

FAIRMONT CITY COUNCIL AGENDA

Monday, October 9, 2023, 5:30 p.m.

1. **Roll Call/Determination of Quorum**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
4. **Recognition/Presentations**
5. **Public Discussion/Comment** (Individual comments are limited to 3 minutes) **(03)**
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, September 11, 2023 **(04)**
 - B. **Check Registers**
 - C. **Other**
 - 6.C.1 Excess/Unused Inventory **(07)**
 - 6.C.2 LMCIT Liability Coverage Waiver **(09)**
7. **Public Hearings**
8. **Old Business**
9. **New Business**
 - 9.1 Conditional Use Permit for a Water Oriented Accessory Structure at 635 Pioneer Drive **(12)**
 - 9.2 Proposed Financing Structure of the Community Center **(29)**
 - 9.3 Amendment #1 to the Agreement for Professional Services between the City of Fairmont and Bolton and Menk, Inc. **(36)**
10. **Council Discussion**

11. Staff/Liaison Reports

A. Public Works

B. Finance

C. City Administrator

D. Mayor/Council

Baarts

Hasek – PUC

Kawecki – Planning Commission

Lubenow – HRA

Maynard – FEDA

Miller – FEDA, Visit Fairmont

12. Adjournment



Fairmont City Council
October 9, 2023

Agenda Item: 5

From: City Administration
To: Mayor and City Council

Subject: Public Discussion/Comment

INDIVIDUAL COMMENTS ARE LIMITED TO 3 MINUTES

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

Budget Impact: N/A

Attachments: N/A

Council Action: _____ Date: _____



Fairmont City Council
October 9, 2023

Agenda Item: 6.A.1

From: Patricia J. Monsen, City Clerk
To: Mayor and City Council

Subject: Council Minutes from Regular Meeting on September 25, 2023

Policy/Action Requested: To Approve City Council Minutes from September 25, 2023

Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview:

Budget Impact: N/A

Attachments: City Council Minutes Regular Meeting, September 25, 2023

Council Action: _____ Date: _____

The minutes of the Fairmont City Council meeting held on Monday, September 25, 2023, at the City Hall Council Chambers.

Mayor Lee Baarts called the meeting to order at 5:30 p.m.

Council Members Wayne Hasek, Britney Kawecki, Randy Lubenow, Jay Maynard and Michele Miller were present. Also in attendance: Finance Director Paul Hoye, Director of Public Works/Utilities Matthew York, City Clerk Patricia J. Monsen, Police Chief Mike Hunter and City Attorney Cara Brown.

Council Member Maynard made a motion to approve the agenda with the addition of 10.5 Employment Agreement for Interim City Administrator. Council Member Miller seconded the motion and the motion carried.

Mayor Baarts recognized the following city employees for their years of service: Randall Martin, Street Department, 15 years and Chief Michael Hunter, Police Department, 25 years.

Lisa Kuhl, Gambling Manager and James Draper, President of the Fairmont Hockey Association gave a presentation to the council regarding their lawful gambling.

Mayor Baarts shared events happening in the next two weeks in Fairmont.

During Open Discussion, Garth Carlson spoke regarding hunting in city limits. Todd Smith commented on the presentation by the Fairmont Hockey Association. Richard Bradley read a statement prepared by Bill Cieslinski opposing the proposed community center. Darlene Lutz spoke of YMCA facilities closing and invited everyone to an open house at the Opera House by the Citizens for a Strong Fairmont on September 26, 2023. Mark Ossenfort also spoke against the community center.

Council Member Hasek made a motion to approve the consent agenda. Council Member Maynard seconded the motion and the motion carried. Items on the consent agenda were: Minutes from the September 11, 2023, City Council meeting; Payment of the September Accounts Payable; Event Permit for Fairmont Jr.-Sr. High School, Homecoming Parade on September 29, 2023; and an Event Permit for Indulge for Adventure Bowls on October 27, 2023.

Council Member Maynard made a motion to adopt **Resolution 2023-30** declaring costs for the 2023 Improvement Program and ordering the assessment roll be prepared. Council Member Miller seconded the motion and the motion carried.

Council Member Maynard made a motion to adopt **Resolution 2023-31** calling for a public hearing on the proposed assessments for the 2023 improvement program. Council Member Miller seconded the motion and the motion carried.

Council Member Miller made a motion to adopt **Resolution 2023-34** electing the standard allowance under the American Rescue Plan Act. Council Member Hasek seconded the motion and the motion carried.

Council Member Lubenow made a motion to approve the contract for the bandshell roof replacement between the City of Fairmont and Gag Sheet Metal of New Ulm. Council Member Miller seconded the motion and the motion carried.

Council Member Hasek made a motion to approve the employment agreement for interim city administrator services with Jeff O’Neil. Council Member Maynard seconded the motion and the motion carried.

York reported that the 2023 street projects are complete and reminded citizens to call to get their water meters changed out if they have not done so yet.

Council Member Hasek reported that the Public Utilities Commission approved the purchase of three transformers.

Council Member Kawecki reported that the library has added additional items to be checked out for activities outside the library including puzzles, games, sleds, pickleball equipment, knitting and crochet kits and more. The Minnesota adult section at the library is going well and they have plans to add a Minnesota section for youth.

Council Member Lubenow advised that the HRA approved a \$207,000 tax levy, approved a small cable increase and selected accountants. He also reported that at the Park Board meeting they discussed the repair to the Adventure Playground flooring. This will be replaced at no cost to the city. The playground area will be closed during this replacement.

Council Member Maynard reported on the Airport Board stating that they are waiting for FAA and MNDOT to close out a couple of projects.

Council Member Miller stated the Fall brochure for CER is now online at the school’s website. The new Prime program for after school activities is full and there is a waiting list for it.

A motion was made by Council Member Maynard, seconded by Council Member Hasek and carried to adjourn the meeting at 6:23 p.m.

Lee C. Baarts, Mayor

ATTEST:

Patricia J. Monsen, City Clerk



Fairmont City Council
October 9, 2023

Agenda Item: 6.C.1

From: Matthew York, Director of Public Works and Utilities
To: Mayor and City Council

Subject: Excess/Unused Inventory

Policy/Action Requested: Approval to declare vehicles and equipment surplus to the purpose of selling and/or disposing of the piece of equipment/vehicle

Vote Required: X Simple Majority _____ Roll Call

Recommendation: Approval

Overview:

The attached sheet summarizes equipment within the City of Fairmont that outside the useful life of the City or is not used within the current business model of the City.

The items listed will be sold on minbid.org, sold back to the company that we bought it from, or disposed of if there is not useful parts.

Budget Impact: Receipts for Sold Items will be placed back in the General Fund.

Attachments: Listing of Items to be declared surplus.

Council Action: _____ Date: _____

C I T Y O F L A K E S



Phone (507)238-9461

CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031
www.fairmont.org ♦ citygov@fairmont.org

Fax (507)238-9469

MEMO TO: Matt York
MEMO FROM: Nick Lardy
DATE: 09/26/2023
SUBJECT: Excess/Unused Inventory

.....

Matt,

Following is a list of items/equipment I would like to have the council declare excess inventory so I may sell it on minbid.org:

- 2007 Ford Taurus VIN# 1FAHP53U57A140517 - Not used/needed
- 1989 Ford L-8000 Dump truck – going to be replaced
- 1988 3D Fire Pumper Truck VIN# 1S9AT6D01JC185322 Replaced with new
- Fire Hall Generator that was replaced with new unit.
- 1996 Ford Ranger 4x2 Extended Cab VIN# 1FPCR14U7TPA87267 Bad trans/not used
- 1994 Chev K2500 Pickup 4X4 VIN# 1GCGK244K8RE290584 Bad frame/not used
- 1999 Jeep Wrangler 4x4 with snow plow – Replacing with a new unit
- Old used snow tub. Replaced with new
- 2013 John Deere Gator TS 4x2 – Replaced with new 4x4 unit
- Caterpillar 930 Loader with dirt and snow buckets – Replaced with Bobcat Skid steer
- Target cement saw – Useful life exceeded. Replaced with new unit
- Graco Line Lazer – Useful life exceeded – Replaced with new unit
- Crown Victoria car – White water plant Not used
- Ford Econoline Van – Being replaced with new pickup and topper
- Used dump truck box and tailgate assembly – replaced with new
- 4 Used Medora Solar Bees – Water Plant
- 30 Mitel 5530e IP Phones
- 1 conference phone U360
- 4 Mitel 8568 Phones
- 1 EnGenius Cordless Phone System
- ShearTech Check Endorser LE-5900
- Sabine Feedback Exterminator (FBX 901)

Please contact me if you have any questions.

Nick Lardy



Fairmont City Council
October 9, 2023

Agenda Item: 6.C.2

From: Paul Hoyer, Finance Director
To: Mayor and City Council

Subject: Liability Insurance

Policy/Action Requested: To confirm that the City of Fairmont does not waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04.

Vote Required: Simple Majority Roll Call

Recommendation: To not waive the monetary limits on municipal tort liability.

Overview: Council is annually required to determine whether or not they wish to waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04. The City has historically opted to NOT waive these limits.

Budget Impact: N/A

Attachments: Liability Coverage – Waiver Form

Council Action: _____ Date: _____

LIABILITY COVERAGE – WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member's effective date of coverage. Return completed form to your underwriter or email to pstech@lmc.org.

The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.*
- *If the member waives the statutory tort limits and does not purchase excess liability coverage, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.*
- *If the member waives the statutory tort limits and purchases excess liability coverage, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.*

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name:

Check one:

The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04.

The member **WAIVES** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: _____

Signature: _____ Position: _____



Fairmont City Council
October 9, 2023

Agenda Item: 9.1

From: Peter Bode, Planner & Zoning Official
To: Mayor and City Council

Subject: Conditional Use Permit for a Water Oriented Accessory Structure at 635 Pioneer Drive

Policy/Action Requested: Adoption of Resolution 2023-36
Vote Required: X Simple Majority Roll Call

Recommendation: The Planning Commission recommends approval with conditions.

Overview: Steve Petrowiak, property owner of a single-family home at 635 Pioneer Dr, has applied for a Conditional Use Permit (CUP) to build a Water Oriented Accessory Structure (WOAS) near the shore of George Lake. 635 Pioneer Drive abuts George Lake to the north with a relatively flat shoreline.

The structure is proposed to be placed 240 square feet (15 by 16 feet) in area and 24 feet from the ordinary high water level (OHWL) of George Lake. The structure is proposed to be used to store water-oriented items.

The normal structure setback from the OHWL is 50 feet. Upon recommendation of the Planning Commission, City Council adopted a revision to the zoning code in January clarifying the status of structures close to the water. Under City Code 26-503, WOAS structures like the one proposed are able to be placed closer to the water if certain development conditions are met.

The City administers its shoreland management regulations in partnership with Minnesota Department of Natural Resources. DNR provided comment on this request and indicated the request appeared to meet the intent of the ordinance.

The Planning Commission held the required public hearing, reviewed the standards of code, and recommend that the permit be granted with the conditions listed on page 3 of City Council Resolution 2023-36.

Budget Impact: None.

- Attachments: (1) Resolution 2023-36
(2) Planning Commission Resolution 2023-4
(3) DNR Comment
(4) Application for CUP

Council Action: _____ Date: _____

CITY OF FAIRMONT, MINNESOTA
CITY COUNCIL RESOLUTION 2023-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIRMONT, MINNESOTA
APPROVING THE REQUEST FOR A CONDITIONAL USE PERMIT FOR A WATER
ORIENTED ACCESSORY STRUCTURE AT 635 PIONEER DRIVE

WHEREAS, Steve Petrowiak (the “Applicant”) is the owner of a parcel of land located at 635 Pioneer Drive (PIN 23.040.2830) in the City of Fairmont; and,

WHEREAS, the above-referenced property is legally described on Exhibit A, which is attached hereto and incorporated herein by reference (the “Property”) and is zoned B-1 Neighborhood Business and Shoreland Overlay District Tier A; and,

WHEREAS, the Applicant seeks a Conditional Use Permit (CUP) pursuant to Fairmont City Code Section 26-503(c)(2) to place a Water Oriented Accessory Structure (WOAS) 24 feet from the Ordinary High Water Level (OHWL) of George Lake; and,

WHEREAS, pursuant to Fairmont City Code, Section 26-80, the Planning Commission and staff shall review applications for CUP’s based upon the following standards:

- (1) Must be in conformance with the comprehensive plan.
- (2) Must not be detrimental or injurious to the general vicinity and uses already permitted in the area.
- (3) Not impede the normal and orderly development of surrounding vacant property.
- (4) Will be served by adequate utilities, public roads, and municipal facilities. Such requirements for public facilities shall not be detrimental to the economic welfare of the city.
- (5) Must not cause offensive odors, fumes, dust, noise, and vibration that would be injurious or a nuisance to adjacent uses and the surrounding area.
- (6) Will conform to specific standards of this chapter applicable to the particular use; and,

WHEREAS, pursuant to Fairmont City Code, Section 26-81, the Planning Commission may recommend conditions relating to the granting of a Conditional Use Permit which may include the following general conditions:

- (1) That the architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
- (2) That the entire site other than that taken up by a building, structure, or plantings shall be surfaced with a material to control dust and drainage. This surfacing is subject to approval by appropriate city staff.
- (3) That the lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from a public right-of-way.
- (4) That vehicular access points shall create a minimum of conflict with through traffic movement and shall comply with the requirements of this chapter.
- (5) That open storage and refuse from the use shall be adequately contained and controlled on-site.
- (6) Any other condition as deemed necessary to protect the public health, safety, and general welfare; and,

WHEREAS, pursuant to Fairmont City Code, Section 26-81, the Planning Commission, when recommending approval of a Conditional Use Permit, shall include specific conditions for the particular conditional use requested in Fairmont City Code; and,

WHEREAS, the requested Conditional Use Permit requires specific conditions and, pursuant to Fairmont City Code Section 26-503(c)(2), the Conditional Use Permit shall conform to the following specific conditions:

- (1) The structure must not exceed ten (10) feet in height and cannot occupy an area greater than two hundred fifty (250) square feet.
- (2) The structure or facility is not in the bluff impact zone.
- (3) The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet.
- (4) The structure is not a boathouse as defined under M.S., § 103G.245.
- (5) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
- (6) The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
- (7) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 26-519 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris; and,

WHEREAS, the Planning Commission conducted a public hearing on September 5, 2023 and received public testimony regarding the requested Conditional Use Permit; and,

WHEREAS, all required notices regarding the public hearing were properly made; and,

WHEREAS, the Planning Commission has reviewed the request and recommended approval of the Conditional Use Permit subject to certain conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRMONT, MINNESOTA, that the City Council has duly considered the required criteria contained in City Code as applicable to the above-requested Conditional Use Permit regarding the property legally described in Exhibit A, and hereby adopts the findings of fact contained in the staff report regarding the same, which is attached hereto and incorporated herein by reference as Exhibit B:

BE IT FURTHER RESOLVED that the requested Conditional Use Permit to allow a Water Oriented Accessory Structure at 635 Pioneer Drive is hereby approved based upon the above-referenced adopted findings, subject to the following conditions:

1. The structure must not exceed 10 feet in height and cannot occupy an area greater than 250 square feet.
2. The structure is not in the Bluff Impact Zone.
3. The setback of the structure from the OHWL must be at least 10 feet.
4. The structure is not a boathouse as defined under MN Stat. Sec. 103G.245.
5. The structure must be treated to reduce visibility as viewed from public waters and adjacent shorelines by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
6. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
7. The structure may have the lowest floor placed lower than the elevation specified in City Code Sec. 26-519 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
8. The applicant obtain a land disturbance permit before any land is disturbed or construction begins.
9. The applicant obtain a building permit before construction begins.
10. The applicant call for a Planning and Zoning inspection alongside a Building and Safety final inspection to verify that flood-resistant materials and flood openings have been provided as required by FEMA Technical Bulletin 2 – Flood Damage-Resistant Materials Requirements and Minnesota DNR.
11. The applicant obtain a Public Waters Work Permit from Minnesota DNR, if required, before any work is completed below OHWL.

BE IT FURTHER RESOLVED that, pursuant to Minnesota Statutes, section 463.3595, a certified copy of the Conditional Use Permit shall be recorded with the county recorder or registrar of titles for Martin County.

PASSED by the City Council of the City of Fairmont, Minnesota this ____ day of _____, 2023.

ATTEST:

Patricia J. Monsen, City Clerk

Lee C. Baarts, Mayor

EXHIBIT A

Exhibit A

Beginning at a stone monument at the northeast corner of Block 36 of the Original Plat of the Village (now City) of Fairmont, Minnesota; thence North 6.82 feet on the extended east line of said Block 36 to an iron stake; thence North 41 degrees 24 minutes West 115.50 feet to an iron stake; thence North 58 degrees 4 minutes West 290.85 feet to a cross cut on the east end of the south guard rail of Lakeside Cemetery Bridge; thence South 45 degrees 56 minutes East 126.01 feet to an iron stake; thence South 26 degrees 42 minutes West 101.0 feet to an iron stake; thence South 19 degrees 23 minutes West 139.0 feet to an iron stake; thence South 70 degrees 31 minutes West 176.0 feet to the center line of the main track of the Chicago and Northwestern Railroad; thence South 66 degrees 29 minutes East 534.0 feet on the center line of the main track of the Chicago and Northwestern Railroad to the east line of said Block 36; thence North 0 degrees 00 minutes 333.7 feet to the point of beginning; excepting from the foregoing tract the right-of-way of the Chicago and Northwestern Railroad and the following described tract: all that part of said Block 36 described as follows: beginning at the northwest corner of Lot 10, Block 36; thence South on the west line of said block 58.53 feet to an iron stake in the north boundary of the Chicago and Northwestern Railroad; thence southeasterly along said boundary 163.4 feet to an iron stake in the west line of Lake Avenue; thence North 100 feet to an iron stake on the street boundary which is 23.4 feet south of the northeast corner of said Lot 10; thence northwesterly 152.4 feet, more or less, to the place of beginning.

EXCEPTING THEREFROM the following described tract of land:

Starting at the intersection of the north line of the Chicago and Northwestern Railroad right-of-way and the east line of Block 36, Original Plat of Fairmont, Minnesota; thence North 123.4 feet to the southeast corner of Lot 11 of said Block 36; thence West 9.45 feet to an iron stake on the south line of Lot 11; thence North 66 degrees 29 minutes West 334.8 feet, more or less, to the water's edge of the channel between Lake Sisseton and Lake George, this course being parallel to the north right-of-way line of the Chicago and Northwestern Railroad and 110 feet northeasterly therefrom; thence southwesterly 140 feet, more or less, along the water's edge of the channel between Lake Sisseton and Lake George to the north right-of-way line of the Chicago and Northwestern Railroad; thence South 66 degrees 29 minutes East 520 feet, more or less, to the point of beginning, passing over an iron stake at 458.52 feet from the point of beginning; excepting therefrom the following described tract: beginning at the northwest corner of Lot 10, Block 36; thence South on the west line of said block 58.53 feet to an iron stake in the north boundary of the Chicago and Northwestern Railroad; thence southeasterly along said boundary 163.4 feet to an iron stake in the west line of Lake Avenue; thence North 100 feet to an iron stake on the street boundary which is 23.4 feet south of the northeast corner of said Lot 10; thence Northwesterly 152.4 feet, more or less, to the point of beginning.

EXHIBIT B

Findings of Fact:

MEMORANDUM

TO: Planning Commission
FROM: Peter Bode, Planner & Zoning Official
DATE: September 5, 2023
RE: **635 Pioneer Dr – CUP for a Water-Oriented Accessory Structure**

Steve Petrowiak, property owner of a single-family home at 635 Pioneer Dr, has applied for a conditional use permit to build a water-oriented accessory structure (WOAS) near the shore of George Lake. 635 Pioneer Drive abuts George Lake to the north with a relatively flat shoreline.

The structure is proposed to be placed 240 square feet (15 by 16 feet) in area and 24 feet from the ordinary high water level (OHWL) of George Lake. The structure is proposed to be used to store water-oriented items.

The normal structure setback from the OHWL is 50 feet. Upon recommendation of the Planning Commission, City Council adopted a revision to the zoning code in January clarifying the status of structures close to the water. Under City Code 26-503, WOAS structures like the one proposed are able to be placed closer to the water if certain development conditions are met. These conditions, listed below, should be made part of the CUP if granted:

1. The structure must not exceed 10 feet in height and cannot occupy an area greater than 250 square feet.

The applicant proposed a height of 10 feet or less. The structure is proposed to be 240 square feet in area. Because the structure will be over 200 square feet in area, a building permit will be needed.

2. The structure is not in the Bluff Impact Zone.

This lot does not have a bluff.

3. The setback of the structure from the OHWL must be at least 10 feet.

The applicant proposes an OHWL setback of 24 feet.

4. The structure is not a boathouse as defined under MN Stat. Sec. 103G.245.

The structure is not a boathouse per MN definitions.

5. The structure must be treated to reduce visibility as viewed from public waters and adjacent shorelines by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

The applicant proposes to color the structure dark brown to blend into the usual natural features of this lot.

6. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

The applicant does not propose facilities to allow human habitation or sanitation.

7. The structure may have the lowest floor placed lower than the elevation specified in City Code Sec. 26-519 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

The applicant proposes to place the structure within the elevation requiring that flood-resistant materials are used. The applicant proposes to build with flood-resistant materials and flood openings as required. Staff recommend a condition below which requires the applicant call for a Planning and Zoning inspection alongside a Building and Safety final inspection to verify that flood-resistant materials and flood openings have been provided as required.

The City administers its shoreland management regulations in partnership with Minnesota Department of Natural Resources. DNR has provided comment for this application which is attached.

Staff find the proposal conforms to the City's Comprehensive Plan and City Code, will not impede orderly development, or otherwise be detrimental to the general vicinity. Considering applicable statute and code, staff recommend approval of the CUP with the seven conditions above and three additional:

8. The applicant obtain a land disturbance permit before any land is disturbed or construction begins.
9. The applicant obtain a building permit before construction begins.
10. The applicant call for a Planning and Zoning inspection alongside a Building and Safety final inspection to verify that flood-resistant materials and flood openings have been provided as required by FEMA Technical Bulletin 2 – Flood Damage-Resistant Materials Requirements and Minnesota DNR.

Staff have prepared a resolution for the Commission's consideration. The Commission may approve or deny the resolution by motion, or amend it.

*Respectfully submitted,
Peter Bode, Planner & Zoning Official*

Attachments: Planning Commission Resolution 2023-4
Application for CUP
Minnesota DNR comment
City Code 26-503

**CITY OF FAIRMONT
PLANNING COMMISSION
RESOLUTION 2023-4**

**RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT FOR A WATER-ORIENTED ACCESSORY
STRUCTURE AT 635 PIONEER DRIVE**

Whereas, Steve Petrowiak has applied for a conditional use permit to place a water-oriented accessory structure at 635 Pioneer Drive, and;

Whereas, Minnesota DNR has provided comment on the application stating that the proposal appears to meet City Code 26-503, and;

Whereas, City staff recommend the request be approved with conditions contained in their report, and;

Whereas, the Fairmont Planning Commission held a public hearing on the topic September 5, 2023.

Now therefore, be it resolved by the Fairmont Planning Commission that it makes the following findings of fact:

1. The applicant proposed a height of 10 feet or less. The structure is proposed to be 240 square feet in area.
2. This lot does not have a bluff.
3. The applicant proposes an OHWL setback of 24 feet.
4. The structure is not a boathouse per MN definitions.
5. The applicant proposes to color the structure dark brown to blend into the usual natural features of this lot.
6. The applicant does not propose facilities to allow human habitation or sanitation.
7. The applicant proposes to place the structure within the elevation requiring that flood-resistant materials are used. The applicant proposes to build with flood-resistant materials and flood openings as required.
8. The proposal conforms to the City's Comprehensive Plan and City Code, will not impede orderly development, or otherwise be detrimental to the general vicinity.

Be it further resolved by the Fairmont Planning Commission that it recommends to Fairmont City Council that the conditional use permit for a water-oriented accessory structure at 635 Pioneer Drive be approved with the following conditions:

1. The structure must not exceed 10 feet in height and cannot occupy an area greater than 250 square feet.
2. The structure is not in the Bluff Impact Zone.
3. The setback of the structure from the OHWL must be at least 10 feet.
4. The structure is not a boathouse as defined under MN Stat. Sec. 103G.245.
5. The structure must be treated to reduce visibility as viewed from public waters and adjacent shorelines by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

6. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
7. The structure may have the lowest floor placed lower than the elevation specified in City Code Sec. 26-519 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
8. The applicant obtain a land disturbance permit before any land is disturbed or construction begins.
9. The applicant obtain a building permit before construction begins.
10. The applicant call for a Planning and Zoning inspection alongside a Building and Safety final inspection to verify that flood-resistant materials and flood openings have been provided as required by FEMA Technical Bulletin 2 – Flood Damage-Resistant Materials Requirements and Minnesota DNR.
11. The applicant obtain a Public Waters Work Permit from Minnesota DNR, if required, before any work is completed below OHWL.

Passed by the Planning Commission of the City of Fairmont on this 5th day of September, 2023.

A handwritten signature in black ink, appearing to read 'Tom Mesich', written over a horizontal line.

Tom Mesich, Chair

August 30, 2023

Peter Bode
City of Fairmont Planning & Zoning Official
100 Downtown Plaza
Fairmont, MN 50631

RE: Conditional Use Permit Application for Steve Petrowiak - PID 230402830, George Lake, Martin County

Dear Mr. Bode,

Thank you for sending this Condition Use Permit (CUP) application for review. The application requests approval for a replacement Water Oriented Accessory Structure (WOAS) measuring 16' x 15.5' and less than 10' in height. This structure is proposed to be setback approximately 24-feet from the Ordinary High Water Level (OHWL) for George Lake (1152.80 ft NGVD29 or 1153.03 ft NAVD88). This structure is proposed to be constructed of flood resistant materials recommended in FEMA Technical Bulletin 2 – Flood Damage-Resistant Materials Requirements and will be colored to blend in with the surrounding area. Please consider the following comments for your consideration:

- The application meets City of Fairmont's Ordinance (Sec.26-503, item c) standards for a Water Oriented Accessory Structure: the facility is not in the Bluff Impact Zone, setback from OHWL is more than 10-feet, area is less than 250 ft², and the structure will be treated to reduce visibility.
- As the structure will be placed with a lowest-floor elevation below the required 3-feet minimum above OHWL, (Sec 26-519), the structure must be designed to accommodate internal flooding with placement of flood vents or other automatic openings on at least two sides of the structure sized equal to 1-sq.inch for every sq. foot of the structure. Additionally, any utilities and electrical components must be elevated to accommodate for wet-floodproofing standards. As such, **it is recommended that an inspection be completed to verify that the structure has been designed to accommodate these standards.**

As proposed, the CUP application appears to meet the City of Fairmont Shoreland Ordinance for WOAS. Please note that should any work below the OHWL occur, a DNR Public Waters Work Permit may be required.

Sincerely,

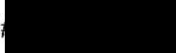


Erynn Jenzen
Area Hydrologist
507-389-8809
erynn.jenzen@state.mn.us

EC: Todd Kolander, DNR District Manager

**CITY OF FAIRMONT
Planning & Zoning
Application Form**

NOTE TO APPLICANT: This is a comprehensive application form. Only those items related to your specific type of development are to be completed. All items applicable must be included prior to acceptance of the application.

Name of Applicant: Steve Petrowiak Address: 635 Pioneer Dr. Phone: 

Street Address of Proposal: 635 Pioneer Dr. Fairmont

Legal Description of Property: _____

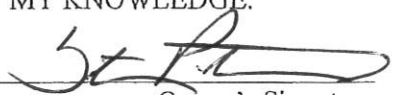
Existing Use of Property: Residential

Proposed Use of Property: Residential

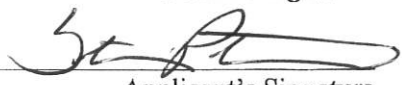
Type of Application	Fee	Submission Requirements (Attached)
<input type="checkbox"/> Appeal/Code Amendment	\$150.00	7
<input type="checkbox"/> Administrative Appeal	50.00	8
<input type="checkbox"/> Conditional Use Permit	150.00	4, 6(d-g)
<input type="checkbox"/> Home Occupation Permit	30.00	9
<input type="checkbox"/> Minor Plat	90.00	2(a), 5 (a-b)
<input type="checkbox"/> Planned Unit Development	150.00	1, 4, 6(d-g)
<input type="checkbox"/> Preliminary Plat	150.00	5 (b), 6
<input type="checkbox"/> Rezoning	150.00	1
<input type="checkbox"/> Variance	90.00	2,3

I HEREBY CERTIFY THAT THE INFORMATION AND EXHIBITS HERewith SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Steve Petrowiak
Owner's Name(Printed)


Owner's Signature

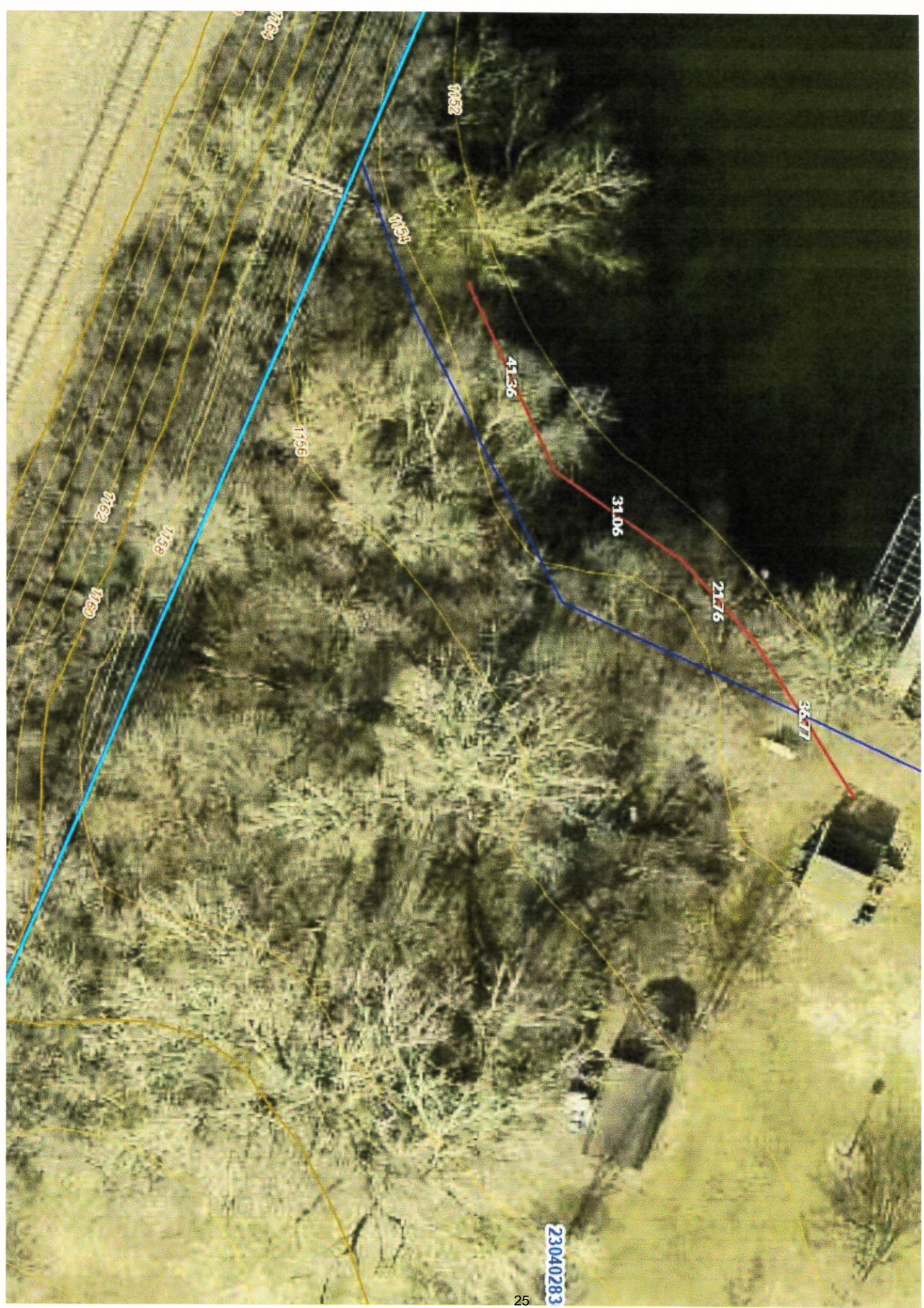
Steve Petrowiak
Applicant's Name (Printed)


Applicant's Signature

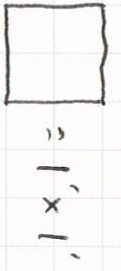
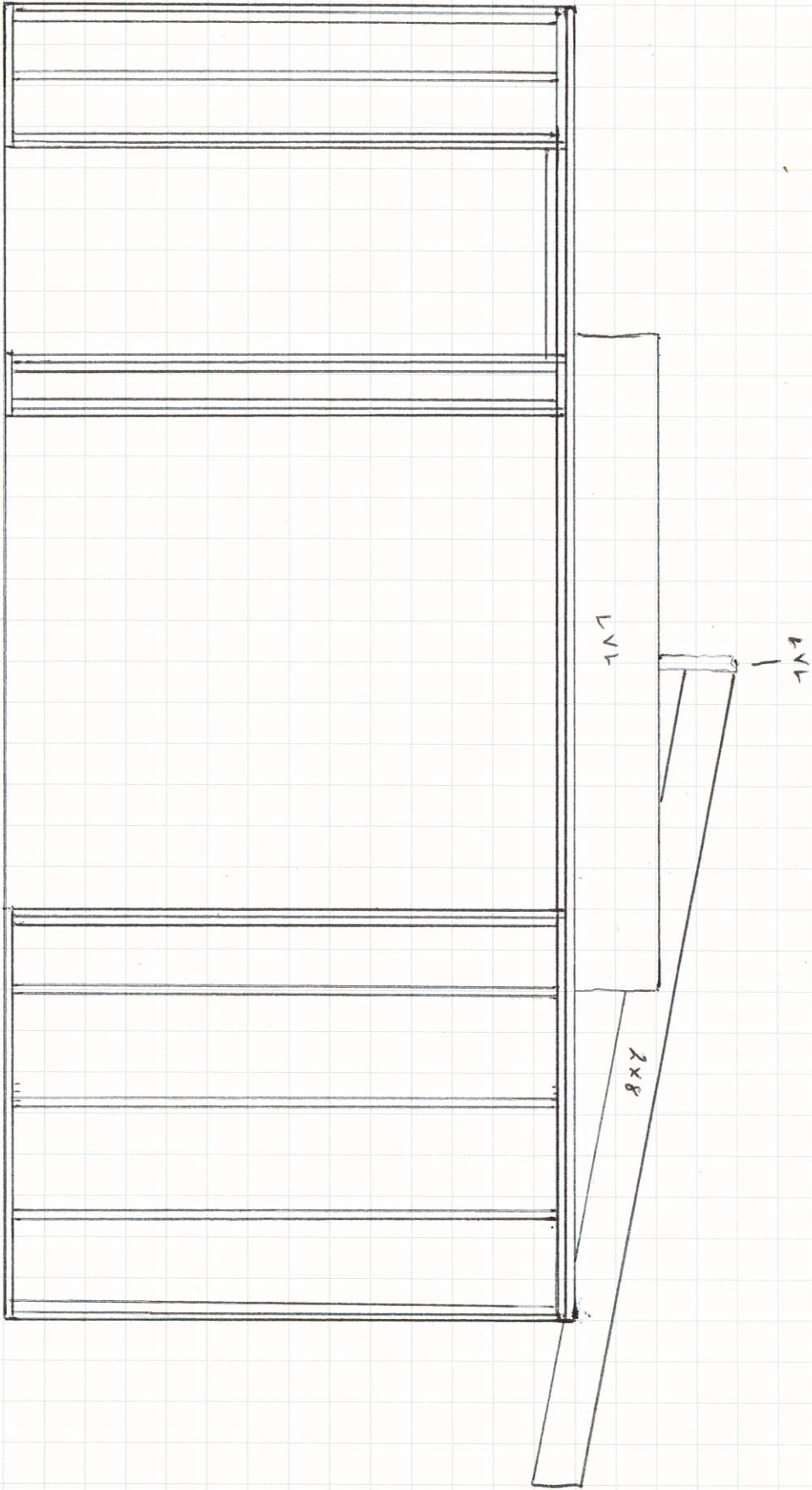
City Staff Use Only
DATE FILED: _____
DATE FEE PAID: _____
MEETING DATE: _____
NOTICES SENT (DATE): _____
NOTIFICATION OF EXTENSION (LETTER SENT): _____

Hi, this is Steve Petrowiak. I live at 635 Pioneer Dr. I'm looking to replace a storage shed I have down by the water. We had one removed because it didn't fit our needs anymore. We are looking to put a different one back in to store our grandchildren's toys, kayaks and lawn furniture down by the water. I've been working with Peter Bode to get everything done right. It isn't going to be a permanent structure. It's going to be 16' x 15.5' to keep it under the 250 sq. ft. requirement and under the 10' height. I'll be using the flood resistant materials required for use down in that area. It'll be 24' away from the ordinary high water level boundary. We plan on using a dark brown color to have it blend into the background. I've been reviewing the paperwork from Peter to follow all of the requirements for the water oriented structure. I believe I have accomplished that. Thank you for your time.

Steve

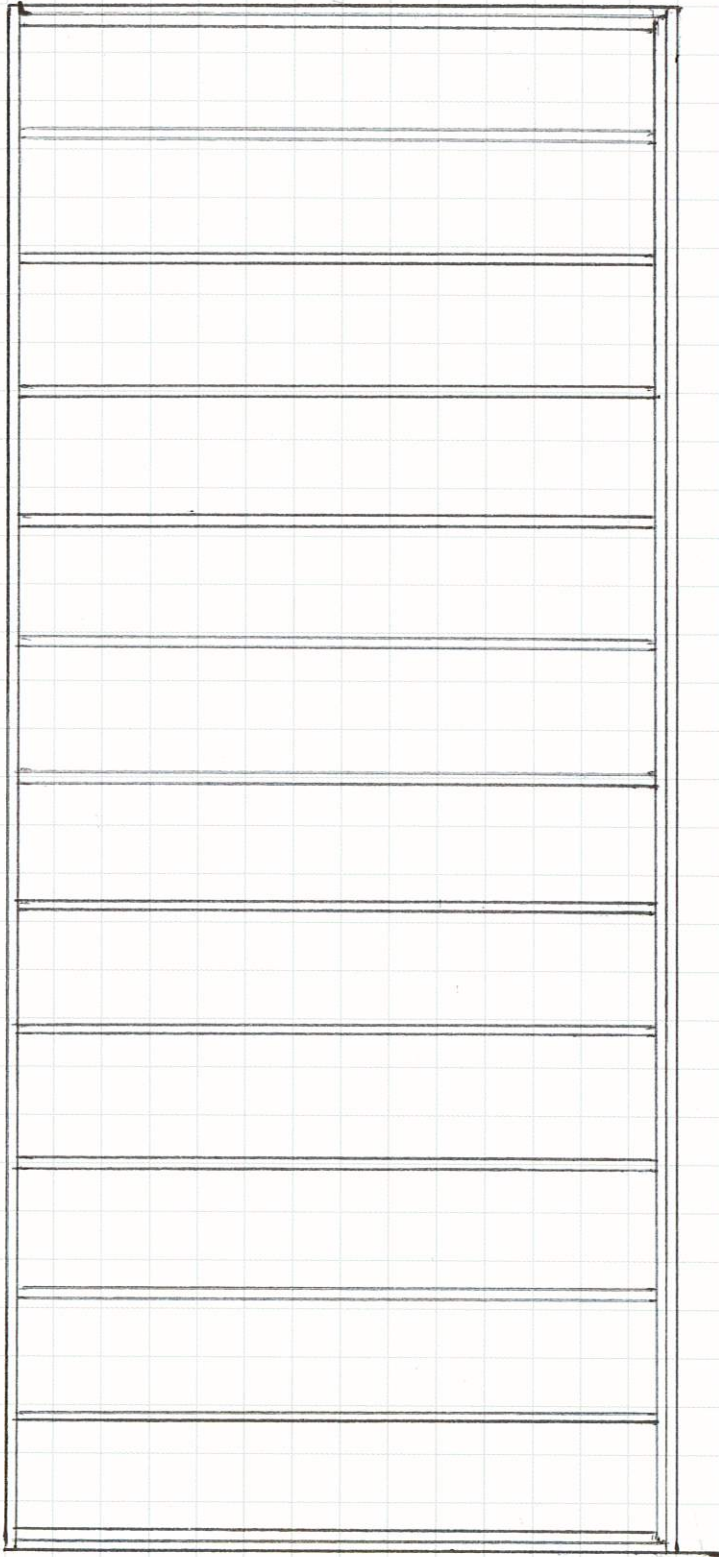


Front Wall

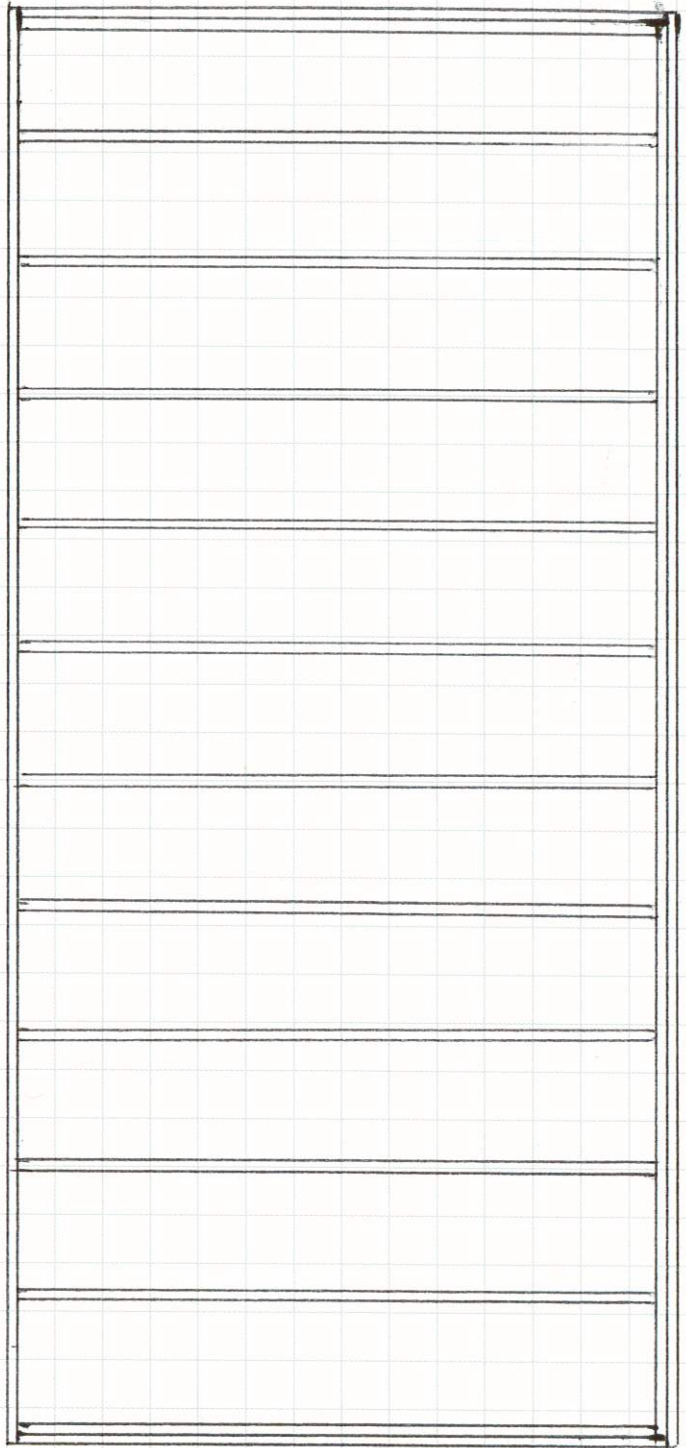


MANKO
WINDOW SYSTEMS INC.

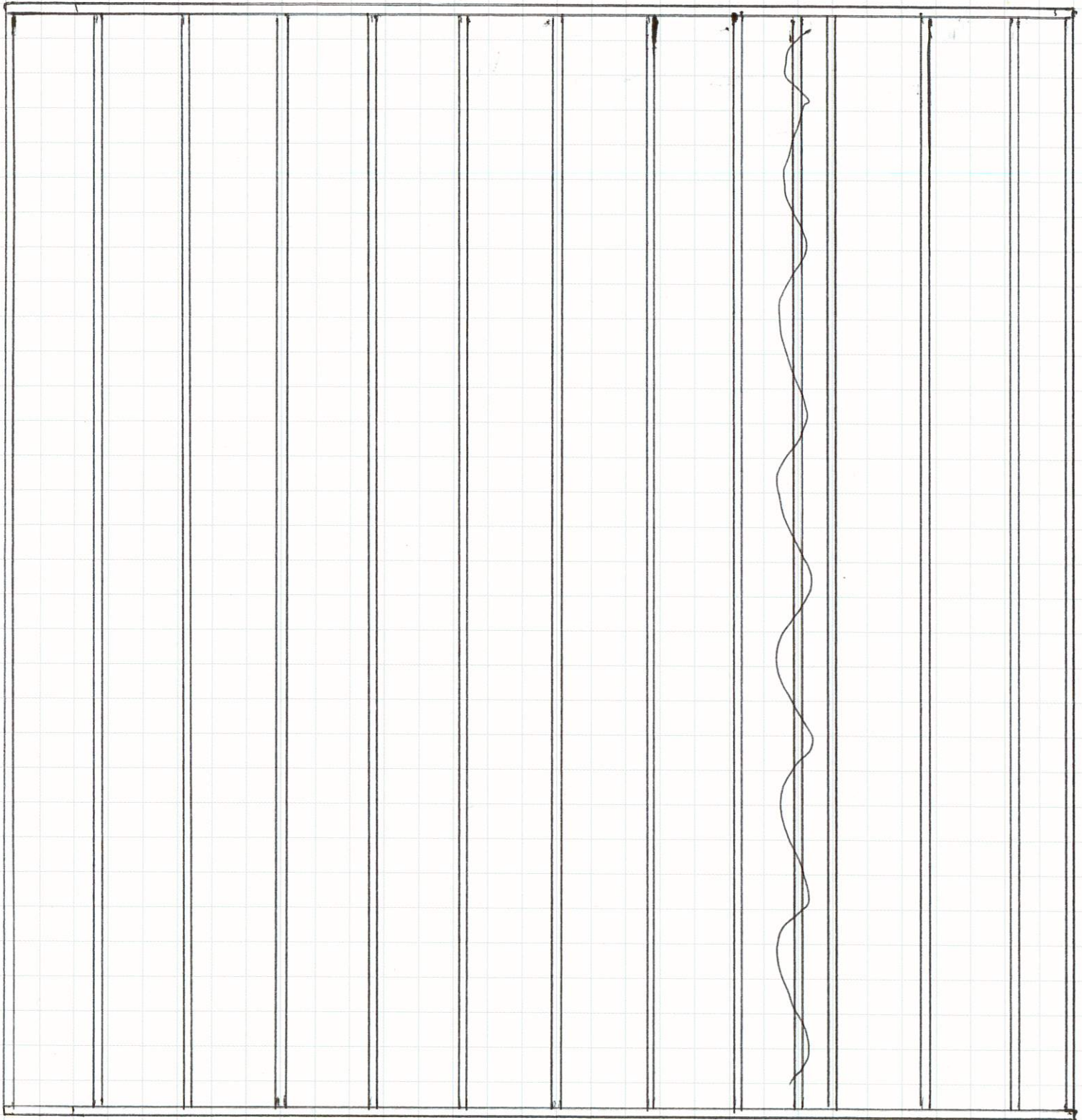
Back Wall



Side Walls



MANKO
WINDOW SYSTEMS INC.



Floor



MANKO
WINDOW SYSTEMS INC.



Fairmont City Council
October 9, 2023

Agenda Item: 9.2

From: Paul Hoyer, Finance Director
To: Mayor and City Council

Subject: Proposed Financing Structure of the Community Center

Policy/Action Requested: Motion to adopt Resolution Number 2023-37 approving Minnesota Laws 2023 Regular Session Chapter 64, Article 10, Section 34.

Vote Required: Simple Majority Roll Call

Recommendation: Adopt Resolution Number 2023-37

Overview:

On January 9, 2023 the Council approved Resolution 2023-01 requesting a local option sales for up to \$20,000,000 to construct a community center and ice arena. Now that the Governor has signed the City’s sales and use tax authorization into law, this legislation requires local approval in accordance with MN Stat 645.021. If this resolution is approved, the City will submit this resolution and appropriate certificate to the Minnesota Secretary of State, and a sales tax ballot question will be added to the 2024 referendum.

Budget Impact: NA

Attachments:

- Resolution 2023-37
- Certificate of Approval of Special Law by Governing Body

Council Action: _____ Date: _____

EXTRACT OF MINUTES OF A MEETING OF THE
CITY COUNCIL OF THE CITY
OF FAIRMONT, MINNESOTA

HELD: _____, 2023

Pursuant to due call and notice thereof, a regular or special meeting of the City Council of the City of Fairmont, Martin County, Minnesota, was duly called and held at City Hall in said City, on _____, 2023, beginning at _____ p.m.

The following members of the Council were present:

and the following were absent:

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION 2023-37
RESOLUTION OF THE CITY OF FAIRMONT, MINNESOTA
APPROVING MINNESOTA LAWS, 2023
REGULAR SESSION
CHAPTER 64, ARTICLE 10, SECTION 34

A. WHEREAS, the 2023 regular session of the Minnesota Legislature passed, and the Governor signed, Minnesota Session Laws, 2023, Regular Session, Chapter 64, Article 10, Section 34, which states as follows:

Sec. 34. CITY OF FAIRMONT; TAXES AUTHORIZED.

Subdivision 1. Sales and use tax authorization.
Notwithstanding Minnesota Statutes, section 297A.99, subdivisions 1 and 3, paragraph (d), or 477A.016, or any other law, ordinance, or city charter, and if approved by the voters at an election as required under Minnesota Statutes, section 297A.99, subdivision 3, the city of Fairmont may impose by ordinance a sales and use tax of one-half of one percent for the purpose specified in subdivision 2. Except as otherwise provided in this section, the provisions of Minnesota Statutes, section 297A.99, govern the imposition, administration, collection, and enforcement of the tax authorized under this subdivision. The tax imposed under this subdivision is in addition to any local sales and use tax imposed under any other special law.

Subd. 2. Use of sales and use tax revenues. *The revenues derived from the tax authorized under subdivision 1 must be used by the city of Fairmont to pay the costs of collecting and administering*

the tax and to finance up to \$20,000,000, plus associated bonding costs, for construction of a community center and ice arena.

Subd. 3. Bonding authority. *(a) The city of Fairmont may issue bonds under Minnesota Statutes, chapter 475, to finance all or a portion of the costs of the project authorized in subdivision 2. The aggregate principal amount of bonds issued under this subdivision may not exceed \$20,000,000, plus an amount to be applied to the payment of the costs of issuing the bonds.*

(b) The bonds may be paid from or secured by any funds available to the city of Fairmont, including the tax authorized under subdivision 1. The issuance of bonds under this subdivision is not subject to Minnesota Statutes, sections 275.60 and 275.61.

(c) The bonds are not included in computing any debt limitation applicable to the city of Fairmont, and any levy of taxes under Minnesota Statutes, section 475.61, to pay principal and interest on the bonds is not subject to any levy limitation. A separate election to approve the bonds under Minnesota Statutes, section 475.58, is not required.

Subd. 4. Termination of taxes. *Subject to Minnesota Statutes, section 297A.99, subdivision 12, the tax imposed under subdivision 1 expires at the earlier of (1) 25 years after the tax is first imposed, or (2) when the city council determines that the amount received from the tax is sufficient to pay, plus an amount sufficient to pay the costs related to issuance of any bonds authorized under subdivision 3, including interest on the bonds. Except as otherwise provided in Minnesota Statutes, section 297A.99, subdivision 3, paragraph (f), any funds remaining after payment of the allowed costs due to the timing of the termination of the tax under Minnesota Statutes, section 297A.99, subdivision 12, must be placed in the general fund of the city. The tax imposed under subdivision 1 may expire at an earlier time if the city so determines by ordinance.*

EFFECTIVE DATE. *This section is effective the day after the governing body of the city of Fairmont and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.*

B. WHEREAS, such legislation requires local approval in accordance with Minnesota Statute, Section 645.021; and

C. WHEREAS, the City desires the law to become effective;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Fairmont, Minnesota, as follows:

1. Minnesota Session Laws, 2023, Regular Session, Chapter 64, Article 10, Section 34, is hereby approved.

2. The City Clerk is hereby instructed to submit the appropriate certificate and a copy of this Resolution to the Secretary of State of the State of Minnesota.

Adopted on _____, 2023, by the City Council of the City of Fairmont, Minnesota.

Lee C. Baarts, Mayor

ATTEST:

Patricia J. Monsen, City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by Member _____, and after full discussion thereof and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

STATE OF MINNESOTA
COUNTY OF MARTIN
CITY OF FAIRMONT

I, the undersigned, being the duly qualified and acting City Clerk of the City of Fairmont, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council of said City, duly called and held on the date therein indicated, insofar as such minutes relate to the preliminary approval of the financing structure for the community center.

WITNESS my hand on _____, 2023.

Patricia J. Monsen, City Clerk

**CERTIFICATE OF APPROVAL OF SPECIAL LAW
BY GOVERNING BODY**

(Pursuant to Minnesota Statutes, 645.02 and 645.021)

STATE OF MINNESOTA

County of Martin

TO THE SECRETARY OF STATE OF MINNESOTA:

PLEASE TAKE NOTICE, That the undersigned chief clerical officer of the

City of Fairmont, Minnesota

DOES HEREBY CERTIFY, that in compliance with the provisions of Laws, 2022,

Chapter 645.021 requiring approval by a majority* of the governing body of said local governmental unit before it becomes effective, the City Council of the City of Fairmont
(designate governing body)

at a meeting duly held on the ____ day of _____ 20____, by resolution _____

_____ did approve said Laws, 2023, Chapter 64, Article 10, Section 34
(if other than resolution, specify)

by a _____ majority vote* of all of the members thereof (Ayes _____; Noes _____;

Absent or not voting _____) and the following additional steps, if any required by statute or charter were taken:

A copy of the resolution is hereto annexed and made a part of this certificate by reference.

Signed: _____

(Official designation of officer)

(This form prescribed by the Attorney General and furnished by the Secretary of State as required in Minnesota Statutes 645.021.)

*If extraordinary majority is required by the special law, insert fraction or percentage here.

Please see reverse side for instructions for completing this form.

INSTRUCTIONS

- Include the chapter number in the *Laws of Minnesota* that is to be approved on the Certificate of Approval form **and** in the resolution that approves the special law.
- Return the completed **originally signed** Certificate of Approval form **with a photo copy** of the resolution that approved the special law to:

Election Division
Secretary of State
180 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd
St Paul, MN 55155-1299

- If you have any questions please contact Nancy Breems at 651/215-1440.



Fairmont City Council
October 9, 2023

Agenda Item: 9.3

From: Matthew R York, Director of Public Works and Utilities
To: Mayor and City Council

Subject: Amendment #1 to the Agreement for Professional Services between the City of Fairmont and Bolton and Menk, Inc.

Policy/Action Requested: Approval of Amendment #1 for Additional Design and Bidding Services for the Dryer and UV project at the Wastewater Treatment Plant from July 6, 2021.

Vote Required: Simple Majority Roll Call

Recommendation: Approval

Overview:

On July 6, 2021, the City of Fairmont and Bolton & Menk Inc, entered into an agreement for work to be designed, bidding, and construction management for the rehabilitation and redesign of fine screens, biosolids drying systems, and ultraviolet (UV) disinfection system at the Wastewater Treatment Plant.

Bolton and Menk Inc. identified that the boiler system that provides heat to some buildings within the plant, and also the dryer unit that is being replaced, was in need of replacement as well.

This Amendment adds the *Final Design and Preparation of Contract Document* to the project for \$29,000. This will include the Boiler Replacement Design and Bidding of the project. Other construction management fees will be a part of the original project.

Budget Impact: Increase of the project by \$29,000. Work is needed for the project to work efficiently.

Attachments: Amendment #1 Document

Council Action: _____ Date: _____

**AMENDMENT #001 TO AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN CITY OF FAIRMONT, MINNESOTA AND BOLTON & MENK, INC.**

This AMENDMENT #001 (“Amendment”) to the original Agreement for Professional Services between City of Fairmont, Minnesota (“OWNER”) and Bolton & Menk, Inc. (“ENGINEER”) dated July 6, 2021, (the “Agreement”) is made and entered into on this 11th day of September, 2023.

WHEREAS, OWNER has engaged ENGINEER, pursuant to the Agreement, to furnish OWNER with engineering, design, and procurement services in connection with the Wastewater Treatment Facility fine screens, biosolids drying system and ultraviolet (UV) disinfection system (the “Project”);

WHEREAS, OWNER and ENGINEER have agreed to amend the Agreement as set forth in this Amendment and subject to the terms and conditions of this Amendment; and,

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. SCOPE ATTACHMENT. The Scope Attachment is attached and incorporated herein by reference as Exhibit A. If the OWNER requests or ENGINEER performs additional services for the Project, ENGINEER shall make such request to OWNER in writing, setting forth any changes or additions to the Scope of the Agreement, including any additional deliverables requested for the Project in Exhibit A.

2. FEE ATTACHMENT. The Fee Attachment is attached and incorporated herein by reference as Exhibit B. If the ENGINEER requests additional fees for the services for the Project or for services performed pursuant to Exhibit A, ENGINEER shall make such request to OWNER in writing, setting forth any changes in fees and all fees associated with such additional services, in the same or substantially similar format as Exhibit B. If OWNER agrees to the change in scope or fees proposed by ENGINEER in writing, the parties will adjust the Maximum Fee to account for such changes. No claim for extra services performed by ENGINEER will be allowed by OWNER except as provided in this Amendment nor will ENGINEER perform any services or work not previously approved by OWNER except upon receipt of a written amendment.

3. Additional Forms. Exhibits A and B are attached and incorporated into the Agreement.

4. All Other Terms and Conditions of the Agreement. Any conflict or inconsistency as to terms set forth in this Amendment and the Agreement or other writing will be governed by this Amendment.

IN WITNESS WHEREOF, the parties have caused this AMENDMENT #001 to be executed by their duly authorized representatives on the dates written below.

CITY OF FAIRMONT, MINNESOTA

BOLTON & MENK, INC.

SIGNED: _____

SIGNED: Wesley W. Brown

NAME: _____

NAME: Wesley W. Brown, P.E.

TITLE: _____

TITLE: Senior Principal Engineer

DATE: _____

DATE: August 24, 2023

EXHIBIT A – SCOPE ATTACHMENT TO AMENDMENT #001

This **SCOPE ATTACHMENT** is part of **AMENDMENT #001** to the Agreement. Unless otherwise agreed to in writing by the parties, any conflict or inconsistency as to the terms set forth in the Amendment and the Agreement shall be governed by the Amendment.

Task I - Final Design and Preparation of Contract Documents

- A. The CONSULTANT shall prepare detailed plans and specifications conforming to the requirements of the CLIENT, Minnesota Pollution Control Agency, and Minnesota Public Facilities Authority.

Design services shall include the following major tasks:

1. Boiler and methane handling equipment
- B. The CLIENT has previously collected field survey data, and this will be used for final design and preparation of construction documents.
- C. The CONSULTANT shall prepare drawings showing the existing conditions.
- D. The CONSULTANT shall submit a preliminary set of plans (approximately 50% complete) to the CLIENT for review.
- E. The CONSULTANT shall submit a review set of plans (approximately 90% complete) to the CLIENT for review.
- F. The CONSULTANT shall submit a final set of plans and specifications to the CLIENT and MPCA for review and approval.
- G. The CONSULTANT shall incorporate comments from the CLIENT and MPCA and submit plans and specifications for final review and approval.
- H. The CONSULTANT shall prepare a Project Manual for bidding and construction including:
- General Information for Bidders: Advertisement for Bids, Instructions to Bidders, Special Bidding requirements/provisions
 - General Conditions and Supplementary Conditions
 - Information to be submitted with bid: Proposal, Bid Bond, Information requested from Bidder, etc.
 - Agreement, Performance Bond and Payment Bond forms
 - General Conditions
 - Technical Specifications
 - Reference Information: Geotechnical Investigation, other applicable information

EXHIBIT B – FEE ATTACHMENT

This **FEE ATTACHMENT** is part of **AMENDMENT #001** to the Agreement. Unless otherwise agreed to in writing by the parties, any conflict or inconsistency as to the terms set forth in the Amendment and the Agreement shall be governed by the Amendment.

1. The parties agree to the following additional services to complete the Project, as set forth below:

AMENDMENT (SERVICES AND DELIVERABLES)		Amount
Deliverable 1	Boiler Replacement Design	\$24,000
Deliverable 2	Boiler Replacement Bidding Services	\$5,000
THIS AMENDMENT TOTAL		\$29,000

AMENDMENT (IMPACT TO BUDGET)		
ORIGINAL AGREEMENT	Dryer, UV and Fine Screen Design and Bid	\$1,150,000
AMENDMENT #001 CHANGE	Boiler Replacement Design and Bid	\$29,000
NEW PROJECT TOTAL, FIXED FEE		\$1,179,000

1. **SCHEDULE**: Schedule for performance of services will be modified as follows or as set forth in the Agreement, such that all services will be completed by February 28, 2024.

2. **MAXIMUM FEE**: The Maximum Fee will not exceed: \$1,179,000.