

WILLMAR CITY COUNCIL PROCEEDINGS
BY ELECTRONIC MEANS (GOTO MEETING)

June 1, 2020
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 Rick Fagerlie, Shawn Mueske, Kathy Schwantes, Vicki Davis, Fernando Alvarado, Julie Asmus, Andrew Plowman, and Audrey Nelsen. Present 9, Absent 0.

Also present were City Administrator Brian Gramentz, Police Chief Jim Felt, Fire Chief Frank Hanson, Finance Director Steve Okins, Public Works Director Sean Christensen, Park and Recreation Director Rob Baumgarn, Human Resource Director Samantha Beckman, City Clerk Judy Thompson, and City Attorney Robert Scott.

Mayor Calvin expressed concern for our communities and thanked those that protested in Willmar in an organized manner.

There were no additions or deletions to the agenda.

Council Member Fagerlie moved to approve the agenda, as presented. Council Member Mueske seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

City Clerk Judy Thompson reviewed the consent agenda.

- A. City Council Minutes of May 18, 2020
- B. Willmar Municipal Utilities Board Minutes of May 26, 2020
- C. Accounts Payable Report for May 14 – May 27, 2020
- D. Willmar Lakes Area CVB Board Minutes of April 21, 2020
- E. Invest in Willmar Board Minutes of April 8, 2020

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

At 7:06 p.m. Mayor Calvin opened the public hearing for an Ordinance Authorizing Issuance of General Obligation Bonds, Series 2020A. Finance Director Steve Okins and Bakertilly representative Doug Green presented details of said ordinance and recommended Council approve the proposed ordinance.

There being no one to speak for or against said ordinance, Mayor Calvin closed the public hearing at 7:13 p.m. and opened it up for discussion by the Council. Following discussion, Council Member Plowman offered a motion to adopt, assign a number and order final publication of **Ordinance No. 1452 An Ordinance Authorizing the Issuance of \$1,965,000 General Obligation Improvement Bonds, Series 2020A and the Levying of Taxes to Secure Payment Therefor.** Council Member Mueske seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Resolution No. 2020-081 Authorizing the Sale of General Obligation Improvement Bonds, Series 2020A, Subject to Certain Parameters; Fixing Their Form and Specifications; Directing Their Execution and Delivery; and Providing For Their Payment was introduced by Council Member Plowman. Council Member Davis seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

The Public Works/Safety Committee Report for May 20, 2020 was presented to the Mayor and Council by Council Member Plowman. There were five items for consideration.

Item No. 1 Staff brought forth, for information, a dangerous dog concern by citizen Catherine Holwerda on Hillcrest Drive. Further information to be presented at the June 3rd Committee meeting. This item was for information only.

Item No. 2 It was the recommendation of the Committee to award Project No. 2001-E 7th Avenue NW Sanitary Sewer Construction to Land Pride Construction in the amount of \$244,577 and authorize signatures on the agreement. This project will bring a sanitary sewer connection to the 288-unit apartment complex for Unique Construction on 30th Street and is paid one hundred percent (100%) by the developer.

Resolution No. 2020-082 Awarding Project No. 2001-E to Land Pride Construction in the Amount of \$244,577 was introduced by Council Member Plowman. Council Member Asmus seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Item No. 3 It was the recommendation of the Committee to authorize staff to solicit quotes for a natural gas heating source of the WRAC 8 building. At the May 4th Council meeting, it was discussed the payback for natural gas heat (estimated at \$23,000) versus the electric heating system (estimated at \$10,000). The estimated payback was found to be four years with several assumptions of operating costs and also the \$13,000 difference in installation quotes between gas and electric. Currently there is \$12,000 budgeted for the conversion, with unspent funds from the City Hall heating project available to make up the difference of \$11,000 needed.

Council Member Plowman offered a motion to approve the Committee's recommendation. Council Member Asmus seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Item No. 4 The Committee received, for information, the request from Magellan to relocate pipeline along the Willmar Wye Project. The City has been given the opportunity to relocate a section while construction crews are mobilized and would gain approximately one acre of buildable property in the southwest corner of the parcel. The estimated total City share of the relocation is \$1.5 million and is not budgeted. The Committee felt this was not a significant benefit to the City of Willmar. This item was for information only.

Item No. 5 The Committee received, for information, the discussion of a flag system at Robbins Island for the beach similar to the system used at the Dorothy Olson Aquatic Center. This system would be used in the event the beach is closed for swimming due to elevated fecal coliform. The flag system would use green and red flags to indicate if the beach was open for swimming or if swimming was not recommended. A sign could potentially be placed explaining the red flag means swimming is not recommended at this time. This item was for information only.

The Public Works/Safety Committee Report of May 20, 2020, was approved and ordered placed on file in the City Clerk's Office upon motion by Council Member Plowman. Council Member Asmus seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

The Finance Committee Report for May 21, 2020 was presented to the Mayor and Council by Council Member Nelsen. There were six items for consideration.

Item No. 1 Finance Director Okins reviewed the financial report for April 30, 2020. Capital improvements expended to date include vehicles budgeted in the current year as well as those budgeted but not spent in 2019 that were carried over. Other capital improvements were reviewed and it was noted the robot system for the Police Department budgeted for \$18,000, and the turnout gear dryer for the Fire Department budgeted for \$11,000 were both purchased in 2019, leaving \$29,000 available for other appropriations in 2020. Other capital allocations budgeted, but not entirely spent in 2019, have final expenditures in process in 2020 which include: Robbins Island four-season building, Sperry pickleball court, Baker dugout, Civic Center bleacher replacement, Aquatic Center pool bottom resurfacing, and some lift station and Eagle Lake Sewer System improvements. Questions were asked regarding the process for reviewing the excess funds remaining after projects are completed. It was reported as projects become finalized, a summary report will be provided reflecting available dollars for the Council to consider using for potential reallocation as needs arise. In response to questions on City Hall improvements, staff explained \$50,000 was allocated each for City Hall and the Auditorium for the district heat shutdown remodel, plus an additional \$90,000 had been

budgeted for other City Hall improvements. Details will be provided through the Public Works Committee as information becomes available. There was a question on the status of grant applications for the ADA required improvements at the Auditorium. Given the current pandemic issues, the grant process has not yet been pursued but it is hoped to be addressed in the near future.

General Fund Revenues were discussed including property taxes which may be delayed this year due to the Covid-19 Pandemic. Licenses and permits are on track with the amount budgeted. Uncertainties with intergovernmental revenue include: local government aid and shared highway aid. Service charges are areas where there may be a substantial reduction due to the shut-down. A reduction in interest earnings is anticipated since interest rates have dropped. General Fund expenditures, Waste Treatment revenues and expenditures, and investment and cash balances were also reviewed.

This item was for information only.

Item No. 2 Staff updated the Committee with the status of the City's investments, noting there has been a drastic increase in called investments because of interest rates dropping dramatically. Reinvestment in one- to two-year certificates of deposit have ramped up because of the recent economic turn of events. Yields to maturity were also discussed. This item was for information only.

Item No. 3 Discussion of the status of the local government aid and local option sales tax revolved around the uncertainties due to the economic ramifications of the Covid-19 Pandemic. It was noted the City may also potentially be receiving an allocation of the federal CARES funds that were provided to the State for distribution to local governments. Amounts and dates anticipated to be received for all of these funds continue to be a moving target. The Council will be notified as updates are received. This item was for information only.

Item No. 4 It was reported Council Member Nelsen and staff attended the tele-meeting with Carris Health today. Representatives from Carris Health are scheduled to present information to the Finance Committee at the second scheduled meeting in June. This item was for information only.

Item No. 5 Other future agenda items include the Willmar Municipal Utilities 2019 audit which has been scheduled to be presented at the Finance Committee's first meeting in June. Additionally, it was noted that no new Council information requests have been received. This item was for information only.

Item No. 6 The local option sales tax program was discussed at length, specifically project prioritization issues and the anticipated reduction in revenues. This item was for information only.

The Finance Committee Report of May 21, 2020, was approved and ordered placed on file in the City Clerk's Office upon motion by Council Member Nelsen. Council Member Asmus seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

The Community Development Committee Report for May 26, 2020 was presented to the Mayor and Council by Council Member Fagerlie. There was one item for consideration.

Item No. 1 Staff introduced an emergency ordinance allowing for the commercial use of public property. This ordinance has been drafted by staff and the City Attorney in response to Governor Walz's executive order providing guidelines on the first phase of restaurants reopening on June 1. The ordinance would allow for commercial businesses to use public property directly abutting their brick and mortar location such as sidewalks and on-street parking spaces. The use of public spaces must be barricaded, and proof of insurance (City additional insured) must be provided to the City Clerk. If a business is selling alcohol, an additional agreement with the City must be signed. This ordinance also allows for the administrative approval of street closure requests.

The Committee discussed the requirements for the sale of liquor on a private parking lot, and inquired if the County health inspector is a part of the coordination effort. Staff is drafting a one page handout for restaurant owners that will address these questions and provide applicants with all necessary guidelines.

Administrator Gramentz informed the committee that Public Works will be able to provide picnic tables and barriers on a first-come, first-serve basis. A list of businesses that utilize City tables will be kept to ensure they are returned.

Council Member Davis expressed concern about food trucks setting up downtown and competing with restaurants that will be opening up for outdoor seating. Staff will follow up on food truck ordinance standards currently in place.

The committee also discussed the administrative allowance of street closures for up to two days. They have asked staff to explore this provision, allowing for more flexibility given to staff to address unique concerns, such as Freida's Cafe. Dr. Ramstad suggested the ordinance allow for up to a seven-day street closure, renewable. Staff will review and alter the ordinance accordingly before final City Council review.

It was the recommendation of the Committee to approve the emergency ordinance allowing for the commercial use of public property with the administrative approval of street closures and request an emergency Council meeting be held to approve this emergency ordinance prior to June 1.

This item was approved at an emergency Council meeting held on May 29th.

The Community Development Committee Report of May 26, 2020, was approved and ordered placed on file in the City Clerk's Office upon motion by Council Member Fagerlie. Council Member Alvarado seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

The Labor Relations Committee Report of May 26, 2020 was presented to the Mayor and Council by Council Member Mueske. There were two items for consideration.

Item No. 1 Staff presented an update on staffing levels and a potential need to hire part-time staff in the Recreation and Public Works Departments. Recreation staff will be able to offer limited programming that stays in compliance with COVID-19 safety guidelines, which would require part-time staff to assist them. All participants/guardians will review, comply, and sign-off on the safety guidelines. With Recreation Department employees able to provide programming, Public Works will need part-time staff to cover the hours Recreation staff had been filling. The question of when the pool, community center, and arena will re-open is still up for discussion. This item was for information only.

Item No 2 A motion was made by Council Member Alvarado, seconded by Council Member Asmus and passed to go into closed session under Minn. Stat. § 130.03, subd. 1 (b) at 6:40 p.m. The meeting was opened at 7:50 p.m. This item was for information only.

The Labor Relations Committee Report of May 26, 2020, was approved and ordered placed on file in the City Clerk's Office upon motion by Council Member Mueske. Council Member Alvarado seconded the motion which carried, on a roll call vote of Ayes 8, Noes 0.

Mayor Calvin encouraged Council to listen to the Invest in Willmar meeting of May 20, 2020 if they haven't already done so.

City Administrator Gramentz stated the Invest in Willmar Committee has met and deliberated on the available options for the Swansson Field, Event Center, and the Recreation Fields Projects. It was the recommendation of the Committee that the City Council authorize the Swansson Field Project be funded at \$2 million and to continue through design, plans and specifications, and approval process so that construction can be completed in 2020.

Following discussion, Council Member Nelsen offered a motion to authorize the Swansson Field Project Architect and Construction Manager to finalize design and complete plans and specifications at the \$2 million project cost for anticipated construction in 2020. Council Member Schwantes seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Council Member Schwantes requested a discussion of elimination of the current committee structure in place for Council. She was requesting that the committees be eliminated and all items be addressed at Council meetings so everyone hears the same thing at the same time, thus eliminating any duplication.

Following a lengthy discussion, Council Member Schwantes offered a motion to address items at Council meetings only and eliminate Committees. Council Member Davis seconded the motion, which failed on a roll call vote of Ayes 2, Noes 6. Council Members Fagerlie, Mueske, Alvarado, Asmus, Plowman, and Nelsen vote "no."

Following the vote, Council Member Asmus asked to have the motion restated as Mayor Calvin had stated the motion differently prior to the vote.

City Clerk Thompson stated the original motion was to address items at Council meetings only and eliminate Committees. Following clarification, the original motion failed on a roll call vote of Ayes 3, Noes 5. Council Members Fagerlie, Mueske, Alvarado, Plowman, and Nelsen voted "no."

Council Member Schwantes offered the following comments: gave a "Shout Out" to our police department for their professionalism, and urged everyone to thank them for their service.

Council Member Alvarado offered the following comments: the recent Willmar High School Class of 2020 parade was a great celebration, and offered his congratulations to all graduates; if anyone is in need of food assistance please contact Willmar Food Shelf 320-235-2641, Second Harvest 800-365-0270, or Hope for the City 320-295-3415; Census 2020 is still occurring and urged everyone to be counted to ensure our community receives the funding it deserves; a better world begins with each of us.

Council Member Asmus offered the following comments: congratulations to the graduation class of 2020; be sure to patronize restaurants and enjoy the beautiful outdoors; shop local.

Council Member Plowman offered the following comments: "Kudos" to Council for holding an emergency meeting to help our community, he was unable to attend but fully offered his favorable support; we will prevail; support local businesses.

Council Member Nelsen offered the following comments: thankful to live in Willmar; shop local; difficult things are going on in Minnesota at this time.

The upcoming Committee meetings will be as follows: Public Works/Safety Committee - Wednesday, June 3rd at 5:00 p.m.; Finance Committee - Thursday, June 4th at 5:00 p.m.; Community Development Committee - no meeting scheduled at this time; and Labor Relations Committee - Monday, June 8th at 6:15 p.m.

Mayor Calvin offered the following comments: we need to trust the Committees and move items through quickly - we must unite; instructed City Administrator Gramentz to contact the facilitator to see how soon a meeting could be scheduled.

Council Member Mueske offered a motion to adjourn the meeting with Council Member Alvarado seconding the motion which carried. The meeting adjourned at 9:15 p.m.

s/s Marv Calvin
MAYOR

Attest:

s/s Judy Thompson
SECRETARY TO THE COUNCIL

RESOLUTION NO. 2020-081

**A RESOLUTION AUTHORIZING THE SALE OF GENERAL
OBLIGATION IMPROVEMENT BONDS, SERIES 2020A,
SUBJECT TO CERTAIN PARAMETERS;
FIXING THEIR FORM AND SPECIFICATIONS;
DIRECTING THEIR EXECUTION AND DELIVERY;
AND PROVIDING FOR THEIR PAYMENT**

Motion By: Plowman

Second By: Davis

BE IT RESOLVED By the City Council of the City of Willmar, Kandiyohi County, Minnesota (the "City") as follows:

Section 1. Sale of Bonds.

1.01. It is determined that:

(a) the assessable public improvements including the costs of various street and utility improvement projects (the "Improvements") have been duly ordered by the City;

(b) the City is authorized by Minnesota Statutes, Chapter 429 (the "Improvement Act") to finance all or a portion of the cost of the Improvements by the issuance of general obligation bonds of the City payable from special assessments levied against benefited property and ad valorem taxes;

(c) on May 18, 2020, the City Council adopted a resolution calling a public hearing on an Ordinance entitled "An Ordinance Authorizing the Issuance of \$1,965,000 General Obligation Improvement Bonds, Series 2020A, and Levying of Taxes to Secure the Payment Thereof" (the "Ordinance");

(d) a public hearing on the adoption of the Ordinance was held this same date, and, following the public hearing the City Council adopted the Ordinance;

(e) it is necessary and expedient to the sound financial management of the affairs of the City to issue its General Obligation Improvement Bonds, Series 2020A (the "Bonds") in the approximate aggregate principal amount of \$1,965,000, subject to certain parameters provided herein, to provide financing for the Improvements pursuant to the Improvement Act to provide financing for the Improvements;

(f) the City hereby retains Baker Tilly Municipal Advisors, LLC ("Baker Tilly MA") to act as an independent municipal advisor for the purpose of reviewing the pricing fairness associated with the purchase and subsequent reoffering of the Bonds. It being thus determined that the City has retained an independent municipal advisor in connection with such sale, the City is authorized by Minnesota Statutes, Section 475.60, Subdivision 2(9) to negotiate the sale of the Bonds.

1.02 Pricing Committee. The City hereby establishes a pricing committee with respect to the Bonds comprised of the Mayor (or a City Council member designated by the Mayor), the City Administrator and the City Finance Director (the "Pricing Committee"). The Pricing Committee is authorized and directed, upon satisfaction of the conditions for the issuance of the Bonds under the City Charter and with the advice of Baker

Tilly MA, to (i) review proposals for the sale of the Bonds; (ii) award the sale of the Bonds to the prospective purchaser (the "Purchaser") in an aggregate principal amount not to exceed \$1,965,000, with a true interest cost not to exceed 3.00% and a final maturity not later than February 1, 2031; (iii) approve the dates for optional redemption or any mandatory sinking fund redemption schedule; and (iv) approve the tax levy for the repayment of the Bonds. Subject to a determination by the Pricing Committee that no Certificate of Intent was filed in accordance with Section 7.04(j) of the City Charter within 15 days after adoption of this resolution, the City hereby approves the sale of the Bonds to the Purchaser, at the price, par bond principal amount, maturity schedule, and rates to be determined by the Pricing Committee based on the lowest true interest cost.

1.03. Terms and Principal Amounts of the Bonds. Subject to a determination by the Pricing Committee that no Certificate of Intent was filed in accordance with Section 7.04(j) of the City Charter within 15 days after adoption of this resolution, the City will forthwith issue and sell the Bonds pursuant to Minnesota Statutes, Section Chapters 429 and 475 (collectively, the "Act"), in an aggregate principal amount not to exceed \$1,965,000 plus any premium, originally dated their date of issuance, in the denomination of \$1,000 each or any integral multiple thereof, numbered No. R-1 upward, bearing interest as determined by the Pricing Committee, and maturing on February 1 in the years and amounts as determined by the Pricing Committee.

1.04. Optional Redemption. The City may elect to prepay Bonds on the dates to be determined by the Pricing Committee. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. Prepayments will be at a price of par plus accrued interest.

Section 2. Registration and Payment.

2.01. Registered Form. Each Bond will be issued as a single typewritten bond, only in fully registered form. The interest thereon and, upon surrender of each of the Bonds, the principal amount thereof, is payable by check or draft issued by the Registrar described herein.

2.02. Dates; Interest Payment Dates. The Bonds will be dated as of the date of delivery. The interest on the Bonds will be payable on the dates to be determined by the Pricing Committee and set forth in the Bonds to the registered owners of record thereof as of the close of business on the 15th day of the immediately preceding month, whether or not that day is a business day.

2.03. Registration. The City appoints the City Finance Director as bond registrar, transfer agent, authenticating agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the City and the Registrar with respect thereto are as follows:

(a) Register. The Registrar must keep at its principal corporate trust office a bond register in which the Registrar provides for the registration of ownership of the Bonds and the registration of transfers and exchanges of the Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender for transfer of a Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the 15th day of the month preceding each interest payment date and until that interest payment date.

(c) Exchange of Bonds. When a Bond is surrendered by the registered owner for exchange the Registrar will authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity as requested by the registered owner or the owner's attorney in writing.

(d) Cancellation. Bonds surrendered upon transfer or exchange will be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When a Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the Bond until the Registrar is satisfied that the endorsement on the Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name a Bond is registered in the bond register as the absolute owner of the Bond, whether the Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Bond and for all other purposes, and payments so made to a registered owner or upon the owner's order will be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. The Registrar may impose a charge upon the owner thereof for a transfer or exchange of Bonds sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. If a Bond becomes mutilated or is destroyed, stolen or lost, the Registrar will deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for a Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the City and the Registrar must be named as obligees. Bonds so surrendered to the Registrar will be cancelled by the Registrar and evidence of such cancellation must be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it is not necessary to issue a new Bond prior to payment.

(i) Redemption. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Registrar and by publishing the notice if required by law. Failure to give notice by publication or by mail to any registered owner, or any defect therein, will not affect the validity of the proceedings for the redemption of Bonds. The Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

2.04. Execution and Delivery. The Bonds will be prepared under the direction of the City Finance Director and executed on behalf of the City by the signatures of the Mayor and the City Clerk, provided that all signatures may be printed, engraved or lithographed facsimiles of the originals. If an officer whose signature or a facsimile of whose signature appears on the Bonds ceases to be such officer before the delivery of the Bonds, that signature or facsimile will nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery. When the Bonds have been so prepared and executed, the City Finance Director will deliver the same to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Purchaser is not obligated to see to the application of the purchase price.

Section 3. Form of Bonds.

3.01. Execution of the Bonds. The Bonds will be printed or typewritten in substantially the form as shown in **EXHIBIT A**.

3.02. Approving Legal Opinion. The City Finance Director will obtain a copy of the proposed approving legal opinion of Kennedy & Graven, Chartered, Minneapolis, Minnesota, which will be complete except as to dating thereof and will cause the opinion to be printed on or accompany the Bonds.

Section 4. Payment; Security; Pledges and Covenants.

4.01. (a) Debt Service Fund. The Bonds are payable from the General Obligation Improvement Bonds, Series 2020A Debt Service Fund (the "Debt Service Fund") hereby created. The Debt Service Fund shall be administered and maintained by the Finance Director as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. Amounts in the Debt Service Fund are irrevocably pledged to the Bonds. To the Debt Service Fund hereby created, there is hereby pledged and irrevocably appropriated and there will be credited: (A) the proceeds of ad valorem taxes herein or hereafter levied (the "Taxes"), and, subject to 4.01(b), the special assessments levied against the property specially benefited by the Improvements (the "Assessments"); (B) capitalized interest financed from Bond proceeds, if any; (C) all investment earnings on funds in the Debt Service Fund; (E) any premium or rounding amount, unless deposited in Construction Fund under clause (b) hereof, as determined by the City Finance Director after consultation with the City's municipal advisor; and (F) any and all other moneys which are properly available and are appropriated by the City Council to the Debt Service Fund. If a payment of principal or interest on the Bonds becomes due when there is not sufficient money in the Debt Service Fund to pay the same, the City Finance Director is directed to pay such principal or interest from other funds of the City, and such fund will be reimbursed for those advances out of the proceeds of Assessments and Taxes when collected.

(b) Construction Fund. The proceeds of the Bonds, less the appropriations made in Section 4.01(a), together with the Assessments collected during the construction of the Improvements and any other funds appropriated for the Improvements will be deposited in a separate construction fund (the "Construction Fund") to be used solely to defray expenses of the Improvements and the payment of principal and interest on the Bonds prior to the completion and payment of all costs of the Improvements. Any balance remaining in the Construction Fund after completion of the Improvements and the costs thereof paid, may be used as provided in Minnesota Statutes, section 475.65. Thereafter, the Construction Fund is to be closed and any remaining balances therein and subsequent collections of Assessments for the Improvements and any Taxes are to be deposited in the Debt Service Fund.

4.02. Covenants. It is hereby determined that the Improvements will directly and indirectly benefit abutting property and other identified property, and the City hereby covenants with the holders from time to time of the Bonds as follows:

(a) The City has caused or will cause the Assessments for the Improvements to be promptly levied so that the first installment will be collectible not later than 2021 and will take all steps necessary to assure prompt collection, and the levy of the Assessments is hereby authorized. The City Council will cause to be taken with due diligence all further actions that are required for the construction of each Improvement financed wholly or partly from the proceeds of the Bonds, and will take all further actions necessary for the final and valid levy of the Assessments and the appropriation of any other funds needed to pay the Bonds and interest thereon when due.

(b) In the event of any current or anticipated deficiency in Assessments and Taxes, the City Council will levy additional ad valorem taxes in the amount of the current or anticipated deficiency.

(c) The City will keep complete and accurate books and records showing: receipts and disbursements in connection with the Improvements, Assessments and Taxes levied therefor and other funds appropriated for their payment, collections thereof and disbursements therefrom, monies on hand and, the balance of unpaid Assessments and Taxes.

(d) The City will cause its books and records to be audited at least annually and will furnish copies of such audit reports to any interested person upon request.

4.03. Pledge of Taxes. It is determined that at least 20% of the cost of the Improvements will be specially assessed against benefited properties. For the purpose of paying the principal of and interest on the Bonds, there is levied a direct annual irrevocable ad valorem tax (the "Taxes") upon all of the taxable property in the City, which will be spread upon the tax rolls and collected with and as part of other general taxes of the City. The Taxes will be credited to the Debt Service Fund above provided and will be in the years and amounts as to be set for in the certificate of the Pricing Committee.

4.04. Certification as to Debt Service Fund Amount. It is hereby determined that the estimated collections of Assessments and the foregoing Taxes will produce at least 5% in excess of the amount needed to meet when due the principal and interest payments on the Bonds. The tax levy herein provided is irrevocable until the Bonds are paid, provided that at the time the City makes its annual tax levies the Finance Director may certify to the County Auditor of Kandiyohi County the amount available in the Debt Service Fund to pay principal and interest due during the ensuing year, and the County Auditor will thereupon reduce the levy collectible during such year by the amount so certified.

4.05. County Auditor Certificate as to Registration. If no Certificate of Intent is filed in accordance with Section 7.04(j) of the City Charter within 15 days after adoption of this resolution, the Clerk is hereby directed to file a certified copy of this resolution and a copy of the certificate of the Pricing Committee with the County Auditor of Kandiyohi County, Minnesota, together with such other information as he or she shall require, and to obtain the County Auditor's certificate that the Bonds have been entered in the County Auditor's Bond Register, and the tax levy required by law has been made.

Section 5. Authentication of Transcript.

5.01. City Proceedings and Records. The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the Bonds, certified copies of proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other certificates, affidavits and transcripts as may be required to show the facts within their knowledge or as shown by the books and records in their custody and under their control, relating to the validity and marketability of the Bonds, and such instruments, including any heretofore furnished, will be deemed representations of the City as to the facts stated therein.

5.02. No Official Statement or Prospectus. It is determined that no official statement or prospectus has been prepared or circulated by the City in connection with the sale of the Bonds and the Purchaser shall represent to the City that it has made its own investigations concerning the City as set forth in an investment letter of even date with the issuance of the Bonds.

5.03. Other Certificates. The Mayor, City Administrator and Finance Director, or any of them, are hereby authorized and directed to furnish at the closing such certificates as are required as a condition of sale. Unless litigation shall have been commenced and be pending questioning the Bonds or the organization of the City or incumbency of its officers, at the closing the Mayor, City Administrator and Finance Director, or any of them, shall also execute and deliver to the Purchaser a suitable certificate as to absence of material litigation, and the Finance Director shall also execute and deliver a certificate as to payment for and delivery of the Bonds.

Section 6. Tax Covenant.

6.01. Tax-Exempt Bonds. The City covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder, in effect at the time of such actions, and that it will take or cause its officers, employees or agents to take, all affirmative action within its power that may be necessary to ensure that such interest will not become subject to taxation under the Code and applicable Treasury Regulations, as presently existing or as hereafter amended and made applicable to the Bonds.

6.02. Rebate. The City will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income of the interest on the Bonds under Section 103 of the Code, including without limitation requirements relating to temporary periods for investments, limitations on amounts invested at a yield greater than the yield on the Bonds, and the rebate of excess investment earnings to the United States if the Bonds (together with other obligations reasonably expected to be issued in calendar year 2020) exceed the small-issuer exception amount of \$5,000,000.

6.03. Not Private Activity Bonds. The City further covenants not to use the proceeds of the Bonds or to cause or permit them or any of them, or the Improvements, to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

6.04. Qualified Tax-Exempt Obligations. In order to qualify the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code, the City makes the following factual statements and representations:

- (a) the Bonds are not "private activity bonds" as defined in Section 141 of the Code;
- (b) the City designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code;
- (c) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds that are not qualified 501(c)(3) bonds which will be issued by the City (and all subordinate entities of the City) during calendar year 2020 will not exceed \$10,000,000; and
- (d) not more than \$10,000,000 of obligations issued by the City during calendar year 2020 have been designated for purposes of Section 265(b)(3) of the Code.

6.05. Procedural Requirements. The City will use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designations made by this section.

Section 7. No Requirement of Continuing Disclosure. The Purchaser need not comply with the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"). Consequently, the City will not enter into any undertaking to provide continuing disclosure of any kind with respect to the Bonds.

Section 8. Defeasance. When all of the Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the Bonds will cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds will remain in full force and effect. The City may discharge the Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full or by depositing irrevocably in escrow, with a suitable institution qualified by law as an escrow agent for this purpose, cash or securities which are backed by the full faith and credit of the United States of America, or any other security authorized under Minnesota law for such purpose, bearing interest payable at such times and at such rates and maturing on such dates and in such amounts as shall be required and sufficient, subject to sale and/or reinvestment in like securities, to pay said obligation(s), which may include any interest payment on such Bond and/or principal amount due thereon at a stated maturity (or if irrevocable provision shall have been made for permitted prior redemption of such principal amount, at such earlier redemption date). If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

The motion for the adoption of the foregoing resolution was duly seconded by Member Davis, and upon vote being taken thereon, the following voted in favor thereof: Council Members Rick Fagerlie, Shawn Mueske, Kathy Schwantes, Vicki Davis, Fernando Alvarado, Julie Asmus, Andrew Plowman, and Audrey Nelsen. and the following voted against the same: None

whereupon said resolution was declared duly passed and adopted this 1st day of June, 2020.

s/s Marv Calvin
MAYOR

ATTEST:

s/s Judy Thompson
CITY CLERK

RESOLUTION NO. 2020-082

**A RESOLUTION AWARDING PROJECT NO. 2001-E TO LAND PRIDE CONSTRUCTION
IN THE AMOUNT OF \$244,577.**

Motion By: Plowman Second By: Asmus

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the bid of Land Pride Construction of Paynesville, MN for Project No. 2001-E is accepted, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to enter into an agreement with the bidder for the terms and consideration of the contract in the amount of \$244,577.

Dated this 1st day of June, 2020

s/s Marv Calvin
Mayor

Attest:

s/s Judy Thompson
City Clerk