts have the potential for inflicting vast economic loss and personal hardship. In 2013, Minnesota had some of the highest weather-related disaster claims in the country (MN Environmental Quality Board, 2014).

This Multi-Hazard Mitigation Plan represents the efforts of Martin County and its local governments to fulfill the responsibility for hazard mitigation planning. The intent of the plan is to reduce the actual threat of specific hazards by limiting the impact of damages and losses.

### 1.1.1 Scope

The Martin County Emergency Management Director and U-Spatial@UMD have combined efforts to update the 2013 Martin County Multi-Hazard Mitigation Plan. U-Spatial@UMD contracted with Hundrieser Consulting LLC for additional emergency management planning expertise and facilitation.

Table G - 3. City of Fairmont Mitigation Action Chart (2020-2025)

City of Fairmont Mitigation Action Chart										
A	B	C	D	E	F	G	H	I	J	K
#	Hazard	Mitigation Strategy	Mitigation Action	Reduces Risk to New / Existing Buildings or Infrastructure	Status	Priority	Expected Time-frame	Responsible Party	Comments on Implementation, Administration & Integration into Local Planning Mechanisms	Possible Funding
1	All-Hazards	Education & Awareness Programs	Encourage city residents to sign-up for Martin County's CodeRED emergency notification system. Ensure emergency notifications can be relayed in both English and Spanish.	n/a	<b>New</b>	High	2020-2025	City Admin / Emergency Mgmt.	The city of Fairmont utilizes the county's CodeRED notification system for public warning. Information regarding CodeRED can be shared with residents by posting a link on our city website and via our Facebook and Twitter feeds. We will work with Martin County Emergency Management to address how emergency notifications that affect our city can be transmitted in both English and Spanish to reach both language segments of our community.	City funding
2	All-Hazards	Local Planning & Regulations	Update the city's Emergency Operations Plan (EOP) to be in alignment with the Martin County EOP.	n/a	<b>New</b>	Mod.	2020-2025	City Emergency Mgmt.	Our city Emergency Manager will work with the Martin County Emergency Manager on our EOP update to ensure we cover all elements that are needed and our plan is in better alignment with the county plan.	City funding

City of Fairmont Mitigation Action Chart										
A	B	C	D	E	F	G	H	I	J	K
#	Hazard	Mitigation Strategy	Mitigation Action	Reduces Risk to New / Existing Buildings or Infrastructure	Status	Priority	Expected Time-frame	Responsible Party	Comments on Implementation, Administration & Integration into Local Planning Mechanisms	Possible Funding
3	Severe Winter / Summer Storms	Education & Awareness Programs	Provide education and outreach to residents on personal preparedness for severe weather events or emergencies.	n/a	Ongoing	High	2020-2025	City Admin / Emergency Mgmt. in cord. with MCEM	The city of Fairmont will work to encourage local residents to be prepared for and aware of severe weather and to take measures for family and individual preparedness. We will pass along information that we receive from Martin County Emergency Management. Information can be posted on our city Facebook & Twitter feeds and at community events.	City funding
4	Severe Winter / Summer Storms	Structure & Infrastructure Projects	Relocate overhead power lines to underground where necessary and feasible to eliminate power outages due to downed lines.	Yes ( <i>Electrical Power System</i> )	Ongoing	Mod.	2020-2025	City Utilities Works Dept.	The city of Fairmont has made improvements to the city's electrical system, including relocating overhead cables to underground, replacing old cable and a new SCADA system. We will continue to address power system improvements, including putting utilities underground as needed.	City funding
5	Flood	Local Planning & Regulations	Develop a plan for Burton Lane and Hengen Street flooding problems.	Yes ( <i>Existing Buildings &amp; Transportation Infrastructure</i> )	<b>New (2020)</b>	High	2020-2025	City Public Works Dept.	The city of Fairmont has completed initial hydrologic studies of the flooding issues in both of these areas. Conceptual plans have been developed on how to address the flooding. The City intends to work through these projects as funding becomes available.	City funding

City of Fairmont Mitigation Action Chart										
A	B	C	D	E	F	G	H	I	J	K
#	Hazard	Mitigation Strategy	Mitigation Action	Reduces Risk to New / Existing Buildings or Infrastructure	Status	Priority	Expected Time-frame	Responsible Party	Comments on Implementation, Administration & Integration into Local Planning Mechanisms	Possible Funding
6	Flood	Structure & Infrastructure Projects	Improve the sanitary sewer area around Five Lakes Elementary School to decrease the displacement of gray water into homes and if there is severe flooding, the ability to remove water from the sanitary lines.	Yes <i>(Existing Buildings &amp; Sanitary Sewer System)</i>	<b>New</b>	High	2020-2025	City Public Works Dept & City Utilities Dept.	There is a history of sanitary sewer overloading in this area of the City. Several projects have been completed in the past to better address sanitary flows and help reduce inflow and infiltration. The large lift station that serves this area recently had a backup generator added to address power failures. The City would like to address specific homes in the neighborhood, possibly providing some grant funding to affected homeowners to install backflow prevention systems.	City funding
7	Flood	Local Planning & Regulations	Buy out properties that repetitively flood and convert into open space.	Yes <i>(Existing Buildings)</i>	Ongoing	High	2020-2025	City Admin.	Over the last 5 years the City has purchased properties and homes in the Fairlakes Avenue/Canyon Drive area that have been prone to flooding. We will continue to seek to work with willing homeowners to participate in a buyout program. Outside grant funding from FEMA may be pursued in order to implement future buyouts.	City funding, FEMA HMA grant funding

City of Fairmont Mitigation Action Chart										
A	B	C	D	E	F	G	H	I	J	K
#	Hazard	Mitigation Strategy	Mitigation Action	Reduces Risk to New / Existing Buildings or Infrastructure	Status	Priority	Expected Time-frame	Responsible Party	Comments on Implementation, Administration & Integration into Local Planning Mechanisms	Possible Funding
8	Flood	Local Planning & Regulations	Enforce the city's Floodplain and Shoreland Management ordinances.	Yes (New Buildings)	Ongoing	High	2020-2025	City Admin.	The city of Fairmont participates in the National Flood Insurance program. We have a Floodplain Management ordinance in place that we enforce as well as a Shoreland Ordinance.	City funding

*The mitigation activities listed in the **City of Fairmont Mitigation Action Chart** were identified for inclusion in the Martin County 2020 Multi-Hazard Mitigation Plan Update through city staff participation in the planning process and mitigation action chart development. Mitigation activities are based upon existing mitigation efforts that are incorporated into local planning mechanisms and determination of new, cost-effective and sustainable activities that will support long-term risk reduction to the people, property and environment of our city.*

**CITY OF FAIRMONT---AGENDA CONTROL SHEET---AGENDA ITEM NO. 6.C.2**

**MEETING DATE:** July 13, 2020

**SUBJECT:** Professional Services for Lake Avenue Reconstruction

**REVIEWED BY:** Cathy Reynolds, City Administrator

**SUBJECT INITIATION BY:**

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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**SUBJECT BACKGROUND:** Troy Nemmers, Director of Public Works/City Engineer

**INTRODUCED BY:** Troy Nemmers, Director of Public Works /City Engineer

**COUNCIL LIAISON:**

**TYPE OF ACTION:**

<input checked="" type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 <sup>st</sup> Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 <sup>nd</sup> Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

**RECOMMENED ACTION BY:**

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

**STATEMENT:** Construction of the Lake Avenue (SAP 123-11-010) project from 4<sup>th</sup> Street to Downtown Plaza is anticipated to begin on July 27. This professional services agreement with Bolton & Menk provides construction engineering, staking, and administration for the project. The estimated cost for these services is \$346,000. Staff is recommending approval.

**MOTION:** To approve a professional services agreement with Bolton & Menk for construction of the Lake Avenue project.

**VOTE REQUIRED:** Simple majority

**ATTACHMENTS:**

1. BMI Professional Services Agreement – Phase 3 Lake Ave Reconstruction
2. \_\_\_\_\_
3. \_\_\_\_\_

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Council Action: \_\_\_\_\_ Date: \_\_\_\_\_

**AGREEMENT FOR PROFESSIONAL SERVICES - PHASE 3  
LAKE AVENUE RECONSTRUCTION  
FROM FOURTH STREET TO DOWNTOWN PLAZA  
SAP 123-111-010  
CITY OF FAIRMONT, MINNESOTA**

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Fairmont, 100 Downtown Plaza, Fairmont, MN 56031, hereinafter referred to as CLIENT, and Bolton & Menk, Inc., 1501 South State Street, Suite 100, Fairmont, MN 56031, hereinafter referred to as CONSULTANT.

WITNESS, whereas the CLIENT intends to employ professional services required in conjunction with the Lake Avenue Reconstruction in the City of Fairmont, Minnesota, and

WHEREAS, the CONSULTANT agrees to furnish the various professional services required by the CLIENT.

NOW, THEREFORE, in consideration of the mutual covenants and promises between the parties hereto, it is agreed:

**SECTION I - CONSULTANT'S SERVICES**

- A. The CONSULTANT agrees to perform the various Construction Phase Services in connection with the specific project as described in Exhibit I.A.
- B. Upon mutual agreement of the parties hereto, Additional Services may be authorized as described in Exhibit I.
- C. The CONSULTANT shall serve as the CLIENT'S professional engineering representative as described herein.

**SECTION II - THE CLIENT'S RESPONSIBILITIES**

- A. The CLIENT shall promptly compensate the CONSULTANT in accordance with Section III of this Agreement.
- B. The CLIENT shall place any and all previously acquired information in its custody at the disposal of the CONSULTANT for its use. Such information shall include but shall not be limited to boundary surveys, topographic surveys, preliminary sketch plan layouts, building plans, soil surveys, abstracts, deed descriptions, tile maps and layouts, aerial photos, utility agreements, environmental reviews, zoning limitation. The CONSULTANT may rely upon the accuracy and sufficiency of all such information in performing services unless otherwise instructed, in writing, by CLIENT.
- C. The CLIENT will guarantee access to and make all provisions for entry upon both public and private portions of the project and pertinent adjoining properties.
- D. The CLIENT will give prompt notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the proposed project.
- E. The CLIENT shall designate a liaison person to act as the CLIENT'S representative with respect to services to be rendered under this Agreement. Said representative shall have the authority to transmit

instructions, receive instructions, receive information, interpret and define the CLIENT'S policies with respect to the project and CONSULTANT'S services.

- F. The CLIENT shall provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for completion of contract documents and other CONSULTANT services not included in this Agreement.
- G. The CLIENT will hire, when requested by the CONSULTANT, an independent testing company to perform laboratory and material testing services, and soil investigations that can be justified for the proper design of the project. The CONSULTANT shall assist the CLIENT in selecting a testing company. Payment for testing services shall be made directly to the testing company by the CLIENT and is not part of this Agreement.
- H. The CLIENT shall give prompt and thorough consideration of all reports, sketches, estimates, drawings, specifications, proposals and other documents submitted to the CLIENT by the CONSULTANT, and shall inform the CONSULTANT of all decisions within a reasonable time so as not to delay the work.
- I. The CLIENT shall be responsible for issuing all legal notices, holding all required special meetings, receiving and acting upon protests, and fulfilling all requirements necessary in legal development of the projects as well as paying all costs incidental thereto.

### SECTION III - COMPENSATION FOR SERVICES

#### A. SCHEDULE OF FEES

- 1. The following schedule of fees is based upon competent and responsible engineering and surveying services, and are the minimum, below which adequate professional standards cannot be maintained. It is, therefore, to the advantage of both the CONSULTANT and CLIENT that fees be commensurate with the service rendered.

Sr. Project Manager-Principal Engineer/Surveyor.....	\$150-250/Hour
Project Manager - Principal Engineer/Surveyor .....	\$128-195/Hour
Project/Design Engineer/Planner .....	\$65-190/Hour
Licensed Surveyor .....	\$95-150/Hour
Project Surveyor .....	\$95-150/Hour
Senior Technician .....	\$92-170/Hour
Technician.....	\$65-145/Hour
Administrative Support & Clerical .....	\$45-90/Hour
<b>GPS/Robotic Survey Equipment .....</b>	<b>No Charge</b>
<b>AutoCAD/Computer Time.....</b>	<b>No Charge</b>
<b>Office Supplies.....</b>	<b>No Charge</b>
<b>Photo Copying/Reproduction .....</b>	<b>No Charge</b>
<b>Field Supplies/Survey Stakes &amp; Equipment.....</b>	<b>No Charge</b>
<b>Mileage.....</b>	<b>No Charge</b>

Charges are based on hours spent at hourly rates in effect for the individuals performing the work. The hourly rates for principals, associates and members of the staff vary according to skill and experience.

These rates include an overhead factor that accounts for federal and state taxes and required benefits, as well as insurance, office expenses and profit. In addition, the overhead factor includes vehicle and personal expenses, stakes and supplies as noted above. Unusual expenses, such as large quantities of prints, outside professional assistance and other items of this general nature, will be billed out separately. Overtime shall not result in additional costs to the CLIENT, but shall be billed at normal hourly rates.

2. The following is the estimated cost for construction phase services, as itemized under Section I.A. of EXHIBIT I. Construction phase services will be performed on an hourly basis.

Construction Staking.....	\$40,900.00 <sup>1</sup>
Construction Observation .....	\$182,400.00 <sup>2</sup>
Construction Administration.....	\$122,700.00
<b>Estimated Construction Phase Services (Hourly).....</b>	<b>\$346,000.00</b>

<sup>1</sup> Assumes 270 hours of survey crew.

<sup>2</sup> Assumes 1,520 hours of engineering technician.

3. The payment to the CONSULTANT will be made by the CLIENT upon billing at intervals not more often than monthly.

#### SECTION IV - GENERAL

##### A. STANDARD OF CARE

Professional services provided under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's profession currently practicing under similar conditions. No warranty, express or implied, is made.

##### B. CHANGE IN PROJECT SCOPE

In the event the CLIENT changes or is required to change the scope of the project from that described in Section I and/or the applicable addendum, and such changes require Additional Services by the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the applicable hourly rates. The CONSULTANT shall give notice to the CLIENT of any Additional Services, prior to furnishing such additional services. The CLIENT may request an estimate of additional cost from the CONSULTANT, and upon receipt of the request, the CONSULTANT shall furnish such, prior to authorization of the changed scope of work.

##### C. LIMITATION OF LIABILITY

CONSULTANT shall indemnify, defend, and hold harmless CLIENT and its officials, agents and employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligence act or omission by CONSULTANT'S employees, agents, or subconsultants. In no event shall CLIENT be liable to CONSULTANT for consequential, incidental, indirect, special, or punitive damages.

CLIENT shall indemnify, defend, and hold harmless CONSULTANT and its employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligence act or omission by CLIENT'S employees, agents, or consultants. In no event shall CONSULTANT be liable to CLIENT for consequential, incidental, indirect, special, or punitive damages.

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services hereunder. The CLIENT agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of the paragraph.

#### D. INSURANCE

The CONSULTANT agrees to maintain, at the CONSULTANT'S expense, statutory worker's compensation coverage.

The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, general liability insurance coverage insuring CONSULTANT against claims for bodily injury, death or property damage arising out of CONSULTANT'S general business activities (including automobile use). The liability insurance policy shall provide coverage for each occurrence in the minimum amount of \$1,000,000.

During the period of design and construction of the project, the CONSULTANT also agrees to maintain, at CONSULTANT'S expense, Professional Liability Insurance coverage insuring CONSULTANT against damages for legal liability arising from an error, omission or negligent act in the performance of professional services required by this agreement, providing that such coverage is reasonably available at commercially affordable premiums. For purposes of this agreement, "reasonably available" and "commercially affordable" shall mean that more than half of the design professionals practicing in this state in CONSULTANT'S discipline are able to obtain coverage. The professional liability insurance policy shall provide coverage for each occurrence in the amount of \$1,000,000 and annual aggregate of \$1,000,000 on a claims-made basis.

Upon request of CLIENT, CONSULTANT shall provide CLIENT with certificates of insurance, showing evidence of required coverages.

#### E. OPINIONS OR ESTIMATES OF CONSTRUCTION COST

Where provided by the CONSULTANT as part of Exhibit I or otherwise, opinions or estimates of construction cost will generally be based upon public construction cost information. Since the CONSULTANT has no control over the cost of labor, materials, competitive bidding process, weather conditions and other factors affecting the cost of construction, all cost estimates are opinions for general information of the CLIENT and the CONSULTANT does not warrant or guarantee the accuracy of construction cost opinions or estimates. The CLIENT acknowledges that costs for project financing should be based upon contracted construction costs with appropriate contingencies.

## F. CONSTRUCTION SERVICES

It is agreed that the CONSULTANT and its representatives shall not be responsible for the means, methods, techniques, schedules or procedures of construction selected by the contractor or the safety precautions or programs incident to the work of the contractor.

## G. USE OF ELECTRONIC/DIGITAL DATA

Because of the potential instability of electronic/digital data and susceptibility to unauthorized changes, copies of documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Except for electronic/digital data which is specifically identified as a project deliverable by this AGREEMENT or except as otherwise explicitly provided in this AGREEMENT, all electronic/digital data developed by the CONSULTANT as part of the PROJECT is acknowledged to be an internal working document for the CONSULTANT'S purposes solely and any such information provided to the CLIENT shall be on an "AS IS" basis strictly for the convenience of the CLIENT without any warranties of any kind. As such, the CLIENT is advised and acknowledges that use of such information may require substantial modification and independent verification by the CLIENT (or its designees). Provision of electronic/digital data, whether required by this Agreement or provided as a convenience to the Client, does not include any license of software or other systems necessary to read, use or reproduce the information. It is the responsibility of the CLIENT to verify compatibility with its system and long-term stability of media. CLIENT shall indemnify and hold harmless CONSULTANT and its Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting from third party use or any adaptation or distribution of electronic/digital data provided under this AGREEMENT, unless such third party use and adaptation or distribution is explicitly authorized by this AGREEMENT.

## H. REUSE OF DOCUMENTS

Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by CONSULTANT pursuant to this AGREEMENT are instruments of service in respect to the Project and CONSULTANT shall retain an ownership interest therein. Upon payment of all fees owed to the CONSULTANT, the CLIENT shall acquire an ownership interest in all identified deliverables, including Plans and Specifications, for any reasonable use relative to the Project and the general operations of the CLIENT. CLIENT may make and disseminate copies for information and reference in connection with the use and maintenance of the Project by the CLIENT. However, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project and any reuse other than that specifically intended by this AGREEMENT will be at CLIENT'S sole risk and without liability or legal exposure to CONSULTANT.

## I. CONFIDENTIALITY

CONSULTANT agrees to keep confidential and not to disclose to any person or entity, other than CONSULTANT'S employees and subconsultants any information obtained from CLIENT not previously in the public domain or not otherwise previously known to or generated by CONSULTANT. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of CONSULTANT; or is furnished to CONSULTANT by a third party who is under no obligation to keep such information confidential; or is information for which the CONSULTANT is required to provide by law or authority with proper jurisdiction; or is information upon which the CONSULTANT must rely for defense of any claim or legal action.

J. PERIOD OF AGREEMENT

This Agreement will remain in effect for the longer of a period of two years or such other explicitly identified completion period, after which time the Agreement may be extended upon mutual agreement of both parties.

K. PAYMENTS

If CLIENT fails to make any payment due CONSULTANT for services and expenses within thirty days after date of the CONSULTANT's invoice, a service charge of one percent (1.0%) per month or the maximum rate permitted by law, whichever is less, may be charged on any unpaid balance. In addition after giving seven days' written notice to CLIENT, CONSULTANT may, without waiving any claim or right against the CLIENT and without incurring liability whatsoever to the CLIENT, suspend services and withhold project deliverables due under this Agreement until CONSULTANT has been paid in full all amounts due for services, expenses and charges.

L. TERMINATION

This Agreement may be terminated by either party for any reason or for convenience by either party upon seven (7) days written notice.

In the event of termination, the CLIENT shall be obligated to the CONSULTANT for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination, computed in accordance with Section III of this Agreement.

M. CONTINGENT FEE

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from award or making of this Agreement.

N. NON-DISCRIMINATION

The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein.

**The CONSULTANT is an Equal Opportunity Employer** and it is the policy of the CONSULTANT that all employees, persons seeking employment, subcontractors, subconsultants and vendors are treated without regard to their race, religion, sex, color, national origin, disability, age, sexual orientation, marital status, public assistance status or any other characteristic protected by federal, state or local law.

O. CONTROLLING LAW

This Agreement is to be governed by the law of the State of Minnesota.

P. DISPUTE RESOLUTION

CLIENT and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice of dispute prior to proceeding to formal dispute resolution or exercising their rights under law. Any claims or disputes unresolved after good faith negotiations shall first be submitted to mediation, using a mutually acceptable Neutral Third Party and mutually agreeable mediation process. If the mediation is unsuccessful in resolving the dispute, the parties may mutually agree to submit to another method of dispute resolution or submit the dispute to a court of competent jurisdiction.

Q. SURVIVAL

All obligations, representations and provisions made in or given in Section IV of this Agreement will survive the completion of all services of the CONSULTANT under this Agreement or the termination of this Agreement for any reason.

R. SEVERABILITY

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CLIENT and CONSULTANT, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**SECTION V - SIGNATURES**

THIS INSTRUMENT embodies the whole agreement of the parties, there being no promises, terms, conditions or obligation referring to the subject matter other than contained herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their behalf.

CLIENT: City of Fairmont, Minnesota

CONSULTANT: Bolton & Menk, Inc.

By: \_\_\_\_\_  
Printed Name

By: Wesley W. Brown  
Printed Name

Signature: \_\_\_\_\_

Signature: Wesley W Brown

Title: \_\_\_\_\_

Title: Fairmont Work Group Leader

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

Date: June 17, 2020

And: \_\_\_\_\_  
Printed Name

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

## EXHIBIT I

### PROJECT RELATED SERVICES BY CONSULTANT - PHASE 3

#### LAKE AVENUE RECONSTRUCTION FROM FOURTH STREET TO DOWNTOWN PLAZA CITY OF FAIRMONT, MINNESOTA

#### DESCRIPTION OF PROPOSED PROJECT

The scope of services is based on the following project limits, assumed construction program and assumed construction time frame:

Project Limits: Lake Avenue from Fourth Street to North Main Street and Blue Earth Avenue from North Main Street to Downtown Plaza in Fairmont, MN.

#### Assumed Construction Program:

- Complete removal and replacement of the existing pavement, curb, and other surface improvements, including:
  - Removal of existing pavement, curb and other surface improvements
  - Street excavation and removal of aggregate base
  - Removal of storm sewer pipe and catch basins
  - Construction of new bituminous pavement with curb and gutter
  - Construction of new driveway aprons
  - Construction of new sidewalk
- Replacement of the existing watermain distribution system
- Replacement of sanitary sewer collection system
- Construction of a new storm sewer system
- Construction of new street lighting system
- Erosion control, sediment control and turf establishment
- Traffic control, detours and construction staging plans
- Other miscellaneous items

Assumed Construction Time Frame: July-November 2020

#### I.A. I.A. CONSTRUCTION PHASE SERVICES

For purposes of this specific project, the Construction Phase Services to be provided by the CONSULTANT are as follows:

- A. Construction Staking: The CONSULTANT shall perform construction staking for the project, furnish necessary equipment and supplies to establish grade and line as necessary for the Contractor's guidance in construction of the project and in accordance with the contract documents
- B. Construction Observation: The CONSULTANT shall provide an on-site representative (Mn/DOT certified) during the construction of the project. Services consist of observation of the work of the contractor, coordination and documentation of materials testing, documentation of quantities and preparation of contractor's pay estimates, preparation of weekly inspection reports, monitoring and maintaining documentation. On-site construction representative services do not constitute acceptance or approval of the Contractor's work nor do they relieve any part of the contractor's responsibility under the construction documents.

C. Construction Administration:

1. The CONSULTANT shall prepare required contract documents, with the assistance of the CLIENT'S attorney and staff, after award of contract.
2. The CONSULTANT shall attend and assist with the preconstruction conference to be attended by the CLIENT, contractors and any affected utility companies.
3. The CONSULTANT shall review, for conformance with design concept only, any shop drawings required to be furnished by the Contractor.
4. The CONSULTANT shall make visits to the site at intervals appropriate for the various stages of construction, observe the progress and quality of the executed work of the contractors, and determine, in general, if such work is proceeding in accordance with the contract documents.
5. The CONSULTANT shall prepare documentation for construction observation and record keeping.
6. The CONSULTANT and its representatives shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the contractor or the safety precautions or programs incident to the work of the contractor.
7. The CONSULTANT shall review and make a recommendation on the Contractor's request for partial payments. Such review shall be based upon the CONSULTANT'S on-site observations and such written documentation as may be available to the CONSULTANT at the time of review. Such review shall not include verification of unit price contract quantities by physical measurement of individual work items.
8. The CONSULTANT shall conduct a final inspection of the project in the company of the CLIENT for conformance with contract documents and review the final payment request from the Contractor.
9. The CONSULTANT shall prepare record drawings reflecting constructed conditions from information observed by the CONSULTANT or supplied by others and furnish one reproducible copy and one electronic copy of the plans to the CLIENT within 90 days of the end of the construction.
10. The CONSULTANT shall prepare regular public communications and update the project website to keep property owners and the traveling public informed of construction operations and traffic control delays.

**I.B. ADDITIONAL SERVICES**

Engineering services performed other than those authorized under Section I.A shall be considered not part of the Basic Services and may be authorized by the CLIENT as Additional Services. Additional Services consist of those services that are not generally considered to be Basic Services or are not definable prior to the commencement of the project or vary depending on the technique, procedures or schedule of the project contractor. Additional services may consist of the following:

1. **REMONUMENTATION.** Replacing lost or obliterated government survey corners or property corners along the project route.
2. **GEOTECHNICAL AND MATERIAL TESTING SERVICES.** Geotechnical services and material testing services, including borings, other subsurface investigations, and material testing for quality control.
3. **ENVIRONMENTAL SERVICES.** Environmental services associated with hazardous materials leaks and contaminated soils.
4. All other services not specifically identified in Section I.A.

**CITY OF FAIRMONT---AGENDA CONTROL SHEET---AGENDA ITEM NO. 6.C.3**

**MEETING DATE:** July 13, 2020

**SUBJECT:** Professional Services for Wastewater Facility Improvements

**REVIEWED BY:** Cathy Reynolds, City Administrator

**SUBJECT INITIATION BY:**

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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**SUBJECT BACKGROUND:** Troy Nemmers, Director of Public Works/City Engineer

**INTRODUCED BY:** Troy Nemmers, Director of Public Works /City Engineer

**COUNCIL LIAISON:** Councilor Hasek

**TYPE OF ACTION:**

<input checked="" type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 <sup>st</sup> Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 <sup>nd</sup> Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

**RECOMMENED ACTION BY:**

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

**STATEMENT:** The Wastewater Treatment Plant facility plan was recently presented to the Council and approved. This professional services agreement with Bolton & Menk begins the preliminary design of a couple pieces of the overall facility plan. The estimated cost for these services is \$59,250. Staff is recommending approval

**MOTION:** To approve a professional services agreement with Bolton & Menk for preliminary engineering on the Wastewater Treatment Facility improvements.

**VOTE REQUIRED:** Simple majority

**ATTACHMENTS:**

1. BMI Professional Services Agreement dated 6/19/20
2. \_\_\_\_\_
3. \_\_\_\_\_

\*\*\*\*\*

Council Action: \_\_\_\_\_ Date: \_\_\_\_\_



**BOLTON  
& MENK**

Real People. Real Solutions.

1960 Premier Drive  
Mankato, MN 56001-5900

Ph: (507) 625-4171  
Fax: (507) 625-4177  
Bolton-Menk.com

VIA EMAIL

June 19, 2020

Troy Nemmers  
Director of Public Works/City Engineer  
City of Fairmont  
100 Downtown Plaza  
Fairmont, MN 56031  
[tnemmers@fairmont.org](mailto:tnemmers@fairmont.org)

RE: Wastewater Treatment Facility Improvements  
Preliminary Engineering Scope and Fee – UPDATED  
City of Fairmont, Minnesota

Dear Troy,

I have prepared the following scope and fee letter based on the Feb. 2020 Facility Plan, our meeting on March 31, 2020, and meeting on June 16, 2020. This engineering proposal is broken out into several tasks for preliminary engineering associated with the UV Disinfection, Influent Screen Replacement, and preparation for biosolids processing. These tasks will help prepare the city for decisions regarding funding and final design with the intent to start detailed design August/September 2020 on the project(s) that the city would like to proceed with. This does not commit the city to any construction but positions the community to take advantage of opportunities that may be available later this year.

Information developed in these tasks is needed prior to final design and will help better define the scope of the final project. The goals of the overall project are to replace aging infrastructure, provide long term wastewater treatment in a technology set up for current and future limits, and position the city for any potential funding. The project is described in the February 25, 2020 Facility Plan and includes rehabilitation and modifications in Phase I to the ultraviolet disinfection, influent screens, and biosolids processing (dryer). Major items to be determined for this project in the preliminary engineering include:

- Final site selection and layout for biosolids handling.
- Equipment Selection
- Site survey for detailed information on site design.
- Data collection including building 3D scans (pretreatment building, biosolids building, and disinfection area) for rehabilitation/modifications and verification of existing conditions.
- Preliminary design for UV disinfection and influent screens.

Regardless of when the city proceeds with final design, these items will need to be accomplished prior to detailed design work. The proposed items have a long “shelf life” and proactively position the facility for funding opportunities. The fees associated with each item and a detailed description of the scope of work is provided below.

## Preliminary Engineering

### Task 1: Dryer, Ultraviolet Disinfection, and Influent Screen Equipment Selection and Tours

Proposed Not-to-Exceed Fee - \$8,250

Bolton & Menk will coordinate with Fairmont staff and attend three WWTF tours to review influent screens, UV Disinfection, and biosolids dryers in the local area. Additional technical data will be gathered on equipment to assist with final equipment selection decisions. As part of this task, a summary of the findings and equipment selections/preferences will be summarized in an email.

### Task 2: Site Survey and Data Collection

Proposed Not-to-Exceed Fee - \$15,500

Bolton & Menk will topographically survey the existing and proposed site (to the east of the biosolids dryer bunkers). Also included in this task is a 3D scan of proposed buildings for rehabilitation (digester and dryer area/building, pretreatment area, and UV disinfection) in order to have quality existing condition drawings to work from for the modifications. We will also review/update existing wastewater influent and effluent data, work with operations staff on other issues/anomalies they may be seeing in their data and verify flows for final design considerations. Drawings of the existing conditions will be provided along with electronic files of the 3D scans and a summary describing any significant design data modifications.

### Task 3: Ultraviolet Disinfection and Screens Preliminary Design

Proposed Not-to-Exceed Fee - \$7,500

This task will include confirmation that selected equipment will be properly fit in the existing channels. Additionally, an energy analysis of the existing UV system compared to new UV system will be completed. This will provide the city with approximate electrical savings that can be anticipated with an equipment upgrade at disinfection. A memorandum will be provided analyzing the data and presenting the findings including recommendations on project scope for a UV System and Influent Screening System as separate projects if the city chooses to proceed in that manner.

### Task 4: Secondary Clarifier Scum Removal Rehabilitation Project

Proposed Not-to-Exceed Fee - \$28,000

This project will include the preliminary engineering and design of the secondary scum manhole and scum removal system. The project will include equipment selection, piping and process control, and electrical and instrumentation controls, to develop a complete set of bid documents (plans and specifications) to obtain MPCA approval and contractor bids. Bidding services will include preparation of advertisement for bids, answering contractor questions and issuance of addendum, assisting with opening bids, and providing a bid evaluation for the city to consider award to the low bidder. This scope of work does not include construction services, which could be provided under separate proposal upon receiving bids. Additionally, this project assumes that the site survey will be completed as part of the previous scope of work for preliminary engineering on the larger WWTF improvements Phase I project.

For this project, I am estimating the following breakdown of scope and hours:

Task 4	Engineering Fee	Estimated Hours
Preliminary Investigation	\$4,500	30
Detailed Process Design & Documents	\$13,000	80
Electrical & Controls	\$6,500	35
Bidding/Quotes	\$4,000	25
<b>Estimated Total for Scum Removal:</b>	<b>\$28,000</b>	<b>Approx. 170 Hrs.</b>

For the secondary clarifier scum, I have assumed that we will be adding a scum removal pump in the manhole and associated forcemain piping. Typically, we would keep these pretty simple with a transducer for level, a simplex pump, and float backups. We can discuss during design if city would like to make this a duplex pumping system and/or options for additional controls or backup that could be included during the design. We also discussed taking quotes on this project in lieu of bids, but I included bidding until we get a better feel of the full improvements needed.

A summary of all tasks is as follows:

<b>Task Summary</b>	<b>Engineering Fee</b>	<b>Estimated Hours</b>
Task 1: Equipment Selection	\$8,250	55
Task 2: Survey and Data Collection	\$15,500	110
Task 3: UV and Screen Prelim Engineering	\$7,500	50
Task 5: Biosolids Preliminary Engineering	\$28,000	170
<b>Estimated Total:</b>	<b>\$59,250</b>	<b>Approx. 385 Hrs.</b>

**Bolton and Menk proposes a not to exceed fee of \$59,250 for the scope of work detailed above. The project would be invoiced on an hourly basis following our standard rates. Additional Items to be considered in the future.**

The City may want to consider additional preliminary engineering items to move forward with the larger biosolids dryer project in the future. These items would include the following:

**Future Task: Funding Assistance/Requirements and Environmental Reviews**

As part of the treatment plant funding preparation, the Point Source Implementation Grant application needs to be completed in July for 2021 funding. Coordination with the MPCA and PFA will be provided to help ensure a complete loan/grant funding package. Specifically, the Federal Section 106 review process will be completed including submittal to the State Historical Preservation Office (SHPO) and other state and federal agencies for approval. An archeological survey is not included at this time. If SHPO determines a survey is required, a separate proposal for the archeological work would be provided.

**Future Task: Biosolids Preliminary Design**

This task includes preliminary design and is the beginning work to detailed development of plans and specifications for the new biosolids dryer. This work can be tailored to provide more or fewer details to the city. The recommended proposed items will be completed by wastewater process engineers, electrical and controls engineers, mechanical (HVAC) engineers, and structural engineers. The proposed work includes:

- Preliminary site layout, building layout, major process design sizing, and preliminary piping plans.
- Development of materials of construction.
- Detailed design scoping to obtain owner preferences and input on items to be included in the final scope of work.
- Preliminary electrical and mechanical design (power distribution, generation, and natural gas delivery), controls, and SCADA scoping.
- Development of design data, process flow diagram (schematic layout of drying system).
- Biosolids handling finalization, feed hoppers, augers, and finish storage silo layout.
- Updated opinion of probable construction cost.
- Coordination of geotechnical site evaluation.

**Future Task: Geotechnical Site Evaluation**

Bolton & Menk will solicit proposals from geotechnical engineers (typically would include Braun Intertec and American Engineering & Testing) to obtain specific site quotes for the selected site and preliminary layout. The city and Bolton & Menk can select the proposal that provides the best fit for the evaluation. The evaluation would include soil borings (approximately 8), ground water determination, and associated geotechnical report.

Thank you for your consideration of this work. I am very excited to begin developing these improvements at the City of Fairmont Wastewater Treatment Facility and appreciate the city working with Bolton & Menk. Please feel free to contact me with any questions and/or changes to the scope. With any preliminary effort, the scope can be tailored to meet the goals and objectives of the city. I believe the suggested scope positions the city well for decisions later this year and provides excellent background for detailed design.

Sincerely,

**Bolton & Menk, Inc.**



**Kristopher J. Swanson, P.E.**  
Principal Engineer

KJS:bj

cc: Doug Rainforth – City of Fairmont  
Paul Saffert – Bolton & Menk, Inc.  
John Graupman – Bolton & Menk, Inc.  
File

Accepted By (*signature*): \_\_\_\_\_

Name (*printed*): \_\_\_\_\_

Title: \_\_\_\_\_

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

**CITY OF FAIRMONT---AGENDA CONTROL SHEET---AGENDA ITEM NO. 9.1**

**MEETING DATE:** July 13, 2020

**SUBJECT:** Rural and Urban Service Districts – Second Reading of Ordinance

**REVIEWED BY:** Cathy Reynolds, City Administrator

**SUBJECT INITIATION BY:**

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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**SUBJECT BACKGROUND:** Cathy Reynolds, City Administrator

**INTRODUCED BY:** Cathy Reynolds, City Administrator

**COUNCIL LIAISON:**

**TYPE OF ACTION:**

<input type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 <sup>st</sup> Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input checked="" type="checkbox"/>	Ordinance 2 <sup>nd</sup> Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

**RECOMMENED ACTION BY:**

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

**STATEMENT:** Following the public hearing held on June 22, 2020, the Council will need to consider the proposed amendment to the Rural and Urban Service District Within the Municipal Limits of the City of Fairmont.

**MOTION:** To approve Ordinance 2020-08 amending Ordinance 2019-12 establishing a Rural and Urban Service District within the Municipal Limits of the City of Fairmont.

**VOTE REQUIRED:** Simple majority- Roll call

**ATTACHMENTS:**

1. Draft Ordinance 2020-08
- 2.

\*\*\*\*\*

Council Action: \_\_\_\_\_ Date: \_\_\_\_\_

**ORDINANCE 2020-08**

**AN ORDINANCE AMENDING ORDINANCE 2019-12 ESTABLISHING A RURAL AND URBAN SERVICE DISTRICT WITHIN THE MUNICIPAL LIMITS OF THE CITY OF FAIRMONT**

WHEREAS, the Martin County Treasurer/Auditor has been maintaining a tax roll of properties in the City of Fairmont, consisting of two separate taxing districts one classified as Rural Service District and the other classified as Urban Service District; and,

WHEREAS, these properties are taxed at different rates due to the different demands on municipal services generated by the parcels in each type of district; and

WHEREAS, it has been determined that there have been some acreage changes and ownership changes; and,

WHEREAS, the properties need to be reclassified so that they may be properly taxed as either Rural Service District or Urban Service District; and,

WHEREAS, the properties struck from the Rural Service District list shall be reclassified as Urban Service District and the properties added to the Rural Service District list shall be reclassified from Urban Service District to Rural Service District; and,

WHEREAS, it is in the best interest of the City of Fairmont to periodically review the Rural Service District and the Urban Service District for taxing purposes to ensure that properties are properly designated as Rural Service District parcels and Urban Service District parcels.

NOW THEREFORE the City of Fairmont does ordain that Ordinance 2017-05 shall be amended as follows (strikeouts indicate deletions and underlines indicate additions):

**Section 1. Purpose.** Pursuant to Minnesota Statute 272.67, the City of Fairmont hereby divides the area within the City of Fairmont’s municipal limits into an Urban Service District and a Rural Service District creating separate taxing districts for the purpose of levying municipal property taxes except those levied for the payment of principal and interest on bonds and judgments.

**Section 2. Definitions.**

**Rural Service District.** The parcels of land that in the judgment of the City Council, are rural in character because they are unplatted and not developed for commercial, industrial, or urban residential purposes and contain more than 5 acres and are not benefitted to the same degree as other lands by municipal services financed by general taxation. These lands need not be contiguous to one another.

**Urban Service District.** All the parcels of land within the boundaries of the City of Fairmont that are not included in the Rural Service District.

**Benefit Ratio.** The ratio, that in the judgment of the City Council, exists between the benefits to parcels of land of like market value, situated in the Rural Service District and in the Urban Service District, resulting from tax supported municipal services.

**Section 3. Rural Service District Established.** The City Council hereby establishes the Rural Service District as those parcels of land that meet the definition of the Rural Service District defined in this ordinance and consisting of the following parcels of land:

<u>Tax Identification Number</u>	<u>Acreage</u>	<u>Name of Owner</u>
239990415		Federated Rural Electric Assn,
230370010	159.68	Stoneback, Kevin
230370030	28	Unke, Kent D.
230370040	15.56	Thomas L. Houck Rev Trst Agmt, Teresa A. Houck Rev Trst Agmt
230370050	47.45	Fairmont Foods, Inc.,
230370080	<u>15.36</u> 49.67	Grupe of Fairmont Inc.,
230370085	40.32	FTF Partnership
230370090	73.07	Fairmont Foods, Inc.,
230370100	157.02	Fairmont Foods, Inc.,
230370120	15.48	Thate, John W & Jane M
230370130	5.01	City of Fairmont
230370145	24	Fairmont Cemetery Assoc.
230370150	92.84	Cartwright, David D & Norma J
230370155	17.72	Miller, Randy
230370180	79.6	Miller, Mildred C TT of Rev Trust of Mildred C. Miller
230370185	11.87	Miller, Randy
230370188	11.86	Miller, Randy
230370200	6.31	Cartwright, David
230370230	146.62	Spencer, Jacqueline K
230370250	10.25	Spencer, James B and Blossom M
230370270	73.52	DFP Limited Partnership,
230370280	31.54	Leiding, <del>Darrel R</del> & Terrance & <u>Leiding, Thad</u>
230370290	11.84	Thate, John W & Jane M
230370320	75	City of Fairmont
230370340	51.15	Moeller, Dale S & Debra
230370360	82.75	Silker, <del>John B</del> & Peggy
230370370	42.85	Silker, <del>John B</del> & Peggy
230370380	34.6	Three Sheep to the Wind LLC & Janette Fickbohm Rev Liv Trust
230370390	79.5	Crowley, Francis W
230370400	<u>43.33</u> 42.95	<del>Fauseh, Scott A &amp; Lisa K</del> <u>Lenort, Robert G. &amp; Susan K.</u>
230370410	387.81	A L & C E Ward Inc.,

<u>Tax Identification Number</u>	<u>Acreage</u>	<u>Name of Owner</u>
230370420	40	Minnesota Mining & Manufacturing,
230370450	56.69	Marjorie L Pfiffner Resid Trust,
230370455	7.51	Davison, Benjamin
230370460	153.48	Lowell Spee (LE) Etal,
230370470	69.18	A L & C E Ward Inc.,
230370490	243.02	City of Fairmont,
230370500	66.05	Marjorie L Pfiffner Resid Tst,
230370510	77.22	Heminover, James L.
230370520	230.07	Tenhassen Farms Inc,
230370590	10.12	Fairmont Community Hospital Assoc
230370650	39.96	Reiman, Kenneth O
230370660	40	Fern F Bulfer Trust Agreement
230370670	159.29	Fern F Bulfer Trust Agreement
230370680	4.02	Bulfer Farms, LLC
230370690	1.29	Bulfer, James G & Carol A
230370700	1	Bulfer, William J
230370710	80	Bents, Kenneth C & Ruby L Trustees
230370720	19.26	Bulfer, Patrick
230370723	5.48	Bulfer, Patrick J. & Joyce A.
230370725	5	Bulfer, Patrick J & Joyce A
230370727	134.84	Gerhardt, Dick & Diane
230370730	104.73	Barker, Orel A
230370732	5,581 sqft	City of Fairmont
230370770	80	City of Fairmont
230370780	91	Gerhardt, Dick
230370781	5	Wilken, Lance A & Susan R
230370782	5	Gerhardt, Dick
230370785	5.69	Gerhardt, Dick
230370788	5.0	Schmidt, Adam L. & Jessica L
230370790	7.62	Bettin, Joanne E. Revoc Liv Trust
230370800	5.38	Cowell, Joshua & Cowell, Kelly
230370810	5.0	Joanne E. Bettin Revoc Liv Trust
230370820	5.0	Joanne E. Bettin Revoc Liv Trust
230370830	64.38	Gerhardt, Dick
230370835	35	City of Fairmont,
230370840	82.14	Barker, Stephen & Kent
230370880	35.99	Luedtke, Andrea LE EtAl
230370882	21.7	City of Fairmont
230370885	40.06	Scott, Kenneth E. EtAl
230370887	14.9	City of Fairmont
230370890	14.67	Triple B & G Inc
230370895	5.13	City of Fairmont
230370900	80	Luedtke, Andrea LE EtAl
230370910	14	Luedtke, Andrea LE EtAl

<u>Tax Identification Number</u>	<u>Acreage</u>	<u>Name of Owner</u>
230370925	7.27	Janzen, Jon R
230370930	64.11	Poetter, John M & Sylvia
230370950	59.53	Scheff, Leonard & Lylas J. Et Al
230370960	13.5	Scheff, Leonard & Lylas Et Al LE
230370965	5.6	Thate, Andrew Scott
230370970	80	Luedtke, Andrea LE EtAl
230370980	3.02	Poetter, John M & Sylvia
230370990	38.43	Poetter, John M & Sylvia
230370995	36.1	Poetter, Jeffrey J. & Denise C.
230371000	12.71	Poetter, John M & Sylvia
230371005	23.3	Poetter, Jeffrey J. & Denise C.
230371010	48.55	Poetter, John M & Sylvia
230371015	30.83	Poetter, Jeffrey J. & Denise C.
230371020	39.74	Poetter, John M & Sylvia
230371025	39.77	Poetter, Jeffrey J. & Denise C.
230371060	85.11	Maria C. Langford Trust & Amy M. Bacon Trust
230371100	42	Krahmer, Inc.
230371120	42	Wendt, Elmer B & Lois L Rev Tr
230371310	5.10	Grupe of Fairmont, Inc.
230390035	18.95	Weigh-Tronix Acquisition Corp,
230390040	36.77	Fausch, Arthur L
230390045	0.48	Ault, Danny L
230390080	42.15	Fairmont Growth Oppty Co
230390085	19.09	City of Fairmont
230392300	13.09	Thate, John W & Jane M
230392315	4.13	Byers, Deann
230392330	37.61	Meschke, David E
230392345	3.58	Spencer, Blossom M & James B Irrev Trusts
230392347	0.98	Spencer, Blossom M & James B Irrev Trusts
232110750	23.3	Lakeview Methodist Health Care Foundation
233490010	1.13	AL & CE Ward Inc.
233490020	2.5	Tenhassen Farms Inc.

**Section 4. Urban Service District Established.** The City Council hereby establishes the Urban Service District as those parcels of land that do not meet the definition of the Rural Service District as defined in this ordinance.

**Section 5. Parcels Added or Removed.** By amendment of this ordinance, parcels of land may be added or removed from the Rural Service District.

**Section 6. Benefit Ratio Established.** It is the judgment of the City Council that the ratio of benefits within the Rural Service District compared to the land within the Urban Service District shall be 20%.

**Section 7. Benefit Ratio Change.** By amendment of the ordinance, the benefit ratio may be changed by the City Council.

**Section 8. Effective Date.** This ordinance becomes effective after its passage and publication.

Motion by:  
Second by:  
All in Favor:  
Opposed:  
Abstained:  
Absent:

**PASSED, APPROVED AND ADOPTED,** this 13th day of July 2020.

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Deborah J. Foster, Mayor

Attest:

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Patricia J. Monsen, City Clerk

1<sup>st</sup> Reading: June 22, 2020

2<sup>nd</sup> Reading: July 13, 2020

**MEETING DATE:** Monday, July 13, 2020

**SUBJECT:** Lake Access Lease

**REVIEWED BY:** Cathy Reynolds, City Administrator

**SUBJECT INITIATION BY:**

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input type="checkbox"/>	Staff	<input checked="" type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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**SUBJECT BACKGROUND:** Cathy Reynolds

**INTRODUCED BY:** Cathy Reynolds, City Administrator

**COUNCIL LIAISON:**

**TYPE OF ACTION:**

<input checked="" type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 <sup>st</sup> Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 <sup>nd</sup> Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

**RECOMMENED ACTION BY:**

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

**STATEMENT:** In April 2015, the council approved the Lake Access for Docks and Lifts Lease Agreement. This agreement set the lease fee for one (1) dock and not more than two (2) lifts at \$500 per lift. The request has been raised to readdress the lease and fees as approved by council in 2015. The recommended modifications to the lease are:

- 1) No dock may have more than 2 lifts placed on it.
- 2) A single resident may install a dock with up to two (2) lifts for \$500.
- 3) If two residents wish to install a dock and each put their own lift on it, they both must enter into a lease agreement with the city and pay \$500 for their individual lift.
- 4) No resident may sublease their dock, or a lift on their dock to another individual.

**MOTION:** To approve the recommended modifications to terms of the lake access and dock lease.

**VOTE REQUIRED:**

**ATTACHMENTS:**

1. \_\_\_\_\_

\*\*\*\*\*

Council Action: \_\_\_\_\_ Date: \_\_\_\_\_

**MEETING DATE:** July 13, 2020

**SUBJECT:** Call for Public Hearing on Natural Gas Franchise Fee

**REVIEWED BY:** Cathy Reynolds, City Administrator

**SUBJECT INITIATION BY:**

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input checked="" type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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**SUBJECT BACKGROUND:** Paul Hoye, Finance Director

**INTRODUCED BY:** Paul Hoye, Finance Director

**COUNCIL LIAISON:**

**TYPE OF ACTION:**

<input type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 <sup>st</sup> Reading (Introduction only)	<input checked="" type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 <sup>nd</sup> Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

**RECOMMENED ACTION BY:**

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

**STATEMENT:** The City Council has been exploring alternative funding sources for its annual street improvement program for the last couple of years. One of the options that has been discussed in a natural gas franchise fee. City Staff is recommending a \$2.50 per month fee plus a \$0.015 per therm fee that would be collected by MN Energy and turned over to the city. This fee is anticipated to generate roughly \$280,000 per year that would be dedicated to street improvements. Staff is asking to set a public hearing on proposed Ordinance 2020-09.

**MOTION:** To schedule a public hearing on proposed Ordinance 2020-09 for July 27, 2020 at 5:30 p.m.

**VOTE REQUIRED:** Simple majority

**ATTACHMENTS:**

1. Proposed Ordinance 2020-09
2. Public Hearing Notice.

\*\*\*\*\*

Council Action: \_\_\_\_\_ Date: \_\_\_\_\_

ORDINANCE 2020-09

An ordinance establishing Franchise Fee on Natural Gas companies operating in the City of Fairmont, MN.

Be it ordained by the City of Fairmont, MN, as follows:

The City of Fairmont MN, (hereinafter referred to as "City") hereby establishes a franchise fee on every natural gas company, and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing any natural gas plant or system, generating, manufacturing, selling, distributing or transporting electricity/natural gas, (hereinafter referred to as "Energy Providers"). Energy Providers shall collect from their customers, but not from the City of Fairmont, located within the corporate limits of the City of Fairmont, and pay to the City an amount based on the following fee schedule, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered:

<b>CUSTOMER CLASS</b>	<b>MONTHLY METER CHARGE</b>	<b>THERM RATE CHARGE</b>
All	\$2.50/Month/Meter	\$0.015 Per Therm Used

The amount paid by Energy Providers shall be in lieu of, and Energy Providers shall be exempt from, all other occupation, license, excise or right-of-way permit fees or taxes which the City may impose for the rights and privileges herein granted or for the privilege of doing business within the City, and in the event any such fee, charge, license, tax or assessment shall be imposed by the City, the payment to be made in accordance with the provisions of this section shall be reduced in an amount equal to the annual burden of such fee, charge, license, tax or assessment imposed upon the Energy Providers. Ad valorem property taxes imposed generally upon all real and personal property within the City shall not be deemed to affect the obligation of the Energy Providers under this section.

Any consideration hereunder shall be reported and paid to the City by Energy Providers on a Quarterly basis. Such payment shall be made not more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portion of the period at the beginning and end of the term of this Ordinance.

The franchise fee shall be based on the amount collected by Energy Providers during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for gas service in each class. The time and manner of collecting the franchise fee is subject to the approval of the Minnesota Public Utilities Commission. No franchise fee shall be payable by Energy Providers if Energy Providers are legally unable to first collect an amount equal to the franchise fee from their customers in each applicable class of customers by imposing a surcharge in Energy Providers' applicable rates for gas service. The Minnesota Public Utilities Commission requires Energy Providers to provide the Commission with sixty (60) days notice, including the filing of the franchise fee ordinance or other operative document, prior to implementing a franchise fee.

The city recognizes that the Minnesota Public Utilities Commission may allow the utility company to add a surcharge to customer rates of city residents to reimburse such utility company for the cost of the fee.

Energy Providers shall list the local franchise fee collected from customers as a separate item on bills for utility service issued to customers. If at any time the Minnesota Public Utilities Commission, or other authority having proper jurisdiction, prohibits such recovery, then Energy Providers will no longer be obligated to collect and pay the franchise fee herein contemplated. In addition, an Energy Provider may discount or reduce the franchise fee payable for natural gas delivered to a specific customer of an Energy Provider when it is required to reduce the franchise fee to retain the business of that customer. Modification or reduction of the franchise fee should occur if the franchise fee would cause the customer to cease purchase or transportation deliveries of natural gas from the Energy Provider by installing equipment to access natural gas supply not subject to the City's franchise fee.

The City shall provide copies of annexation ordinances to Energy Providers on a timely basis to ensure appropriate franchise fee collection from customers within the corporate limits of the City.

The City shall have access to and the right to examine during normal business hours, those of Energy Providers' books, receipts, files, records and documents that are necessary to verify the correctness of payments due hereunder. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery, such that any under-payment by Energy Providers shall be paid within 30 days of the recalculation and any over-payment by Energy Providers shall be discounted from the next payment(s) due.

This agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Energy Providers, and its publication as required by law. The City, by Council Resolution, may revoke this agreement if Energy Providers do not file a written acceptance with the City within ninety (90) days after publication.

Motion by:  
Seconded by:  
All in Favor:  
Opposed:  
Abstained:  
Absent:

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Deborah J. Foster, Mayor

ATTEST:

\_\_\_\_\_  
Patricia J. Monsen, City Clerk

OFFICIAL PUBLICATION

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Fairmont will hold a public hearing to consider proposed Ordinance No. 2020-09.

An ordinance establishing Franchise Fee on Natural Gas Companies operating in the City of Fairmont, MN.

Be it ordained by the City of Fairmont, MN, as follows:

The City of Fairmont MN, (hereinafter referred to as “City”) hereby establishes a franchise fee on every natural gas company, and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing any natural gas plant or system, generating, manufacturing, selling, distributing or transporting electricity/natural gas, (hereinafter referred to as “Energy Providers”). Energy Providers shall collect from their customers, but not from the City of Fairmont, located within the corporate limits of the City of Fairmont, and pay to the City an amount based on the following fee schedule, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered:

<b>CUSTOMER CLASS</b>	<b>MONTHLY METER CHARGE</b>	<b>THERM RATE CHARGE</b>
All	\$2.50/Month/Meter	\$0.015 Per Therm Used

The amount paid by Energy Providers shall be in lieu of, and Energy Providers shall be exempt from, all other occupation, license, excise or right-of-way permit fees or taxes which the City may impose for the rights and privileges herein granted or for the privilege of doing business within the City, and in the event any such fee, charge, license, tax or assessment shall be imposed by the City, the payment to be made in accordance with the provisions of this section shall be reduced in an amount equal to the annual burden of such fee, charge, license, tax or assessment imposed upon the Energy Providers. Ad valorem property taxes imposed generally upon all real and personal property within the City shall not be deemed to affect the obligation of the Energy Providers under this section.

Any consideration hereunder shall be reported and paid to the City by Energy Providers on a Quarterly basis. Such payment shall be made not more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portion of the period at the beginning and end of the term of this Ordinance.

The franchise fee shall be based on the amount collected by Energy Providers during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for gas service in each class. The time and manner of collecting the franchise fee is subject to the approval of the Minnesota Public Utilities Commission. No franchise fee shall be payable by

Energy Providers if Energy Providers are legally unable to first collect an amount equal to the franchise fee from their customers in each applicable class of customers by imposing a surcharge in Energy Providers' applicable rates for gas service. The Minnesota Public Utilities Commission requires Energy Providers to provide the Commission with sixty (60) days notice, including the filing of the franchise fee ordinance or other operative document, prior to implementing a franchise fee.

The city recognizes that the Minnesota Public Utilities Commission may allow the utility company to add a surcharge to customer rates of city residents to reimburse such utility company for the cost of the fee.

Energy Providers shall list the local franchise fee collected from customers as a separate item on bills for utility service issued to customers. If at any time the Minnesota Public Utilities Commission, or other authority having proper jurisdiction, prohibits such recovery, then Energy Providers will no longer be obligated to collect and pay the franchise fee herein contemplated. In addition, an Energy Provider may discount or reduce the franchise fee payable for natural gas delivered to a specific customer of an Energy Provider when it is required to reduce the franchise fee to retain the business of that customer. Modification or reduction of the franchise fee should occur if the franchise fee would cause the customer to cease purchase or transportation deliveries of natural gas from the Energy Provider by installing equipment to access natural gas supply not subject to the City's franchise fee.

The City shall provide copies of annexation ordinances to Energy Providers on a timely basis to ensure appropriate franchise fee collection from customers within the corporate limits of the City.

The City shall have access to and the right to examine during normal business hours, those of Energy Providers' books, receipts, files, records and documents that are necessary to verify the correctness of payments due hereunder. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery, such that any under-payment by Energy Providers shall be paid within 30 days of the recalculation and any over-payment by Energy Providers shall be discounted from the next payment(s) due.

This agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Energy Providers, and its publication as required by law. The City, by Council Resolution, may revoke this agreement if Energy Providers do not file a written acceptance with the City within ninety (90) days after publication.

**You are further notified** said hearing will be held in the **City Council Chambers of City Hall**, 100 Downtown Plaza, Fairmont, Minnesota on Monday, July 27, 2020, at 5:30 p.m.

BY ORDER OF THE CITY OF FAIRMONT

/s/ Patricia J. Monsen  
Patricia J. Monsen, City Clerk