**WILLMAR CITY COUNCIL PROCEEDINGS**

**BOARD ROOM**

**HEALTH AND HUMAN SERVICES BUILDING**

**WILLMAR, MINNESOTA**

October 1, 2018

7:00 p.m.

 The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Marv Calvin. Members present on a roll call were Mayor Marv Calvin, Council Members Audrey Nelsen, Ron Christianson, Kathy Schwantes, Fernando Alvarado, Julie Asmus, Shawn Mueske, Andrew Plowman, and Rick Fagerlie. Present 9, Absent 0.

 Also present were City Administrator Ike Holland, Police Chief Jim Felt, Planning and Development Services Director Bruce Peterson, Finance Director Steve Okins, Public Works Director Sean Christensen, Fire Chief Frank Hanson, Recreation Director Rob Baumgarn, Human Resource Director Samantha Beckman, City Clerk Judy Thompson and City Attorney Robert Scott.

Proposed additions and deletions to the agenda included: Mayor Calvin added Tax Increment Financing Proposal for Multi-Family Housing Project. This item was brought forward from the work session held earlier this evening. Mayor Calvin removed Item 14-Consideration of Otto Bremer Trust Grant for Cycling Without Age Program from the agenda.

Council Member Schwantes moved to approve the agenda, as amended. Council Member Nelsen seconded the motion which carried.

City Clerk Judy Thompson reviewed the consent agenda.

 A. City Council Meeting Minutes of September 17, 2018

 B. Willmar Municipal Utilities Board Minutes of September 24, 2018

 C. Planning Commission Minutes of September 19, 2018

 D. Application for Exempt Permit – Glacial Ridge Curling

 E. **Resolution No. 18-123 Acknowledge Donation from Willmar Lakes Rotary**

 F. **Resolution No. 18-124 Accept and Acknowledge Donation of Dog Park Equipment**

 G. **Resolution No. 18-125 Consider Appointment of Judges for 2018 General Election**

 H. Civic Center Arena Special Event On-Sale Liquor License – Warhawks

 I. Consideration of Retaining 1988 Luverne Fire Engine

 J. Human Rights Commission Minutes of August 21, 2018

 K. Willmar Community Center Board Minutes of June 13, 2018

 L. Willmar Community Center Board Minutes of August 22, 2018

 M. Central Community Transit Operations Board Minutes of August 28, 2018

 N. Accounts Payable September 13 – September 26, 2018

 Council Member Nelsen offered a motion to approve the Consent Agenda. Council Member Mueske seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 No one was present to speak during the Open Forum.

 Planning and Development Services Director Bruce Peterson presented a request for tax increment financing (TIF) assistance from Samuel Herzog of JH, LLC to provide for the development of a multi-family housing project in northwest Willmar. The project, at build-out, will consist of four 72-unit buildings plus 120 garage stalls, and is planned for a site of 15 acres on North SCAH 5, a portion of which is yet to be annexed. The developer anticipates constructing one 72-unit building each year for four years beginning in 2019. Annexation and land use approvals will be sought concurrent with the TIF review process. Mr. Peterson was requesting to

set a public hearing for December 3, 2018 to consider the approval of a TIF plan. It was noted this item was brought forward from the work session held earlier this evening.

 Following discussion, Council Member Fagerlie offered a motion to approve staff’s recommendation and set a public hearing for December 3, 2018. Council Member Nelsen seconded the motion which carried.

 At 7:03 p.m. Mayor Calvin opened the public hearing for an Ordinance Amending City Charter
Section 4.03, Park and Leisure Services Board. Charter Commission Chairman Kevin Halliday stated the Charter Commission has recommended an amendment to the Willmar City Charter due to the recent dissolution of the Community Education and Recreation Department. City Attorney Robert Scott has drafted an ordinance amending Section 4.03.

 There being no one to speak for or against the proposed ordinance, Mayor Calvin closed the hearing
at 7:04 p.m. and opened it up for discussion by the Council. Following discussion, Council Member Nelsen offered a motion to approve the proposed ordinance, adopt, assign a number and order final publication of **Ordinance No. 1427 An Ordinance Amending the Charter of the City of Willmar Section 4.03 – Park and Recreation Board.** Council Member Fagerlie seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 Discussion was held regarding the current membership of the Park and Recreation Board at this time, since the separation from the school district. City Attorney Robert Scott was directed to research and report back to the Council.

 At 7:10 p.m. Mayor Calvin opened the public hearing for an Ordinance Authorizing the Sale of Real Property. Planning and Development Services Director Bruce Peterson stated the City received an offer to purchase Lot 12, Block 5, Pleasant View Third Addition from Phyllis Keil. Ms. Keil has proposed purchasing the property for a price of $26,000. The property is vacant and suitable for construction of a single-family home and is properly zoned.

 There being no one to speak for or against the proposed ordinance, Mayor Calvin closed the hearing
at 7:12 p.m. and opened it up for discussion by the Council. Council Member Fagerlie offered a motion to approve the proposed ordinance, adopt, assign a number and order final publication of **Ordinance No. 1428 An Ordinance Authorizing the Sale of Real Property.** Council Member Plowman seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 At 7:13 p.m. Mayor Calvin opened the public hearing for an ordinance approving the adoption of mobile food units and a formal appeal procedure for business licenses or permits. City Clerk Judy Thompson stated with the growing popularity of food trucks, communities are being proactive and adopting ordinances with regard to mobile food units. It was noted that City Attorney Robert Scott recommended the City adopt a formal appeal procedure for all business licenses or permits required under this chapter as well.

 There being no one to speak for or against the proposed ordinance, Mayor Calvin closed the hearing
at 7:14 p.m. and opened it up for discussion by the Council. Council Member Christianson offered a motion to approve the proposed ordinance, adopt, assign a number and order final publication of **Ordinance No. 1429 An Ordinance of the City of Willmar, Minnesota Enacting a New Division 3, Mobile Food Units, in
Chapter 8, Licenses, Permits and Business Regulations; Article III, Food Service Establishments, and Enacting a New Article X, Suspension or Revocation of Business Permits and Licenses.** Council Member Schwantes seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 Council Member Christianson offered a motion to approve publication of **Ordinance No. 1429** by summary due to the length and cost of publishing entire Ordinance. Council Member Mueske seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 Council Member Christianson offered a motion to approve waiving the 2018 fees for mobile food units operating in Willmar. Council Member Nelsen seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 City Clerk Judy Thompson presented a request to repeal the coin-operated amusement device licensing requirement for the City of Willmar effective October 31, 2018. Following discussion, Council Member Christianson introduced **an Ordinance Repealing Coin-Operated Amusement Devices Licensing Regulations,** and set a public hearing for October 15, 2018 at 7:01 p.m. Council Member Fagerlie seconded the motion which carried.

 Planning and Development Services Director Bruce Peterson presented a request for staff to apply for and accept, if awarded, the funding for the Artists on Main Street Program through the Preservation Alliance of Minnesota. Three cities (Winona, Mankato, and Fairbault) received this grant last year and have had great success implementing art and creative activity in their downtowns. This year funding for four more designated Main Street communities is available. He stated no local match dollars are required. If awarded, we will
receive $20,000 in year one, $10,000 in year two, and continued assistance in year three. Investing in the Central Business District supports commercial activity and economic development in downtown Willmar.

 Following discussion, Council Member Fagerlie introduced **Resolution No. 18-126 Authorization To Apply For and Accept If Awarded Artists on Main Street Grant.** Council Member Asmus seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 Police Chief Jim Felt presented a request to approve the sale of the 2009 Ford Crown Victoria K9 vehicle to the City of Paynesville for a suggested price of $1,500.00. Council Member Nelsen offered a motion to approve staff’s recommendation. Council Member Asmus seconded the motion which carried.

 Human Resource Director Samantha Beckman presented a request to approve the City switching to Kronos Timekeeping/Payroll System in 2019 as our one system for recruiting, onboarding, timekeeping, payroll, tax filing, performance management, and scheduling. She stated there is a one-time set-up fee of $6,750 and minimum annual fee of $21,705.60. There are no other “hidden” costs or fees associated with Kronos for software updates, maintenance, etc.

 Following discussion, Council Member Christianson introduced **Resolution No. 18-127 Approve Use of Kronos System in 2019.** Council Member Mueske seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 Finance Director Steve Okins presented a request to approve the final project budget for Project
Nos. 1610 and 1810 in the amount of $1,894,861.00. Following discussion, **Resolution No. 18-128 Armory, Fairgrounds and Gorton Lift Stations Final Budget Total Cost $1,894,861.00** was introduced by Council Member Christianson. Council Member Nelsen seconded the motion, which carried on a roll call vote of
Ayes 8, Noes 0.

 Finance Director Steve Okins also requested to approve the offer of the Minnesota Public Facilities Authority to purchase a $1,558,505 General Obligation Sewer Revenue Note, Series 2018, providing for its issuance and authorizing execution of a bond purchase and project loan agreement for the note.

 Following discussion, **Resolution No. 18-129 Resolution Accepting the Offer of the Minnesota Public Authority to Purchase a $1,558,505 General Obligation Sewer Revenue Note, Series 2018, Providing for Its Issuance and Authorizing Execution of a Bond Purchase and Project Loan Agreement for the Note** was introduced by Council Member Christianson. Council Member Alvarado seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

 City Administrator Ike Holland had the following comment: Saturday, October 6th there will be a “Fly In” at the airport from 10:00 a.m. to 3:00 p.m. Free hot dogs and chips will be served from 11:00 a.m.
to 1:00 p.m. and urged everyone to attend.

 Mayor Calvin had the following comments: Mayor’s Bike Ride will be held May 17, 2019 starting in Willmar; great things happening in Willmar; League of Women Voters are holding various forums highlighting the various candidates; reminded everyone that absentee voting is currently open.

 Council Member Mueske stated his desire to have a retreat for the Council to set priorities.

 Council Member Schwantes gave a “shout out” to Oasis Aero for all their hard work on setting up the “Fly In” on Saturday.

 Council Member Alvarado stated he is excited for the Invest in Willmar projects being proposed and urged everyone to get educated on the various projects.

 Council Member Asmus stated she is very excited about the various things happening in Willmar, such as: Tuesday, October 9th is the 13th Annual Family Night and Story Time at the Fire Station from 5:00 p.m.
to 7:00 p.m. and they will be serving free tacos in a bag; Saturday, October 6th is a craft fair at the Civic Center, downtown has a gala at the Barn Theatre, and Foxtoberfest is being held at the Foxhole Brewery.

 Council Member Christianson offered a motion to adjourn the meeting with Council Member Plowman seconding the motion which carried. The meeting adjourned at 7:38 p.m.

 s/s Marv Calvin

 MAYOR

Attest:

 s/s Judy Thompson

SECRETARY TO THE COUNCIL

**RESOLUTION NO. 18-123**

**ACKNOWLEDGEMENT OF DONATION**

Motion By: Nelsen Second By: Mueske

WHEREAS, the City of Willmar has received a donation which has been acknowledged by the City Administrator expressing the community’s appreciation for the time period of April 1, 2018 – September 30, 2018.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Willmar, Minnesota that the City formally accept the donation as listed below:

 $1,000.00 – Willmar Lakes Rotary for sponsoring the “Summer Movies in the Park”

Dated this 1st day of October, 2018

 s/s Marv Calvin

MAYOR

Attest:

 s/s Judy Thompson

CITY CLERK

**RESOLUTION NO. 18-124**

**RESOLUTION AUTHORIZING ACCEPTANCE OF A DONATION FROM THE WILLMAR NOON LIONS**

**FOR DOG PARK EQUIPMENT**

Motion By: Nelsen Second By: Mueske

 WHEREAS, the City of Willmar has received a donation of a dog ramp to be placed at the City’s Dog Park at Lions Park.

NOW, THEREFORE BE IT RESOLVED by the City Council of Willmar, Minnesota that the City formally accept the donation from the Willmar Noon Lions.

Dated this 1st day of October, 2018

 s/s Marv Calvin

MAYOR

Attest:

 s/s Judy Thompson

CITY CLERK

**RESOLUTION NO. 18-125**

**A RESOLUTION APPOINTING ELECTION JUDGES**

 Motion By: Nelsen Second By: Mueske

BE IT RESOLVED, that the individuals listed below be appointed as Judges to work at the General Election in the City of Willmar on Tuesday, November 6, 2018:

WARD ONE Precinct One: Pat Morse, Co-Head Judge

Cheryl Retrum, Co-Head Judge

Shirley Rolffs

Tina Harried

Kent Skoglund

Wallis Klause

Anthony Ogdahl

Precinct Two: Ardell Engwall, Co-Head Judge

Carol Wegner, Co-Head Judge

Rita Dragt, Co-Head Judge

Samuela Heyer

Darlene Estwick

Bonnie Ogdahl

Marlene Adam

Precinct Three: Lynn Shuldes, Co-Head Judge

 Sharon Cruze, Co-Head Judge

 Harold Kloster, Assistant Head Judge

 George Christensen, Assistant Head Judge

 Judith Hoffer

 Cynthia Chetrit

 Susan Thorson

 WARD TWO Precinct One: Mary Louise Wallin, Co-Head Judge

Helen Behrends, Co-Head Judge

Karen Stern

James Buisman

Millicent Larsen

Paul Borene

Wes Stevens

Dan Johnson

Precinct Two: Dan Reigstad, Head Judge

 James Halverson, Assistant Head Judge

Patrick Curry

Linda Dilly

Clara DeRonde

Marlene Vossen

Precinct Three: Donna Hillenbrand, Co-Head Judge

Duane Bock, Co-Head Judge

A. Marilyn Hanson

 Mary Lorentzen

Mary Catherwood

Karen Kraemer

Candice Clemens

WARD THREE Precinct One: Nancy Chamberlain, Co-Head Judge

Kathryn Halldin, Co-Head Judge

 Susan Schiro

G. Richard Huesing

Melissa Maas

Michele Odens

John DahlPrecinct Two: Ramona Berg-Perry, Co-Head Judge

Carol Laumer, Co-Head Judge

Kerry Johnson, Assistant Head Judge

 Barbara Borene

 Don Plantinga

 Gerald DeGeest

 Carolyn Stevens

Precinct Three: Sally McAdams, Co-Head Judge

Ken Nelson, Co-Head Judge

Susan Smith, Assistant Head Judge

Joan Kuhn

 Charles Wattnem

 Denis Anderson

WARD FOUR Precinct One: David Rogers, Co-Head Judge

 Susan Brauchler, Co-Head Judge

Joan Gleasman

Sandra George

Janice Olson

Jim Olson

Precinct Two: Dennis Krueger, Co-Head Judge

Marsha Butterfield,Co-Head Judge

Carl Shuldes,Assistant Head Judge

Mary Huesing

Mary Konieczny

David Baron

Precinct Three: Suzanne Rogers, Head Judge

Marlin Breems

Judy Kloster

Janice Krueger

 Mary Bock

Benjamin Maas Robert Bliss

Absentee Judges: Marv Kray

Ardell Engwall

Dated this 1st day of October 2018.

 s/s Marv Calvin

MAYOR

 s/s Judy Thompson

Attest: CITY CLERK

**Resolution No. 18-126**

**authorization to apply for and**

**accept if awarded artists on main STREET grant**

Motion By: Fagerlie Second By: Asmus

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that City Staff be authorized to apply for and accept if awarded the funding for the Artists on Main Street Grant Program.

Dated this 1st day of October, 2018

 s/s Marv Calvin

 MAYOR

Attest:

 s/s Judy Thompson

City clerk

**RESOLUTION NO. 18-127**

**APPROVE USE OF KRONOS SYSTEM IN 2019**

Motion By: Christianson Second By: Mueske

WHEREAS, the City of Willmar is considering the purchase of a timekeeping/payroll system and applicant tracking; and

WHEREAS, staff has explored systems and determined that Kronos best suited the City’s needs;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Willmar, Minnesota that the City authorize the City Administrator to sign the proposed contract to use Kronos for timekeeping/payroll and applicant tracking for 2019.

Dated this 1st day of October, 2018

 s/s Marv Calvin

MAYOR

Attest:

 s/s Judy Thompson

CITY CLERK

|  |
| --- |
| **RESOLUTION NO. 18-128** |
| **ARMORY, FAIRGROUNDS AND GORTON LIFT STATIONS FINAL BUDGET** |
| **TOTAL COST $1,894,861.00** |
| \*Budget Amounts are EssentialMotion By: Christianson Second By: Alvarado |
|  |  |  |  |
| Code |  |  |  |  |
| **PERSONNEL SERVICES** |  |  | **RECEIVABLES** |  |
| 10\* Salaries Reg. Employees |   |  | Assessments Prop Owners |  |
| 11\* Overtime Reg. Employees |   |  | Community Investment  |  |
| 12\* Salaries Temp. Employees |   |  | General  |  |
| 13\* Employer Pension Contr. |   |  | State Aid  |  |
| 14\* Employer Ins. Contr. |   |  | WTP | $1,894,861.00 |
|  **TOTAL** | **$0.00** |  | MUC |  |
|  |  |  | Kandiyohi County |  |
|  |  |  |  **TOTAL** | **$1,894,861.00** |
| **SUPPLIES** |  |  |  |  |
| 20\* Office Supplies |   |  | **FINANCING** |  |
| 21\* Small Tools |   |  | General |  |
| 22\* Motor Fuels & Lubricants |   |  | PFA Loan | $1,558,505.00 |
| 23\* Postage |   |  | State Aid |  |
| 24 Mtce. of Equipment |   |  | Capital Reserve | $262,150.00 |
| 25 Mtce. of Structures |   |  | WTP - Cash | $74,206.00 |
| 26 Mtce. of Other Improvements |   |  | Kandiyohi County  |  |
| 27 Subsistence of Persons |   |  |  **TOTAL** | **$1,894,861.00** |
| 28 Cleaning & Waste Removal |   |  |  |  |
| 29\* General Supplies |   |  | **GRAND TOTAL** | **$1,894,861.00**  |
|  **TOTAL** | **$0.00** |  |  |  |
|  |  |  | Dated this 1st day of October, 2018 |  |
| **OTHER SERVICES** |  |  |  |  |
| 33\* Travel-Conf.-Schools |   |  |  |
| 34 Mtce. of Equipment |   |  |  s/s Marv Calvin |  |
| 35 Mtce. of Structures |   |  |  Mayor |  |
| 36\* Mtce. of Other Impr. | $1,441,950.00 |  |  |  |
| 37 Subsistence of Persons |   |  | **Attest:** |  |
| 38 Cleaning & Waste Removal |   |  |  |  |
| 39\* Other Services | $144,195.00 |  |  |  |
|  **TOTAL** | **$1,586,145.00** |  |  s/s Judy Thompson |  |
|  |  |  |  City Clerk |  |
| **OTHER CHARGES** |  |  |  |  |
| 46\* Prof. Serv. 49 Other Charges  | $308,716.00 |  | 2017- Engineering Services  |  |
|  **TOTAL** | **$308,716.00** |  | 2018- Construction and Contingency  |  |
|  |  |  |  |  |
|  **GRAND TOTAL** | **$1,894,861.00** |  |  |  |

**RESOLUTION NO. 18-129**

**RESOLUTION ACCEPTING THE OFFER OF THE MINNESOTA PUBLIC FACILITIES AUTHORITY TO PURCHASE A $1,558,505 GENERAL OBLIGATION SEWER REVENUE NOTE, SERIES 2018, PROVIDING FOR ITS ISSUANCE AND AUTHORIZING EXECUTION OF A BOND PURCHASE AND PROJECT LOAN AGREEMENT FOR THE NOTE**

Motion By: Christianson Second By: Alvarado

1. WHEREAS, the City Council of the City of Willmar, Minnesota (the “City”), has heretofore applied for a loan from the Minnesota Public Facilities Authority (the “PFA”) to provide financing pursuant to Minnesota Statutes, Chapters 444 and 475, for improvements to the City’s municipal sewer system including replacement of the Fairgrounds, Gorton Avenue and Armory lift stations (the “Project”); and
2. WHEREAS, the PFA is authorized pursuant to Minnesota Statutes, Chapter 446A, as amended, to issue its bonds (the “PFA Bonds”) and to use the proceeds thereof, together with certain other funds, to provide loans and other assistance to municipalities to fund eligible costs of construction of sanitary sewer collection systems; and
3. WHEREAS; the City has applied for a loan from the PFA pursuant to such program and the PFA has committed to make a loan to the City in the principal amount of $1,558,505 to be disbursed and repaid in accordance with the terms of a Minnesota Public Facilities Authority Bond Purchase and Project Loan Agreement (the “Project Loan Agreement”) to be executed by the City and the PFA, a draft copy of which has been presented to the Council and is on file with the Clerk; and
4. WHEREAS, the $1,558,505 General Obligation Sewer Revenue Note, Series 2018 (the “Note”) of the City is tax-exempt, and in addition the City will covenant to take no action to impair the tax-exemption of the PFA Bonds; and
5. WHEREAS, in accordance with Minnesota Statutes, Section 475.60, Subdivision 2(4), the City is authorized to issue obligations to a board, department or agency of the State of Minnesota by negotiation and without advertisement for bids and the PFA is, and has represented that it is, a board, department or agency of the State of Minnesota; and
6. WHEREAS, on March 19, 2018, the City Council adopted a resolution calling a public hearing on an Ordinance entitled “An Ordinance Authorizing the Issuance of a General Obligation Sewer Revenue Bonds, Series 2018” (the “Ordinance”).
7. WHEREAS, a public hearing on the adoption of the Ordinance was held on April 16, 2018, and, following the public hearing the City Council adopted the Ordinance.
8. WHEREAS, a contract or contracts for the Project have been made by the City with the approval of the PFA and all other state and federal agencies of which approval is required:

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Willmar, Kandiyohi County, Minnesota, as follows:

1. Acceptance of Offer; Payment. The offer of the PFA to purchase a $1,558,505 General Obligation Sewer Revenue Note, Series 2018 of the City (the “Note”) at the rate of interest hereinafter set forth, and to pay therefor the sum of $1,558,505 as provided below, is hereby accepted, and the sale of the Note is hereby awarded to the PFA. Payment for the Note by the PFA shall be made in installments as eligible costs of the Project are reimbursed or paid, all as provided in the Project Loan Agreement.
2. Title; Date; Denomination; Interest Rates; Maturities. The Note shall be a fully registered negotiable obligation, shall be titled the “General Obligation Sewer Revenue Note, Series 2018”, shall be dated as of the date of delivery and shall be issued forthwith. The Note shall be in the principal amount of $1,558,505, or so much thereof as shall be disbursed pursuant to the Project Loan Agreement, shall bear interest on so much of the principal amount of the Note as may be disbursed and remains unpaid until the principal amount of the Note has been paid or has been provided for, at the rate of 1.119% per annum (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Note is payable semi-annually on February 20 and August 20, commencing February 20, 2019 interest starts accruing as of the date of the initial disbursement. In accordance with Minnesota Statutes, Section 475.54, Subd. 17, principal on the Note shall mature on August 20 of the years and in the installments as follows:

| Year |  | Amount |  | Year |  | Amount |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |
| 2019 |  | $29,505 |  | 2029 |  | $80,000 |
| 2020 |  | 73,000 |  | 2030 |  | 81,000 |
| 2021 |  | 73,000 |  | 2031 |  | 82,000 |
| 2022 |  | 74,000 |  | 2032 |  | 83,000 |
| 2023 |  | 75,000 |  | 2033 |  | 84,000 |
| 2024 |  | 76,000 |  | 2034 |  | 85,000 |
| 2025 |  | 77,000 |  | 2035 |  | 86,000 |
| 2026 |  | 78,000 |  | 2036 |  | 87,000 |
| 2027 |  | 79,000 |  | 2037 |  | 88,000 |
| 2028 |  | 79,000 |  | 2038 |  | 89,000 |

Interest shall accrue only on the aggregate principal amount of the Note which has been disbursed and is unpaid under the Project Loan Agreement. The principal installments shall be paid in the amounts scheduled above even if at the time of payment the full principal amount of the Note has not been disbursed; provided that if the full principal amount of the Note is never disbursed, the amount of the principal not disbursed shall be applied to reduce each unpaid principal installment in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be reamortized to provide similarly level annual installments of total debt service payments). Principal, interest and any premium due under the Note will be paid on each payment date by wire payment, or by check or draft mailed at least five business days prior to the payment date to the person in whose name the Note is registered, in any coin or currency of the United States which at the time of payment is legal tender for public and private debts.

Interest on the Note includes amounts treated by the PFA as service fees.

1. Purpose; Cost. The proceeds of the Note shall provide funds to finance construction of the Project. The total cost of the construction of the Project, including legal and other professional charges, publication and printing costs, interest accruing on money borrowed for the Project before the collection of net revenues pledged and appropriated therefor, and all other costs necessarily incurred and to be incurred from the inception to the completion of the Project, is estimated to be at least equal to the amount of the Note. The City covenants that it shall do all things and perform all acts required of it to assure that work on the Project proceeds with due diligence to completion and that any and all permits and studies required under law for the Project are obtained.
2. Redemption. This Note is subject to redemption with the consent of the PFA, in whole or in part on such dates and at such prices and upon such other terms as are specified in the Project Loan Agreement, including, but not limited to, acceleration or payment of increased interest as provided in Section 1.6 of the Project Loan Agreement.
3. Registration of Note. At the time of issuance and delivery of the Note, the officer of the City performing the functions of the Treasurer (the “Treasurer”) shall register the Note in the name of the payee in a note register which the Treasurer and the officer’s successors in office shall maintain for the purpose of registering the ownership of the Note. The Note shall be prepared for execution with an appropriate text and spaces for notation of registration. The force and effect of such registration shall be as stated in the form of Note hereinafter set forth. Payment of principal installments and interest, whether upon redemption or otherwise, made with respect to the Note, may be made to the registered holder thereof or to the registered holder’s legal representative, without presentation or surrender of the Note.
4. Form of Note. The Note, together with the Certificate of Registration attached thereto, shall be in substantially the form attached hereto as **Exhibit A**.
5. Execution. The Note shall be executed on behalf of the City by the signatures of its Mayor and Clerk and be sealed with the seal of the City; provided, however, that the seal of the City may be intentionally omitted as permitted by law. In the event of disability or resignation or other absence of either such officer, the Note may be signed by the manual signature of that officer who may act on behalf of such absent or disabled officer. In case either such officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery.
6. Delivery; Application of Proceeds. The Note when so prepared and executed shall be delivered by the Treasurer to the purchaser thereof prior to disbursements pursuant to the Project Loan Agreement, and the purchaser shall not be obliged to see to the proper application thereof.
7. Fund and Accounts. There has heretofore been created a separate fund in the City treasury designated the Sewer Fund (the “Fund”). The Treasurer and all municipal officials and employees concerned therewith shall establish and maintain financial records of the receipts and disbursements of the municipal sewer system (the “Sewer System”) in accordance with this resolution. There shall be maintained in the Fund, in addition to any accounts heretofore created, the following accounts:
	1. A “PFA Construction Account”, to which shall be credited all draws received on the Note. The draws under the Note shall be the only source of moneys credited to the PFA Construction Account. It is recognized that the sale proceeds of the Note are received in reimbursement for costs expended on the Project or in direct payment of such costs, and that accordingly the moneys need not be placed in the PFA Construction Account upon receipt but may be applied immediately to reimburse the source from which the expenditure was made. The moneys in the PFA Construction Account shall be used solely for the purpose of paying for the cost of constructing the Project, including all costs enumerated in Minnesota Statutes, Section 475.65, provided that such moneys shall only be expended for costs and expenses which are permitted under the Project Loan Agreement. The PFA prohibits the use of proceeds of the Note to reimburse costs initially paid from proceeds of other obligations of the City unless otherwise specifically approved. Upon completion of the Project and the payment of the costs thereof, any surplus shall be transferred to the PFA Debt Service Account.
	2. An “Operation and Maintenance Account”, into which shall be paid all gross revenues and earnings derived from the operation of the Sewer System, including all charges for the service, use and availability of and connection to the Sewer System, when collected, and all moneys received from the sale of any facilities or equipment of the Sewer System or any by-products thereof. From this account there shall be paid all the normal, reasonable and current costs of operating and maintaining the Sewer System. Current expenses include the reasonable and necessary costs of operating, maintaining and insuring the Sewer System, salaries, wages, costs of materials and supplies, necessary legal, engineering and auditing services, and all other items which, by sound accounting practices, constitute normal, reasonable and current costs of operating and maintenance, but excluding any allowance for depreciation, extraordinary repairs and payments into any debt service account. All moneys remaining in the Operation and Maintenance Account after paying or providing for the foregoing items constitute, and are referred to in this resolution as, “net revenues”.
	3. A “PFA Debt Service Account”, to which shall be irrevocably appropriated, pledged and credited: (1) net revenues of the Sewer System in an amount sufficient, with other moneys, to pay the principal of, and interest on, the Note when due; (2) any collection of taxes which may hereafter be levied in the event the net revenues of the Sewer System herein pledged for the payment of the Note are insufficient therefor; (3) all investment earnings on moneys held in the PFA Debt Service Account; (4) any amounts transferred from the PFA Construction Account; and (5) any other moneys which are properly available and are appropriated by the City Council to the PFA Debt Service Account. The moneys in said account shall be used only to pay or prepay the principal of, and interest on, the Note and any other general obligation bonds hereafter issued and made payable from said account, and to pay any rebate due to the United States with respect to the PFA Bonds in connection with the Note.
	4. Excess net revenues may be used for any proper purpose.

No portion of the proceeds of the Note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Note was issued, and (2) in addition to the above in an amount not greater than the lesser of 5% of the proceeds of the Note or $100,000. To this effect, any proceeds of the Note or any sums from time to time held in the PFA Construction Account, Operation and Maintenance Account or PFA Debt Service Account (or any other City account which will be used to pay principal or interest to become due on the Note) in excess of amounts which under then-applicable federal arbitrage regulations may be invested without regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by said arbitrage regulations on such investments after taking into account any applicable “temporary periods” or “minor portion” made available under the federal arbitrage regulations. In addition, moneys in the Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Note to be “federally guaranteed” within the meaning of Section 149(b) of the federal Internal Revenue Code of 1986, as amended (the “Code”).

The City shall observe the covenants of paragraphs 17, 18 and 19 of this resolution and of Article III of the Project Loan Agreement with regard to the Fund.

1. Coverage Test; Pledge of Net Revenues; Excess Revenues. It is hereby found, determined and declared that the net revenues of the Sewer System are sufficient in amount to pay when due 105% of the principal of and interest on the Note and any other outstanding obligations payable from net revenues of the Sewer System when due, and the net revenues of the Sewer System are hereby pledged to the payment of the Note, but solely to the extent required to meet, with other pledged sources, 105% of the principal and interest requirements of the Note as the same become due. Excess net revenues may be used for any proper purpose. Nothing contained herein shall be deemed to preclude the City from making further pledges and appropriations of the net revenues of the Sewer System for the payment of other or additional obligations of the City, provided that it has first been determined by the City Council that estimated net revenues of the Sewer System will be sufficient, in addition to all other sources, for the payment of the Note and such additional obligations, and any such pledge and appropriation of net revenues may be made superior or subordinate to, or on a parity with, the pledge and appropriation herein.
2. Pledge to Produce Revenues. In accordance with Minnesota Statutes, Section 444.075, the City hereby covenants and agrees with the holder of the Note that it will impose and collect charges for the service, use and availability of and connection to the Sewer System at the times and in the amounts required to produce net revenues adequate to pay all principal and interest when due on the Note.
3. General Obligation Pledge. The full faith, credit and taxing powers of the City shall be, and are hereby, irrevocably pledged for the prompt and full payment of the principal and interest on the Note as the same respectively become due. If the net revenues of the Sewer System appropriated and pledged to the payment of principal and interest on the Note, together with other funds irrevocably appropriated to the PFA Debt Service Account shall at any time be insufficient to pay such principal and interest when due, the City covenants and agrees to levy, without limitation as to rate or amount, an ad valorem tax upon all taxable property in the City sufficient to pay such principal and interest as they become due. If the balance in the PFA Debt Service Account is ever insufficient to pay all principal and interest then due on the Note and any other obligations payable therefrom, the deficiency shall be promptly paid out of any other funds of the City which are available for such purpose, and such other funds may be reimbursed, with or without interest, from the PFA Debt Service Account when a sufficient balance is available therein.
4. Certificate of Registration. The Clerk is hereby directed to file a certified copy of this resolution with the County Auditor of Kandiyohi County, Minnesota, together with such other information as the County Auditor shall require, and to obtain the County Auditor’s certificate that the Note has been entered in the County Auditor’s Bond Register.
5. Project Loan Agreement. The Project Loan Agreement is hereby approved in substantially the form heretofore presented to the City Council, and in the form executed is hereby incorporated by reference and made a part of this resolution. Each and all of the provisions of this resolution relating to the Note are intended to be consistent with the provisions of the Project Loan Agreement, and to the extent that any provision in the Project Loan Agreement is in conflict with this resolution as it relates to the Note, that provision shall control and this resolution shall be deemed accordingly modified. The execution and delivery of the Project Loan Agreement by the Mayor and Administrator are hereby authorized and ratified. The execution of the Project Loan Agreement by the appropriate officers shall be conclusive evidence of the approval of the Project Loan Agreement in accordance with the terms hereof. The Project Loan Agreement may be attached to the Note, and shall be attached to the Note if the holder of the Note is any person other than the PFA.
6. Records and Certificates. The officers of the City are hereby authorized and directed to prepare and furnish to the PFA, and to the attorneys approving the legality of the issuance of the Note, certified copies of all proceedings and records of the City relating to the Note and to the financial condition and affairs of the City, and such other affidavits, certificates, and information as are required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.
7. Negative Covenants as to Use of Proceeds and Project. The City hereby covenants not to use the proceeds of the Note or to use the Project, or to cause or permit them to be used, or to enter into any deferred payment arrangements for the cost of the Project, in such a manner as to cause the Note to be a “private activity bond” within the meaning of Sections 103 and 141 through 150 of the Code. The City reasonably expects that no actions will be taken over the term of the Note that would cause it to be a private activity bond, and the average term of the Note is not longer than reasonably necessary for the governmental purpose of the issue. The City hereby covenants not to use the proceeds of the Note in such a manner as to cause the Note to be a “hedge bond” within the meaning of Section 149(g) of the Code.
8. Tax-Exempt Status of the Note; Rebate. The City will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Note, including without limitation (i) requirements relating to temporary periods for investments; (ii) limitations on amounts invested at a yield greater than the yield on the PFA Bonds; and (iii) the rebate of excess investment earnings to the United States.
9. Tax-Exempt Status of the PFA Bonds; Rebate. The City shall comply with requirements necessary under the Code in order to not impair the exclusion from gross income under Section 103 of the Code of the interest on the PFA Bonds, including without limitation (a) requirements relating to temporary periods for investments of the Note proceeds and sinking fund proceeds, (b) limitations on Note proceeds and sinking fund proceeds invested at a yield greater than the yield on the PFA Bonds, and (c) the rebate of excess investment earnings on the Note proceeds to the United States. The City covenants and agrees with the PFA and holders of the Note that the investments of proceeds of the Note, including the investment of any revenues pledged to the Note which are considered gross proceeds of the PFA Bonds under the applicable regulations, and accumulated sinking funds, if any, shall be limited as to amount and yield in such manner that the PFA Bonds shall not be arbitrage bonds within the meaning of Section 148 of the Code and any regulations thereunder. On the basis of the existing facts, estimates and circumstances, including the foregoing findings and covenants, the City hereby certifies that it is not expected that the proceeds of the Note will be used in such manner as to cause the PFA Bonds to be arbitrage bonds under Section 148 of the Code and any regulations thereunder. The Mayor and Clerk shall furnish a certificate to the PFA based on the foregoing certification at the time of delivery of the Note to the PFA. The proceeds of the Note will not be used in such manner so that the Note is a private activity bond under Section 103(b) of the Code.
10. Designation of Qualified Tax-Exempt Obligation. In order to qualify the Note as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Code, the City hereby makes the following factual statements and representations:
	1. the Note is issued after August 7, 1986;
	2. the Note is not a “private activity bond” as defined in Section 141 of the Code;
	3. the City hereby designates the Note as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code;
	4. the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities treated as one issuer with the City, and all subordinate entities whose obligations are treated as issued by the City) during this calendar year 2018 will not exceed $10,000,000; and
	5. not more than $10,000,000 of obligations issued by the City during this calendar year 2018 have been designated for purposes of Section 265(b)(3) of the Code.

The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this paragraph.

1. Compliance with Reimbursement Bond Regulations. The provisions of this paragraph are intended to establish and provide for the City’s compliance with United States Treasury Regulations Section 1.150-2 (the “Reimbursement Regulations”) applicable to the “reimbursement proceeds” of the Note, being those portions thereof which will be used by the City to reimburse itself for any expenditure which the City paid or will have paid prior to the Closing Date (a “Reimbursement Expenditure”).

The City hereby certifies and/or covenants as follows:

* 1. Not later than 60 days after the date of payment of a Reimbursement Expenditure, the City (or person designated to do so on behalf of the City) has made or will have made a written declaration of the City’s official intent (a “Declaration”) which effectively (i) states the City’s reasonable expectation to reimburse itself for the payment of the Reimbursement Expenditure out of the proceeds of a subsequent borrowing; (ii) gives a general and functional description of the property, project or program to which the Declaration relates and for which the Reimbursement Expenditure is paid, or identifies a specific fund or account of the City and the general functional purpose thereof from which the Reimbursement Expenditure was to be paid (collectively, the “Project”); and (iii) states the maximum principal amount of debt expected to be issued by the City for the purpose of financing the Project; provided, however, that no such Declaration shall necessarily have been made with respect to: (i) “preliminary expenditures” for the Project, defined in the Reimbursement Regulations to include engineering or architectural, surveying and soil testing expenses and similar prefatory costs, which in the aggregate do not exceed 20% of the “issue price” of the Note, and (ii) a de minimis amount of Reimbursement Expenditures not in excess of the lesser of $100,000 or 5% of the proceeds of the Note.
	2. Each Reimbursement Expenditure is a capital expenditure or a cost of issuance of the Note or any of the other types of expenditures described in Section 1.150­2(d)(3) of the Reimbursement Regulations.
	3. The “reimbursement allocation” described in the Reimbursement Regulations for each Reimbursement Expenditure shall and will be made forthwith following (but not prior to) the issuance of the Note and in all events within the period ending on the date which is the later of three years after payment of the Reimbursement Expenditure or one year after the date on which the Project to which the Reimbursement Expenditure relates is first placed in service.
	4. Each such reimbursement allocation will be made in a writing that evidences the City’s use of Note proceeds to reimburse the Reimbursement Expenditure and, if made within 30 days after the Note is issued, shall be treated as made on the day the Bonds are issued.

Provided, however, that the City may take action contrary to any of the foregoing covenants in this paragraph 20 upon receipt of an opinion of its Bond Counsel for the Note stating in effect that such action will not impair the tax-exempt status of the Note.

1. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.
2. Headings. Headings in this resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.

Whereupon the resolution was declared duly passed and adopted on October 1, 2018.

 s/s Marv Calvin

 MAYOR

Attest:

 s/s Judy Thompson

CITY CLERK