

FILE

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota

**October 5, 2010**

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: \_\_\_ Johnston \_\_\_ DeLapp \_\_\_ Emmons, \_\_\_ Park \_\_\_ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
  - 1. Approval of the September 21, 2010 City Council minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by City staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
  - 2. Approve payment of disbursements and payroll
  - 3. 2010 Street and Water Quality Improvements; Partial Payment No.2
  - 4. 2010 Crack Seal Project – Consideration of quotes and authorization for awarding contract
  - 5a. 2011 Street and Water Quality Improvements - Authorization for Geotechnical Services
  - b. 2011 Municipal State Aid Improvements – Authorization for Geotechnical Services
  - 6. 2010-2014 Capital Improvement Programming Adj.
  - 7. Request for Street Assessment Deferred, Jim Fish; 2267 Legion Ln

J. REGULAR AGENDA:

8. Sunfish Lake Parking Area Improvements/Brief Eagle Scout project presentation
9. Lake Elmo Inn Zoning Text Amendment, Front and side setbacks, General Business in Old Village Area; Resolution No. 2010-049, Ordinance No. 08-030
10. Interim Use for Ag sales; Resolution No. 2010-050, Ordinance No. 08-030
11. Old Village Water Quality Plantings at 3570 Laverne Avenue N.
12. Revisions to I-94 Corridor Joint Powers Agreement

K. REPORTS AND ANNOUNCEMENTS:

(These are verbal updates and do not have to be formally added to the agenda.)

- Mayor and City Council
- Administrator
- City Engineer
- Planning Director

L. Adjourn

\*\*A social gathering may or may not be held at the Lake Elmo Inn following the meeting.\*\*

City of Lake Elmo  
City Council Minutes

September 21, 2010

Mayor Johnston called the meeting to order at 7:00 p.m.

PRESENT: Mayor Johnston and Council Members DeLapp, Emmons, Park and Smith

Also Present: Administrator Messelt, City Engineers Griffin and Stempski, Attorney Snyder, Planners Klatt and Matzek, Finance Director Bouthilet and City Clerk Lumby

APPROVAL OF AGENDA:

*MOTION: Council Member Smith moved to table Item 5 Cranky Ape CUP and add Item 4 and 6 to the Consent Agenda. Council Member Park seconded the motion. The motion passed 5-0.*

*Council Member Smith moved to approve the September 21, 2010 City Council agenda as amended. Council Member Park seconded the motion. The motion passed 5-0.*

APPROVED MINUTES:

The September 7, 2010 City Council minutes are approved by consensus.

PUBLIC COMMENTS/INQUIRIES: None

CONSENT AGENDA:

*MOTION: Council Member Park moved to approve the Consent Agenda. Council Member Smith seconded the motion. The motion passed 5-0.*

- Approve payment of disbursements and payroll in the amount of \$178,203.61
- Approve 2010 Street & Water Quality Improvements Change Order No. 2, extending the completion date of bituminous wear course construction on 57<sup>th</sup> Street to June 1, 2011, and increasing the construction contract in the estimated amount of \$2,900

Variance: Allow construction of a septic variance up to 10 ft. into the right-of-way; 9051 Jane Road N., Resolution No. 2010-046

The City Council was asked to consider a variance request from Marilyn Kennedy to construct a new septic system partially within the City's road right-of-way, therefore meeting the required 10 ft. property setback. Because the non-conforming lot at 9051 Jane Road is just 95 feet deep, the proposed septic tank will not meet the required 75 ft. Ordinary High Waterline setback as identified in the shoreland core and a minor variance will be needed as well.

*MOTION: Council Member Park moved to approve Resolution No. 2010-046 approving the requested variances to allow the septic system to be built as proposed at 9051 Jane Road. Council Member Smith seconded the motion. The motion passed 5-0.*

2009 and 2010 Street Improvement Rain Garden Project – Accepting the quotes and awarding the contract

The City Council was asked to accept quotes and award a contract for the 2009 and 2010 Street Improvement Rain Garden Project. Bids were received on September 9, 2010. Rusty Schmidt, Washington Conservation District, solicited quotes from five qualified contractors and prepared a recommendation in Memorandum dated September 14, 2010.

*MOTION: Council Member Park moved to accept the Quotes and Award a Contract to All Weather Services in the amount of \$27,688.75 for 2009 and 2010 Street Improvement Rain Garden Project per the Washington County Conservation District Recommendation Memorandum dated September 14, 2010. Council Member Smith seconded the motion. The motion passed 5-0.*

Consideration of Conditional Use Permit application to allow and open sales lot for Cranky Ape at 9200 Hudson Blvd., Resolution No. 2010-047 – TABLED INDEFINITELY

2011 Street and Water Quality Improvements – Authorization of Preparation of Feasibility Report

In accordance with the approved 2009-2013 Street Capital Improvement Program, the City Council was asked to proceed with the first step to implement the 2011 Street Improvements, which is to authorize the preparation of a feasibility report. The preparation of a feasibility report is required as a part of the statutory process for public improvements that are specially assessed, and must be completed before the City Council can take action to order an improvement.

The 2011 Street Improvements include the following street segments:

- 10<sup>th</sup> Street Court North from 10<sup>th</sup> Street North to north end
- 11<sup>th</sup> Street North from 10<sup>th</sup> Street North to 12<sup>th</sup> Street North
- 12<sup>th</sup> Street North from Leeward Avenue North to west end
- Laverne Avenue North from 10<sup>th</sup> Street North to 12<sup>th</sup> Street North
- Layton Avenue North from 10<sup>th</sup> Street North to 12<sup>th</sup> Street North
- Leeward Avenue North from 10<sup>th</sup> Street North to 12<sup>th</sup> Street North

Staff recommended removal of the proposed improvement for Kirkwood Lane from the 2011 CIP until staff and Council can further investigate and determine the appropriate improvement process and assessment methodology for residential local gravel roadways. This recommendation was consistent with the removal of 28<sup>th</sup> Street from the 2010 CIP.



*MOTION: Mayor Johnston moved to authorize TKDA to prepare the feasibility report for the 2011 Street and Water Quality Improvements in the amount of \$11,900. Council Member Smith seconded the motion.*

Council discussion ensued regarding the importance of drafting an assessment policy.

*MOTION: Council Member Emmons moved to amend the motion to not move beyond the feasibility study until we have an assessment policy reviewed and direction provided by the City Council. Council Member DeLapp seconded the motion. The motion passed 4-1 (Mayor Johnston voting against the motion.)*

*MOTION: Mayor Johnston moved to approve the amended motion. Council Member Smith seconded the motion. The motion passed 5-0.*

#### 2011 Municipal State Aid Street Improvements – authorization of preparation of Feasibility Report

The City Council was asked to proceed with the first step to implement the 2011 Municipal State Aid Street Improvements, which is to authorize the preparation of a feasibility report. This project may also be fully or partially funded using Municipal State Aid funds. The project would involve improving 50<sup>th</sup> Street North and Kimbro Avenue North, from 47<sup>th</sup> Street North to Lake Elmo Ave.

Ryan Stempski, Assistant City Engineer, reported Keats Avenue Street Improvements, from 47<sup>th</sup> Street N. to Lake Elmo Avenue, has been programmed as part of the 2012 Street Capital Improvement Plan. In preparation of the 2011 Capital Improvement Planning process, a geotechnical investigation was completed to review the necessary improvements and available construction parties to complete the Keats Avenue Street improvements in coordination with the Keats Avenue Trunk Watermain project. Improvements, Inc.

*MOTION: Council Member Smith moved to authorize TKDA to prepare the feasibility report for the 2011 Municipal State Aid Street Improvements, including 50<sup>th</sup> Street N. and Kimbro Avenue N., from 47<sup>th</sup> Street N. to Lake Elmo Avenue N in the amount of \$14,900, as recommended by the City Engineer. Council Member Park seconded the motion. The motion passed 5-0.*

#### I-94 – 30<sup>th</sup> Street Trunk Sewer Improvement – Authorization to Negotiate Easement Acquisition for Lift Station Site #3

The City Council was asked to authorize the City Administrator, City Attorney and City Engineer to negotiate and acquire approximately 8,000 sq.ft. of permanent utility easement and 8,000 sq.ft. of temporary construction easement to facilitate the construction of the Lift Station for the I-94 to 30<sup>th</sup> St. Trunk Sewer project to be located at site no. 3.

Staff received direction from the Council at the August 17, 2010 meeting to finalize the plans and specifications and receive contractor bids for the I-94 to 30<sup>th</sup> Street Trunk Sewer Improvements. As part of this effort, a meeting was held with Elmo View Townhouse Association members to discuss the proposed Lift Station project. The association expressed that while they are amenable to an easement for the utility pipes they were not agreeable to provide an easement for the access roadway. An alternate access road design was presented and found to be an acceptable alternative.

*MOTION: Mayor Johnston moved to authorize the City Administrator, City Attorney and City Engineer to negotiate and acquire a utility easement from the Elmo View Townhouse Association for the purposes of placing the Lift Station on Site No 3. Council Member Park seconded the motion. The motion passed 4-1 (Council Member DeLapp voting against).*

Subsurface Sewage Treatment (SSTS) Resolution No. 2010-047, Ordinance No. 08-029

The City Council was asked to consider adoption of an ordinance that would amend the City's Individual and Community Waste Water Treatment Systems regulations. The proposed ordinance would eliminate most of the existing language and adopt the new Washington County Ordinance pertaining to subsurface sewage treatment systems by reference. In accordance with Minnesota Rules, the City must adopt an ordinance within one year from the date of County approval. Additionally, the City Council was asked to affirmatively consider entering into an agreement with Washington County to provide subsurface sewage treatment systems inspection services.

Planning Director Klatt pointed out, and recommended, amendments to the revised County regulations. The agreement will be placed in effect starting October 1, 2010.

*MOTION: Council Member Smith moved to adopt Ordinance No. 08-029 amending the Lake Elmo Individual and Community Waste Water Treatment Systems Ordinance and adopting Chapter 4 of the Washington County Development Code (Subsurface Sewage Treatment Systems) by reference, including the recommended changes by the Planning Director. Mayor Johnston seconded the motion. The motion passed 5-0.*

*MOTION: Council Member Smith moved to adopt Resolution No. 2010-048 authorizing summary publication of Ordinance 08-029. Mayor Johnston seconded the motion. The motion passed 5-0.*

*MOTION: Council Member Smith moved to authorize execution of an Agreement for Subsurface Sewage Treatment System Inspection Services to contract with Washington County to perform subsurface sewage treatment systems inspection services with the City of Lake Elmo. Mayor Johnston seconded the motion. The motion passed 5-0.*

The Council adjourned the meeting at 8:30 p.m.

Respectfully submitted by Sharon Lumby, City Clerk



# MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
CONSENT  
ITEM #: 2  
MOTION *as part of Consent Agenda*

**AGENDA ITEM:** Approve Disbursements and Payroll in the Amount of \$ 281,307.62

**SUBMITTED BY:** Tom Bouthilet, Finance Director

**THROUGH:** Bruce Messelt, City Administrator *BAM*

**REVIEWED BY:** City Staff

**SUMMARY AND ACTION REQUESTED:** As part of its Consent Agenda, the City Council is asked to approve disbursements and payroll in the amount of \$ 281,307.62. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and payroll to be paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 7,058.23	Payroll Taxes to IRS 09/23/2010
ACH	\$ 1,189.77	Payroll Taxes to MN Dept. of Revenue 09/23/2010
ACH	\$ 3,838.10	Payroll Retirement to PERA 09/23/2010
DD 3000 -DD 3014	\$ 21,497.57	Payroll Dated 09/23/2010 (Direct Deposit)
36135 - 36139	\$ 2,981.50	Payroll Dated 09/23/2010 (Payroll)
36140 - 36179	\$ 244,742.45	Accounts Payable Dated 10/05/2010
<b>TOTAL</b>	<b>\$ 281,307.62</b>	

**STAFF REPORT:** City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction

**RECOMMENDATION:** It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$ 281,307.62.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the October 5th, 2010 Disbursement and Payroll, as Presented [and modified] herein.”**

**ATTACHMENTS:**

1. Accounts Payable Dated 09/30/2010

**SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):**

- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

# Accounts Payable To Be Paid Proof List

User: Administrator

Printed: 09/30/2010 - 1:51 PM

Batch: 004-09-2010

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
ACS Animal Control Services										
298	09/25/2010	473.53	0.00	10/05/2010	Animal Control Services 8/23/10-9/17/10		-	No		0000
101-420-2700-43150	Contract Services									
	298 Total:	473.53								
727	09/22/2010	592.00	0.00	10/05/2010	Animal Control Services -8/23/10-9/17/10		-	No		0000
101-420-2700-43150	Contract Services									
	727 Total:	592.00								
	ACS Total:	1,065.53								
ALLIEDGE Allied Generators										
1054	09/12/2010	640.00	0.00	10/05/2010	24 V Charger Installed on Generator		-	No		0000
601-494-9400-44030	Repairs\Maint Imp Not Bldgs									
	1054 Total:	640.00								
	ALLIEDGE Total:	640.00								
ARAM Aramark, Inc.										
629-7077519	09/16/2010	22.97	0.00	10/05/2010	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
	629-7077519 Total:	22.97								
629-7079317	09/20/2010	98.92	0.00	10/05/2010	Linen City Hall		-	No		0000
101-410-1940-44010	Repairs\Maint Contractual Bldg									
	629-7079317 Total:	98.92								
629-7082157	09/23/2010	101.79	0.00	10/05/2010	Mats, soap		-	No		0000
101-430-3100-44010	Repairs\Maint Bldg									
	629-7082157 Total:	101.79								
629-7082158	09/23/2010	22.97	0.00	10/05/2010	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
	629-7082158 Total:	22.97								
	ARAM Total:	246.65								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
BIFFS Biff's Inc.										
W417563-W417572	09/22/2010	674.25	0.00	10/05/2010	Portable Restrooms		-	No		0000
101-450-5200-44120	Rentals - Buildings									
W417563-W417572 Total:										
WW416107	09/21/2010	674.25								
204-450-5200-44300	Miscellaneous	662.04	0.00	10/05/2010	Portable Restrooms Fall Festival		-	No		0000
WW416107 Total:										
BIFFS Total:										
BOUTHTOM Bouthilet Thomas										
Chk Req	09/27/2010	86.00	0.00	10/05/2010	Farmer's Market - Fall Festival		-	No		0000
101-410-1910-44300	Miscellaneous									
Chk Req	09/27/2010	324.00	0.00	10/05/2010	Silly String - Fall Festival		-	No		0000
204-450-5200-44300	Miscellaneous									
Chk Req Total:										
BOUTHTOM Total:										
BOYER Boyer Trucks										
444323	09/21/2010	180.88	0.00	10/05/2010	Alternator 98-2		-	No		0000
101-430-3125-44040	Repairs/Maint Eqpt									
444323 Total:										
BOYER Total:										
BURBBLAC Burberl Black Dirt, Inc.										
13055	09/07/2010	160.31	0.00	10/05/2010	City Hall		-	No		0000
411-480-8000-45200	Buildings and Structures									
13055 Total:										
BURBBLAC Total:										
CAGERBIT C.A.Gerbitz co., Inc.										
11685	09/13/2010	75.00	0.00	10/05/2010	Water Ball Panels - Fall Festival		-	No		0000
204-450-5200-44300	Miscellaneous									
11685 Total:										
CAGERBIT Total:										
COUNWOOD Countryside Wood Products										
5058	09/22/2010	1,785.00	0.00	10/05/2010	Council Chambers Wings and Repairs		-	No		0000
411-480-8000-45700	Office Equipment & Furnishings									
5058 Total:										

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
COUNWOOD Total:		1,785.00								
CTYOAKDA City of Oakdale										
201009242467	09/24/2010	285.82	0.00	10/05/2010	#2467, U2-Repair Exhaust		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
	201009242467 Total:	285.82								
201009242468	09/24/2010	112.00	0.00	10/05/2010	#2468, L1, Repair airline		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
	201009242468 Total:	112.00								
	CTYOAKDA Total:	397.82								
EMERGAPP Emergency Apparatus Maint. INC										
50984	09/09/2010	3,194.08	0.00	10/05/2010	Repairs to E2/3183		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
	50984 Total:	3,194.08								
	EMERGAPP Total:	3,194.08								
FASTENAL Fastenal										
MNT1123024	09/15/2010	20.47	0.00	10/05/2010	Hardware		-	No		0000
101-430-3100-44040	Repairs/Maint Eqpt									
	MNT1123024 Total:	20.47								
	FASTENAL Total:	20.47								
FERGUSON Ferguson Waterworks										
S01275226.001	09/17/2010	4,125.00	0.00	10/05/2010	Water Meter Installation Labor		-	No		0000
601-494-9400-42300	Water Meters & Supplies									
	S01275226.001 Total:	4,125.00								
S01275560.001	09/21/2010	69.38	0.00	10/05/2010	New Water Meter Adapters		-	No		0000
601-494-9400-42300	Water Meters & Supplies									
	S01275560.001 Total:	69.38								
	FERGUSON Total:	4,194.38								
Fresh FI Fresh Fields bakery & Cafe										
7027	09/17/2010	520.00	0.00	10/05/2010	Dinner Rolls and Cakes for Fall Festival		-	No		0000
204-450-5200-44300	Miscellaneous									
	7027 Total:	520.00								
	Fresh FI Total:	520.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
FXL FXL, Inc.										
October 2010	10/01/2010	2,000.00	0.00	10/05/2010	Assessing Services - October 2010		-	No		0000
101-410-1320-43100	Assessing Services									
	October 2010 Total:	2,000.00								
	FXL Total:	2,000.00								
HARTMAN Hartman Homes										
Chk Req	09/24/2010	2,000.00	0.00	10/05/2010	Escrow Return 10231 Tapestry #7269		-	No		0000
803-000-0000-22900	Deposits Payable									
	Chk Req Total:	2,000.00								
	HARTMAN Total:	2,000.00								
HAWKINS Hawkins, Inc.										
3157659 RI	09/15/2010	1,039.13	0.00	10/05/2010	Hydrofluosillicic Acid (floride)		-	No		0000
601-494-9400-42160	Chemicals									
	3157659 RI Total:	1,039.13								
	HAWKINS Total:	1,039.13								
HRCON H & R Const. Co.										
13137	09/14/2010	2,224.43	0.00	10/05/2010	Guard Rail Materials and Repairs		-	No		0000
101-430-3120-43150	Contract Services									
	13137 Total:	2,224.43								
	HRCON Total:	2,224.43								
LEAGMN League of MN Cines										
144458	09/27/2010	6,912.00	0.00	10/05/2010	Annual Membership Dues		-	No		0000
101-410-1320-44330	Dues & Subscriptions									
	144458 Total:	6,912.00								
	LEAGMN Total:	6,912.00								
Lillie Newspapers Inc. Lillie Suburban										
08/31/2010	08/31/2010	36.11	0.00	10/05/2010	Ord 08-028/CUP/Public Hearing		-	No		0000
101-410-1450-43510	Public Notices									
	08/31/2010 Total:	36.11								
	Lillie Total:	36.11								
MALMQ Malmquist Greg										
09/27/2010	09/27/2010	192.15	0.00	10/05/2010	Mileage-Zumbro Falls and Breezy Point		-	No		0000
101-420-2220-44370	Conferences & Training									
	09/27/2010 Total:	192.15								



Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MALMQ Total:		192.15								
MCDONALD McDonald Construction										
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 4577 Lilly Ave #2565		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 5403 Marquess Tr #2597		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 9589 55th Street #2726		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 120697 Marquess Ln #3007		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 5291 Marquess Tr #3342		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 12023 Marquess Ln #3125		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 5203 Marquess Tr #3342		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 5173 Marquess Tr #3361		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 5307 Marquess Tr #3407		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 5408 Marquess Tr #3419		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 12108 Marquess Tr #3437		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 781 Jewel Ave #4645		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 2998 Jonquil Tr #4917		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 2915 Jonquil Tr #4949		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 2936 Jonquil Tr #5959		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,000.00	0.00	10/05/2010	Escrow Return 2943 Jonquil Tr #5965		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	1,500.00	0.00	10/05/2010	Escrow Return 2995 Jonquil Tr #6542		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	2,000.00	0.00	10/05/2010	Escrow Return 2911 Jonquil Tr #7168		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req Total:		19,500.00								
MCDONALD Total:		19,500.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MESSELT Messelt Bruce										
Chk Req	09/28/2010	26.52	0.00	10/05/2010	Code Enforcement Action - Hardy House		-	No		0000
101-420-2400-44300	Miscellaneous									
Chk Req	09/27/2010	553.44	0.00	10/05/2010	Farmer's market - Fall Festival		-	No		0000
101-410-1910-44300	Miscellaneous									
Chk Req	09/27/2010	57.17	0.00	10/05/2010	Council Floor Repairs		-	No		0000
411-480-8000-45200	Buildings and Structures									
	Chk Req Total:	637.13								
	MESSELT Total:	637.13								
MICHAEL Michael Lee Inc.										
Chk Req	09/28/2010	3,000.00	0.00	10/05/2010	Escrow Return 2978 Jonquil Tr #7444		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req	09/28/2010	2,000.00	0.00	10/05/2010	Escrow Return 2942 Jonquil Tr #7239		-	No		0000
803-000-0000-22900	Deposits Payable									
	Chk Req Total:	5,000.00								
	MICHAEL Total:	5,000.00								
MITCHELL Mitchell Paul										
Chk Req	09/18/2010	678.18	0.00	10/05/2010	Pig Roast - Fall Festival		-	No		0000
204-450-5200-44300	Miscellaneous									
	09/18/2010 Total:	678.18								
	MITCHELL Total:	678.18								
MN NATIV Minnesota Native Landscapes										
Chk Req	10/22/2010	275.00	0.00	10/05/2010	Sunfish Park Inspection		-	No		0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	6187 Total:	275.00								
	MN NATIV Total:	275.00								
NEXTEL Nextel Communications										
Chk Req	09/18/2010	85.32	0.00	10/05/2010	Cell Phone Service - Administration		-	No		0000
101-410-1940-43210	Telephone									
Chk Req	09/18/2010	170.67	0.00	10/05/2010	Cell Phone Service - Fire Department		-	No		0000
101-420-2220-43210	Telephone									
Chk Req	09/18/2010	17.97	0.00	10/05/2010	Cell Phone Service - Building Department		-	No		0000
101-420-2400-43210	Telephone									
Chk Req	09/18/2010	60.96	0.00	10/05/2010	Cell Phone Service - Public Works Dept		-	No		0000
101-430-3100-43210	Telephone									
Chk Req	09/18/2010	54.90	0.00	10/05/2010	Cell Phone Service - Parks Department		-	No		0000
101-450-5200-43210	Telephone									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close P	OLine #
761950227-090	09/18/2010	-111.92	0.00	10/05/2010	Credit Adjustment		-	No			0000
101-410-1940-43210	Telephone										
	761950227-090 Total:	277.90									
	NEXTEL Total:	277.90									
PIITNEY Pitney Bowes											
307692	11/22/0010	202.33	0.00	10/05/2010	Postage machine Rental		-	No			0000
101-410-1940-44010	Repairs/Maint Contractual Bldg										
	307692 Total:	202.33									
	PIITNEY Total:	202.33									
RUD Prince-Rud Diane											
10/29/2010	10/29/2010	320.00	0.00	10/05/2010	Cleaning city Hall & Annex		-	No			0000
101-410-1940-44010	Repairs/Maint Contractual Bldg										
10/29/2010	10/29/2010	240.00	0.00	10/05/2010	Cleaning Fire Hall		-	No			0000
101-420-2220-44010	Repairs/Maint Bldg										
10/29/2010	10/29/2010	41.35	0.00	10/05/2010	Supplies		-	No			0000
101-410-1940-42110	Cleaning Supplies										
	10/29/2010 Total:	601.35									
	RUD Total:	601.35									
SACHSBER Sachs Bernard											
09/27/2010	09/27/2010	48.00	0.00	10/05/2010	Mileage-Forest Lake Fireground Command		-	No			0000
101-420-2220-44370	Conferences & Training										
	09/27/2010 Total:	48.00									
	SACHSBER Total:	48.00									
SCHILLS Schill's Dumpster Svc Inc											
7664	09/19/2010	338.68	0.00	10/05/2010	Dumpster for Fall Festival		-	No			0000
204-450-5200-43150	Contract Services										
	7664 Total:	338.68									
	SCHILLS Total:	338.68									
SMITHANN Anne Smith											
Chk Req	09/28/2010	1,528.17	0.00	10/05/2010	Fall Festival Silent Auction & Supplies		-	No			0000
204-450-5200-44300	Miscellaneous										
	Chk Req Total:	1,528.17									
	SMITHANN Total:	1,528.17									

Invoice #	Inv Date	Amount	Quantity	Pint Date	Description	Reference	Task	Type	PO #	Close POLine #
STCRTREE St. Croix Tree Service										
60661	09/13/2010	358.03	0.00	10/05/2010	Cut and Remove Elm on Stillwater Lane		-			0000
101-430-3250-43150	Contract Services									
	60661 Total:	358.03								
	STCRTREE Total:	358.03								
TASCH T.A. Schifsky & Sons Inc										
50028	09/08/2010	399.00	0.00	10/05/2010	Asphalt		-			0000
101-430-3120-42240	Street Maintenance Materials									
	50028 Total:	399.00								
Pay Cert #2	10/01/2010	178,076.80	0.00	10/05/2010	2010 Street Project		-			0000
409-480-8000-45300	Improvements Other Than Bldgs									
	Pay Cert #2 Total:	178,076.80								
	TASCH Total:	178,475.80								
UNIRENNW United Rentals NW, Inc.										
89913804-001	09/22/2010	354.25	0.00	10/05/2010	Concrete Saw Blade		-			0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	89913804-001 Total:	354.25								
	UNIRENNW Total:	354.25								
WAS-TRAN Washington County										
67292	09/23/2010	660.44	0.00	10/05/2010	Street Striping		-			0000
101-430-3120-43150	Contract Services									
	67292 Total:	660.44								
	WAS-TRAN Total:	660.44								
WASRADIO WASHINGTON COUNTY										
66456	09/24/2010	3,800.76	0.00	10/05/2010	1/4rly user fee for 800 MHz radios		-			0000
101-420-2220-43230	Radio									
	66456 Total:	3,800.76								
	WASRADIO Total:	3,800.76								
YOCUM Yocum Oil Company, Inc.										
193034	09/22/2010	1,321.20	0.00	10/05/2010	Oil Fill		-			0000
101-430-3100-42120	Fuel, Oil and Fluids									
	193034 Total:	1,321.20								
	YOCUM Total:	1,321.20								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ZIERTMAN Joan Ziertman										
09/24/2010	09/24/2010	55.00	0.00	10/05/2010	Farmers market Fall Festival		-			No 0000
101-410-1320-44300	Miscellaneous									
	09/24/2010 Total:	55.00								
	ZIERTMAN Total:	55.00								
ZIMMICK Zimmick Christopher										
Chk Req	09/24/2010	2,000.00	0.00	10/05/2010	Escrow Return 10042 Tapestry #7139		-			No 0000
803-000-0000-22900	Deposits Payable									
	Chk Req Total:	2,000.00								
	ZIMMICK Total:	2,000.00								
	Report Total:	244,742.45								



## MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
CONSENT  
ITEM #: 3  
MOTION *as part of the Consent Agenda*

**AGENDA ITEM:** 2010 Street and Water Quality Improvements – Partial Payment No. 2

**SUBMITTED BY:** Ryan Stempski, Assistant City Engineer

**THROUGH:** Bruce A Messelt, City Administrator *BAM*

**REVIEWED BY:** Tom Bouthilet, Finance Director  
Jack Griffin, City Engineer

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to approve partial payment to T.A. Schifsky and Sons, Inc., the Contractor for the 2010 Street and Water Quality Improvements project. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** The Contractor submitted Partial Payment Certificate No. 2 in the amount of \$178,076.80. This request has been reviewed and payment is recommended in the amount requested.

Of note: 5% of the work completed for Partial Payment Certificate No. 2 has been retained in the amount of \$19,825.47 in accordance with the Contract documents.

**RECOMMENDATION:** Based upon the above information, it is recommended that the City Council approve as part of tonight's *Consent Agenda* Partial Payment No. 2 in the amount of \$178,076.80.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss and deliberation prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

**“Move to authorize Partial Payment No. 2 in the amount of \$178,076.80 to be paid from the Project Fund for the 2010 Street and Water Quality Improvements project [*as amended and/or modified at tonight's meeting*].”**

**ATTACHMENTS:**

1. Payment Certificate No. 2

**SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):**

- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

# TKDA

ENGINEERING - ARCHITECTURE - PLANNING

The right time. The right people. The right company.

444 Cedar Street, Suite 1500  
Saint Paul, MN 55101-2140

(651) 292-4400  
(651) 292-0083 Fax  
www.tkda.com

Proj. No. 14504.001 Cert. No. 2 St. Paul, MN, September 30, 2010

To City of Lake Elmo, Minnesota Owner

This Certifies that T.A. Schifsky and Sons, Inc., Contractor

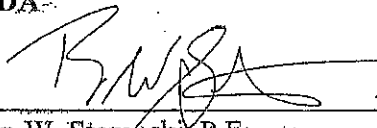
For 2010 Street and Water Quality Improvements

Is entitled to One Hundred Seventy Eight Thousand Seventy Six Dollars 80/100 (\$178,076.80)

being 2nd estimate for partial payment on contract with you dated June 4, 2010

Received payment in full of above Certificate.

TKDA

  
Ryan W. Stempski, P.E.

T.A. Schifsky and Sons, Inc.  
\_\_\_\_\_, 2010

### RECAPITULATION OF ACCOUNT

	CONTRACT PLUS EXTRAS	PAYMENTS	CREDITS
Contract price plus extras	\$ 425,565.41		
All previous payments		\$ 198,607.11	
All previous credits			
Extra No.			
Change Order No. 1	\$ 8,805.00		
" "			
" "			
" "			
Credit No.			\$ -
" "			
" "			
" "			
" "			
AMOUNT OF THIS CERTIFICATE		\$ 178,076.80	
Totals	\$ 434,370.41	\$ 376,683.91	\$ -
Credit Balance		\$ -	
There will remain unpaid on contract after payment of this Certificate		\$ 57,686.50	
	\$ 434,370.41	\$ 434,370.41	\$ -



TKDA  
Engineering-Architecture-Planning

**PERIODICAL ESTIMATE FOR PARTIAL PAYMENTS**

Estimate No. 2 Period Ending September 30, 20 10 Page 1 of 1 Proj. No. 14504.001  
Contractor T.A. Schifsky and Sons, Inc. Original Contract Amount \$ 425,565.41  
Project 2010 Street and Water Quality Improvements  
Location City of Lake Elmo, Minnesota

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Total Contract Work Completed		\$	<u>396,509.38</u>
Total Approved Credits		\$	<u>0.00</u>
Total Approved Extra Work Completed	\$	<u>0.00</u>	
Approved Extra Orders Amount Completed		\$	<u>0.00</u>
Total Amount Earned This Estimate		\$	<u>396,509.38</u>

Less Approved Credits	\$	<u>0.00</u>	
Less <u>5</u> % Retained	\$	<u>19,825.47</u>	
Less Previous Payments	\$	<u>198,607.11</u>	
Total Deductions		\$	<u>218,432.58</u>
Amount Due This Estimate		\$	<u>178,076.80</u>

Contractor \_\_\_\_\_

Date \_\_\_\_\_

T.A. Schifsky and Sons, Inc.

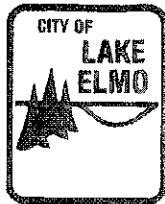
Engineer  \_\_\_\_\_

Date September 30, 2010

Ryan W. Stempki, P.E.

ESTIMATE NO. 2		PERIOD ENDING: September 30, 2010				
2010 STREET & WATER QUALITY IMPROVEMENTS						
CITY OF LAKE ELMO, MINNESOTA						
TKDA PROJECT NO. 14504.001						
ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<b>JANE NORTH ROAD</b>						
1	MOBILIZATION	LS	1	1.0	\$ 3,500.00	\$ 3,500.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 309.00	\$ 309.00
3	SILT FENCE	LF	485	934.0	\$ 2.06	\$ 1,924.04
4	INLET PROTECTION	EA	2	5.0	\$ 82.40	\$ 412.00
5	SALVAGE & REINSTALL MAILBOX	EA	11	11.0	\$ 66.95	\$ 736.45
6	CLEAR & GRUB TREE	EA	2	7.0	\$ 206.00	\$ 1,442.00
7	SALVAGE & REINSTALL SIGN	EA	3	-	\$ 123.60	\$ -
8	SAWCUT PAVEMENT (ALL TYPES)	LF	318	297.0	\$ 1.03	\$ 305.91
9	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	195	346.0	\$ 1.55	\$ 539.40
10	REMOVE & DISPOSE OF EXIST. PAVEMENT (STREETS)	SY	2487	2,487.0	\$ 1.13	\$ 2,810.31
11	REMOVE & DISPOSE OF EXIST. STORM SEWER MANHOLE	EA	2	2.0	\$ 618.00	\$ 1,236.00
12	REMOVE & DISPOSE OF EXIST. STORM SEWER (ALL TYPES & SIZES)	LF	22	22.0	\$ 18.54	\$ 407.88
13	COMMON EXCAVATION (F)	CY	1370	1,370.0	\$ 7.73	\$ 10,580.10
14	SUBGRADE PREPARATION	RS	10	10.0	\$ 169.95	\$ 1,699.50
15	PLACE & COMPACT RECLAIMED MATERIAL (FROM OTHER SITES) (LV)	CY	1046	611.0	\$ 4.12	\$ 2,517.32
16	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	210	203.0	\$ 57.57	\$ 11,686.71
17	2360 TYPE LV 4 BITUMINOUS WEARING COURSE	TN	210	210.0	\$ 57.57	\$ 12,089.70
18	BITUMINOUS MATERIAL FOR TACK COAT	GAL	117	115.0	\$ 2.06	\$ 236.90
19	2"- 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	195	348.0	\$ 10.81	\$ 3,692.28
20	SAW & SEAL STREET (40' INTERVALS)	LF	497	-	\$ 1.67	\$ -
21	D412 CONCRETE CURB & GUTTER	LF	2140	2,130.0	\$ 7.93	\$ 16,890.90
22	12" RCP CL. 5 STORM SEWER PIPE	LF	22	22.0	\$ 30.90	\$ 679.80
23	48" DIAMETER MANHOLE, TYPE 406S (0'-10' DEPTH)	EA	1	1.0	\$ 2,266.00	\$ 2,266.00
24	CATCH BASIN, TYPE 404S	EA	1	1.0	\$ 1,957.00	\$ 1,957.00
25	4" PERFORATED PVC EDGE DRAIN W/BACKFILL & WRAP	LF	24	24.0	\$ 9.27	\$ 222.48
26	EROSION STABILIZATION MAT, CL. 2	SY	49	49.0	\$ 5.15	\$ 252.35
27	DITCH CHECK	EA	3	3.0	\$ 412.00	\$ 1,236.00
28	INFILTRATION DITCH	LF	125	125.0	\$ 20.60	\$ 2,575.00
29	RAIN GARDEN	EA	1	1.0	\$ 927.00	\$ 927.00
30	RAIN GARDEN W/SUMP	EA	2	2.0	\$ 1,442.00	\$ 2,884.00
31	MnDOT SEED MIX 32B W/ FERTILIZER & WOOD FIBER BLANKET	SY	175	50.0	\$ 3.81	\$ 288.50
32	SHORT GRASS WOODS EDGE SAVANNA W/ENHANCEMENT AND WOOD FIBER BLANKET	SY	432	-	\$ 4.64	\$ -
33	SODDING	SY	663	660.0	\$ 2.58	\$ 1,702.80
<b>SUBTOTAL JANE NORTH ROAD</b>						<b>\$ 88,017.63</b>
<b>ISLE AVENUE NORTH</b>						
1	MOBILIZATION	LS	1	1.0	\$ 4,444.00	\$ 4,444.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 306.00	\$ 306.00
3	SILT FENCE	LF	195	202.0	\$ 1.02	\$ 206.04
4	INLET PROTECTION	EA	3	3.0	\$ 81.60	\$ 244.80
5	SALVAGE & REINSTALL MAILBOX	EA	14	14.0	\$ 86.70	\$ 1,213.80
6	SAWCUT PAVEMENT (ALL TYPES)	LF	341	252.0	\$ 1.15	\$ 289.80
7	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	134	155.0	\$ 1.53	\$ 237.15
8	REMOVE & DISPOSE OF EXIST. CONCRETE PAVEMENT (DRIVEWAY)	SY	50	7.0	\$ 3.06	\$ 21.42
9	SUBGRADE CORRECTION	SY	1440	1,529.0	\$ 3.06	\$ 4,675.68
10	LOAD & HAUL RECLAIMED MATERIAL (LV)	CY	414	-	\$ 5.97	\$ -
11	RECLAIM EX. BIT. AND BASE MATERIALS	SY	6520	6,747.0	\$ 0.87	\$ 5,869.89
12	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	16	16.0	\$ 102.00	\$ 1,632.00
13	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	517	544.0	\$ 55.50	\$ 30,196.00
14	2360 TYPE LV 4 BITUMINOUS WEARING COURSE	TN	517	525.7	\$ 66.50	\$ 34,734.31
15	BITUMINOUS MATERIAL FOR TACK COAT	GAL	289	145.0	\$ 2.04	\$ 295.80
16	2"- 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	156	103.0	\$ 10.51	\$ 1,082.63
17	6" CONCRETE DRIVE	SY	50	3.0	\$ 31.52	\$ 94.56
18	SAW & SEAL STREET (40' INTERVALS)	LF	1121	-	\$ 1.85	\$ -
19	D412 CONCRETE CURB & GUTTER	LF	3304	3,265.0	\$ 7.65	\$ 25,130.25
20	SAWCUT INLET	EA	3	-	\$ 25.50	\$ -
21	CL. 3 RIPRAP W/ GEOTEXTILE FILTER FABRIC	CY	4	4.0	\$ 112.20	\$ 448.80
22	EROSION STABILIZATION MAT, CL. 2	SY	6	6.0	\$ 10.20	\$ 61.20
23	DITCH GRADING	LF	35	35.0	\$ 9.18	\$ 321.30
24	RAIN GARDEN	EA	1	1.0	\$ 918.00	\$ 918.00
25	MnDOT SEED MIX 250 W/ FERTILIZER & WOOD FIBER BLANKET	SY	78	650.0	\$ 3.57	\$ 2,320.50
26	SODDING	SY	1080	1,053.0	\$ 3.06	\$ 3,222.18
<b>SUBTOTAL ISLE AVENUE NORTH</b>						<b>\$ 113,476.31</b>

ESTIMATE NO. 2		PERIOD ENDING:		September 30, 2010		
2010 STREET & WATER QUALITY IMPROVEMENTS						
CITY OF LAKE ELMO, MINNESOTA						
TKDA PROJECT NO. 14504.001						
ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<b>63RD STREET NORTH</b>						
1	MOBILIZATION	LS	1	1.0	\$ 4,000.00	\$ 4,000.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 306.00	\$ 306.00
3	SILT FENCE	LF	105	136.0	\$ 2.04	\$ 277.44
4	INLET PROTECTION	EA	8	7.0	\$ 81.60	\$ 571.20
5	SAWCUT PAVEMENT (ALL TYPES)	LF	446	351.0	\$ 1.02	\$ 358.02
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	197	196.0	\$ 1.53	\$ 299.88
7	REMOVE & DISPOSE OF EXIST. CONCRETE PAVEMENT (DRIVEWAY)	SY	35	-	\$ 3.06	\$ -
8	REMOVE & DISPOSE OF EXIST. STORM SEWER MANHOLE	EA	2	2.0	\$ 714.00	\$ 1,428.00
9	REMOVE & DISPOSE OF EXIST. STORM SEWER (ALL TYPES & SIZES)	LF	30	30.0	\$ 7.14	\$ 214.20
10	SUBGRADE CORRECTION	SY	2520	-	\$ 3.06	\$ -
11	LOAD & HAUL RECLAIMED MATERIAL (LV)	CY	411	368.0	\$ 6.12	\$ 2,252.16
12	RECLAIM EX. BIT. AND BASE MATERIALS	SY	10600	10,700.0	\$ 0.77	\$ 8,239.00
13	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	32	32.0	\$ 85.00	\$ 2,720.00
14	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	1,064	1,042.7	\$ 56.00	\$ 58,380.64
15	2360 TYPE LV 4 BITUMINOUS WEARING COURSE	TN	576	890.0	\$ 56.00	\$ 49,840.00
16	BITUMINOUS MATERIAL FOR TACK COAT	GAL	490	380.0	\$ 2.04	\$ 775.20
17	2" 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	217	189.0	\$ 10.51	\$ 1,986.39
18	6" CONCRETE DRIVE	SY	35	-	\$ 33.66	\$ -
19	REMOVE & REPLACE BITUMINOUS FLUME	EA	2	2.0	\$ 102.00	\$ 204.00
20	SAW & SEAL STREET (40' INTERVALS)	LF	2205	-	\$ 1.85	\$ -
21	CONNECT DRAINTILE TO EXISTING STORM SEWER	EA	1	1.0	\$ 306.00	\$ 306.00
22	ADJUST CATCH BASIN CASTING & INSTALL CONCRETE WINGS	EA	6	6.0	\$ 153.00	\$ 918.00
23	12" RCP CL. 5 STORM SEWER PIPE	LF	30	30.0	\$ 27.64	\$ 828.20
24	48" DIAMETER MANHOLE, TYPE 406S (0'-10" DEPTH)	EA	1	1.0	\$ 2,244.00	\$ 2,244.00
25	CATCH BASIN, TYPE 404S	EA	1	1.0	\$ 1,734.00	\$ 1,734.00
26	4" PERFORATED PVC EDGE DRAIN W/BACKFILL & WRAP	LF	15	20.0	\$ 15.30	\$ 306.00
27	EROSION STABILIZATION MAT, CL. 2	SY	12	6.0	\$ 6.12	\$ 36.72
28	RAIN GARDEN	EA	2	1.0	\$ 918.00	\$ 918.00
29	SODDING	SY	2,270	2,651.0	\$ 2.55	\$ 6,760.05
<b>SUBTOTAL 63RD STREET NORTH</b>						<b>\$ 145,911.10</b>
<b>67TH STREET NORTH</b>						
1	MOBILIZATION	LS	1	1.0	\$ 2,000.00	\$ 2,000.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 306.00	\$ 306.00
3	SILT FENCE	LF	80	37.0	\$ 2.04	\$ 75.48
4	INLET PROTECTION	EA	2	2.0	\$ 81.60	\$ 163.20
5	SAWCUT PAVEMENT (ALL TYPES)	LF	195	187.0	\$ 1.02	\$ 190.74
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	89	89.0	\$ 2.04	\$ 181.56
7	SUBGRADE CORRECTION	SY	683	683.0	\$ 3.06	\$ 2,089.88
8	LOAD & HAUL RECLAIMED MATERIAL (LV)	CY	233	128.0	\$ 6.97	\$ 764.16
9	RECLAIM EX. BIT. AND BASE MATERIALS	SY	3,767	3,767.0	\$ 0.77	\$ 2,900.59
10	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	11	11.0	\$ 81.60	\$ 897.60
11	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	382	371.0	\$ 57.57	\$ 21,358.47
12	2360 TYPE LV 4 BITUMINOUS WEARING COURSE	TN	314	-	\$ 57.57	\$ -
13	BITUMINOUS MATERIAL FOR TACK COAT	GAL	176	-	\$ 2.04	\$ -
14	2" 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	89	76.0	\$ 10.51	\$ 798.76
15	SAW & SEAL STREET (40' INTERVALS)	LF	791	-	\$ 1.85	\$ -
16	CONNECT DRAINTILE TO EXISTING STORM SEWER	EA	4	2.0	\$ 255.00	\$ 510.00
17	ADJUST CATCH BASIN CASTING & INSTALL CONCRETE WINGS	EA	2	2.0	\$ 153.00	\$ 306.00
18	4" PERFORATED PVC EDGE DRAIN W/BACKFILL & WRAP	LF	380	422.0	\$ 10.20	\$ 4,304.40
19	SODDING	SY	753	648.0	\$ 2.55	\$ 1,652.40
<b>SUBTOTAL 67TH STREET NORTH</b>						<b>\$ 38,499.34</b>
<b>CHANGE ORDER NO. 1</b>						
1	CL. 5 AGGREGATE BASE	TN	587	707.0	\$ 15.00	\$ 10,605.00
<b>SUBTOTAL CHANGE ORDER NO. 1</b>						<b>\$ 10,605.00</b>
<b>TOTAL ESTIMATE NO. 2</b>						<b>\$ 396,509.38</b>



# MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
**CONSENT**  
ITEM #: 2A- Supplemental  
**MOTION** *as part of Consent Agenda*

**AGENDA ITEM:** Approve Disbursements and Payroll in the Amount of \$ 61,538.07

**SUBMITTED BY:** Tom Bouthilet, Finance Director

**THROUGH:** Bruce Messelt, City Administrator *BAM*

**REVIEWED BY:** City Staff

**SUMMARY AND ACTION REQUESTED:** As part of its Consent Agenda, the City Council is asked to approve disbursements and payroll in the amount of \$ 61,538.07. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and payroll to be paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 6,880.01	Payroll Taxes to IRS 10/07/2010
ACH	\$ 1,151.79	Payroll Taxes to MN Dept. of Revenue 10/07/2010
ACH	\$ 3,708.51	Payroll Retirement to PERA 10/07/2010
DD 3000 -DD 3014	\$ 21,114.23	Payroll Dated 10/07/2010 (Direct Deposit)
36180 - 36182	\$ 14,158.58	Payroll Dated 10/07/2010 (Payroll)
36183 - 36192	\$ 12,369.06	Accounts Payable Dated 10/05/2010
36193 - 36203	\$ 0.00	Void Checks
36204 - 36208	\$ 2,155.80	Accounts Payable Dated 10/05/2010
<b>TOTAL</b>	<b>\$ 61,538.07</b>	

**STAFF REPORT:** City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction

**RECOMMENDATION:** It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$ 61,538.07.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the October 5th, 2010 Disbursement and Payroll, as Presented [*and modified*] herein.”**

**ATTACHMENTS:**

1. Accounts Payable Dated 10/05/2010

**SUGGESTED ORDER OF BUSINESS (*if removed from the Consent Agenda*):**

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

# Accounts Payable To Be Paid Proof List

User: joan z

Printed: 10/04/2010 - 1:16 PM

Batch: 002-10-2010

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
ACTION Action Rental, Inc.										
199	09/30/2010	998.21	0.00	10/05/2010	Tent, Tables & Chair Rental - Fall Fest	-	-	No		0000
204-450-5200-44300	Miscellaneous									
	199 Total:	998.21								
	ACTION Total:	998.21								
ALLIED Allied Electrical Cont., Inc.										
1067	09/21/2010	895.00	0.00	10/05/2010	Repair Building and flag lights St #2	-	-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	1067 Total:	895.00								
	ALLIED Total:	895.00								
ASPENMI Aspen Mills, Inc.										
100272	09/09/2010	112.40	0.00	10/05/2010	Uniforms Robin Goodspeed	-	-	No		0000
101-420-2220-44170	Uniforms									
	100272 Total:	112.40								
100529	09/09/2010	109.95	0.00	10/05/2010	Bunker Boots Dick Sachs	-	-	No		0000
101-420-2220-42400	Small Tools & Equipment									
	100529 Total:	109.95								
CM2196	09/09/2010	-109.95	0.00	10/05/2010	Bunker Boots	-	-	No		0000
101-420-2220-42400	Small Tools & Equipment									
	CM2196 Total:	-109.95								
	ASPENMI Total:	112.40								
C&J CONS C & J Consulting Services, LLP										
09-2010	10/04/2010	3,537.50	0.00	10/05/2010	Monthly Accounting Services - Sept 2010	-	-	No		0000
101-410-1520-43150	Contract Services									
	09-2010 Total:	3,537.50								
	C&J CONS Total:	3,537.50								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PLine #
CENCOLLE Century College										
386376	10/07/2010	2,700.00	0.00	10/05/2010	6 Fire Ground control, 3 Public Safety	-	-	No		0000
101-420-2220-44370	Conferences & Training	2,700.00								
	386376 Total:	2,700.00								
	CENCOLLE Total:	2,700.00								
COLEMER Colemer Jamie										
Chk Req	09/12/2010	42.96	0.00	10/05/2010	Uniforms	-	-	No		0000
101-430-3100-44170	Uniforms	42.96								
	Chk Req Total:	42.96								
	COLEMER Total:	42.96								
COMPENSA Compensation Consultants, Ltd										
09/27/2010	09/27/2010	40.00	0.00	10/05/2010	Monthly Admin Fee - October 2010	-	-	No		0000
101-410-1320-44300	Miscellaneous	40.00								
	09/27/2010 Total:	40.00								
	COMPENSA Total:	40.00								
EMERGAPP Emergency Apparatus Maint. INC										
49537.49540	07/08/2010	582.78	0.00	10/05/2010	Repairs to U2/3187	-	-	No		0000
101-420-2220-44040	Repairs/Maint.Eqpt	582.78								
49537.49540	07/08/2010	350.21	0.00	10/05/2010	Repairs to E2/3183	-	-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt	350.21								
	49537.49540 Total:	932.99								
	EMERGAPP Total:	932.99								
EMMONS A Emmons Alex										
09/07/2010	09/07/2010	55.00	0.00	10/05/2010	Cabled City Council Meeting 9/7/10	-	-	No		0000
101-410-1450-43620	Cable Operations	55.00								
	09/07/2010 Total:	55.00								
09/21/2010	09/21/2010	55.00	0.00	10/05/2010	Council Meeting 9/21/2010	-	-	No		0000
101-410-1450-43620	Cable Operations	55.00								
	09/21/2010 Total:	55.00								
	EMMONS A Total:	110.00								
MAINSTRE Main Street Homes & Remodeling										
Chk Req	10/01/2010	3,000.00	0.00	10/05/2010	Escrow Return 9997 Tapestry Grove N	-	-	No		0000
803-000-0000-22900	Deposits Payable	3,000.00								
	Chk Req Total:	3,000.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MAINSTRE Total:		3,000.00								
PRESS Press Steven	09/27/2010	58.88	0.00	10/05/2010	PZ Meeting - Cabled		-		No	0000
101-410-1450-43620	Cable Operations	58.88								
	09/27/2010 Total:	58.88								
	PRESS Total:	58.88								
ROGERS Rogers Printing Services, Corp	09/23/2010	424.00	0.00	10/05/2010	Envelopes		-		No	0000
101-410-1320-42030	Printed Forms	1,373.64	0.00	10/05/2010	Newsletter		-		No	0000
17366	09/23/2010	1,797.64								
101-410-1450-43090	Newsletter	39.54	0.00	10/05/2010	Business Cards - Admin Messelt		-		No	0000
17380	09/27/2010	39.54								
101-410-1320-42030	Printed Forms	1,837.18								
17380	09/27/2010	1,837.18								
	ROGERS Total:	1,837.18								
S&T S&T Office Products, Inc.	09/17/2010	105.65	0.00	10/05/2010	Supplies/Fall Fest/Elections/office		-		No	0000
010E9335	09/17/2010	105.65								
101-410-1320-42000	Office Supplies	105.65								
	010E9335 Total:	105.65								
	S&T Total:	105.65								
SCHWAAB Schwab, Inc.	09/07/2010	57.29	0.00	10/05/2010	Office Supplies - Stampers		-		No	0000
A40617	09/07/2010	57.29								
101-410-1320-42000	Office Supplies	57.29								
	A40617 Total:	57.29								
	SCHWAAB Total:	57.29								
WITTER Witter Nick	10/01/2010	96.89	0.00	10/05/2010	Payroll Reimbursement - Check		-		No	0000
101-420-2220-41030	Part-time Salaries	96.89								
	10/01/2010 Total:	96.89								
	WITTER Total:	96.89								
	Report Total:	14,524.95								





## MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
CONSENT  
ITEM #: 4  
MOTION *as part of the Consent Agenda*

**AGENDA ITEM:** 2010 Crack Seal Project – Consideration of Quotes and Awarding a Contract

**SUBMITTED BY:** Ryan Stempki, Assistant City Engineer

**THROUGH:** Bruce A Messelt, City Administrator *BAM*

**REVIEWED BY:** Tom Bouthilet, Finance Director  
Mike Bouthilet, Public Works Superintendent  
Jack Griffin, City Engineer

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**SUMMARY AND ACTION REQUESTED:** The Council is respectfully requested to accept the quotes and award a contract for the 2010 Crack Seal Project. Please see the attached 2010 Crack Sealing Project map for the streets that will be crack sealed with this project and subsequently seal coated next year; for a combined recommended maintenance construction budget of \$100,000. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** The Public Works and City Engineering staff jointly develops and maintain an annual street maintenance program (see the attached Street Maintenance Program map). A five year program was developed a few years back recommending an average annual budget in the amount of \$125,000 to cover routine crack sealing and seal coat treatments. Each year, Public Works and Engineering staff review the maintenance plan to verify the plan recommendations and priorities for the upcoming year.

Last year, the crack seal and seal coat treatments for each street segment were applied in separate construction seasons to improve the overall results. Best pavement management practices have been established that require the crack sealing to be placed one construction season in advance of the seal coat treatment. This allows the crack sealing to fully adhere to the pavement surfaces prior to the sealcoat cover. This practice also allows the Public Works staff to perform minor patching and leveling to streets prior to seal coating.

**STAFF/FINANCE REPORT:** The draft 2011 budget, approved by the City Council on September 7, 2010, has recommended a \$100,000 street maintenance budget for due to the

economic conditions and the need to reduce costs. Therefore a few street segments, originally planned for maintenance in 2011, have been removed from the recommended project based upon staff review. The streets that have been deferred include 15<sup>th</sup> Street from Inwood Avenue to West City Limits, 9<sup>th</sup> Street North, Jasmine Avenue Place North, and Julep Court North.

Quotes were received on September 29, 2010. Four competitive quotes were received. The lowest responsible quote was submitted by Gopher State Sealcoat, Inc. for the total amount of \$12,420.00. This equates to \$1.38 per pound of crack sealant material which is a competitive price based on similar projects. Funds for the 2010 Crack Seal Project, and subsequently for the 2011 Seal Coat project would be paid from the Infrastructure Fund.

**RECOMMENDATION:** Based upon the above information, it is recommended that the City Council accept the quotes and award the contract for the 2010 Crack Seal Project in the amount of \$12,420.00 as part of tonight's *Consent Agenda*

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss and deliberation prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

**“Move to Award a Contract for the 2010 Crack Seal Project to Gopher State Sealcoat, Inc. in the amount of \$12,420 [as amended and/or modified at tonight's meeting].”**

**ATTACHMENTS: (3)**

1. Engineer's Letter of Recommendation for Award of Contract
2. 2010 Crack Sealing Project Map
3. Street Maintenance Program Map

**SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):**

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

# TKDA

ENGINEERS • ARCHITECTS • PLANNERS

444 Cedar Street, Suite 1500  
Saint Paul, MN 55101-2140

(651) 292-4400  
(651) 292-0083 Fax  
www.tkda.com

September 30, 2010

Honorable Mayor and City Council  
City of Lake Elmo, Minnesota 55042

Re: 2010 Crack Seal Project  
City of Lake Elmo, Minnesota  
TKDA Project No. 14575.001

Dear Mayor and City Council:

Quotes for the above referenced project were received on September 29, 2010 at 4:00pm via fax, with the following results. A complete Tabulation of Quotes is enclosed for your information.

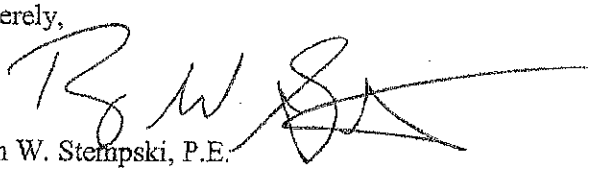
<u>Contractor</u>	<u>Quote Amount</u>
Gopher State Sealcoat, Inc.	\$12,420
Asphalt Associates Inc.	\$12,510
Fahrner Asphalt Sealers, Inc.	\$15,660
Allied Blacktop Company	\$16,110
Engineers Estimate	\$13,500

### ***Recommendation***

We recommend a Contract be awarded to the lowest responsible quoter Gopher State Sealcoat, Inc., in the amount of \$12,420.

Please do not hesitate to call me with any questions or comments you may have.

Sincerely,

  
Ryan W. Sternpski, P.E.  
Assistant City Engineer

DMK:  
Enclosure

Cc: Bruce Messelt, City Administrator  
Jack Griffin, City Engineer

**TABULATION OF BIDS**

2010 CRACK SEAL PROJECT  
 CITY OF LAKE ELMO, MINNESOTA  
 TKDA PROJECT NO. 14575.001



QUOTES RECEIVED: SEPTEMBER 29, 2010 by 4:00 P.M.

\*DENOTES ERROR IN BIDDERS CALCULATION

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	ENGINEER'S ESTIMATE UNIT PRICE	ENGINEER'S ESTIMATE TOTAL AMOUNT	GOPHER STATE SEALCOAT UNIT PRICE	GOPHER STATE SEALCOAT TOTAL AMOUNT	ASPHALT ASSOCIATES UNIT PRICE	ASPHALT ASSOCIATES TOTAL AMOUNT
1	ROUTE AND SEAL CRACKS	9,000	LBS	\$ 1.50	\$ 13,500.00	\$ 1.38	\$ 12,420.00	\$ 1.39	\$ 12,510.00
<b>TOTAL BID AMOUNT</b>					\$ 13,500.00		\$ 12,420.00		\$ 12,510.00

**TABULATION OF BIDS**

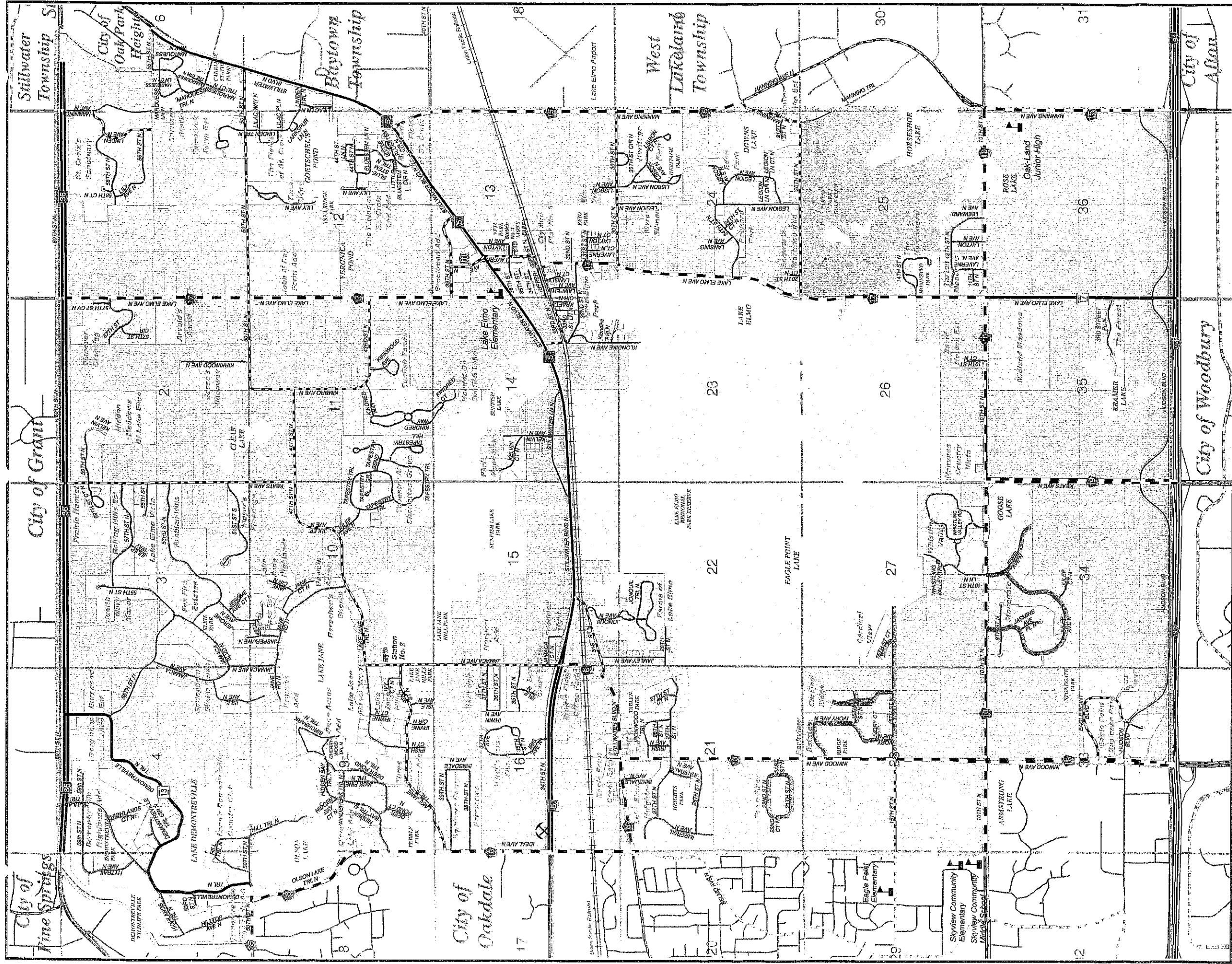
2010 CRACK SEAL PROJECT  
 CITY OF LAKE ELMO, MINNESOTA  
 TKDA PROJECT NO. 14575.001



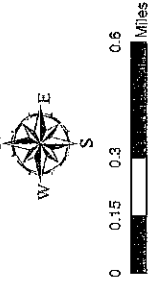
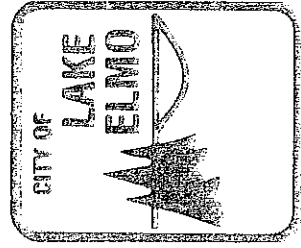
QUOTES RECEIVED: SEPTEMBER 29, 2010 by 4:00 P.M.

\*DENOTES ERROR IN BIDDERS CALCULATION

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	Fahrner Asphalt Sealers Unit Price	Fahrner Asphalt Sealers Total Amount	Allied Blacktop Unit Price	Allied Blacktop Total Amount
1	ROUTE AND SEAL CRACKS	9,000	LBS	\$ 1.74	\$ 15,660.00	1.79	\$ 16,110.00
<b>TOTAL BID AMOUNT</b>					<b>\$ 15,660.00</b>		<b>\$ 16,110.00</b>

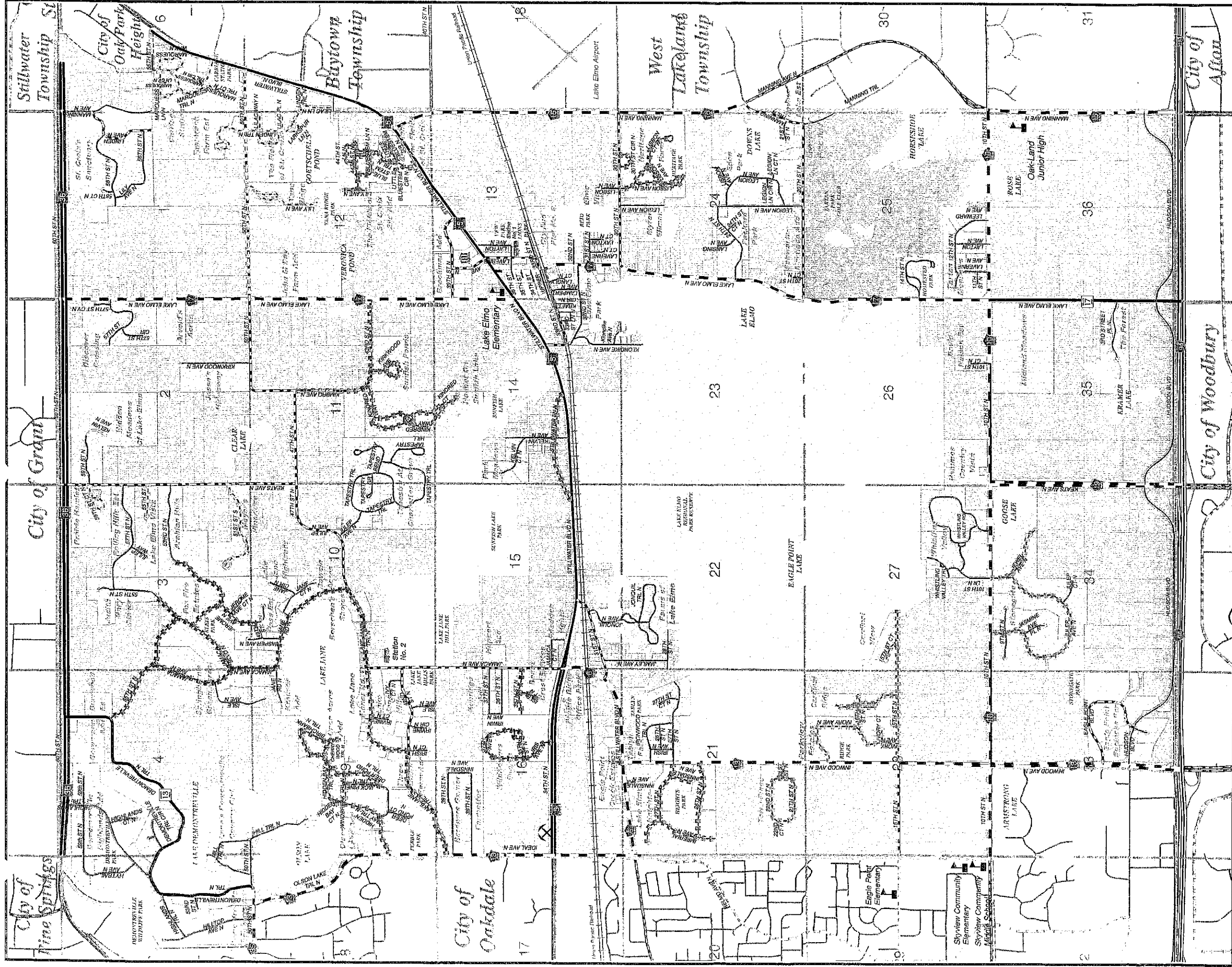


# 2010 CRACK SEALING PROJECT LOCATION MAP

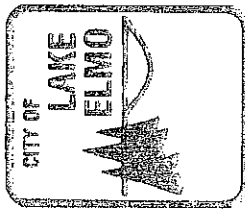


- Legend**
- City Hall  
3940 Lavigne Avenue N  
651/777-5510  
www.lakeelmo.org
  - Public Works Building  
3445 Uebel Ave N  
651/723-5414
  - Fire Stations  
Station No. 1  
1111 1st Ave N  
651/776-5695  
Station No. 2  
6517 1st Ave N  
651/776-5695
  - Schools
  - Parcels
  - Subdivisions
  - City Parks
  - Golf Course
  - Lake Elmo Regional Park Reserve  
Park Office  
651/936-5686
  - Lakes

Map Date: September 2010  
 Created By  
**TKDA**  
 ENGINEERS • ARCHITECTS • PLANNERS



# STREET MAINTENANCE PROGRAM MAP



CRACK SEAL YEAR	SEALCOAT YEAR
██████████ 2009	██████████ 2009
██████████ 2010	██████████ 2010
██████████ 2011	██████████ 2011
██████████ 2012	██████████ 2012
██████████ 2013	██████████ 2013



**City Hall**  
3900 Laverne Avenue N  
651/777-5510  
www.lakeelmo.org

**Public Works Building**  
3445 Ideal Ave N  
651/233-5414

**Fire Stations**  
Station No. 1  
4th Ave N  
651/773-5008

**Schools**  
Station No. 2  
4th Ave N  
651/773-8882

**Parcels**

**Subdivisions**

**City Parks**

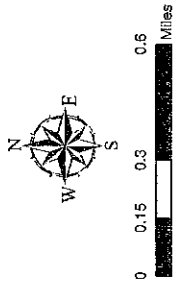
**Golf Course**

**Lake Elmo Regional Park Reserve**

**Map Date: September 2010**

**Created By**

**Lakes**





## MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010

CONSENT

ITEM #: 5a

**MOTION as part of the Consent Agenda**

**AGENDA ITEM:** 2011 Street and Water Quality Improvements– Authorization for Geotechnical Services

**SUBMITTED BY:** Ryan Stempksi, Assistant City Engineer

**THROUGH:** Bruce A. Messelt, City Administrator *BAW*

**REVIEWED BY:** Jack Griffin, City Engineer  
Tom Bouthilet, Finance Director

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**SUMMARY AND ACTION REQUESTED:** In order to provide a complete Engineering Recommendation for the 2011 Street and Water Quality Improvements Feasibility Report, including the most feasible course of action, a geotechnical evaluation (soil borings) must be obtained to determine the subsurface condition of the roadway. To undertake this, the recommended motion to act on this is as follows:

***“Move to Authorize American Engineering Testing, Inc. to Perform Geotechnical Services for the 2011 Street and Water Quality Improvements in the Amount of \$5,600.”***

**BACKGROUND INFORMATION:** Conduct of the 2011 Street and Water Quality Improvements Feasibility Report was authorized at the September 21, 2010 City Council meeting. Tonight’s action is part of the undertaking of this Report. Of note: Pursuant to the City Council direction from September 21st, proceeding beyond completion of this report is dependent upon City Council consideration and direction regarding an upcoming report from the Assessment Subcommittee. The next meeting of the Subcommittee is scheduled for October 5th; with a verbal update scheduled to be provided at tonight’s City Council meeting.

**STAFF REPORT:** Geotechnical services are necessary at this time to obtain the existing in place subsurface conditions within the project limits so that a preliminary project scoping study can be completed. The scoping study is necessary to evaluate if a *lower cost* reclaim improvement is feasible or if a *more expensive* full reconstruction of the street base is required.



To obtain the necessary subsurface investigation, 9 flight auger test borings to a depth of 4 ½ feet and 6 standard penetration test borings to a depth of 11 feet are proposed. The standard penetration tests are needed to assist in the evaluation of the soil infiltration rates for potential stormwater quality improvements. The scope of services is further detailed in the attached Proposal provided by AET, Inc., in an amount not to exceed \$5,600. The geotechnical services will be funded out of the Infrastructure Reserve Fund.

**RECOMMENDATION:** Based upon the above information, it is recommended that the City Council approve, as part of tonight's *Consent Agenda*, Authorization for Geotechnical Services for the 2011 Street and Water Quality Improvements.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss, deliberate and amend the recommended action, if appropriate prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

***“Move to Authorize American Engineering Testing, Inc. to Perform Geotechnical Services for the 2011 Street and Water Quality Improvements in the Amount of \$5,600, [as discussed and amended at tonight’s meeting].”***

**ATTACHMENTS:**

1. American Engineering Testing, Inc. Proposal for Geotechnical Services

**SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):**

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates



CONSULTANTS  
• ENVIRONMENTAL  
• GEOTECHNICAL  
• MATERIALS  
• FORENSICS

September 24, 2010

City of Lake Elmo  
Department of Public Works  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

Attn: Ryan W. Stempski, PE

RE: Proposal for Geotechnical Services  
2011 Street and Water Quality Improvements, Lake Elmo, Minnesota

Dear Mr. Stempski:

Per your September 24 e-mail request and our follow-up discussion, we are submitting this proposal to conduct the following scope:

**Scope:**

***Fieldwork***

- Drill and sample 9 flight auger test borings to depths of 4½ feet on the existing streets.
- Drill and sample 6 standard penetration test borings to depths of 11 feet on the existing streets. These deeper borings are intended to assist evaluation of infiltration potential in addition to street evaluation.
- Clear underground public utilities through the Gopher State One Call system.
- Measure in-place bituminous and apparent aggregate base thicknesses.
- Measure and document the boring locations. No measuring of the surface elevations is planned.

***Laboratory***

- Classify the soils per the Unified Soil Classification System (USCS).
- Conduct water content tests on cohesive samples retrieved.
- Conduct unit price soil index testing (\$352 unit price budget, allowing for 4 sieve analysis tests).

***Report***

- Logs of the test borings, including pavement thicknesses and lab test results.
- Descriptions of the drilling, sampling, testing, and classification methods.
- Review of soil and groundwater conditions encountered.
- Estimates of soil infiltration values based on USCS soil types.
- Geotechnical opinions/recommendations pertaining to the planned street improvements including estimate of subgrade R-value.



City of Lake Elmo  
September 24, 2010  
Page 2 of 2

The scope of work defined in this proposal is intended for geotechnical purposes only, and not to explore for the presence or extent of environmental contamination at the site. However, we will note obvious contamination encountered.

**Fee:**

Our services will be performed on a time-and-materials basis per the attached fee schedule. For the scope described, we will establish \$5600 as a not-to-exceed fee. In the event the scope of our work needs to be revised, we will review such scope adjustments and the associated fees with you, and receive your approval before proceeding.

**Schedule:**

Based on our current backlog, we anticipate drilling can be performed within about 1 to 1½ weeks after receiving authorization to proceed. The borings should take two days to complete in the field. Verbal results can be provided shortly after drilling. The report should follow the fieldwork by about two weeks.

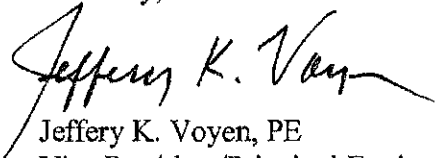
**Terms/Conditions:**

Our services will be performed per the *Contract Agreement Between the City of Lake Elmo and American Engineering Testing, Inc. for Professional Services*, dated July 20, 2010.

**Acceptance:**

Please indicate your acceptance of this proposal by endorsing the enclosed copy and returning it to us. The original proposal is intended for your records.

Sincerely,



Jeffery K. Voyer, PE  
Vice President/Principal Engineer  
Phone #651-659-1305  
Cell #612-961-9186  
jvoyer@amengtest.com

**PROPOSAL ACCEPTANCE BY:**

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

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

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

**Attachments:**

2010 Geotechnical Fee Schedule

**2010 GEOTECHNICAL FEE SCHEDULE**

<b>I. Personnel Hourly Rates</b>		7. Stabilized Earth Slopes & Walls	15.00/hr
A.	Word Processing Specialist	56.00/hr	
B.	Drill Technician/Lab Technician	82.00/hr	
C.	Senior Engineering Technician	87.00/hr	
D.	Engineering Assistant	98.00/hr	
E.	Engineer I/Geologist I	105.00/hr	
F.	Engineer II/Geologist II/Sr. Engr. Assistant	120.00/hr	
G.	Senior Engineer/Geologist	133.00/hr	
H.	Principal Engineer/Geologist	160.00/hr	
<b>II. Vehicle Mileage</b>		8. Settlement (FoSSA)	15.00/hr
A.	Personal Automobile/Truck	0.70/mile	
B.	Auxiliary Truck Vehicle	0.90/mile	
C.	Truck with Coring Equipment	1.00/mile	
D.	Truck with Warning Sign/Crash Trailer	1.10/mile	
E.	1-ton Truck with Drill Rig	1.10/mile	
F.	1-1/2 to 2-1/2-ton Truck with Drill Rig	1.25/mile	
G.	CPT Truck Rig (20-ton push capacity)	1.50/mile	
H.	Tractor/Lowboy Trailer	1.70/mile	
<b>III. Equipment Rental</b>		9. SHAFT	15.00/hr
A.	Drill Rig Rental	F. Bit Wear- Rock Coring	
1.	Rotary Drill on 1-ton Truck	1. Diamond Bit - Sedimentary Rock	
2.	Rotary Drill on 1½ to 2½-ton Truck	a) B, NQ	10.00/foot
3.	Rotary Drill on All-Terrain Vehicle	b) HQ	12.00/foot
4.	Portable, Non-rotary Rig	2. Diamond Bit - Metamorphic & Igneous	
B.	Auxiliary/Specialty Vehicle Rental	a) B, NQ	17.00/foot
1.	Auxiliary Truck Vehicle	b) HQ	20.00/foot
2.	Truck with Warning Sign/Crash Trailer		
3.	Truck with Coring Equipment		
C.	Cone (CPT) Rig/Equipment Rental	<b>IV. Laboratory Tests of Soil</b>	
1.	CPT Rig (Truck or ATV)	A. Water Content	hourly
2.	Electronic Cone w/Computer	B. Dry Density (includes water content)	50.00/test
3.	Soil Sampler	C. Atterberg Limits (ASTM:D4318)	
4.	Water Sampler	1. Plasticity Index	100.00/test
D.	Miscellaneous Equipment Rental	2. Liquid Limit or Plastic Limit Separately	75.00/test
1.	Field Vane Shear	D. Shrinkage Limit (ASTM:D427)	95.00/test
2.	Field Electrical Resistivity	E. Sieve Analysis (includes -#200)	88.00/test
3.	Field Seismic Refraction (ReMi)	F. Hydrometer Analysis (sieve included)	235.00/test
4.	Inclinometer Reading Equipment	G. Thermal Resistivity w/Proctor (ASTM:D5334)	
5.	Pneumatic Transducer Reading	1. As Received and Oven Dried (2 pts)	910.00/test
6.	Bore Hole Permeability	2. Dry Out Curve (4 pts)	1130.00/test
a.	Open End Casing Method	H. Electrical Resistivity (ASTM:G57-Soil Box)	85.00/test
b.	HQ Wireline Packer	I. Unconfined Compression (ASTM:D2166)	76.00/test
7.	Borehole Pressuremeter	J. Hand Penetrometer	10.00/test
8.	Iowa Borehole Shear Tester	K. Organic Content of Soil	55.00/test
9.	Double Ring Infiltrometer	L. Topsoil Borrow Test (Mn/DOT 3877)	340.00/test
10.	Photoionization Detector (PID)	M. R-value (Hveem Stabilometer)	360.00/test
11.	GPS Mapping System	N. California Bearing Ratio	
12.	Pile Driving Analyzer (PDA)	1. Granular	560.00/test
13.	Calibrated SPT Rod	2. Cohesive	630.00/test
14.	Portable Concrete Coring Equipment	O. Proctor Tests (Methods A or B)	
15.	Pavement Testing (FWD includes Truck)	1. Standard	115.00/test
a.	Falling Weight Deflectometer	2. Modified	130.00/test
b.	Light Weight Deflectometer		
E.	Geotechnical Software Rental	<b>V. Expenses</b>	
1.	Geo Studio Finite Element	A. Direct Project Expenses: includes out-of-town per diem; plowing & towing; special materials & supplies; special travel, transportation & freight; subcontracted services, and miscellaneous costs	Cost + 15%
2.	CAPWAP	B. Equipment Replacement (when abandonment is more feasible than recovery)	Cost
3.	AutoCAD	C. Equipment Recovery (when required by regulatory agencies or project specifications)	Cost + 15%
4.	Wave Equation (WEAP)		
5.	LPILE or GROUP	<b>VI. Expert Witness Service Rates</b>	
6.	Slope Stability (ReSSA)	A. Litigation Preparation	210.00/hr
		B. Deposition or Court Time (4-hour minimum)	265.00/hr

The rates presented are portal-to-portal with vehicle mileage, expenses and equipment rentals being additional.

Overtime for personnel charged at above cost plus 25% for over 8 hours per day or Saturday; and at above cost plus 50% for Sundays or Holidays. Hazardous work charged at an additional 25%. Night time shift work will include a premium charge of \$30.00 per person per shift.



## MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
CONSENT  
ITEM #: 5b  
MOTION *as part of the Consent Agenda*

**AGENDA ITEM:** 2011 Municipal State Aid Improvements– Authorization for Geotechnical Services

**SUBMITTED BY:** Ryan Stempski, Assistant City Engineer

**THROUGH:** Bruce A. Messelt, City Administrator *BAW*

**REVIEWED BY:** Jack Griffin, City Engineer  
Tom Bouthilet, Finance Director

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**SUMMARY AND ACTION REQUESTED:** In order to provide a complete Engineering Recommendation for the 2011 Street and Water Quality Improvements Feasibility Report, including the most feasible course of action, a geotechnical evaluation (soil borings) must be obtained to determine the subsurface condition of the roadway. To undertake this, the recommended motion to act on this is as follows:

*“Move to Authorize American Engineering Testing, Inc. to Perform Geotechnical Services for the 2011 Municipal State Aid Improvements in the Amount of \$4,500.”*

**BACKGROUND INFORMATION:** Conduct of the 2011 Municipal State Aid Improvements Feasibility Report was authorized at the September 21, 2010 City Council Meeting. Tonight’s action is part of the undertaking of this Report. Of note: Pursuant to the City Council direction from September 21st, proceeding beyond completion of this report is dependent upon City Council consideration and direction regarding an upcoming report from the Assessment Subcommittee. The next meeting of the Subcommittee is scheduled for October 5th; with a verbal update scheduled to be provided at tonight’s City Council meeting.

**STAFF REPORT:** Geotechnical services are necessary at this time to obtain the existing in place subsurface conditions within the project limits so that a preliminary project scoping study can be completed. The scoping study is necessary to evaluate if a *lower cost* technology is feasible or if a *more expensive* full reconstruction of the street base is required.

To obtain the necessary subsurface investigation, 6 flight auger test borings to a depth of 4 ½ feet and 4 standard penetration test, 3 of the borings will be to a depth of 11 feet and 1 boring will be to a depth of 16 feet, are proposed. The standard penetration tests are needed to assist in the evaluation of the soil infiltration rates for potential stormwater quality improvements. The scope of services is further detailed in the attached Proposal provided by AET, Inc. in an amount not to exceed \$4,500. The geotechnical services will be funded out of the State Aid Fund.

**RECOMMENDATION:** Based upon the above information, it is recommended that the City Council approve as part of tonight's *Consent Agenda* Authorization for Geotechnical Services for the 2011 Street and Water Quality Improvements.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss, deliberate and amend the recommended action, if appropriate prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

***“Move to Authorize American Engineering Testing, Inc. to Perform Geotechnical Services for the 2011 Municipal State Aid Improvements in the Amount of \$4,500, [as discussed and amended at tonight’s meeting].”***

**ATTACHMENTS:**

1. American Engineering Testing, Inc. Proposal for Geotechnical Services

**SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):**

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates



CONSULTANTS  
• ENVIRONMENTAL  
• GEOTECHNICAL  
• MATERIALS  
• FORENSICS

September 24, 2010

City of Lake Elmo  
Department of Public Works  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

Attn: Ryan W. Stempski, PE

RE: Proposal for Geotechnical Services  
2011 Municipal State Aid Improvements, Lake Elmo, Minnesota

Dear Mr. Stempski:

Per your September 24 e-mail request and our follow-up discussion, we are submitting this proposal to conduct the following scope:

**Scope:**

***Fieldwork***

- Drill and sample 6 flight auger test borings to depths of 4½ feet on the existing streets.
- Drill and sample 4 standard penetration test borings on the existing streets. Boring 9 (on raised roadway through low area) will extend 16 feet deep. The 3 remaining borings will extend 11 feet deep.
- Clear underground public utilities through the Gopher State One Call system.
- Measure apparent aggregate base thicknesses.
- Measure and document the boring locations. No measuring of the surface elevations is planned.

***Laboratory***

- Classify the soils per the Unified Soil Classification System (USCS).
- Conduct water content tests on cohesive samples retrieved.
- Conduct unit price soil index testing (\$264 unit price budget, allowing for 3 sieve analysis tests).

***Report***

- Logs of the test borings, including aggregate base thicknesses and lab test results.
- Descriptions of the drilling, sampling, testing, and classification methods.
- Review of soil and groundwater conditions encountered.
- Geotechnical opinions/recommendations pertaining to the planned street improvements including estimate of subgrade R-value.



The scope of work defined in this proposal is intended for geotechnical purposes only, and not to explore for the presence or extent of environmental contamination at the site. However, we will note obvious contamination encountered.

**Fee:**

Our services will be performed on a time-and-materials basis per the attached fee schedule. For the scope described, we will establish \$4500 as a not-to-exceed fee. In the event the scope of our work needs to be revised, we will review such scope adjustments and the associated fees with you, and receive your approval before proceeding.

**Schedule:**

Based on our current backlog, we anticipate drilling can be performed within about 1 to 1½ weeks after receiving authorization to proceed. The borings should take two days to complete in the field. Verbal results can be provided shortly after drilling. The report should follow the fieldwork by about two weeks.

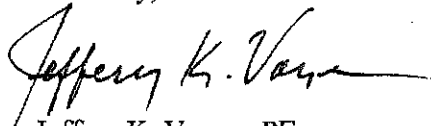
**Terms/Conditions:**

Our services will be performed per the *Contract Agreement Between the City of Lake Elmo and American Engineering Testing, Inc. for Professional Services*, dated July 20, 2010.

**Acceptance:**

Please indicate your acceptance of this proposal by endorsing the enclosed copy and returning it to us. The original proposal is intended for your records.

Sincerely,



Jeffery K. Voyer, PE  
Vice President/Principal Engineer  
Phone #651-659-1305  
Cell #612-961-9186  
jvoyer@amengtest.com

**PROPOSAL ACCEPTANCE BY:**

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

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

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

**Attachments:**

2010 Geotechnical Fee Schedule



**2010 GEOTECHNICAL FEE SCHEDULE**

<b>I. Personnel Hourly Rates</b>		7. Stabilized Earth Slopes & Walls	15.00/hr
A.	Word Processing Specialist	56.00/hr	
B.	Drill Technician/Lab Technician	82.00/hr	
C.	Senior Engineering Technician	87.00/hr	
D.	Engineering Assistant	98.00/hr	
E.	Engineer I/Geologist I	105.00/hr	
F.	Engineer II/Geologist II/Sr. Engr. Assistant	120.00/hr	
G.	Senior Engineer/Geologist	133.00/hr	
H.	Principal Engineer/Geologist	160.00/hr	
<b>II. Vehicle Mileage</b>		8. Settlement (FoSSA)	15.00/hr
A.	Personal Automobile/Truck	0.70/mile	
B.	Auxiliary Truck Vehicle	0.90/mile	
C.	Truck with Coring Equipment	1.00/mile	
D.	Truck with Warning Sign/Crash Trailer	1.10/mile	
E.	1-ton Truck with Drill Rig	1.10/mile	
F.	1-1/2 to 2-1/2-ton Truck with Drill Rig	1.25/mile	
G.	CPT Truck Rig (20-ton push capacity)	1.50/mile	
H.	Tractor/Lowboy Trailer	1.70/mile	
<b>III. Equipment Rental</b>		9. SHAFT	15.00/hr
A.	Drill Rig Rental		
1.	Rotary Drill on 1-ton Truck	62.00/hr	
2.	Rotary Drill on 1½ to 2½-ton Truck	72.00/hr	
3.	Rotary Drill on All-Terrain Vehicle	102.00/hr	
4.	Portable, Non-rotary Rig	72.00/hr	
B.	Auxiliary/Specialty Vehicle Rental		
1.	Auxiliary Truck Vehicle	15.50/hr	
2.	Truck with Warning Sign/Crash Trailer	25.00/hr	
3.	Truck with Coring Equipment	40.00/hr	
C.	Cone (CPT) Rig/Equipment Rental		
1.	CPT Rig (Truck or ATV)	128.00/hr	
2.	Electronic Cone w/Computer	37.00/hr	
3.	Soil Sampler	3.00/hr	
4.	Water Sampler	20.00/hr	
D.	Miscellaneous Equipment Rental		
1.	Field Vane Shear	300.00/day	
2.	Field Electrical Resistivity	210.00/day	
3.	Field Seismic Refraction (ReMi)	370.00/day	
4.	Inclinometer Reading Equipment	300.00/day	
5.	Pneumatic Transducer Reading	150.00/day	
6.	Bore Hole Permeability		
a.	Open End Casing Method	120.00/day	
b.	HQ Wireline Packer	300.00/day	
7.	Borehole Pressuremeter	55.00/hr	
8.	Iowa Borehole Shear Tester	310.00/day	
9.	Double Ring Infiltrometer	235.00/day	
10.	Photoionization Detector (PID)	110.00/day	
11.	GPS Mapping System	13.00/hr	
12.	Pile Driving Analyzer (PDA)	680.00/day	
13.	Calibrated SPT Rod	175.00/day	
14.	Portable Concrete Coring Equipment	35.00/hr	
15.	Pavement Testing (FWD includes Truck)		
a.	Falling Weight Deflectometer	150.00/hr	
b.	Light Weight Deflectometer	50.00/hr	
E.	Geotechnical Software Rental		
1.	Geo Studio Finite Element	55.00/hr	
2.	CAPWAP	30.00/hr	
3.	AutoCAD	25.00/hr	
4.	Wave Equation (WEAP)	15.00/hr	
5.	LPILE or GROUP	15.00/hr	
6.	Slope Stability (ReSSA)	15.00/hr	
		F. Bit Wear- Rock Coring	
		1. Diamond Bit - Sedimentary Rock	
		a) B, NQ	10.00/foot
		b) HQ	12.00/foot
		2. Diamond Bit - Metamorphic & Igneous	
		a) B, NQ	17.00/foot
		b) HQ	20.00/foot
		IV. Laboratory Tests of Soil	
		A. Water Content	hourly
		B. Dry Density (includes water content)	50.00/test
		C. Atterberg Limits (ASTM:D4318)	
		1. Plasticity Index	100.00/test
		2. Liquid Limit or Plastic Limit Separately	75.00/test
		D. Shrinkage Limit (ASTM:D427)	95.00/test
		E. Sieve Analysis (includes #200)	88.00/test
		F. Hydrometer Analysis (sieve included)	235.00/test
		G. Thermal Resistivity w/Proctor (ASTM:D5334)	
		1. As Received and Oven Dried (2 pts)	910.00/test
		2. Dry Out Curve (4 pts)	1130.00/test
		H. Electrical Resistivity (ASTM:G57-Soil Box)	85.00/test
		I. Unconfined Compression (ASTM:D2166)	76.00/test
		J. Hand Penetrometer	10.00/test
		K. Organic Content of Soil	55.00/test
		L. Topsoil Borrow Test (Mn/DOT 3877)	340.00/test
		M. R-value (Hveem Stabilometer)	360.00/test
		N. California Bearing Ratio	
		1. Granular	560.00/test
		2. Cohesive	630.00/test
		O. Proctor Tests (Methods A or B)	
		1. Standard	115.00/test
		2. Modified	130.00/test
		V. Expenses	
		A. Direct Project Expenses: includes out-of-town per diem; plowing & towing; special materials & supplies; special travel, transportation & freight; subcontracted services, and miscellaneous costs	Cost + 15%
		B. Equipment Replacement (when abandonment is more feasible than recovery)	Cost
		C. Equipment Recovery (when required by regulatory agencies or project specifications)	Cost + 15%
		VI. Expert Witness Service Rates	
		A. Litigation Preparation	210.00/hr
		B. Deposition or Court Time (4-hour minimum)	265.00/hr

The rates presented are portal-to-portal with vehicle mileage, expenses and equipment rentals being additional.

Overtime for personnel charged at above cost plus 25% for over 8 hours per day or Saturday; and at above cost plus 50% for Sundays or Holidays. Hazardous work charged at an additional 25%. Night time shift work will include a premium charge of \$30.00 per person per shift.



## MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
CONSENT  
ITEM #: 6  
MOTION *As part of Consent Agenda*

**AGENDA ITEM:** 2010-2014 Capital Improvement Program (CIP) Programming Adjustment

**SUBMITTED BY:** Maintenance Advisory Commission  
Mike Bouthilet, Public works Director  
Greg Malmquist, Fire Chief

**THROUGH:** Bruce A. Messelt, City Administrator *BAW*

**REVIEWED BY:** Tom Bouthilet, Finance Director

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**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested a act upon Budget Adjustment 2010-006; a proposed 2010-2014 Capital Improvement Program (CIP) programming adjustment, as recommended by the Maintenance Advisory Commission (MAC), for reprogramming scheduled vehicle replacement, based upon the recent catastrophic failure of Fire Department's Duty Car. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** In December, 2009, the City Council unanimously adopted the 2010 Annual Budget and 2010-2014 Capital Improvement Program (CIP). The approved 5-year CIP (attached), includes a funded and scheduled 2010 vehicle replacement for the Public Works Department for an older Pick-up Truck and scheduled 2011 vehicle replacement for the Fire Department for its aged Duty Car.

Recently, the Duty Car suffered a catastrophic structural failure, with repair costs far exceeding its replacement value. With the Fire Department transitioning to Duty Crews and, therefore, regular, scheduled staffing of both Fire Stations, a second Duty Car is deemed a critical asset. The current primary Duty Car is generally assigned to the Fire Chief but is also made available as a Station Duty Car when the Chief is not on call or on shift.

**STAFF REPORT:** The Preliminary 2011 Annual and CIP Budgets do include funding for the scheduled replacement of the Fire Duty Car. In addition, the Public Works Department's Pick-up Truck, while antiquated, is functioning adequately for the minimal usage it receives (primarily as a back-up vehicle and additional plow vehicle, when needed) and is not deemed a critical asset. The Public Works Director believes replacement of this vehicle can await 2011

and, should additional unexpected 2011 budgetary issues arise, be re-evaluated against other more critical asset maintenance, repair and/or procurement.

**MAC RECOMMENDATION:** The Maintenance Advisory Commission (MAC) unanimously supported the recommendation of City staff to reprogram the replacement of the Fire Duty Car to 2010 and simultaneously reprogram the replacement of the Public Works Pick-up Truck to 2011. The budgetary impact of this recommendation is \$0, as both vehicle replacements were budgeted at \$35,000.

Of note, the MAC also unanimously supported the City Council's current budgetary cap of \$35,000 for replacement of the Fire Duty Car, including *all* necessary modifications, fit-up and equipment installation. This action is consistent with the City Council's and Administrator's discussion during the 2009 budget preparation that \$35,000 would allow for replacement of the current Duty Car with similar used vehicle (of higher quality) and enhancement of public safety services through the fit-up and equipping of this Duty Car with necessary communication, response and recovery equipment.

Preliminary research into available quality used vehicles indicates such a replacement scenario is both doable and prudent, given overall budgetary constraints.

Finally, the MAC also unanimously supported a recommendation by City staff to update the City's vehicle inventory and utilization data, evaluate current vehicle replacement, utilization and assignment policies and procedures, and prepare a report regarding such for MAC consideration and Council review and affirmation.

**RECOMMENDATION:** Based upon the above background information, staff report and recommendation of the MAC, it is recommended that the City Council approve as part of tonight's Consent Agenda the proposed CIP Program Adjustment for Vehicle Replacement.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss, deliberate and, if appropriate, amend the recommended motion prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the proposed CIP Program Adjustment for Vehicle Replacement, as Recommended by the MAC and presented [*and modified/amended*] at tonight's meeting.”**

**ATTACHMENTS:**

1. 2010-2014 CIP Budget
2. Budget Adjustment 2010-006

**SUGGESTED ORDER OF BUSINESS** *(if removed from the Consent Agenda):*

- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

City of Lake Elmo  
Capital Improvement Plan  
2010 to 2014

Fund/Category	Project	Detail or Street From/To	Estimated Cost					
			2010	2011	2012	2013	2014	Future
<b>Park Dedication (404)</b>								
Parks	Sunfish Lake Park	Information Kiosk	\$2,000					
Parks	Carnegie Station	Pathway	\$2,000					
Parks	Lions Park	Replace Shelter Roof	\$4,000					
Parks	Sunfish Lake Park	Rain Gardens	\$8,500					
Parks	Sunfish Lake Park	Management Plan	\$10,000					
Parks	Sunfish Lake Park	Boulders, Gate, Landscaping	\$12,000					
Parks	Signage	All Parks	\$13,000					
Parks	Pebble Park	Tennis Court Resurfacing	\$20,000					
Parks	DeMontreville Park	Concert Shell	\$20,000					
Parks	Sunfish Lake Park	Prairie establishment	\$45,000					
Parks	Tenue Ridge	Future Amenities	\$5,000					
Parks	DeMontreville Park	Resurfacing Basketball Court	\$5,000					
Parks	Sanctuary	Master Plan	\$5,000					
Parks	Stonegate Park	Parking Lot	\$10,000					
Parks	Sunfish Lake Park	Park Planning	\$20,000					
Parks	Heights Park	Park Development	\$5,000					
Parks	Lake Jane Hills Park	Off Leash Dog Park	\$10,000					
Parks	Sunfish Lake Park	Entrance / Interpretive signage	\$10,000					
Parks	Sunfish Lake Park	Planting / Trails	\$25,000					
Parks	Lions Park	Tennis Court	\$10,000					
Parks	Tabbyn Park	Tennis Court Overlay	\$10,000					
Parks	Sunfish Lake Park	West-side Development	\$2,000					
Parks	VFW Park	Ballfield Improvements	\$1,000					
Parks	Ridge Park	Play Area Chips	\$50,000					
Parks	Sunfish Lake Park	Prairie establishment	\$2,000					
Parks	Sanctuary	Future Amenities	\$1,000					
Parks	Trail Improvements		\$50,000					
<b>Total Park Dedication (404)</b>			\$239,000	\$126,200	\$128,000	\$53,000	\$53,000	\$0
<b>Infrastructure Reserve (409)</b>								
Per 2009 Transportation plan								
Infrastructure	Seacoating (see 2010 detail below)	WEST END TO JAMILEY TO EAST END	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000	\$148,528
Infrastructure	28TH STREET N (Gravel)	56TH ST TO JULIER WAY	\$105,000					
Infrastructure	57TH ST N	EAST SIDE OF FOXHIRE ADDITION TO KEATS AVE N	\$312,000					
Infrastructure	58RD ST N	JAMACA AVE N TO SOUTH END	\$188,000					
Infrastructure	ISLE AVE N	JAMACA AVE N TO WEST END	\$115,000					
Infrastructure	JANE RD N	JAMACA CT TO TH 5	\$244,007					
Infrastructure	KIRKWOOD LANE (Gravel)	50TH STREET TO NORTH END						
Infrastructure	LAVERNE AVE N	11TH ST N TO 12TH ST N						
Infrastructure	LAYTON AVE N	CSAH 10 (10TH ST N) TO 11TH ST N	\$282,254					
Infrastructure	LEERWARD AVE N	CSAH 10 (10TH ST N) TO 12TH ST N	\$36,245					
Infrastructure	11TH ST N	CSAH 10 (10TH ST N) TO 12TH ST N	\$22,947					
Infrastructure	12TH ST N	CSAH 10 (10TH ST N) TO 12TH ST N	\$66,656					
Infrastructure		LAVERNE AVE WEST TO CUL-DE-SAC	\$72,120					
Infrastructure		LAYTON AVE TO LEERWARD AVE	\$26,225					
Infrastructure		LAYTON AVE TO LAVERNE AVE	\$20,762					
Infrastructure		WEST CUL-DE-SAC TO LAVERNE AVE	\$81,193					
Infrastructure		CSAH 10 (10TH ST) TO CUL-DE-SAC	\$28,504					
Infrastructure		47TH ST TO TH 36	\$88,356					
Infrastructure	10TH STREET CT N	TH 36 TO LINDEN AVENUE	\$408,173					
Infrastructure	KEAT'S AVENUE (MSAS)	DEMONTEVILLE TRAIL N TO CUL-DE-SAC	\$84,413					
Infrastructure	MANNING AVENUE	DEMONTEVILLE TRAIL N TO 59TH ST N	\$29,263					
Infrastructure	53RD ST N	HIGHLANDS TRAIL N TO HYTRAIL AVE	\$101,296					
Infrastructure	HYTRAIL AVE N	HIGHLANDS TRAIL N TO HYTRAIL AVE	\$140,689					
Infrastructure	59TH ST N	HIGHLANDS TRAIL N TO EAST END CUL-DE-SAC	\$90,777					
Infrastructure	59TH ST N	DEMONTEVILLE TRAIL N TO HYTRAIL N	\$38,267					
Infrastructure	HIGHLANDS TRL N	HIGHLANDS COURT N TO HYTRAIL N	\$93,417					
Infrastructure	HIGHLANDS TRL N	59TH ST N TO HIGHLANDS COURT N	\$69,782					
Infrastructure	HIGHLANDS TRL N	MIN TH 36 TO 59TH ST N	\$32,640					
Infrastructure	DEMONTEVILLE TRAIL CIR N	DEMONTEVILLE TRAIL PLACE TO CUL-DE-SAC	\$25,887					
Infrastructure	DEMONTEVILLE TRAIL CIR N	DEMONTEVILLE TO DEMONTEVILLE TRAIL PLACE	\$21,385					
Infrastructure	DEMONTEVILLE TRAIL PL N	DEMONTEVILLE TRAIL CT TO CUL-DE-SAC	\$21,385					
Infrastructure	50 THUMBRO AVENUE (MSAS)	47TH ST TO CSAH 17	\$12,861					
Infrastructure	KELVIN AVE N	NEW SUBDIVISION ROAD TO STILLWATER LANE	\$1,029,641					
Infrastructure		MIN TH 5 (STILLWATER BLVD) TO STILLWATER LANE N	\$44,052					
Infrastructure			\$19,708					

City of Lake Elmo  
Capital Improvement Plan  
2010 to 2014

Fund/Category	Project	Estimated Cost			
		2010	2011	2012	2013
Infrastructure	JAMACA AVE TO IRWIN AVE				\$64,919
Infrastructure	JAMACA AVE TO IRWIN AVE				\$64,919
Infrastructure	CSAH 13 (IDEAL AVE) TO INNSDALE AVE N				\$108,683
Infrastructure	CSAH 13 (IDEAL AVE) TO INNSDALE AVE N				\$108,683
Infrastructure	30TH ST TO 38TH ST N				\$28,663
Infrastructure	HIDDEN BAY TRAIL TO DEER POND COURT				\$18,230
Infrastructure	DEER POND TRAIL TO JACK PINE TRAIL				\$41,734
Infrastructure	DEER POND TRAIL TO SOUTH END				\$33,619
Infrastructure	CSAH 17 TO MANNING AVENUE				\$602,823
Infrastructure	STONEGATE 1ST ADD.				
Infrastructure	SOUTH OF RR TRACKS				
Infrastructure	NORTH OF RR TRACKS				
	<b>Total Infrastructure Reserve (409)</b>	\$1,090,007	\$1,174,017	\$1,965,038	\$1,252,973
				\$570,000	\$7,848,826
Capital Acquisitions (410)					
Information Technology	City Hall network	\$2,500			
Information Technology	Replacement equipment	\$8,800	\$12,000	\$12,000	\$25,000
Information Technology	License updates	\$2,000	\$2,000	\$2,000	\$2,000
Information Technology	Finance software upgrade	\$14,900	\$5,000	\$5,000	\$5,000
Information Technology	Big Permit Upgrade	\$6,500			
Building	Upgrade to Station 1	\$28,000			
Fire	Upgrade to Station 2	\$3,600	\$3,600	\$3,600	\$3,600
Fire	2 sets turnout gear	\$35,000			
Fire	Replace duty car				
Fire	Ladder truck				
Fire	Heavy rescue vehicle				
Fire	2 Laptops for Trucks				
Public Works	Pick-up Truck	\$36,000			
Public Works	Single tandem dump truck				
Public Works	Mini excavator				
Public Works	Upgrade Sid Steer to Dedicated Track				
Public Works	Mower				
	<b>Total Capital Acquisitions (410)</b>	\$134,300	\$57,600	\$212,600	\$65,500
				\$32,800	\$1,326,500
City Facilities (411)					
City Hall	Unassigned City Facilities Improvements				
City Hall	New City Hall site acquisition, if needed				
City Hall	New City Hall building plans/specifications				
City Hall	New City Hall construction				
Fire	New fire station site acquisition, if needed				
Fire	New fire station construction				
	<b>Total City Facilities (411)</b>	\$0	\$0	\$0	\$0
Village (413)					
Village	Village development analysis	\$10,000			
Village	Village comprehensive planning	\$50,000			
Village	Old Village	TBD			
Village	New Village	TBD			
Village	I-94 to 30th St.		\$4,000,000	\$76,000	
Village	Village Trunk Oversizing-Sanitary Sewer Phase I				
Village	Village Trunk Oversizing-Sanitary Sewer Phase II				
Village	Trunk Gravity from Lift Station to Lake Elmo Ave				
Village	Trunk Gravity from 30th to Railroad				
	<b>Total Village (413)</b>	\$60,000	\$4,000,000	\$76,000	\$76,000
					\$0
Water (601)					
Water	Well and Pumphouse #4	\$885,000			
Water	230 replacement water meters	\$5,000			
Water	Water supply (conservation) plan		\$13,000		
Water	Study of SW area water system extension				
Water	Keats trunk watermain extension		\$1,200,000		
Water	Village Trunk Oversizing Phase I			\$112,000	
					\$0
					\$862,000

City of Lake Elmo  
Capital Improvement Plan  
2010 to 2014

Fund/Category	Project	Detail or Street Front/To	Estimated Cost				Future
			2010	2011	2012	2013	
Water	SW Area Water Main Extension	Public Improvements including Booster					
Water	Village Trunk Oversizing Phase II					\$5,300,000	
Water	Elevated Storage Tank #1A				\$112,000	\$1,600,000	
Water	Tank # 5 (South of 10th Street)					\$1,000,000	
Total Water (601)			\$960,000	\$1,213,000	\$112,000	\$1,600,000	\$6,900,000
Sewer (602)				\$25,000			
Sewer	Sewer study south of 10th St.	Cost TBD by 2011 Study			\$200,000		
Sewer	Sewer/pumper/jetifier truck						
Sewer	Trunk Oversizing South of 10th St						
Total Sewer (602)			\$0	\$25,000	\$200,000	\$0	\$0
Surface Water (603)							
Surface Water	Rain Garden Improvements		\$71,000	\$35,000	\$35,000	\$35,000	\$2,600,000
Surface Water	Old Village Storm Controls						TBD
Surface Water	Village Regional Infiltration						
Total Surface Water (603)			\$71,000	\$35,000	\$35,000	\$35,000	\$2,600,000
Total City			\$2,548,307	\$6,630,817	\$2,628,638	\$1,614,473	\$2,290,600

Sealcoating 2010 Detail:

28TH ST N	CSAH 13 (INWOOD AVE) TO IMPERIAL AVE N
27TH ST N	CSAH 13 (INWOOD AVE) TO INNSDALE AVE N
27TH ST N	IRONWOOD TRAIL N TO 27TH STREET CT N
27TH ST N	27TH STREET CT N TO CUL-DE-SAC
27TH ST N	INNSDALE TO LAKE ELMO HEIGHTS 3RD
27TH ST N	IMPERIAL TO LAKE ELMO HEIGHTS 3RD
27TH STREET CT N	27TH ST N TO CUL-DE-SAC
BIRCHBARK TRL N	CHERRY WOOD TRAIL TO HIDDEN BAY TRAIL
BIRCHBARK TRL N	CHERRY WOOD TRAIL TO SOUTH END
CHERRYWOOD TRL N	BIRCH BARK TRAIL TO HIDDEN BAY TRAIL
DEER POND TRL N	WINDBREAK TRAIL N TO HIDDEN BAY TRAIL
DEER POND TRL N	JACK PINE TRAIL TO WINDBREAK TRAIL
IMPERIAL AVE N	27TH ST TO NORTH CUL-DE-SAC
IMPERIAL AVE N	SOUTH STUB TO 28TH ST
IMPERIAL AVE N	28TH ST TO 27TH ST
INNSDALE AVE N	CSAH 6 (STILLWATER BLVD) TO SOUTH CUL-DE-SAC
INNSDALE AVE N	27TH ST TO SOUTH CUL-DE-SAC
INWOOD AVE N	CSAH 6 (STILLWATER BLVD) TO NORTH CUL-DE-SAC
JACK PINE TRL N	DEER POND TRAIL TO WINDBREAK TRAIL
WINDBREAK TRL N	HIDDEN BAY TRAIL TO JACK PINE TRAIL
42ND ST N	JAMACA AVE TO IVY AVE N
42ND ST N	LAKE JANE TRAIL TO IRVIN CIRCLE N
42ND ST N	IVY COURT N TO ISLE AVE N
42ND ST N	IRVIN CIRCLE N TO ISLE AVE N
JAMACA AVE N	LAKE JANE TRAIL TO 42ND ST N
JAMACA AVE N	37TH ST N TO 37TH ST N
JAMACA AVE N	36TH ST N TO 35TH ST N
JAMACA AVE N	35TH ST N TO JAMACA CT N
LAKE JANE TRL N	IRISH CT N TO JAMACA AVE N
LAKE JANE TRL N	IRISH CT N TO IRVIN CT N
LAKE JANE TRL N	CSAH 13 (IDEAL AVE) TO IRISH CT N



# BUDGET ADJUSTMENT - 2010

DATE: October 5th, 2010

ACTIVITY # 2010-006

DESCRIPTION: CIP Programming Adjustment for Vehicle Replacement

**TYPE OF ACTIVITY:**

**TRANSFER OF FUNDS**

FROM ACCOUNT # \_\_\_\_\_ NAME \_\_\_\_\_ AMOUNT: \_\_\_\_\_

TO ACCOUNT # \_\_\_\_\_ NAME \_\_\_\_\_ AMOUNT: \_\_\_\_\_

PURPOSE: \_\_\_\_\_

**BUDGET ADJUSTMENT/DESIGNATION**

FROM ACCOUNT # \_\_\_\_\_ NAME: \_\_\_\_\_ AMOUNT: \_\_\_\_\_

PURPOSE: \_\_\_\_\_

DESIGNATION/NEW ACCOUNT # \_\_\_\_\_

**OTHER**

FROM ACCOUNT # 4010-480-8000-45500 NAME: CIP - Vehicle Replacement AMOUNT: \$0.00

PURPOSE: Change 2010 Programming from Public Works (Pick-up Truck) to Fire (Duty Car) and  
2011 Programming from Fire (Duty Car) to Public Works (Pick-up Truck)

City  
Approval:

Honorable Dean Johnston, Mayor  
(on Behalf of City Council)

Bruce Messelt, Administrator  
(Attest)





## MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
CONSENT  
ITEM #: 7  
MOTION *As part of Consent Agenda*

**AGENDA ITEM:** Request for Special Assessment Deferral – James L. Fish

**SUBMITTED BY:** Tom Bouthilet, Finance Director

**THROUGH:** Bruce Messelt, City Administrator *BAW*

**REVIEWED BY:** Sharon Lumby, City Clerk

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**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested to consider a Request by Mr. James L. Fish for a deferral of a 2009 Special Assessment for street improvements. According to State Statute and City Policy, such a deferral may be considered under specific circumstances. Based upon Mr. Fish's Application, a determination of "hardship based upon exceptional or unusual circumstances," and pending final legal review, it is recommended that the City Council grant a restructuring of Mr. Fish's Special Assessment from 10 years to 20 years. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** Under M.S. 439.193 (attached), the City Council may consider a deferment in payment on a special assessment when the owner is 65 years of age or older; by virtue of a permanent and total disability for whom it would be a hardship to make payments; or by a person who is a member of the Minnesota National Guard or other Military reserves ordered in to active military service for whom it would be a hardship to make payments. In addition, any statutory City may establish guidelines for determining the existence of a hardship and determine the existence of a disability. Lake Elmo has established just such guidelines.

The City Council recently adopted Resolution No. 2010-39 for the 2009 Street Improvement Final Assessment. Included on the Final Assessment was Eden Park 2<sup>nd</sup> addition, Legion Lane N. at \$1750.00 per parcel. A public hearing was conducted, without any comments received from property owners. On August 23, 2010 the City received a Special Assessment Deferral Application for the property located at 2267 Legion Lane N. The basis for the appeal was limited income, social security and veterans' status.

**STAFF REPORT:** In evaluating Mr. Fish's application, it has been determined that, while retired, Mr. Fish does not qualify under either the age or disability criteria. In addition, Mr. Fish does not qualify for a deferral under the active military service hardship criteria.

As such, the only applicable statutory and City policy guidelines would be the determination of a "hardship based upon exceptional or unusual circumstances." Mr. Fish has demonstrated a limited monthly income based predominantly (if not solely) on Social Security and, as such, has requested a longer repayment period and lower interest rate.

In evaluating the financial and programmatic impacts from granting such a request, City staff believes granting of a longer repayment period – from 10 years to 20 years, based upon this demonstration of "hardship based upon exceptional or unusual circumstances" (limited income), may be appropriate.

However, City staff does not recommend lowering the applicable interest rate (6%) or limiting its duration to only 10 years, so as to avoid creating likely negative accounting and equity considerations. In addition, City management of a 20-year repayment period will result in a lost opportunity cost equal to the application of the same interest rate over the entire 20-year period.

Also noted is that final legal review of such deferral/restructuring is pending; so any Council action should be contingent upon this consideration.

**RECOMMENDATION:** Based upon Mr. Fish's Application, and a staff determination of "hardship based upon exceptional or unusual circumstances," it is recommended that the City Council grant a restructuring of Mr. Fish's Special Assessment from 10 years to 20 years, pending final legal review. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss, deliberate and, if appropriate, amend the recommended motion prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**"Move to approve the proposed Special Assessment Deferral Application, as recommended [and modified/amended] at tonight's meeting."**

**ATTACHMENTS:**

1. Minnesota State Statute § 435.193 (2009)
2. Special Assessment Deferral Application – Mr. James L. Fish

**SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):**

- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

## 2009 Minnesota Statutes

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### 435.193 HARDSHIP ASSESSMENT DEFERRAL FOR SENIORS, DISABLED, OR MILITARY PERSONS.

(a) Notwithstanding the provisions of any law to the contrary, any county, statutory or home rule charter city, or town, making a special assessment may, at its discretion, defer the payment of that assessment for any homestead property:

(1) owned by a person 65 years of age or older or retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments; or

(2) owned by a person who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service, as defined in section 190.05, subdivision 5b or 5c, as stated in the person's military orders, for whom it would be a hardship to make the payments.

(b) Any county, statutory or home rule charter city, or town electing to defer special assessments shall adopt an ordinance or resolution establishing standards and guidelines for determining the existence of a hardship and for determining the existence of a disability, but nothing herein shall be construed to prohibit the determination of hardship on the basis of exceptional and unusual circumstances not covered by the standards and guidelines where the determination is made in a nondiscriminatory manner and does not give the applicant an unreasonable preference or advantage over other applicants.

**History:** 1974 c 206 s 7; 1976 c 195 s 3; 1981 c 80 s 1; 2008 c 154 art 2 s 28



# City Of Lake Elmo Special Assessment Deferral Application

RECEIVED  
AUG 23 2010  
CITY OF LAKE ELMO

3800 Laverne Avenue North / Lake Elmo, Minnesota 55042  
(651) 777-5510

Fax: (651)777-9615

Date Aug 23 2010

Applicant Name JAMES L FISH

Home Address 2267 LEGION LANE NO.

Telephone LAKE ELMO MN 55042  
(651) 777-6226

The City Council will consider a deferment for payment of special assessments on any homestead property, owned by a person 65 years of age or older or retired by virtue of permanent and total disability for whom it would be a hardship to make payments. The City Council may also determine, on a case by case basis, the existence of a hardship on the basis of exceptional and unusual circumstances not covered by the standards and guidelines set by the City Code. (Please refer to City Code attached)

Type of Hardship: (Please check all that apply)

- 65 years of age or older
- Total Disability
- Other (Please Explain)

LIMITED INCOME

SOCIAL SECURITY

VETERANS AFFAIRS VA.

Please attached all supporting documentation to assist the review and approval process.(i.e. federal income-tax return, income statements, etc.)

Signed James L Fish Aug 23 2010  
Owner

Signed \_\_\_\_\_  
Owner

City Administrator \_\_\_\_\_

Date \_\_\_\_\_

**Social Security Administration**  
**Retirement, Survivors and Disability Insurance**  
Important Information

Mid-America Program Service Center  
601 East Twelfth Street  
Kansas City, Missouri 64106-2859  
Date: May 3, 2010  
Claim Number: [REDACTED]



JAMES L FISH  
2267 LEGION LANE N  
LAKE ELMO MN 55042-9447



You asked that we withhold money from your benefits for voluntary Federal tax withholding. You want 15 percent withheld beginning April 2010.

**What We Will Pay And When**

- You will receive [REDACTED] for May 2010 around June 16, 2010.
- After that you will receive [REDACTED] on or about the third Wednesday of each month.

**Your Benefits**

We will continue to withhold money for voluntary Federal tax withholding as you requested.

We will withhold [REDACTED] from your benefit for May 2010. Thereafter, we will withhold [REDACTED] each month.

**If You Have Any Questions**

We invite you to visit our website at [www.socialsecurity.gov](http://www.socialsecurity.gov) on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-866-667-7481. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY  
190 5TH ST E STE 800  
ST PAUL, MN 55101



DEPARTMENT OF VETERANS AFFAIRS  
HEALTH ELIGIBILITY CENTER  
2957 CLAIRMONT RD NE STE 200  
ATLANTA GA 30329-1647

FEBRUARY 10, 2010

In Reply Refer To: [REDACTED]  
FISH, JAMES



MR. JAMES FISH  
2267 LEGION LN N  
LAKE ELMO MN 55042-9447



E10129714

Dear MR. FISH:

The Department of Veterans Affairs (VA) is pleased to confirm your enrollment in the VA health care system. This letter is to notify you of your priority group assignment, enrollment, and potential eligibility for VA Pension Benefits.

**How This Affects You**

- You are currently enrolled in Priority Group 5.
- Information about enrollment priority groups is enclosed.
- Enrollment, which occurs on a year-to-year basis, gives you access to a broad range of health care services at VA facilities anywhere in the country. Services include preventive, primary and specialty care, both inpatient and outpatient. You can use these services even if you have Medicare, Medicaid, TRICARE, or private health insurance coverage. VA recommends you continue any health insurance coverage you currently maintain.
- Your enrollment will be reviewed and renewed each year depending upon your priority and available funds. You will be notified of any changes in your enrollment status.
- Contact the Enrollment Coordinator at your local VA health care facility if you wish to obtain an appointment for care.
- If you are eligible for Medicare Part D prescription drug coverage, you need to know that enrollment in the VA health care system is creditable coverage for Medicare Part D purposes. For more information on Medicare Part D, visit <http://www.medicare.gov/pdphome.asp> or call 1-800-Medicare (1-800-633-4227).
- Should you choose to cancel your enrollment for any reason, please notify VA's Health Eligibility Center, 2957 Clairmont Road, Suite 200, Atlanta, GA 30329-1647, in writing.

**What You Can Do If You Disagree With Our Enrollment Decisions**

- If you wish to appeal our enrollment decision, follow the instructions on the enclosed VA Form 4107VHA, "Your Rights To Appeal Our Decision." Return your Notice of Disagreement to the Enrollment Coordinator at your local VA health care facility.

**Are You Eligible for VA Pension?**

Wartime Veterans with limited income, and who are permanently and totally disabled or age 65 or older may be eligible for VA pension benefits to supplement their income. Widows or other dependents might be eligible for pension benefits if they meet certain requirements.

(Continued on back)



## MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010

**REGULAR**

ITEM #: 8

**MOTION**

**AGENDA ITEM:** Sunfish Lake Park Parking Area Improvements and Eagle Scout Park Improvement Project Presentations

**SUBMITTED BY:** Carol Kriegler, Project Assistant

**THROUGH:** Bruce Messelt, City Administrator *BAW*

**REVIEWED BY:** Parks Commission  
Ryan Stempski, Asst. City Engineer  
Rusty Schmidt, Washington Conservation District  
Mike Bouthilet, Public Works Supt.

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**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested to authorize expenditures related to Sunfish Lake Park parking area improvements and two Eagle Scout Park Improvement Projects. The Parks Commission has unanimously supported the proposed improvements and associated expenditures. The recommended motion to act on these projects is as follows:

*“Move to authorize expenditures related to Sunfish Lake Park Parking area improvements and construction of two information kiosks at Demontreville Wildlife Area at a cost not to exceed \$22,440.00*”

**BACKGROUND INFORMATION/STAFF REPORT:** The parking area at Sunfish Lake Park has a history of drainage problems and standing water in the northeast corner of the lot following snow melt and heavy rains. The proposed solution to the problem includes 1) grading of the parking lot in an effort to redirect parking area run-off to rain gardens and a filter area 2) installation of a storm water pre-treatment area on the north side of the parking area for the purpose of “filtering” the run-off prior to drainage into the adjacent woodland, 3) installation of four rain gardens along the perimeter of the parking area with three of the gardens placed on the south side of parking area for the purpose of reducing run-off from the entrance drive and the sloped turf area onto the parking area, and a fourth garden located in the northeast corner of the parking lot - - accepting and treating run-off specifically from the area that has been problematic.

Interpretive signage is proposed for the purpose of educating park visitors about rain gardens, the adjacent prairie restoration project and possibly some history about park. The purpose of the prairie and rain garden interpretive signage will be to communicate the benefits both of these



projects have in improving water quality and wildlife habitat. It is hoped that the signage will be effective in encouraging visitors to support the installation of rain gardens in their neighborhoods as well as encourage other good storm water management practices.

Unauthorized vehicles gaining entry to trails and park areas has also been a problem at Sunfish Lake Park. The proposed solution to this problem is the purchase and placement of boulders around the perimeter of the parking area. The boulders and strategic placement of knock-down bollards are intended to define the parking area and restrict unauthorized vehicular traffic to the parking area. A small number of boulders might be placed in locations along trails where they might serve as a place for park visitors to sit and rest. The Parks Commission has spent considerable time in discussion about the boulders, including the type and source. The Commission has expressed a strong interest in bordering the parking area with natural materials preferably from a local source so that they closely resemble what might be native to the site and reflective of the geological history of the site. Boulders are available locally from Agregate Industries in Lakeland.

Lastly, two area Eagle Scout Candidates have stepped forward with proposed park improvement projects. Chris Amundson is proposing to construct an information kiosk to be located on the north side of the Sunfish Lake Parking lot. The kiosk is intended to provide a centralized location for regulatory, directional and map signage. A Minnesota DNR Cross Country Ski Grant-in-aid Capital Improvement grant will cover the cost of the materials for this project. Kyle Yarusso is proposing the construction of two small information kiosks at Demontreville Wildlife Area. These kiosks will provide a location for the placement of interpretive, directional and regulatory signage related to the site. While the styles of the proposed kiosks are a little different, each is well suited for their respective location and function. All kiosk materials (cedar) and finishes will be consistent so as to effectively create a "branding" of park amenities. Both Eagle Scout candidates have committed considerable time to planning their projects, meeting with City staff, and making presentations to the Parks Commission.

**PARKS COMMISSION REPORT:** The Parks Commission has unanimously recommended proposed improvements to the Sunfish Lake Park parking area; to include 1) grading of the parking lot, 2) installation of rain gardens and a stormwater run-off filter area, 3) placement of boulders and "knock-down" bollards for the purpose of defining the parking area and restricting unauthorized vehicular access, 4) development of interpretive signage related to the prairie restoration project and rain gardens, 5) construction of an information kiosk by Eagle Scout candidate Chris Amundson.

Additionally, the Council is asked to approve and authorize expenditures recommended unanimously by the Parks Commission related to the construction of two information kiosks at Demontreville Wildlife Area by Eagle Scout candidate Kyle Yarusso, as well as the development of site-related interpretive and directional signage to be placed on the kiosks.

Project Costs for these improvements are as follows:

**Sunfish Lake Parking Area Improvements**

Parking area grading	\$2,500.00
Rain garden installation (3 south gardens \$3,640.00, north east garden and buffer \$7,700)	\$11,340.00
Pre-treatment area installation (By City crews)	
Boulders and knockdown bollards	\$3,500.00
Interpretive signage (2 NPS exhibit bases, and interpretive panels)	\$1,200.00
Information kiosk materials	\$2,000.00

**Estimated Sunfish Lake Park Project Costs** **\$20,540.00**

**Demontreville Wildlife Area Information Kiosks and related sign panels**

Information kiosk materials (scout project)	\$1,400.00
Misc. regulatory, directional and interpretive sign panels (Developed by city staff)	\$500.00

**Estimated Demontreville Wildlife Area Project Costs** **\$1,900.00**

**FUNDING:** The 2010 Park Capital Improvement Plan includes the following line items for improvements at Sunfish Lake Park: rain gardens - \$8,500.00, information kiosk - \$2,000, boulders / gates/ landscaping - \$12,000. \$13,000 is designated for signage improvements system-wide. Materials for the Sunfish Lake Park information kiosk are covered fully by a DNR Cross County Ski Grant-in-aid Capital Improvement Grant and it is anticipated that the rain gardens will be eligible for a 50-50 cost share grant through VBWD.

**RECOMMENDATION:** Based upon the above background information and Parks Commission recommendation, it is recommended that the City Council move to approve the motion by undertaking the following action:

*“Move to authorize expenditures related to Sunfish Lake Park Parking area improvements and construction of two information kiosks at Demontreville Wildlife Area at a cost not to exceed \$22,440.00*

Alternatively, the City Council does have the authority to further discuss, deliberate and, if appropriate, amend the recommended motion prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

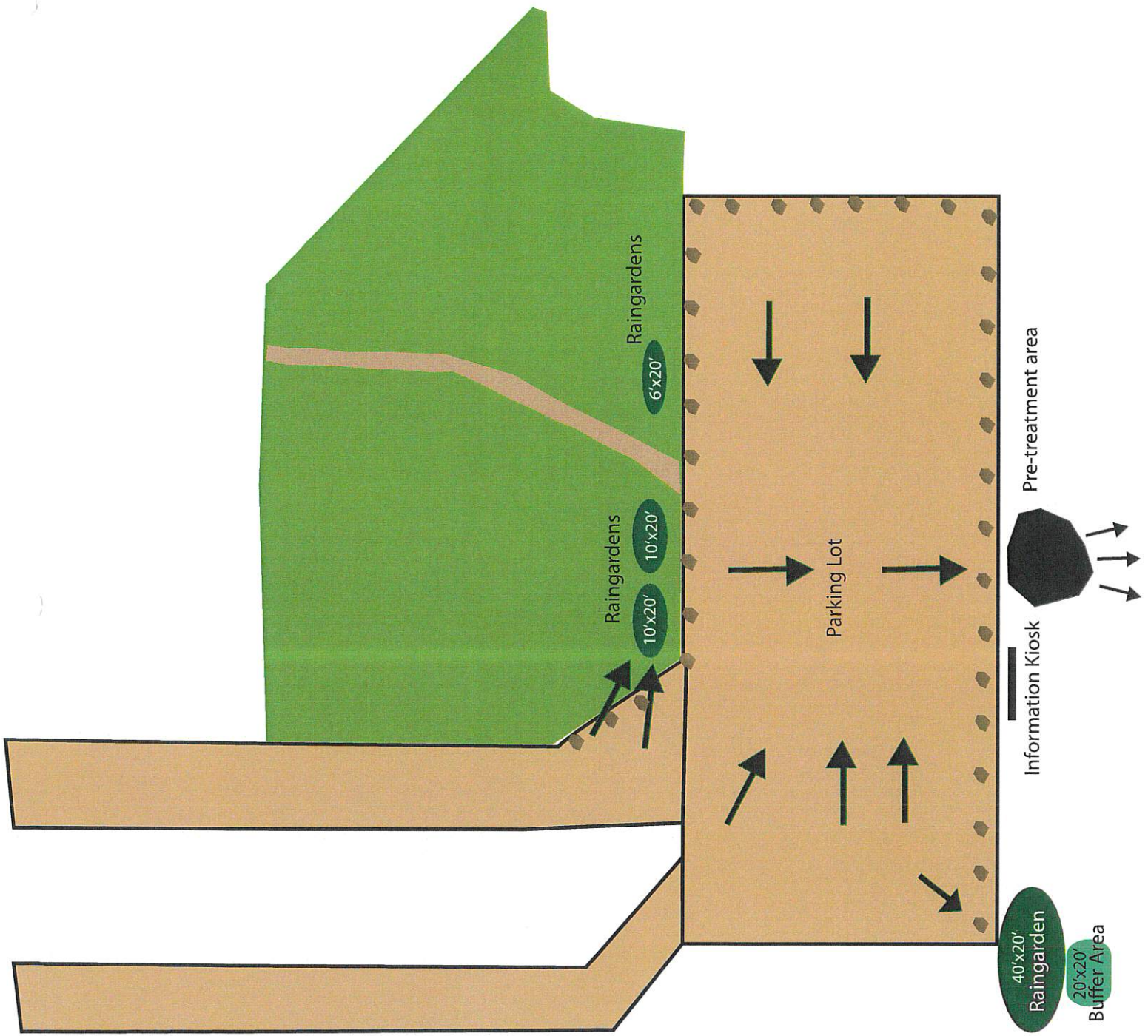
*“Move to authorize expenditures related to Sunfish Lake Park parking area improvements and construction of two information kiosks at Demontreville Wildlife Area [as amended at tonight’s meeting].”*

**ATTACHMENTS:**

1. Sunfish Lake Park Parking Area Improvement Concept Plan

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... Project Director
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion.....Mayor Facilitates





# MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
REGULAR  
ITEM #: 9  
MOTION *Ordinance No. 08-030*  
*Resolution No. 2010-049*

**AGENDA ITEM:** Zoning Text Amendments: Building Setbacks and Parking Requirements in the Old Village District

**SUBMITTED BY:** Planning Commission  
Kyle Klatt, Planning Director

**THROUGH:** Bruce Messelt, City Administrator *BAUM*

**REVIEWED BY:** Kelli Matzek, City Planner

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**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested to consider to zoning text amendments to the General Business District regulations in the Zoning Ordinance. This request originated as a variance application from the Lake Elmo Inn to allow the construction of a new enclosed patio seating structure in place of the existing fabric tent that currently exists in front of the restaurant, but has been revised instead to amend the zoning regulations for all properties in the Old Village area zoned GB. At issue is the fact that the proposed structure would not meet existing setback requirements in the GB – General Business District, nor would additional parking be provided for the additional seating area. The proposed zoning text amendments would specifically amend the GB District as follows:

- Creating a second front and side yard setback requirement of 0 feet (no setback required) for properties located south of Minnesota State Highway 5 in the Old Village.
- Allowing the Zoning Administrator to waive the parking requirements for properties located in the Old Village area south of CSAH 5.
- Referencing the description of the “Old Village District” used in the Sign Ordinance.

These changes are noted in the attached draft Ordinance to amend the General Business District regulations. The recommended motions to act on these items are as follows:

*“Move to adopt Ordinance No. 08-030 amending the GB – General Business District regulations for parking and setbacks in the Old Village District”*

*“Move to adopt Resolution 2010-049 authorizing summary publication of Ordinance 08-030”*

**BACKGROUND INFORMATION:** The proposed zoning amendments are the result of discussions with the Lake Elmo Inn regarding a proposed patio structure that has been proposed in the front of their building. When the Lake Elmo Inn last underwent a major expansion project in 1995, the City granted variances for setbacks and parking in that allowed the expansion project to move forward. When this application was submitted there was a patio area noted on the plans, but no permanent structure was ever depicted or approved by the City at this time over the patio area. This patio has been covered with a fabric tent-type structure at various times over the past several years, and is used extensively in the summer to provide outdoor seating for patrons of the restaurant.

Any permanent structure, such as the one proposed, will need to comply with the district setback and parking requirements. Since the proposed structure would cover the existing outdoor seating area that is located with a minimal setback to the street and no new parking would be provided for thus seating area, the applicant originally requested a variance from these provisions in a manner similar to previous requests for expansion. Based on the recent Minnesota Supreme Court decision regarding variances (which significantly reduces any local discretion in granting variances), Staff strongly encouraged the applicant to proceed with a Zoning Amendment request as an alternative to the variances that were requested.

As suggested by Staff, the proposed zoning amendments would apply to only those portions of the General Business District that are located in the Old Village, and more narrowly, only on properties south of State Highway 5. The amendments that have been drafted would apply to several other business properties in the Old Village, and would not be exclusive to the Lake Elmo Inn property. The City has much greater discretion in considering Zoning Amendments than Variances, and the proposed amendments would allow the Lake Elmo Inn project to proceed without any additional action by the Planning Commission or City Council.

**STAFF REPORT:** Although Staff is providing the City Council with a site survey and drawings of the Lake Elmo Inn site that were prepared for the variance request, the Council's decision should not be based on the impact to this one site since many other properties would be affected by the proposed changes. The Lake Elmo Inn information; however, should give the Council a good example of the type of construction and setbacks that would be allowed under the proposed ordinance amendments.

In both the City's Comprehensive Plan and Village Master Plan documents, one of the primary goals for the Village is the creation of a traditional, pedestrian friendly, mixed-use development area that respects the existing character of the area. The proposed ordinance amendments would help move the City towards these goals by eliminating some of the existing language that actually works counter to these goals. Nearly all of the existing buildings in the Village have been built with very limited setbacks in relation to the street and side property lines, and few sites are able to meet the City's parking requirements due to the limited amount of space around most buildings. Requiring large front and side yard setbacks and requiring large portions of the

Village to be devoted to off-street parking is at odds with the goals of a compact, walkable downtown, and is not consistent with historic development patterns.

Staff is recommending approval of the ordinance amendments as drafted because they represent a first step towards a Zoning Ordinance that is more consistent with the City's goals and objectives for the Old Village area. In this case, the action requested by the Lake Elmo Inn appropriate since all similar properties would be receiving equal treatment. With the inflexibility that presently exists with regards to variances, the proposed ordinance amendments should also help provide additional flexibility to other property owners in the Village that would otherwise not be available.

Please note that the revisions as drafted by Staff are very much focused on only a few of the provisions that help influence the design and character of the Village Area. A more thorough review of the most appropriate zoning regulations for the Village area will be forthcoming as part of future Village planning efforts.

**PLANNING COMMISSION REPORT:** The Planning Commission reviewed the proposed revisions to the GB – General Business District regulations and conducted a public hearing on the ordinance at its September 27, 2010 meeting. No one spoke during the public hearing portion of the meeting.

The Commission did not express any reservations about changing the front and side yard setback requirements in the Old Village area, but did raise several questions regarding the proposed parking waivers. Of some concern was the current demand for parking in the Village and whether or not the proposed amendments would make the current parking situation worse. Staff noted that it was very unlikely that there would be any major building expansions in areas with a deficient amount of parking, and that the general usage of buildings is unlikely to change in the near future. It was also noted that a new Old Village mixed-use district would likely be created in the future in order to implement the future plans for this area.

Staff will be conducting an analysis of the current parking situation in the Village area sometime in the near future. Any new information gathered as a result of this analysis will be shared with the Council and Planning Commission.

The Planning Commission adopted a motion to recommend approval of the proposed GB District amendments, as presented.

**RECOMMENDATION:** Based upon the above background information staff report, and Planning Commission recommendation, it is recommended that the City Council approve the proposed amendments to the GB – General Business District regulations by undertaking the following two actions:



***“Move to adopt Ordinance No. 08-030 amending the GB – General Business District regulations for parking and setbacks in the Old Village District”***

***“Move to adopt Resolution 2010-049 authorizing summary publication of Ordinance 08-030”***

Alternatively, the City Council does have the authority to table, deny, or further discuss, deliberate and, if appropriate, amend the recommended motions prior to taking action. If done so, the appropriate actions of the Council following such discussion would be:

***“Move to adopt Ordinance No. 08-030 amending the GB – General Business District regulations for parking and setbacks in the Old Village District [as amended]”***

***“Move to adopt Resolution 2010-049 authorizing summary publication of Ordinance 08-030 [as amended]”***

**ATTACHMENTS:**

1. Ordinance No. 08-030 Amending Section 154.051 (General Business Regulations) of the City Code
2. Resolution No. 2010-049 Authorizing Summary Publication
3. Zoning Application Form
4. Application Narrative
5. Septic System Comments
6. Site Survey with New Structure
7. Location Map
8. Architectural Renderings (Patio Structure)

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to Staff ..... Mayor Facilitates
- Public Input, if Appropriate ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates



**CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA**

**ORDINANCE NO. 08-030**

**AN ORDINANCE TO AMEND THE GENERAL BUSINESS DISTRICT  
REGULATIONS FOR SETBACKS AND PARKING IN THE OLD VILLAGE  
DISTRICT**

**Section 1.** The City Council of the City of Lake Elmo hereby ordains that Section 154.051 (General Business Regulations) subsection (C) and is hereby amended as follows:

(C) *Minimum district requirements.*

(1) The Old Village District shall be defined as the Old Village Sign District described in § 151.117 (S, 1, a).

<b>General Business</b>		
Lot Size	1-1/2 acres (except as required by Interstate Corridor Overlay District, §§ <u>150.230 - 150.238</u> )	
Lot Width	150 Feet Minimum	
Building Setback from property lines: (Also see § <u>154.082</u> )		
Front:	10 Feet Minimum	<u>No setback required for properties located in the Old Village District and south of Minnesota State Highway 5</u>
Side (Interior):	20 Feet Minimum	<u>No setback required for properties located in the Old Village District and south of Minnesota State Highway 5</u>
Side (Corner):	50 Feet Minimum	
Rear:	50 Feet Minimum	
Building Height (Also see § <u>154.083</u> )	35 Feet Maximum	
Maximum area to be covered by buildings, parking lots, driveways and other hard surfaces:		
<b>Lot Size</b>	<b>Covered Area</b>	
Up to 4 acres	45% of lot size	

Larger than 4 acres to 8 acres	35% of lot size
Larger than 8 acres	25% of lot size
Lot Configuration	Maximum lot depth to width dimension ratio shall be no more than 3:1
<p><u>Off-Street Parking: (Also See §§ 154.095 and 154.096) The Off-Street Parking requirements for properties located in the Old Village District and south of Minnesota State Highway 5 may be waived by the Zoning Administrator upon demonstration that there are no suitable locations to provide off-street parking in a manner that complies with requirements found below and in §§ 154.095 and 154.096.</u></p>	
Eating and Drinking Places	One space for every 2 seats and 1 space for every 2 employees on the average maximum shift
Automobile Service Stations	Three spaces for each enclosed bay plus 1 space for each day shift employee plus a minimum of 2 spaces for service vehicles and 1 additional space for each service vehicle over 2 in number
Retail Stores or Centers	Eleven spaces for the first 1,000 square feet of gross floor area or fraction of floor area: 8 spaces for each 1,000 square feet of gross floor area in excess of 1,000 square feet, but not exceeding 15,000 square feet; 6 spaces for each 1,000 square feet of gross floor area in excess of 15,000 square feet of gross floor area exceeding 30,000 square feet.
Motels and Hotels	One space for each unit plus 1 space for each employee on any 1 shift.
Medical and Dental Clinics	Four spaces for each doctor or dentist, plus 1 space for every employee or 1 for each 150 square feet of gross floor area, whichever requirement is greater.
Other Commercial Uses (excluding wholesale)	One space for each 200 square feet of gross floor area.
Maximum Width of Driveways	See § 93.26
Signage	See §§ 151.115 through 151.124
Septic Drainage Regulation (Also see §§ 51.002 through 51.008)	<p>All newly subdivided lots shall have a minimum of 20,000 square feet of land dedicated for septic system use and suitable for that use. This land may comprise up to 2 separate areas, each of which is contiguous to the 1.25-acre building site or contained within it, and each of which contains at least 10,000 contiguous square feet.</p> <p>Placement of the second required drainfield between the</p>

trenches of the first drainfield is prohibited.

**Section 2. Adoption Date**

This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. 08-030 was adopted on this 5<sup>th</sup> day of October 2010, by a vote of \_\_\_ Ayes and \_\_\_ Nays.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

This Ordinance No. 08-030 was published on the \_\_\_ day of \_\_\_, 2010.

**CITY OF LAKE ELMO**

**RESOLUTION NO. 2010-049**

**RESOLUTION AUTHORIZING PUBLICATION OF  
ORDINANCE NO. 08-030 BY TITLE AND SUMMARY**

**WHEREAS**, the City Council of the city of Lake Elmo has adopted Ordinance No. 08-030, an ordinance to amend the GB – General Business District regulations for parking and setbacks in the Old Village District; and

**WHEREAS**, the ordinance is lengthy; and

**WHEREAS**, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo, that the City Administrator shall cause the following summary of Ordinance No. 08-030 to be published in the official newspaper in lieu of the entire ordinance:

**Public Notice**

The City Council of the city of Lake Elmo has adopted Ordinance No. 08-030. The ordinance amends the GB – General Business District in the following manner: 1) by defining the location of the “Old Village” area, 2) by reducing the required front and side yard setbacks to zero feet in the Old Village area south of Minnesota State Highway 5, and 3) by allowing the waiving of parking requirements in the Old Village area south of Minnesota State Highway 5.

The full text of Ordinance No. 08-030 is available for inspection at Lake Elmo city hall during regular business hours.

---

Mayor Dean Johnston

**BE IT FURTHER RESOLVED** by the city council of the city of Lake Elmo that the city administrator keep a copy of the ordinance in her office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

**Cabreeze Project Plans**  
 Cabreco Companies, LLC  
 283 Troy St  
 River Falls, WI 54022

**Project: C002**  
**Lake Elmo Inn**  
 3442 Lake Elmo Ave N  
 Lake Elmo, MN 55042

**Engineering:**  
 Rice Engineering  
 105 School Creek Trail  
 Luxemburg, WI 54217

**Index:**

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**BUILDING SYSTEMS PRINTS**

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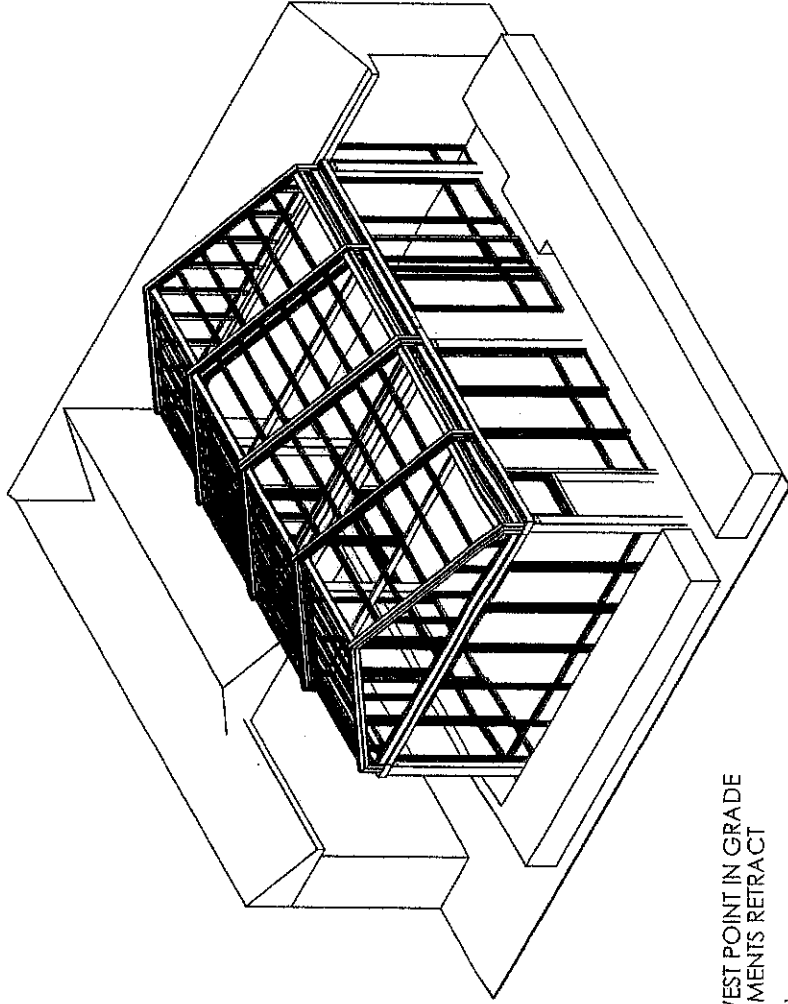
ELECTRICAL SCHEMATIC..... 8/8 DATED 9/23/2010

**PROJECT NOTES:**

- 20'X28' FRAME SIZE
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- ALL ALUMINUM COMPONENTS FINISHED WITH A NO-302 ARCHITECTURAL ANODIZING

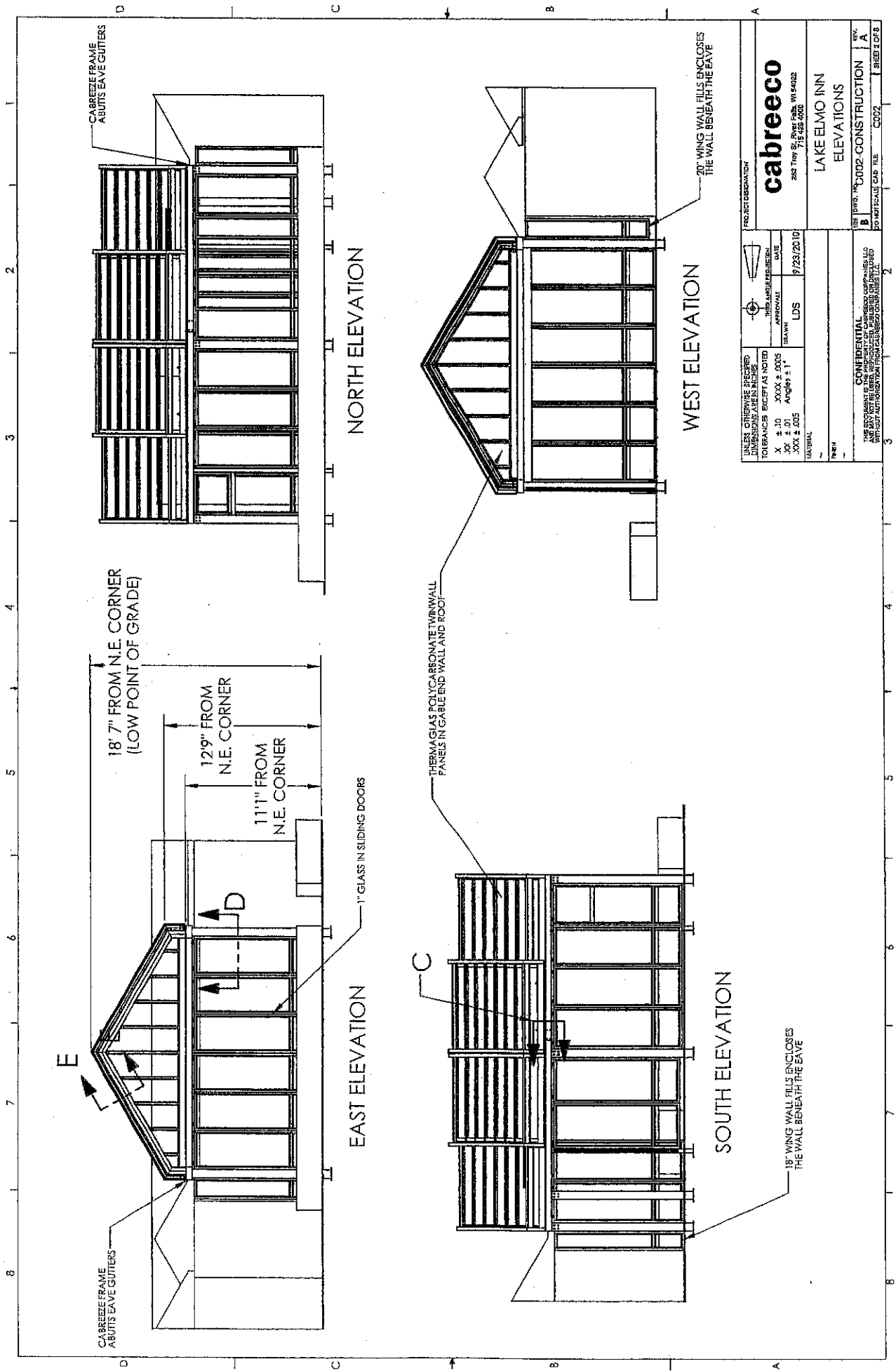
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REV.	DESCRIPTION OF CHANGE	DRAWN	DATE
A	ORIGINAL VERSION	LDS	9/29/2010

PROJECT INFORMATION <b>cabreco</b> 283 Troy St, River Falls, WI 54022 715-839-6000	
TITLE SHEET PROJECT: C002-CONSTRUCTION SHEET: A	DATE: 9/23/2010 DRAWN: LDS APPROVED: [Signature] DATE: 9/23/2010
TOLERANCES (EXCEPT AS NOTED) FINISH DIMENSIONS: X ± .10 XXX ± .005 XX ± .01 A/Faces ± .1" XXX ± .005 MATERIAL: [Blank] FINISH: [Blank]	
THE DOCUMENT IS THE PROPERTY OF CABRECO COMPANIES, LLC AND IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF CABRECO COMPANIES, LLC.	



PROJECT OBSERVER <b>cabreco</b> 282 Hwy 91, Suite 100 Lake Elmo, CO 80120	
TOLERANCE UNLESS SPECIFIED OTHERWISE: DIMENSIONS ARE IN INCHES X ± .10 XX ± .01 XXX ± .005	APPROVAL DATE LDS 9/23/2010
PROJECT OBSERVER <b>cabreco</b> 282 Hwy 91, Suite 100 Lake Elmo, CO 80120	
PROJECT NAME LAKE ELMO INN ELEVATIONS	
SHEET NO. B	SHEET TOTAL A
PROJECT NO. 0002 CONSTRUCTION	
PROJECT LOCATION LAKE ELMO INN	
PROJECT DATE 9/23/2010	
PROJECT DRAWN BY LDS	
PROJECT CHECKED BY LDS	
PROJECT SCALE AS SHOWN	
PROJECT STATUS CONFIDENTIAL	
THIS DOCUMENT IS THE PROPERTY OF CABRECO COMPANIES, LLC AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN PERMISSION OF CABRECO COMPANIES, LLC	

### City of Lake Elmo DEVELOPMENT APPLICATION FORM

- Comprehensive Plan Amendment
- Variance \* (See below)
- Residential Subdivision Preliminary/Final Plat
  - 01 - 10 Lots
  - 11 - 20 Lots
  - 21 Lots or More
- Zoning District Amendment
- Minor Subdivision
- Excavating & Grading Permit
- Text Amendment
- Lot Line Adjustment
- Appeal
- PUD
- Flood Plain C.U.P. Conditional Use Permit
- Residential Subdivision Sketch/Concept Plan
- Conditional Use Permit (C.U.P.)
- Site & Building Plan Review

APPLICANT: CABREECO COMPANIES LLC 283 TROY STREET  
 (Name) (Mailing Address) RIVER FALLS WI (Zip) 54022  
 ATT: KENT H. FORSLAND

TELEPHONES: 715-426-9740 715-426-4000 612-270-3663 715-629-7087  
 (Home) (Work) (Mobile) (Fax)

FEE OWNER: JOHN SCHILTZ 3442 LAKE ELMO AVE NO. P.O. Box 182  
 (Name) (Mailing Address) LAKE ELMO, MN. (Zip) 55042

TELEPHONES: 651-777-8495 651-402-1262  
 (Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): 3442 LAKE ELMO AVE, LAKE ELMO, MN. 55042

DETAILED REASON FOR REQUEST: \_\_\_\_\_

\*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

**RECEIVED**  
**SEP -3 2010**  
 CITY OF LAKE ELMO

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense. Sec. 154.051, 154.095 (Off-Street Parking) Variance

John F Schiltz 9/3/10  
 Signature of Applicant Date

Kent H Forsland 9/3/10  
 Signature of Applicant Date



1 September 2010

Dear the City of Lake Elmo,

Currently Lake Elmo Inn, of Lake Elmo, Minnesota, has a white and clear plastic tent serving as an outdoor eating area for their guests. The tent, which has been set up in the same area since 1990, is an eyesore a few feet from the sidewalk tucked behind a nice raised flowerbed. Next to the tent is the permanent addition that Lake Elmo Inn added to their building in 1995, which is a few feet closer to the road, putting it directly at the sidewalk edge. Lake Elmo Inn would like to obtain a variance to construct an attractive 20 X 28 Cabreeze Structure which will seat 35 people in about 80% of the footprint the tent has been occupying for the last twenty years.

The Lake Elmo Inn is a unique building because it was originally built in the early 1890's and was a stagecoach stop. The historic building had property lines long before a permanent, paved road was built next to the building. When the road was built, it limited expansion opportunity for the owners. Because the building was there before the road, we feel Lake Elmo Inn should be able to receive a variance.

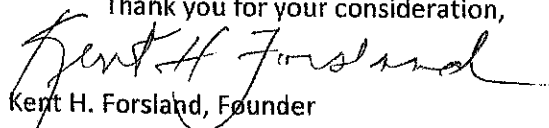
The current tent is *not* the ideal situation for Lake Elmo Inn because it is unusable throughout the majority of the long Minnesota winter and, as mentioned above, it lacks "curb appeal." The Cabreeze Structure will be aesthetically pleasing and will extend the patio seating capabilities throughout the winter season for the restaurant. If there is more seating space, more time out of the year, more people will come and there will be more money spent in the community.

If Lake Elmo Inn is able to build a Cabreeze, the whole community of Lake Elmo will benefit because a larger amount of people for a greater portion of the year will be able to sit at Lake Elmo Inn, keeping locals local and bringing tourists into town. New money will pour into the community as a

result of people eating at Lake Elmo Inn and exploring the community instead of frequenting other, more spacious restaurants and exploring their cities.

In conclusion, Lake Elmo Inn and the community of Lake Elmo will benefit from allowing a variance for the Inn to erect a Cabreeze Structure. A Cabreeze is aesthetically pleasing, will allow for a greater seating capacity during the colder portion of the year and allow for the possibility of more money to enter the community.

Thank you for your consideration,



Kent H. Forsland, Founder

CabreecoCOMPANIES LLC



P.O. Box 354 • Afton, MN 55001  
651-436-5788 • 651-439-4847 • Fax: 651-769-0584

9-2-2010

To whom it may concern,

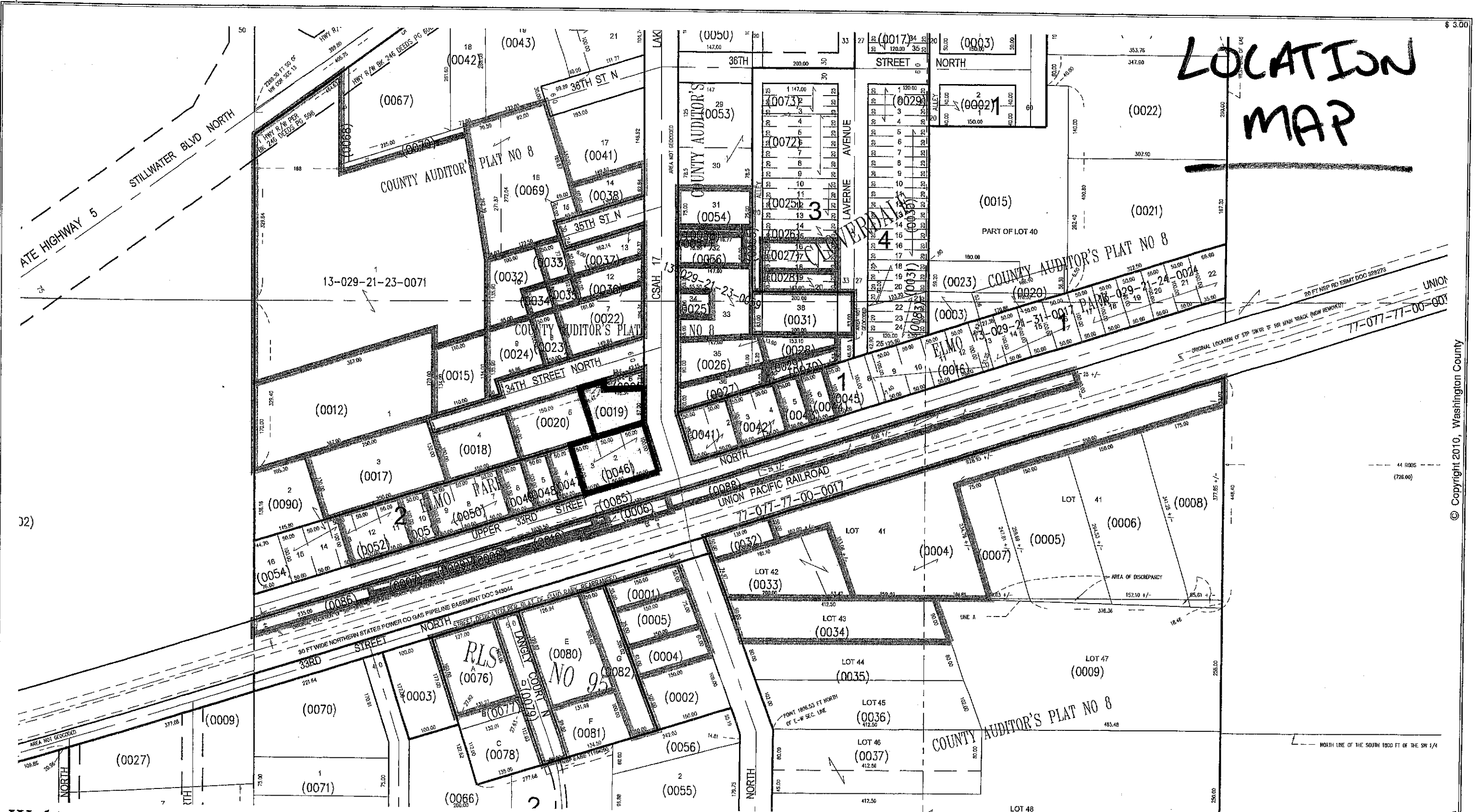
The addison of 35 seats being used all year long should not affect the septic system if kept on it's monthly pumping schedule at the Lake Elmo Inn.

Pinky's Sewer Service

*"Trusted & Recommended for Over 40 Years"*




# LOCATION MAP



**Washington County**  
 PUBLIC WORKS DEPARTMENT  
 SURVEY AND LAND MANAGEMENT DIVISION  
 14949 62nd Street North, P.O. Box 6  
 Stillwater, Minnesota 55082-0006  
 (651) 430-6675  
 surveyor@co.washington.mn.us  
 www.co.washington.mn.us

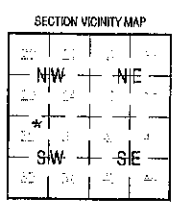
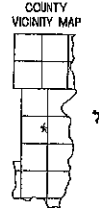
**LEGEND**

- DNR PROTECTED WATERS
- - - DNR PROTECTED WETLAND
- ..... DNR PROTECTED WATERCOURSE
- MUNICIPAL BOUNDARY
- - - PARK BOUNDARY

  
 NORTH  
 SCALE: 1 inch = 180 feet

SECTION-TOWNSHIP-RANGE INDEX

1102921	1202921	0702920
1402921	1302921	1802920
2302921	2402921	1902920



PROPERTY IDENTIFICATION NUMBER FORMAT (GEODEC)

SECTION TOWNSHIP RANGE QUARTER SPECIFIC  
 NUMBER NUMBER NUMBER QUARTER PARCEL  
 ## ## ## ## ## ## ## ##

(0001) - LAST FOUR DIGITS OF PROPERTY IDENTIFICATION NUMBER

THIS DRAWING IS THE RESULT OF A COMPILATION AND REPRODUCTION OF LAND RECORDS AS THEY APPEAR IN VARIOUS WASHINGTON COUNTY OFFICES. WASHINGTON COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES. PROPERTY LINES AS SHOWN ARE FOR REFERENCE PURPOSES AND MAY NOT REPRESENT ACTUAL LOCATIONS.

MAP LAST UPDATED: October 31, 2009

NO ADDITIONAL CHANGES HAVE BEEN REPORTED TO DATE

DATE OF CONTOURS: April, 2000 DATE OF PHOTOGRAPHY: None

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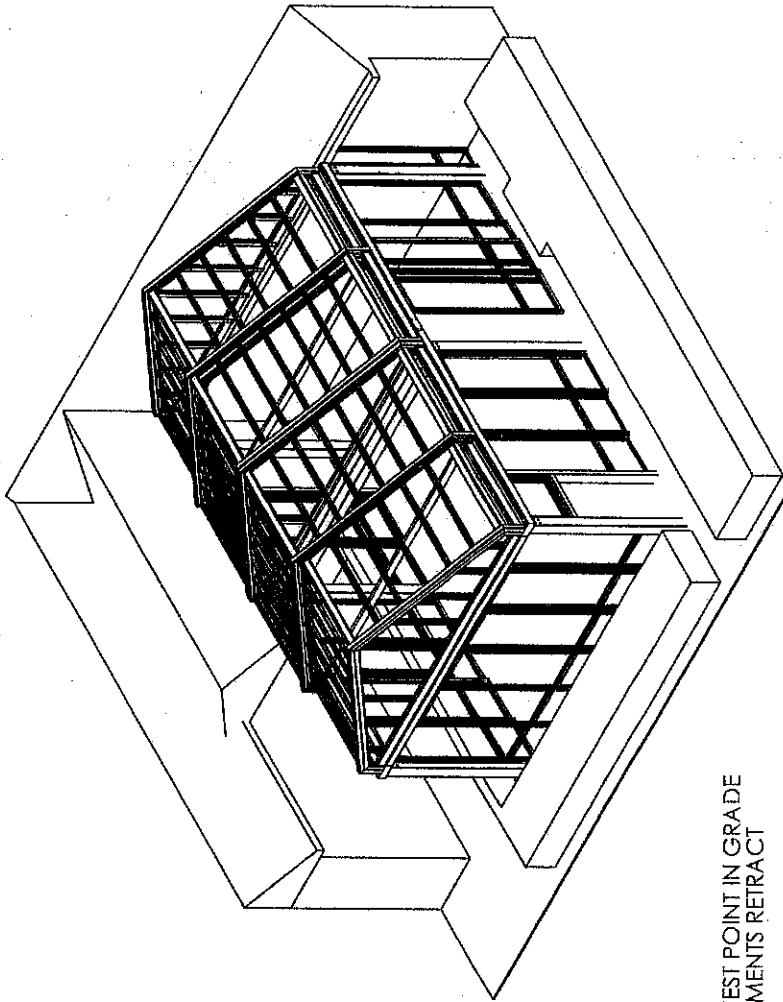
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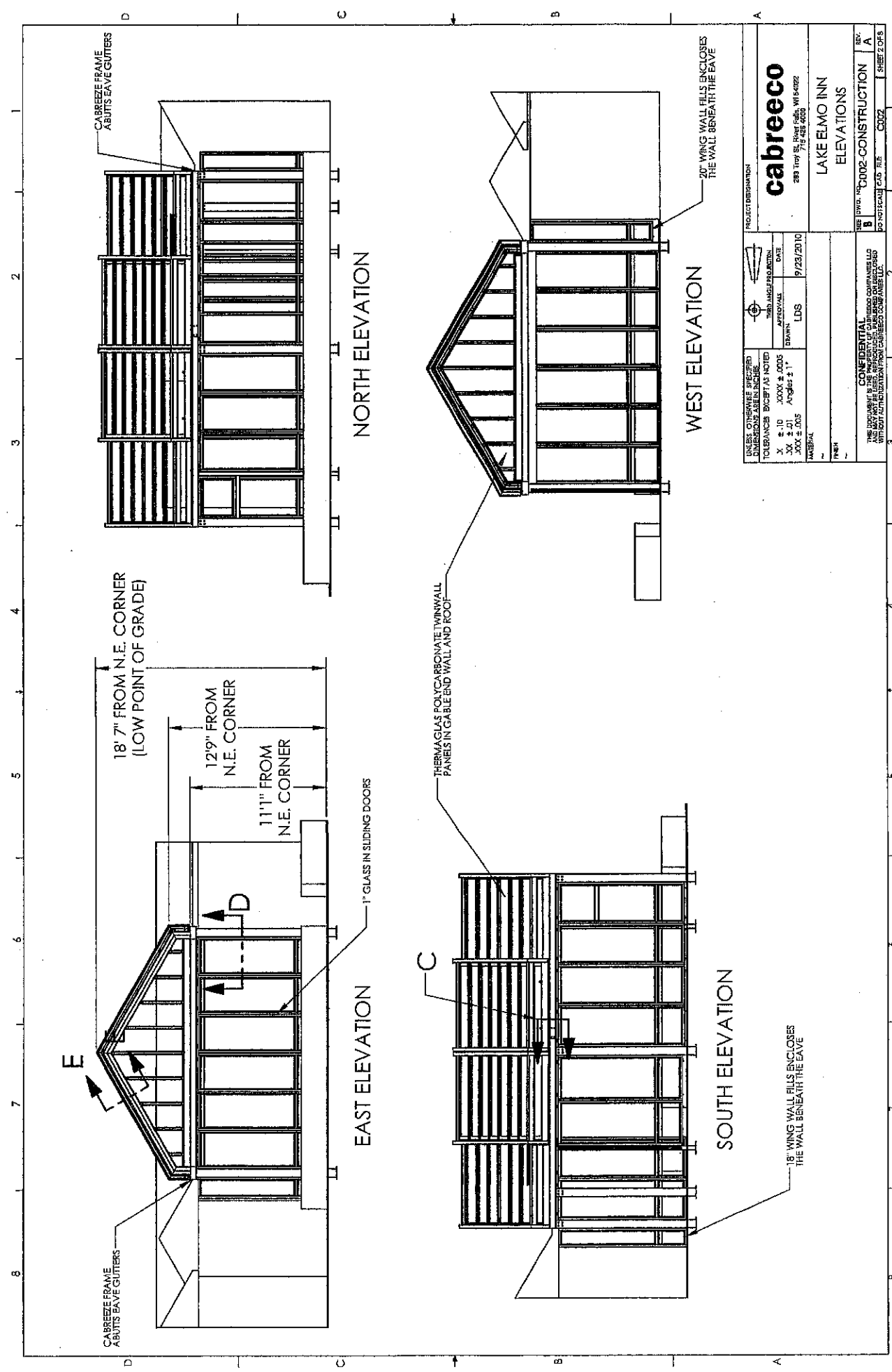


REV	DESCRIPTION OF CHANGE	DATE
A	ORIGINAL VERSION	9/23/2010

TOLERANCES UNLESS SPECIFIED OTHERWISE		PROJECT DESCRIPTION	
FINISH	± .01	DATE	9/23/2010
POSITION	± .01	DRAWN	LDS
ANGLE	± .1°	DATE	9/23/2010
MATERIAL			
REV			

<b>cabreco</b>	
283 Troy St, River Falls, WI 54022	
C002 LAKE ELMO INN	
CONSTRUCTION PRINTS	
REV	DATE
B	9/23/2010
A	9/23/2010



USE: CHANGES SPECIFIED DIMENSIONS ARE IN INCHES TOLERANCES EXCEPT AS NOTED X ± .10 .XXX ± .005 .XX ± .01 .XXX ± .05 .XXX ± .005 ANGLES ± 1' UNLESS OTHERWISE SPECIFIED		PROJECT INFORMATION PROJECT NO. 289 TRIV 5/16/2002 W/5002 DATE 9/23/2010 DRAWN LDS APPROVED TYPED	PROJECT INFORMATION PROJECT NO. 289 TRIV 5/16/2002 W/5002 DATE 9/23/2010 DRAWN LDS APPROVED TYPED
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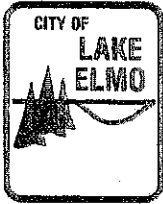
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 TYPED



# MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010  
**REGULAR**  
ITEM #: 10  
**MOTION**

**AGENDA ITEM:** Agricultural Sales Businesses – Consideration of Ordinance Amendment Alternatives

**SUBMITTED BY:** Planning Commission  
Kyle Klatt, Planning Director

**THROUGH:** Bruce Messelt, City Administrator *BAW*

**REVIEWED BY:** Dave Synder, City Attorney  
Kelli Matzek, City Planner

---

**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested to consider a unanimous recommendation from the Planning Commission to amend certain sections of the City Code pertaining to Agricultural Sales and Agricultural Entertainment Businesses. The Commission is recommending that these types of activities be regulated as an interim use permit in the zoning districts in which they are allowed, and that the Council consider several other revisions to the agricultural use standards in the code as outlined in the attached Ordinance No. 08-031A. The recommended motions to act on these items are as follows:

*“Move to adopt Ordinance No. 08-031A, including the specified Findings of Fact, amending the City’s agricultural use definitions and regulations.”*

*“Move to adopt Resolution 2010-050 authorizing summary publication of Ordinance 08-031A”*

**BACKGROUND INFORMATION:** At its last meeting, the Planning Commission reviewed three alternative ordinances for regulating agricultural sales businesses within the City of Lake Elmo. This review was in direct response to the City Council’s direction to develop alternative language to the City’s current regulations concerning agricultural sales, which are limited to only those products grown on the premises.

Using as a guide input and feedback from previous Planning Commission discussions and related Public Hearings, as well as discussions and public comment received by the City Council, Staff prepared three ordinance alternatives (from an initial list of seven) that would also address the City Council’s request to review this matter (and any questions about the legality of the ordinance). The Planning Commission considered each of these alternative ordinances as a



potential response to the issues associated with the City's current agricultural sales and agricultural entertainment regulations. The options reviewed by the Planning Commission included the following:

- **Option 1** – Planning Commission Recommendation (Ordinance 08-031A). This ordinance would regulate agricultural sales businesses and agricultural entertainment businesses as an interim use permit in the districts where they are presently allowed either as a permitted use or conditional use. At the conceptual level, the Planning Commission stated its preference for this type of approach among the several different alternatives that were suggested by Staff. The Planning Commission subsequently unanimously endorsed this option for affirmative Council consideration (with certain included revisions and possible additional evaluation).
- **Option 2** – Revisions that would allow Any Agricultural Sales (Ordinance 08-031B). This ordinance would eliminate only the language concerning “grown on the premises” in the agricultural sales and wayside stand definitions, and would be most consistent with the remedies sought by the Country Sun Farms and others in their lawsuit against the City.
- **Option 3** – Removal of All Sales Provisions (Ordinance 08-031C). This ordinance would eliminate all references to agricultural sales or agricultural entertainment uses within the City of Lake Elmo. If adopted, this ordinance would limit any sales of goods on agricultural lands to only what is provided for under the Minnesota Constitution.

**ORDINANCE HISTORY:** In 2008 the City approved several amendments to the City Code that amended some of the definitions associated with agricultural activity and clarified where these types of activities are permitted, either by right or conditionally, within the City. These amendments defined an agricultural sales business as the “retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products produced on the premises,” if other specified terms were also satisfied. Similar language remained in the wayside stand definition, although this particular definition was further revised by the City Council within the past few months to be more consistent with the agricultural sales definition.

The 2008 Ordinance also amended the City's sign regulations to allow certain types of businesses, including agricultural sales, to install off-site advertising related to the business.

In late 2009, one agricultural sales operation applied for a conditional use permit for an Agricultural Entertainment Business (which required that it also meet the definition of an Agricultural Sales Business), but its operators indicated that they did not plan to meet the “produced on the premises” language. In addition, Staff has identified at least two other agricultural sales businesses that also sold produce that was not produced on the premises. Rather than taking immediate action to enforce the City Code at that time, the City Council decided to first study the issues associated with these uses and requested that Staff develop some alternatives to regulate this type of activity.

As part of the initial process to prepare a list of alternatives, Staff offered to meet with the owners all of the larger agricultural sales operations within the community. Two of these businesses met with Staff while two additional owners did not attempt to meet after the initial contact with Staff.

In order to provide the City Council with a better baseline to consider how the various agricultural uses are regulated by the City, Staff has prepared the attached chart depicting: 1) any agricultural uses that are defined by the code and where these uses are allowed, 2) any uses that are not defined but are still listed in the various zoning districts, and 3) whether these activities are allowed as a permitted, conditional, or interim use.

**REVIEW OF OPTIONS:** As noted above, the Planning Commission considered several different options to respond to the Council's direction at its last meeting, and expressed a preference for pursuing an interim use strategy as a way to allow a certain amount of agricultural sales in the community regardless of where the produce is grown. This objective of this course of action would be to allow sales businesses to supplement their crop when necessary while still giving the City the ability to review these types of businesses for compatibility with the existing (and future land uses) surrounding the sales site. The other goal of this ordinance option is to establish a clear set of regulations and standards that will need to be met by a business operating under the interim use permit. These regulations are important to help ensure that agricultural areas retain their rural character and do not become a nuisance, imposition or hazard to other properties or the environment.

An interim use strategy also makes sense in the City's agricultural zones since most of these areas may ultimately be used for residential development. Agricultural businesses that today may operate with substantial setbacks to any residential development could eventually be surrounded by residential homes at some point in the future. An interim use allows the City to take any uncertainty regarding when properties may develop into account as part of the permit review.

A brief summary of the changes proposed under the draft ordinance labeled as "Option 1" includes the following:

- A definition has been drafted for "Greenhouses" which has not previously been defined under the City Code.
- Where they were previously permitted, agricultural sales businesses have been reclassified as an interim use.
- The definition for "Agricultural Sales Businesses" would be revised to eliminate the grown on the premises language. Any sales of products produced on the premises would be allowed in accordance with State law, as well as pick-your-own or cut-your-own type businesses.

- Existing definitions that are not used anywhere in the City Code would be deleted, including the “roadside stand” definition.
- Where they were previously permitted as a conditional use, agricultural entertainment businesses have been reclassified as an interim use.
- The standards for “Agricultural Entertainment Businesses” have been moved to the performance standards section of the code. Several of these standards have also been incorporated into the Agricultural Sales Business standards, and a new provision has been added that incorporates all of the Sales Business regulations.
- The standards for “Agricultural Sales Businesses” have been augmented in part to reflect their reclassification as an interim use.

Ordinance options two and three are much simpler because these ordinances only eliminate provisions rather than add anything new to the code (other than the Greenhouse definition which Staff would recommend adopting regardless of the Council’s final direction).

Of note: As per Planning Commission direction, City staff did evaluate the possibility of crafting an Administrative Permitting process, along the general line of thinking behind the Interim Use ordinance. However, identifying existing model language and modifying such for Lake Elmo regarding authority and procedures for an administrative permitting process did not prove as feasible as utilizing the Interim Use ordinance language already in place and allowed by statute. As such, this possibility has not been prepared and is no longer recommended for further evaluation at this time.

From a Planning and Zoning perspective, please consider the following benefits and drawbacks associated with each of the forwarded options:

	PROS	CONS
OPTION 1	<p>Provides opportunities for the sale of produce grown off-site.</p> <p>Gives the City the ability to review operations that are more commercial in nature than typical agricultural and rural residential uses.</p> <p>Does not allow the permit to continue indefinitely with the land.</p> <p>Allows a broader range of economically-beneficial nonresidential uses of property until land redevelops.</p>	<p>Possibly more costly and time consuming for businesses than a permitted activity.</p> <p>Increased workload associated with administering interim uses.</p> <p>Does not set a threshold for when a permit is required (any Agricultural Sales Business would require an interim use permit)</p>

	PROS	CONS
	Ensures that the City will have an opportunity to reevaluate the permit, and to then take into consideration changing conditions.	
OPTION 2	<p>Provides a direct response to the current questions posed by certain farmers and litigants.</p> <p>Would be the easiest to administer since any Agricultural Sales Business (that is not also another kind of conditional use) would be permitted, without the need to obtain a permit.</p>	<p>Allows commercial sales activity on any property zoned A or RR.</p> <p>Provides little protection for surrounding land uses from any commercial activity.</p> <p>Allows commercial activity to continue even after substantial land use changes in the area.</p> <p>Commercial activity is not consistent with the majority of the future land use in the City for areas presently zone A or RR.</p>
OPTION 3	<p>Would help the City avoid any conflicts regarding what is agricultural verse what is commercial.</p> <p>Only those sales activities expressly provided for in the Minnesota Constitution would be allowed.</p> <p>Provides the most distinct classifications between agricultural, residential, and commercial uses.</p>	<p>Eliminates all retail sales activity in agricultural zones.</p> <p>Does not allow any augmenting or substituting of products for farmers that experience "unforeseen events".</p>

**PLANNING COMMISSION REPORT:** The Planning Commission considered the ordinance alternatives at its meeting on September 27th, 2010 and conducted a Public Hearing on the proposed revisions to the agricultural use provisions in the Zoning Ordinance. Representatives from the Krueger Tree Farm, Ziertman Farm, and Country Sun Farms spoke at the hearing and: 1) raised questions about the enforcement of the proposed provisions, and 2) suggested several revisions to the first option to improve the consistency of the ordinance with other regulations in the City Code.

The Planning Commission also suggested several revisions to the draft ordinance Option 1, including the following more significant changes:

- Revising the definition of Agricultural Sales Businesses to continue to allow "pick your own" and/or "cut your own" operations as part of a sales business.

- Eliminating any duplicative standards (and combining standards where possible) between the Agricultural Sales and Agricultural Entertainment performance standards.
- Adding Agricultural to the list of permitted activities in the A and RR zoning districts.
- Reducing the minimum lot size required for an Agricultural Sales Business from 40 acres down to 20 acres.
- Specifying that the buffer setback from residential properties only applies to the sales areas, not the growing of crops.

Staff has taken the Planning Commission's comments and other suggestions received during the Public Hearing to further revise the preferred ordinance (Option 1) in advance of tonight's City Council meeting.

After a lengthy review and discussion, the Planning Commission unanimously recommended approval of Ordinance Option 1 (drafted as Ordinance No. 08-031A for the City Council). The motion was passed with a vote of eight ayes, zero nays, and one abstention.

**RECOMMENDATION:** The Planning Commission is recommending that the City Council adopt the following motions to amend the City's agricultural use provisions:

***“Move to adopt Ordinance No. 08-031A, including the specified Findings of Fact, amending the City's agricultural use definitions and regulations.”***

***“Move to adopt Resolution 2010-050 authorizing summary publication of Ordinance 08-031A”***

**ATTACHMENTS:**

1. Agricultural Use Comparison Chart
2. Ordinance No. 08-031A (Ordinance Option 1)
3. Resolution No. 2010-050 – Summary Publication
4. Ordinance No. 08-031B (Ordinance Option 2)
5. Ordinance No. 08-031C (Ordinance Option 3)

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

DRAFT ORDINANCE – OPTION 1

CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 08-031-A

**AN ORDINANCE TO AMEND AGRICULTURAL BUSINESS DEFINITIONS  
AND REGULATIONS**

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FINDINGS:

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1. Under the Municipal Planning Act and the Metropolitan Land Use Planning Act, a central and required purpose of a zoning ordinance is to give effect to a city's comprehensive plan.
2. According to the City's Comprehensive Plan, the RAD land use designation "represents low density semi-rural residential development. Working farms, Alternative Ag uses, single family detached residences, and limited life cycle housing." Most of the City's outer areas are guided in this fashion. This includes areas that are zoned Agriculture, Rural Residential, and Open Space.
3. By contrast, around the City's "village center" is an area with a "Commercial" land use designation.
4. Commercially-zoned areas within the City include areas that are zoned General Business, General Business Park Holding, General Business Commercial Holding, General Business Sewered Residential Holding, Village Residential General Business Holding, Convenience Business, and Limited Business.
5. The Land Use Plan chapter of the City's Comprehensive Plan places special emphasis on three precepts, among them "the City's desire to preserve its rural character, open space, and green corridors," and "the City's desire to retain its identity and sense of community by preserving the historic village center." It further states that the Plan "supports a community focused from its village core out, rather than a lock step continuation of urbanization from the community borders."
6. These aspects of the City's Comprehensive Plan are more likely to be achieved if the zoning ordinance regulates commercially-related land uses in Agriculture, Rural Residential, and Open Space districts so as to further the following objectives:
  - a. controlling or mitigating the impact on other properties or the environment,

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DRAFT ORDINANCE – OPTION 1

- b. ensuring that the scale of the business does not exceed what is compatible with a rural or semi-rural setting,
  - c. ensuring that adequate space is available, on site, for such operations,
  - d. ensuring that customers attracted to such business, including their children, are not unreasonably subjected to risks;
  - e. ensuring that such uses do not present an added risk of disease;
  - f. insuring that the acreage of the site is sufficiently large for a traditional agricultural use; and
  - g. otherwise preserving the rural character of Agriculture, Rural Residential, and Open Space districts.
7. The current definitions of Agricultural Sales Business (“ASB”) (and, indirectly, of Agricultural Entertainment Business) (“AEB”) restrict produce sales by those who hold conditional use permits for such uses to sales of produce that is produced on the premises. When the City was first setting the performance standards in 2008 when those categories of conditional uses were created, such language served to limit the scale of commercial activity by those property owners who complied with that limitation. If the City removes that limitation, but leaves the remaining performance standards unchanged, the City’s ability to achieve the objectives described above will be threatened.
8. If land with a rural zoning designation cannot be used in an economically-beneficial fashion, that will increase the likelihood that the property owner will press the City to rezone the property for rezoning to a non-rural designation. For this reason, the City finds that the goal of preserving the rural character of areas guided and zoned for rural uses is best accomplished if the City’s regulation of commercially-related land uses in Agriculture, Rural Residential, and Open Space districts is not overly restrictive.
9. The City is changing, and will continue to change, as expected and unexpected opportunities and challenges emerge. In particular, the City expects that certain areas with rural zoning designations, or areas adjacent to them, will eventually be converted to more intensive uses. Because of those changes, restrictions on commercially-related land uses in a rural residential that are appropriate today may be less reasonable in the future. The authority provided by the Minnesota Legislature for cities to issue interim use permits (IUPs) is a sound planning tool to address this dynamic, and is generally more effective than classification of such uses as permitted or conditional uses.

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## DRAFT ORDINANCE – OPTION 1

10. The objective of controlling or mitigating the impact on other properties or the environment is served by requiring performance standards that limit the floor area that can be devoted to sales activities, require compliance with the City Code's parking requirements for retail sales activities, require planned and designed on-site wastewater handling systems that are approved by the City or its designated responsible authority, limit trip generation related to the underlying zoning (both on an average basis and as a reasonable multiple of that figure for peak periods), set a maximum impervious coverage limit that keeps such land uses from unreasonably adding to the runoff appropriate for rural areas and rural stormwater systems, and require a buffer area beside any adjacent residential property lines.
11. The objective of ensuring that the scale of the business does not exceed what is compatible with a rural or semi-rural setting is served through such floor area requirements, trip generation limitations, and limitations on impervious coverage.
12. The objective of ensuring that adequate space is available, on site, for such operations, is served by requiring a minimum lot size for any agricultural sales business.
13. The objective of ensuring that customers attracted to such business, including their children, are not unreasonably subjected to risks is served by requiring compliance with parking requirements for retail sales activities, requiring planned and designed on-site wastewater handling systems that are approved by the City or its designated responsible authority, and limiting unscreened or inadequately screened exterior storage of equipment and materials.
14. The objective of ensuring that such uses do not present an added risk of disease is served by requiring an inspection certificate for any Christmas Trees that are sold as part of an Agricultural Sales Business.
15. The objective of insuring that the acreage of the site is sufficiently large for a traditional agricultural use is served through a minimum lot size for any agricultural sales business.
16. The objective of otherwise preserving the rural character of Agriculture, Rural Residential, and Open Space districts is served by the same restrictions, and by requiring that structures constructed for the agricultural sales business be consistent on design and appearance with other agricultural buildings in the area, and requiring screening mechanical equipment in certain settings.
17. As the text of the City's zoning ordinance has been revised over time, certain definitions have become obsolete or unnecessary, yet remain. Removing such definitions reduces the likelihood of confusion or misunderstanding.

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DRAFT ORDINANCE – OPTION 1

18. Because a business that is not an ASB cannot satisfy the definition of an AEB, it is important that the ordinance clarify that an AEB must satisfy performance standards applicable to ASBs and AEBs. For the same reason, it is important that the performance standards for ASBs and AEBs complement each other, and not contradict each other.

19. The added kinds of activities allowed for ASBs that are also AEBs pose additional challenges because of the size and the nature of the crowds that could be attracted to AEBs. Those challenges are best addressed by imposing additional requirements on AEBs related to direct access to a collector or arterial street, prohibition of the discharge of firearms, and requiring reasonable steps to prevent trespassing on adjacent properties.

Based upon the above Findings of Fact, which the City Council of the City of Lake Elmo hereby adopt, The City Council of the City of Lake Elmo does ordain:

**Section 1.** The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby amended to *add* the following definition:

GREENHOUSES. A building used for the growing of plants, all or part of which are sold at retail or wholesale.

**Section 2.** The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby changed to *amend or eliminate* the following definitions as shown:

AGRICULTURAL BUILDING. A structure on agricultural land, as defined below in the definition for FARM, RURAL of this section, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown by the owner, lessee, or sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

AGRICULTURAL ENTERTAINMENT BUSINESS. An agricultural sales business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture.

AGRICULTURAL MUSEUMS. The keeping, restoration, maintenance and display of the structures, tools and equipment utilized in the production of agricultural products. Restoration and maintenance activity shall be limited to those structures, tools, and equipment permanently kept on display on the premises. Retail or wholesale sales of any product are specifically excluded.

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DRAFT ORDINANCE – OPTION 1

AGRICULTURAL SALES BUSINESS. The retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products. The operation may be indoors or outdoors, ~~include pick-your-own or cut-your-own opportunities~~, and may involve the ancillary sale of items considered accessory to the agricultural products being sold or accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25% of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the AGRICULTURAL SALES BUSINESS.

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AGRICULTURE. The production of livestock, dairy animals, dairy products, fur-bearing animals, horticultural and floricultural nursery stock, fruits of all kinds, vegetables, forage, grains, bees, and apiary products.

ANIMALS, DOMESTIC FARM. Cattle, hogs, horses, bees, turkeys, geese, sheep, goats, chickens, and other animals commonly kept for commercial food producing purposes.

~~COMMERCIAL LUMBERING OR HARVESTING OF FOREST PRODUCTS.~~  
Any removal of trees that may result in the commercial sale of any wood or product of the tree.

**Deleted:** . COMMERCIAL FOOD PRODUCING FARM OPERATIONS. See FARM/RURAL.¶

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

FARM, RURAL. The portion of a 10 or more acre parcel of land which is devoted to agriculture by the property owner or by a lessee of the property owner.

FARM, SUBURBAN. A suburban farm is a non-commercial, food-producing use primarily intended for the use of the residents, and usually on less than 10 contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.

FARMER. Person permanently residing on a tract of land of not less than 10 acres in the city and who farms the land for a livelihood.

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FLORICULTURE. The cultivation and management of ornamental and flowering plants.

HORTICULTURE. The cultivation and management of trees, plants, grasses, vegetables, and fruits.

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**DRAFT ORDINANCE – OPTION 1**

KENNEL; ANIMALS. Any place where 4 or more of any type of domestic pets, over 4 months of age, are owned, boarded, bred, or offered for sale.

NON-AGRICULTURAL LOW IMPACT. The outdoor storage of off-road mobile construction equipment of any weight; the indoor storage of the aforementioned items and other goods and materials which, in the determination of the City Council, do not jeopardize the health, safety, or welfare of the city; nature farms; agricultural museums; farmer’s markets; small engine repair shops; contractor maintenance shops; or office space as an accessory use to the aforementioned uses.

**Deleted:** NATURE FARMS. The keeping of animals and/or the growing and keeping of agricultural products for the purpose of display to the public, not including the breeding and keeping of animals for boarding or sale. Examples of this use would include “petting farms,” or the display of unique horticulture. Retail or wholesale sales of any product are specifically excluded.¶

OPEN SALES LOTS. Lands devoted to the display of goods for sale, rent, lease, or trade, where the goods are not enclosed within a building.

**Deleted:** NURSERY, LANDSCAPE. A business growing and selling trees, flowering and decorative plants, and shrubs and which may be conducted within a building or without.¶

STABLE, PRIVATE. The keeping, breeding, raising, and uses of horses or ponies on open space owned and maintained by an association of adjacent property owners for the exclusive personal use and enjoyment of association members and for which commercial gain is not the primary objective.

**Deleted:** ROADSIDE SALES STAND. A structure used only for the display and sale of products, with no space for customers within the structure, on a seasonal basis.¶

WAYSIDE STAND. A temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the WAYSIDE STAND, which is clearly a secondary use of the premises and does not change the character thereof.

**Section 3. The City Council of the City of Lake Elmo hereby ordains that Section 154.033 (Agricultural Use Regulations) subsections (A) and (B) are hereby amended as follows:**

\_\_\_\_ (A) Permitted uses and structures.

(1) **Agriculture**

(2) Farm, suburban or rural;

(3) Poultry facilities meeting state and federal regulations;

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(4) Farm buildings;

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(5) Farm drainage and irrigation systems;

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(6) Forestry meeting state and federal regulations;

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(7) One farm dwelling per farm (also see §§ 154.091 and 154.105);

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DRAFT ORDINANCE – OPTION 1

(8) One non-farm dwelling per each 40 acres, or part of a dwelling on a prorated basis, not already containing a farm or non-farm dwelling, provided:

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(a) The dwelling unit is located on a separate parcel of record in the office of the County Recorder and/or County Auditor, which shall be at least 1-1/2 acres in size;

(b) The parcel on which the dwelling unit is located must have at least 125 feet of frontage along a public street, be rectangular in shape and no dimension to be greater than 3 times the other; and

(c) The dwelling is separated by at least 300 feet from the nearest farm building.

(9) Wayside stands;

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(10) Joint ownership of property or ownership by association or rental for the purpose of providing private gardens, forest plots, or subplots to its members or lessees.

Deleted: (9) Agricultural sales businesses subject to performance standards outlined in § 154.110; and

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(B) Uses permitted by conditional use permit.

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(1) Greenhouses;

(2) Kennels;

(3) Stables;

(4) Commercial recreation of a rural nature, including outdoor target ranges;

(5) Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis, including sorting, grading, and packing fruits and vegetables for the owner, lessee, or sublessee; agricultural produce milling and processing for the owner, lessee, or sublessee; horticultural services; fruit picking; grain cleaning; veterinary services; boarding and training of horses;

(6) Open space development projects, as regulated by §§ 150.175 et seq.;

(7) Non-agricultural low impact uses pursuant to the standards described in division (F) of this section; and

Deleted: (8) Agricultural entertainment businesses subject to the following performance standards:

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DRAFT ORDINANCE – OPTION 1

(Am. Ord. 97-57, passed 7-18-2000; Am. Ord. 97-191, passed 4-3-2007)

(C) Uses permitted by Interim Use Permit:

(1) Agricultural Sales Businesses subject to performance standards outlined in § 154.110; and

(2) Agricultural Entertainment Businesses subject to the performance standards outlined in § 154.111

(D) Accessory uses and structures (see §§ 154.092 and 154.093).

(1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures as defined in § 11.01;

(2) Private garages, carports, screen houses, conservatories, playhouses, swimming pools and storage buildings, as defined in § 11.01, for use by occupants of the principal structures; and  
(Am. Ord. 97-38, passed 11-17-1998)

(3) Home occupations.

**Section 4. The City Council of the City of Lake Elmo hereby ordains that Section 154.036 (Rural Residential Use Regulations) subsections (A), (B), (C), and (D) are hereby amended as follows:**

(A) Permitted uses and structures.

(1) Agriculture

(2) One-family residential dwellings (also see §§ 154.091 and 154.105);

(3) Farm, suburban or rural within the limits defined in the performance standards for livestock;

(4) Wayside stands; and

(B) Accessory uses and structures (also see §§ 154.092 and 154.093). Uses and structures which are customarily accessory and clearly incidental and subordinate to allowed uses and structures; accessory structures cannot exceed the size of the principal building.

(C) Conditionally permitted uses.

**Deleted:** (a) . The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the comprehensive plan;¶

¶ (b) . All parking must occur on-site, be on a primary surface such as class five gravel or pavement; and must be set back at least 30 feet from all property lines;¶

¶ (c) No more than 25% of the site may be covered with impervious surface and the remainder shall be suitably landscaped;¶

¶ (d) . Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s);¶

¶ (e) . Trash containers must be located inside or screened in an acceptable manner;¶

¶ (f) . Discharge of firearms, including blanks, shall not be allowed on the property;¶

¶ (g) . The property owner shall give the city permission to conduct inspections of the property in order to investigate complaints;¶

¶ (h) . The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons;¶

¶ (i) Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the ... [1]

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DRAFT ORDINANCE – OPTION 1

(1) Kennels; Deleted:

(2) Open space development as regulated by §§ 150.175 et seq.; Deleted:

(3) Home occupations; and Deleted:

(D) Uses permitted by Interim Use Permit: Deleted: (4) Agricultural entertainment businesses subject to the requirements outlined in § 154.033(B)(8);

(1) Agricultural Sales businesses subject to performance standards outlined in § 154.110; and Deleted:

(2) Agricultural Entertainment Businesses subject to the performance standards outlined in § 154.111 Deleted:

**Section 5. The City Council of the City of Lake Elmo hereby ordains that Section 150.178 (OP Use Regulations) subsections (A), (B) and (C) are hereby amended as follows:**

(A) Permitted uses.

- (1) Single-family, detached;
- (2) Preserved open space;
- (3) Conservation easements;
- (4) Agriculture;
- (5) Suburban farms;
- (6) Private stables;
- (7) Single-family, attached;
- (8) Townhouses (no more than 25% in any development); and
- (9) Wayside stand.

(B) Accessory uses. Uses that are typically found accessory to a permitted use.

(C) Prohibited uses. All other uses are hereby prohibited.

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DRAFT ORDINANCE – OPTION 1

**Section 6. The City Council of the City of Lake Elmo hereby ordains that the City’s Design and Performance Standards are hereby amended to incorporate the following additions and changes:**

Current Sections 154.090 through 154.109 and their subdivisions are restated and incorporated herein without change.

Current Section 154.111 and its subdivisions are restated and incorporated herein as section 154.112

154.110 Agricultural Sales Businesses

Agricultural Sales Businesses shall be allowed upon the issuance of an interim use permit in agricultural and rural areas that are guided for Rural Agricultural Density or future sewered development in accordance with the Comprehensive Plan. Agricultural Sales Businesses shall be subject to the following performance standards:

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(A) Activities shall be limited to those listed within the definition for Agricultural Sales Business.

(B) The agricultural sales business shall be located on land owned or leased by the producer or the operator of the business, and not within or on any public right-of-ways or easements.

(C) The operator must be able to demonstrate at all times to the city that there is sufficient access, parking and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.

(D) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.

(E) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.

(F) The maximum gross floor area that can be devoted to sales activities is limited to 20,000 square feet.

(G) Parking shall be provided in accordance with the parking requirements for other commercial uses, as per City Code § 154.051 (C). All parking must occur on-site, be on a primary surface such as class five gravel or pavement; and must be set back at least 30 feet from all property lines.

(H) The minimum lot size shall be 20 acres for any agricultural sales business.

(I) On-site wastewater handling system shall be planned and designed by a licensed professional and approved by the City or its designated responsible authority. Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the property shall be identified on the property. Alternate sites shall be

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DRAFT ORDINANCE – OPTION 1

protected in the site plan design, and will only need to be used upon failure of a primary site.

(J) Any structures constructed for the agricultural sales business shall be consistent on design and appearance with other agricultural buildings in the area.

(K) Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres.

(L) The maximum impervious coverage for the buildings, parking areas and other uses devoted to the agricultural sales business shall not exceed 25% of the site or 40,000 square feet, whichever is less, and the remainder shall be suitably landscaped.

(M) Any activities that are defined as an Agricultural Entertainment Business shall require a separate Interim Use Permit.

(N) Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the property shall be prohibited, unless otherwise exempted in accordance with §150.001 through §150.003 of the City Code.

(O) There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.

(P) Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s).

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(O) Trash containers must be located inside or screened in an acceptable manner.

(R) The operator shall adhere to the general review criteria applicable to all Interim Use Permit applications.

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(S) An inspection certificate shall be provided for any Christmas Trees that are sold as part of the Agricultural Sales Business.

(T) No activities or structures beyond those specified in the Interim Use Permit shall be added before review by the city to determine compliance with this ordinance.

154.111 Agricultural Entertainment Businesses

Agricultural Entertainment Businesses shall be allowed upon the issuance of an interim use permit in agricultural and rural areas that are guided for Rural Agricultural Density or future sewered development in accordance with the Comprehensive Plan. Agricultural Entertainment Businesses shall be subject to the following performance standards:

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**DRAFT ORDINANCE – OPTION 1**

(A) An Agricultural Entertainment Business shall adhere to all performance standards as outlined in Section 154.110 for an Agricultural Sales Business

(B) The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the comprehensive plan;

(C) Discharge of firearms, including blanks, shall not be allowed on the property;

(D) The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons;

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**Deleted:** (C) All parking must occur on-site, be on a primary surface such as class five gravel or pavement; and must be set back at least 30 feet from all property lines;

(D) No more than 25% of the site may be covered with impervious surface and the remainder shall be suitably landscaped;

(E) Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s);

(F) Trash containers must be located inside or screened in an acceptable manner;

**Section 7. Adoption Date**

This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. 08-031 was adopted on this 5<sup>th</sup> day of October 2010, by a vote of \_\_\_ Ayes and \_\_\_ Nays.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

**Deleted:** (I) Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the property shall be identified on the property. Alternate sites shall be protected in the site plan design, and will only need to be used upon failure of a primary site; and

(J) Adherence to the general review criteria applicable to all Interim Use Permit applications;

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This Ordinance No. 08-031 was published on the \_\_\_ day of \_\_\_, 2010.

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**CITY OF LAKE ELMO**

**RESOLUTION NO. 2010-050**

**RESOLUTION AUTHORIZING PUBLICATION OF  
ORDINANCE NO. 08-031A BY TITLE AND SUMMARY**

**WHEREAS**, the city council of the city of Lake Elmo has adopted Ordinance No. 08-031A, an ordinance to regulate agricultural business definitions and regulations within the City of Lake Elmo; and

**WHEREAS**, the ordinance is lengthy; and

**WHEREAS**, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the city council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the city council of the city of Lake Elmo, that the city administrator shall cause the following summary of Ordinance No. 08-031A to be published in the official newspaper in lieu of the entire ordinance:

**Public Notice**

The City Council of the city of Lake Elmo has adopted Ordinance No. 08-031A. The ordinance amends the City's agricultural use regulations in the following manner:

- Adding a definition for Greenhouses.
- Eliminating definitions for Commercial Food Producing Farm Operations, Nature Farms, Landscape Nursery, and Roadside Sales Stand.
- Revising the definitions for Agricultural Sales Businesses, Farmer, and Wayside Stand.
- Adding Agriculture to the list of permitted uses in A and RR zoning districts.
- Moving Agriculture Sales Businesses and Agricultural Entertainment Businesses from a permitted or conditional use to an interim use in A and RR zoning districts.
- Amending the performance standards for Agriculture Sales Businesses and Agricultural

Entertainment Businesses.

The full text of Ordinance No.08-031A is available for inspection at Lake Elmo city hall during regular business hours.

\_\_\_\_\_  
Mayor Dean Johnston

**BE IT FURTHER RESOLVED** by the city council of the city of Lake Elmo that the city administrator keep a copy of the ordinance in his office at city hall for public inspection and that he post a full copy of the ordinance in a public place within the city.

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

DRAFT ORDINANCE – OPTION 2

CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 08-\_\_\_\_\_

**AN ORDINANCE TO AMEND AGRICULTURAL BUSINESS DEFINITIONS  
AND REGULATIONS**

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**Section 1.** The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby amended to *add* the following definition:

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**GREENHOUSES.** A building used for the growing of plants, all or part of which are sold at retail or wholesale.

**Section 2.** The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby changed to *amend or eliminate* the following definitions as shown:

**AGRICULTURAL BUILDING.** A structure on agricultural land, as defined below in the definition for FARM, RURAL of this section, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown by the owner, lessee, or sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

**AGRICULTURAL ENTERTAINMENT BUSINESS.** An agricultural sales business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture.

**AGRICULTURAL MUSEUMS.** The keeping, restoration, maintenance and display of the structures, tools and equipment utilized in the production of agricultural products. Restoration and maintenance activity shall be limited to those structures, tools, and equipment permanently kept on display on the premises. Retail or wholesale sales of any product are specifically excluded.

**AGRICULTURAL SALES BUSINESS.** The retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products. The operation may be indoors or outdoors, include pick-your-own opportunities, and may involve accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and

Deleted: produced on the premises



## DRAFT ORDINANCE – OPTION 2

homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25% of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the AGRICULTURAL SALES BUSINESS.

**AGRICULTURE.** The production of livestock, dairy animals, dairy products, fur-bearing animals, horticultural and floricultural nursery stock, fruits of all kinds, vegetables, forage, grains, bees, and apiary products.

**ANIMALS, DOMESTIC FARM.** Cattle, hogs, horses, bees, turkeys, geese, sheep, goats, chickens, and other animals commonly kept for commercial food producing purposes.

**COMMERCIAL FOOD PRODUCING FARM OPERATIONS.** See FARM/RURAL.

**COMMERCIAL LUMBERING OR HARVESTING OF FOREST PRODUCTS.** Any removal of trees that may result in the commercial sale of any wood or product of the tree.

**COMMERCIAL USE.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**FARM, RURAL.** The portion of a 10 or more acre parcel of land which is devoted to agriculture by the property owner or by a lessee of the property owner.

**FARM, SUBURBAN.** A suburban farm is a non-commercial, food-producing use primarily intended for the use of the residents, and usually on less than 10 contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.

**FARMER.** Person permanently residing on a tract of land of not less than 75 acres in the city and who farms the land for a livelihood.

**FLORICULTURE.** The cultivation and management of ornamental and flowering plants.

**HORTICULTURE.** The cultivation and management of trees, plants, grasses, vegetables, and fruits.

**KENNEL; ANIMALS.** Any place where 4 or more of any type of domestic pets, over 4 months of age, are owned, boarded, bred, or offered for sale.

**Deleted:** NATURE FARMS. The keeping of animals and/or the growing and keeping of agricultural products for the purpose of display to the public, not including the breeding and keeping of animals for boarding or sale. Examples of this use would include "petting farms," or the display of unique horticulture. Retail or wholesale sales of any product are specifically excluded.¶

**DRAFT ORDINANCE – OPTION 2**

**NON-AGRICULTURAL LOW IMPACT.** The outdoor storage of off-road mobile construction equipment of any weight; the indoor storage of the aforementioned items and other goods and materials which, in the determination of the City Council, do not jeopardize the health, safety, or welfare of the city; nature farms; agricultural museums; farmer's markets; small engine repair shops; contractor maintenance shops; or office space as an accessory use to the aforementioned uses.

**OPEN SALES LOTS.** Lands devoted to the display of goods for sale, rent, lease, or trade, where the goods are not enclosed within a building.

**Deleted:** NURSERY, LANDSCAPE. A business growing and selling trees, flowering and decorative plants, and shrubs and which may be conducted within a building or without.¶

**STABLE, PRIVATE.** The keeping, breeding, raising, and uses of horses or ponies on open space owned and maintained by an association of adjacent property owners for the exclusive personal use and enjoyment of association members and for which commercial gain is not the primary objective.

**Deleted:** ROADSIDE SALES STAND. A structure used only for the display and sale of products, with no space for customers within the structure, on a seasonal basis.¶

**WAYSIDE STAND.** A temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the **WAYSIDE STAND.**

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**Section 3.** The City Council of the City of Lake Elmo hereby ordains that Section 154.033 (Agricultural Use Regulations) subsections (A) and (B) are hereby amended as follows:

(A) Permitted uses and structures.

- (1) Farm, suburban or rural;
- (2) Poultry facilities meeting state and federal regulations;
- (3) Farm buildings;
- (4) Farm drainage and irrigation systems;
- (5) Forestry meeting state and federal regulations;
- (6) One farm dwelling per farm (also see §§ 154.091 and 154.105);
- (7) One non-farm dwelling per each 40 acres, or part of a dwelling on a prorated basis, not already containing a farm or non-farm dwelling, provided:

(a) The dwelling unit is located on a separate parcel of record in the office of the County Recorder and/or County Auditor, which shall be at least 1-1/2 acres in size;

**DRAFT ORDINANCE – OPTION 2**

(b) The parcel on which the dwelling unit is located must have at least 125 feet of frontage along a public street, be rectangular in shape and no dimension to be greater than 3 times the other; and

(c) The dwelling is separated by at least 300 feet from the nearest farm building.

(8) Wayside stands;

(9) Agricultural sales businesses subject to performance standards outlined in § 154.110; and

(10) Joint ownership of property or ownership by association or rental for the purpose of providing private gardens or forest plots to its members or lessees.

(B) Uses permitted by conditional use permit.

(1) Greenhouses;

(2) Kennels;

(3) Stables;

(4) Commercial recreation of a rural nature, including outdoor target ranges;

(5) Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis, including sorting, grading, and packing fruits and vegetables for the owner, lessee, or sublessee; agricultural produce milling and processing for the owner, lessee, or sublessee; horticultural services; fruit picking; grain cleaning; veterinary services; boarding and training of horses;

(6) Open space development projects, as regulated by §§ 150.175 et seq.;

(7) Non-agricultural low impact uses pursuant to the standards described in division (F) of this section; and

(8) Agricultural entertainment businesses subject to the following performance standards:

(a) The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the comprehensive plan;



**DRAFT ORDINANCE -- OPTION 2**

(b) All parking must occur on-site, be on a primary surface such as class five gravel or pavement; and must be set back at least 30 feet from all property lines;

(c) No more than 25% of the site may be covered with impervious surface and the remainder shall be suitably landscaped;

(d) Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s);

(e) Trash containers must be located inside or screened in an acceptable manner;

(f) Discharge of firearms, including blanks, shall not be allowed on the property;

(g) The property owner shall give the city permission to conduct inspections of the property in order to investigate complaints;

(h) The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons;

(i) Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the property shall be identified on the property. Alternate sites shall be protected in the site plan design, and will only need to be used upon failure of a primary site; and

(j) Adherence to the general review criteria applicable to all CUP applications.

(Am. Ord. 97-57, passed 7-18-2000; Am. Ord. 97-191, passed 4-3-2007)

(C) Accessory uses and structures (see §§ 154.092 and 154.093).

(1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures as defined in § 11.01;

(2) Private garages, carports, screen houses, conservatories, playhouses, swimming pools and storage buildings, as defined in § 11.01, for use by occupants of the principal structures; and  
(Am. Ord. 97-38, passed 11-17-1998)

(3) Home occupations.

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**DRAFT ORDINANCE – OPTION 2**

**Section 4. The City Council of the City of Lake Elmo hereby ordains that Section 154.036 (Rural Residential Use Regulations) subsections (A), (B), (C), and (D) are hereby amended as follows:**

- (A) Permitted uses and structures.
  - (1) One-family residential dwellings (also see §§ 154.091 and 154.105);
  - (2) Farm, suburban or rural within the limits defined in the performance standards for livestock;
  - (3) Wayside stands; and
  - (4) Agricultural sales businesses subject to performance standards outlined in § 154.110.
- (B) Accessory uses and structures (also see §§ 154.092 and 154.093). Uses and structures which are customarily accessory and clearly incidental and subordinate to allowed uses and structures; accessory structures cannot exceed the size of the principal building.
- (C) Conditionally permitted uses.
  - (1) Kennels;
  - (2) Open space development as regulated by §§ 150.175 et seq.;
  - (3) Home occupations; and
  - (4) Agricultural entertainment businesses subject to the requirements outlined in § 154.033(B)(8).

**Section 5. The City Council of the City of Lake Elmo hereby ordains that Section 150.178 (OP Use Regulations) subsections (A), (B) and (C) are hereby amended as follows:**

- (A) Permitted uses.
  - (1) Single-family, detached;
  - (2) Preserved open space;
  - (3) Conservation easements;
  - (4) Agriculture;

**DRAFT ORDINANCE – OPTION 2**

- (5) Suburban farms;
  - (6) Private stables;
  - (7) Single-family, attached;
  - (8) Townhouses (no more than 25% in any development); and
  - (9) Wayside stand.
- (B) Accessory uses. Uses that are typically found accessory to a permitted use.
- (C) Prohibited uses. All other uses are hereby prohibited.

**Section 6. The City Council of the City of Lake Elmo hereby ordains that the City's Design and Performance Standards are hereby amended to incorporate the following additions and changes:**

Current Sections 154.090 through 154.109 and their subdivisions are restated and incorporated herein without change.

Current Section 154.111 and its subdivisions are restated and incorporated herein as section 154.112

**154.110 Agricultural Sales Businesses**

Agricultural Sales Businesses shall be subject to the following performance standards:

- (A) Activities shall be limited to those listed within the definition for Agricultural Sales Business.
- (B) The agricultural sales business shall be located on land owned or leased by the producer or the operator of the business, and not within or on any public right-of-ways or easements.
- (C) The operator must be able to demonstrate at all times to the city that there is sufficient access, parking and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.
- (D) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.
- (E) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.

DRAFT ORDINANCE – OPTION 2

**Section 7. Adoption Date**

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This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. \_\_\_\_\_ was adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by a vote of \_\_\_ Ayes and \_\_\_ Nays.

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\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

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This Ordinance No. \_\_\_\_\_ was published on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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DRAFT ORDINANCE -- OPTION 3

CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 08-\_\_\_\_

AN ORDINANCE TO AMEND AGRICULTURAL BUSINESS DEFINITIONS  
AND REGULATIONS

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**Section 1.** The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby amended to *add* the following definition:

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**GREENHOUSES.** A building used for the growing of plants, all or part of which are sold at retail or wholesale.

**Section 2.** The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby changed to *amend or eliminate* the following definitions as shown:

**AGRICULTURAL BUILDING.** A structure on agricultural land, as defined below in the definition for FARM, RURAL of this section, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown by the owner, lessee, or sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

**AGRICULTURAL MUSEUMS.** The keeping, restoration, maintenance and display of the structures, tools and equipment utilized in the production of agricultural products. Restoration and maintenance activity shall be limited to those structures, tools, and equipment permanently kept on display on the premises. Retail or wholesale sales of any product are specifically excluded.

**AGRICULTURE.** The production of livestock, dairy animals, dairy products, fur-bearing animals, horticultural and floricultural nursery stock, fruits of all kinds, vegetables, forage, grains, bees, and apiary products.

**ANIMALS, DOMESTIC FARM.** Cattle, hogs, horses, bees, turkeys, geese, sheep, goats, chickens, and other animals commonly kept for commercial food producing purposes.

**COMMERCIAL FOOD PRODUCING FARM OPERATIONS.** See FARM/RURAL.

**Deleted:** AGRICULTURAL ENTERTAINMENT BUSINESS. An agricultural sales business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture.

**Deleted:** AGRICULTURAL SALES BUSINESS. The retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products produced on the premises. The operation may be indoors or outdoors. include pick-your-own opportunities, and may involve accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25% of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the AGRICULTURAL SALES BUSINESS.

**DRAFT ORDINANCE – OPTION 3**

**COMMERCIAL LUMBERING OR HARVESTING OF FOREST PRODUCTS.**

Any removal of trees that may result in the commercial sale of any wood or product of the tree.

**COMMERCIAL USE.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**FARM, RURAL.** The portion of a 10 or more acre parcel of land which is devoted to agriculture by the property owner or by a lessee of the property owner.

**FARM, SUBURBAN.** A suburban farm is a non-commercial, food-producing use primarily intended for the use of the residents, and usually on less than 10 contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.

**FARMER.** Person permanently residing on a tract of land of not less than 75 acres in the city and who farms the land for a livelihood.

**FLORICULTURE.** The cultivation and management of ornamental and flowering plants.

**HORTICULTURE.** The cultivation and management of trees, plants, grasses, vegetables, and fruits.

**KENNEL; ANIMALS.** Any place where 4 or more of any type of domestic pets, over 4 months of age, are owned, boarded, bred, or offered for sale.

**NON-AGRICULTURAL LOW IMPACT.** The outdoor storage of off-road mobile construction equipment of any weight; the indoor storage of the aforementioned items and other goods and materials which, in the determination of the City Council, do not jeopardize the health, safety, or welfare of the city; nature farms; agricultural museums; farmer's markets; small engine repair shops; contractor maintenance shops; or office space as an accessory use to the aforementioned uses.

**Deleted:** NATURE FARMS. The keeping of animals and/or the growing and keeping of agricultural products for the purpose of display to the public, not including the breeding and keeping of animals for boarding or sale. Examples of this use would include "petting farms," or the display of unique horticulture. Retail or wholesale sales of any product are specifically excluded.¶

**OPEN SALES LOTS.** Lands devoted to the display of goods for sale, rent, lease, or trade, where the goods are not enclosed within a building.

**Deleted:** NURSERY, LANDSCAPE. A business growing and selling trees, flowering and decorative plants, and shrubs and which may be conducted within a building or without.¶

**STABLE, PRIVATE.** The keeping, breeding, raising, and uses of horses or ponies on open space owned and maintained by an association of adjacent property owners for the exclusive personal use and enjoyment of association members and for which commercial gain is not the primary objective.

**Deleted:** ROADSIDE SALES STAND. A structure used only for the display and sale of products, with no space for customers within the structure, on a seasonal basis.¶

**Deleted:** WAYSIDE STAND. A temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the WAYSIDE STAND on site.¶

DRAFT ORDINANCE – OPTION 3

**Section 3. The City Council of the City of Lake Elmo hereby ordains that Section 154.033 (Agricultural Use Regulations) subsections (A) and (B) are hereby amended as follows:**

(A) Permitted uses and structures.

- (1) Farm, suburban or rural;
- (2) Poultry facilities meeting state and federal regulations;
- (3) Farm buildings;
- (4) Farm drainage and irrigation systems;
- (5) Forestry meeting state and federal regulations;
- (6) One farm dwelling per farm (also see §§ 154.091 and 154.105);
- (7) One non-farm dwelling per each 40 acres, or part of a dwelling on a prorated basis, not already containing a farm or non-farm dwelling, provided:

(a) The dwelling unit is located on a separate parcel of record in the office of the County Recorder and/or County Auditor, which shall be at least 1-1/2 acres in size;

(b) The parcel on which the dwelling unit is located must have at least 125 feet of frontage along a public street, be rectangular in shape and no dimension to be greater than 3 times the other; and

(c) The dwelling is separated by at least 300 feet from the nearest farm building.

(10) Joint ownership of property or ownership by association or rental for the purpose of providing private gardens or forest plots to its members or lessees.

~~(11) Any person may sell or peddle the products of the farm or garden occupied and cultivated by him or her without obtaining a license therefore.~~

(B) Uses permitted by conditional use permit.

(2) Kennels;

Deleted: . . . (8) . Wayside stands;¶

Deleted: . . . (9) . Agricultural sales businesses subject to performance standards outlined in § 154.110; and¶

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... (11) . Any person may sell or peddle the products of the farm or garden occupied and cultivated by him or her without obtaining a license therefor.¶

Deleted: . . . (1) . Greenhouses;¶

DRAFT ORDINANCE – OPTION 3

(3) Stables;

(4) Commercial recreation of a rural nature, including outdoor target ranges;

(5) Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis, including sorting, grading, and packing fruits and vegetables for the owner, lessee, or sublessee; agricultural produce milling and processing for the owner, lessee, or sublessee; horticultural services; fruit picking; grain cleaning; veterinary services; boarding and training of horses;

(6) Open space development projects, as regulated by §§ 150.175 et seq.;

(7) Non-agricultural low impact uses pursuant to the standards described in division (F) of this section; and

(Am. Ord. 97-57, passed 7-18-2000; Am. Ord. 97-191, passed 4-3-2007)

(C) Accessory uses and structures (see §§ 154.092 and 154.093).

(1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures as defined in § 11.01;

(2) Private garages, carports, screen houses, conservatories, playhouses, swimming pools and storage buildings, as defined in § 11.01, for use by occupants of the principal structures; and  
(Am. Ord. 97-38, passed 11-17-1998)

(3) Home occupations.

**Section 4. The City Council of the City of Lake Elmo hereby ordains that Section 154.036 (Rural Residential Use Regulations) subsections (A), (B), (C), and (D) are hereby amended as follows:**

(A) Permitted uses and structures.

(1) One-family residential dwellings (also see §§ 154.091 and 154.105);

(2) Farm, suburban or rural within the limits defined in the performance standards for livestock;

**Deleted:** . . . (8) . Agricultural entertainment businesses subject to the following performance standards:¶

¶ . . . (a) . The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the comprehensive plan;¶

¶ . . . (b) . All parking must occur on-site, be on a primary surface such as class five gravel or pavement; and must be set back at least 30 feet from all property lines;¶

¶ . . . (c) . No more than 25% of the site may be covered with impervious surface and the remainder shall be suitably landscaped;¶

¶ . . . (d) . Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s);¶

¶ . . . (e) . Trash containers must be located inside or screened in an acceptable manner;¶

¶ . . . (f) . Discharge of firearms, including blanks, shall not be allowed on the property;¶

¶ . . . (g) . The property owner shall give the city permission to conduct inspect' of the property in order to investigate complaints;¶

¶ . . . (h) . The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons;¶

¶ . . . (i) . Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the property shall be identified on the property. Alternate sites shall be protected in the site plan design, and will only need to be used upon failure of a primary site; and¶

¶ . . . (j) . Adherence to the general review criteria applicable to all CUP applications.¶

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**Deleted:** . . . (3) . Wayside stands; and¶

**Deleted:** . . . (4) . Agricultural sales businesses subject to performance standards outlined in § 154.110.¶



DRAFT ORDINANCE – OPTION 3

(3) Any person may sell or peddle the products of the farm or garden occupied and cultivated by him or her without obtaining a license therefore.

(B) Accessory uses and structures (also see §§ 154.092 and 154.093). Uses and structures which are customarily accessory and clearly incidental and subordinate to allowed uses and structures; accessory structures cannot exceed the size of the principal building.

(C) Conditionally permitted uses.

- (1) Kennels;
- (2) Open space development as regulated by §§ 150.175 et seq.;
- (3) Home occupations; and

**Section 5. The City Council of the City of Lake Elmo hereby ordains that Section 150.178 (OP Use Regulations) subsections (A), (B) and (C) are hereby amended as follows:**

**Deleted:** . . . (4) . Agricultural entertainment businesses subject to the requirements outlined in § 154.033(B)(8).¶

(A) Permitted uses.

- (1) Single-family, detached;
- (2) Preserved open space;
- (3) Conservation easements;
- (4) Agriculture;
- (5) Suburban farms;
- (6) Private stables;
- (7) Single-family, attached;
- (8) Townhouses (no more than 25% in any development); and

(B) Accessory uses. Uses that are typically found accessory to a permitted use.

**Deleted:** . . . (9) . Wayside stand.¶

(C) Prohibited uses. All other uses are hereby prohibited.

DRAFT ORDINANCE – OPTION 3

**Section 6.** The City Council of the City of Lake Elmo hereby ordains that the City's Design and Performance Standards are hereby amended to incorporate the following additions and changes:

Current Sections 154.090 through 154.109 and their subdivisions are restated and incorporated herein without change.

Current Section 154.111 and its subdivisions are restated and incorporated herein as section 154.110

**Section 7. Adoption Date**

This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. \_\_\_\_\_ was adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by a vote of \_\_\_ Ayes and \_\_\_ Nays.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

This Ordinance No. \_\_\_\_\_ was published on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**Deleted:** 154.110 . Agricultural Sales Businesses¶

¶ Agricultural Sales Businesses shall be subject to the following performance standards:¶

(A) . Activities shall be limited to those listed within the definition for Agricultural Sales Business.¶

(B) . The agricultural sales business shall be located on land owned or leased by the producer or the operator of the business, and not within or on any public right-of-ways or easements.¶

(C) . The operator must be able to demonstrate at all times to the city that there is sufficient access, parking and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.¶

(D) . All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.¶

(E) . All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.¶

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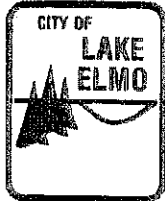
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## MAYOR & COUNCIL COMMUNICATION

DATE: 10/05/2010

**REGULAR**

ITEM #: 11

**MOTION**

**AGENDA ITEM:** Old Village Water Quality Plantings at 3570 Laverne Avenue

**SUBMITTED BY:** Ryan Stempski, Assistant City Engineer

**THROUGH:** Bruce Messelt, City Administrator *BAW*

**REVIEWED BY:** Jack Griffin, City Engineer  
Rusty Schmidt, Washington Conservation District

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**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested to authorize payment in the amount of \$515 to provide water quality plantings at 3760 Laverne Avenue. The water quality plantings are being recommended by the VBWD and Washington Conservation District (WCD) in an effort to partially mitigate a re-occurring drainage issue in this Old Village Area property. The recommended motion to act on is as follows:

*“Move to authorize initial payment by the City of Lake Elmo in the amount of \$1,030 in Water Quality Plantings for the property at 3760 Laverne Avenue, with a 50% reimbursement by the VBWD at project completion.”*

**BACKGROUND INFORMATION:** The drainage ditch through the Old Village Area currently backs up onto private property at 3760 Laverne Avenue, due to the lack of a natural outlet. The Washington Conservation District has worked with the property owners to improve the area of flooding adjacent to the drainage ditch through the Old Village.

Unfortunately, the long term solution for the area is to create an outlet to the Old Village Drainage Ditch, which will be coordinated with the future redevelopment of the Village. Until a permanent outlet can be established it is recommended that the flooded area be planted with deeply rooted and high transpiration plants to address this on-going problem.

**STAFF REPORT:** Initial recommendations included the construction of a rain garden at the site to improve the appearance and infiltration of the captured runoff. However, soil borings were acquired that revealed a localized heavy clay soil. With this information the WCD is recommending the placement of deep rooted, high transpiration plantings to help soak up some of the water so it would drain back to the ditch faster. Additionally these plantings would filter the water that is entering the area.

**FUNDING:** The cost for the project plantings would be shared equally by the City and the VBWD while the WCD provides the project coordination and labor. A 50% cost share has already been approved by VBWD. The City is being asked to pay the total cost of the plantings in the amount of \$1,030, with the VBWD reimbursing the City \$515 at the project completion.

The VBWD has approved \$515 for this project (a 50% cost share). The City of Lake Elmo is being asked to contribute an additional \$515. The City would fund this amount through the Storm Water Utility Fund. All planting labor for this project will be provided at no cost. The Washington Conservation District has coordinated with Minnesota Conservation Corp (MCC) to install the plantings.

**RECOMMENDATION:** Based upon the above background information and staff report, it is recommended that the City Council move to approve the motion by undertaking the following action:

*“Move to authorize initial payment by the City of Lake Elmo in the amount of \$1,030 in Water Quality Plantings for the property at 3760 Laverne Avenue, with a 50% reimbursement by the VBWD at project completion.”*

Alternatively, the City Council does have the authority to table, deny, or further discuss, deliberate and, if appropriate, amend the recommended motions prior to taking action. If the latter is undertaken, the appropriate actions of the Council following such discussion would be:

*“Move to authorize initial payment by the City of Lake Elmo in the amount of \$1,030 in Water Quality Plantings for the property at 3760 Laverne Avenue, with a 50% reimbursement by the VBWD at project completion [as amended].”*

**ATTACHMENT(S):** Location Map of the Water Quality Plantings

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... City Engineer
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates



KEY TO FEATURES



PARCELS

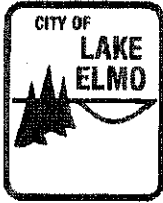
2' CONTOURS



SQUADRITO RESIDENCE  
3570 LAVERNE AVE N  
PID: 1302921230072

1 in. = 20 ft.





## MAYOR & COUNCIL COMMUNICATION


DATE: 10/5/2010

**REGULAR**

ITEM #: 12

**MOTION**

**AGENDA ITEM:** Revisions to I-94 Joint Powers Agreement

**SUBMITTED BY:** Sharon Lumby, City Clerk 

**THROUGH:** Bruce Messelt, City Administrator

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### SUMMARY AND ACTION REQUESTED:

The City Council is asked to approve two proposed changes in the Joint Powers Agreement:

1. All references to the I-94 Corridor Commission will be changed to the Gateway Corridor Commission.
2. Under Article 7, Powers of Commission, revise the language to read:

“The Commission shall exercise such authority as is necessary and proper to carry out the mandates set forth in this Agreement without individual Party approval unless otherwise specified herein. This authority includes but is not limited to amending the Agreement in a manner that is not substantive in nature.”

*“Move to adopt Resolution no. 2010-051 authorizing revisions to the I-94 Corridor Joint Powers Agreement”*

### ATTACHMENTS:

1. Revised and amended joint powers agreement
2. Resolution No. 2010-051

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2010-051

**RESOLUTION FOR APPROVAL OF THE REVISED AND AMENDED INTERSTATE 94  
CORRIDOR JOINT POWERS AGREEMENT DATED SEPTEMBER 9, 2010**

**WHEREAS**, the I-94 Corridor currently carries 90,000 to 150,000 vehicles per day from the St Croix River Bridge to downtown St Paul; and

**WHEREAS**, the 2030 Transportation Policy Plan has been approved by the Metropolitan Council and shows that traffic and congestion are forecast to increase substantially by 2030 resulting in the entire length of I-94 from downtown St Paul to the St Croix River as being congested; and

**WHEREAS**, the 2030 Transportation Policy Plan identifies the I-94 Corridor as a Transitway Corridor in need of additional analysis;

**WHEREAS**, the transitway analysis is needed to identify how mobility can be maintained and improved in the corridor; and

**WHEREAS**, the I-94 Corridor Commission was created on March 3, 2010 with the Regional Railroad Authorities of Ramsey and Washington County approving the Joint Powers Agreement (JPA); and

**WHEREAS**, in addition to the County Regional Railroad Authorities, the communities of St Paul, Maplewood, Oakdale, Woodbury, Lake Elmo, West Lakeland Township, Afton and Lakeland also approved the JPA; and

**WHEREAS**, the I-94 Corridor Commission approved changing its name to the Gateway Corridor Commission on July 12, 2010; and

**WHEREAS**, the existing JPA may be amended by unanimous agreement of the Parties as evidenced by resolutions adopted by the respective governing bodies.

**NOW THEREFORE BE IT RESOLVED**, that the Lake Elmo City Council approves the revised and amended Joint Powers Agreement of the Gateway Corridor Commission dated September 9, 2010.

ADOPTED: October 5, 2010

\_\_\_\_\_  
Dean A. Johnston, Mayor

ATTEST:

\_\_\_\_\_  
Bruce A. Messelt, City Administrator

**JOINT POWERS AGREEMENT  
ESTABLISHING THE  
~~INTERSTATE 94~~GATEWAY CORRIDOR COMMISSION**

**THIS AGREEMENT**, is entered into by and between the undersigned Regional Railroad Authorities, Cities, and Townships all being governmental units of the State of Minnesota, pursuant to the authority contained the Minn. Statutes §§471.59 and 398A.

**WITNESSETH**

**WHEREAS**, the Interstate 94 Corridor is defined as the transitway corridor originating at the Union Depot in downtown St. Paul and traveling east through Washington County with connections to other multi—modal transportation options; and

**WHEREAS**, the Interstate 94 Corridor has significant transportation safety, and land use issues; and

**WHEREAS**, there are opportunities for a variety of multi-modal transportation improvements to the Interstate 94 Corridor, including light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS) and roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail; and

**WHEREAS**, the parties wish to collaboratively plan for multi-modal transportation improvements to the Interstate 94 Corridor and for the related land use and development impacts; and

**WHEREAS**, the ~~Interstate 94~~Gateway Corridor Commission intends to work collaboratively with the Minnesota Department of Transportation and the Metropolitan Council for the planning and development of light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS) and roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail in the Interstate 94 Corridor.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein, the parties hereto agree to as follows:

**ARTICLE 1.**

**DEFINITIONS**

Unless context otherwise requires, the terms defined in this section shall have the meanings stated herein:

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

**Commission** (~~I-94~~Gateway Corridor Commission) shall mean the Joint Powers body established hereby



**Party or Parties** shall mean any Regional Railroad Authorities, Cities or Townships identified in Article 6 of this Agreement as signatories to this Agreement.

**Financial Parties** shall mean the financial party or parties so identified in Article 6 of this Agreement.

**Interstate 94 (I-94) Corridor** shall be defined as the Interstate 94 transportation corridor originating at the Union Depot in downtown St. Paul and traveling east through Washington County.

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

**Quorum** shall mean a majority of members, provided such majority includes at least two (2) Financial Members as defined in the Agreement. A quorum shall not be found if fewer than two (2) Financial Members are present.

## **ARTICLE 2.**

## **PURPOSE**

The purpose of this Agreement is to form a joint powers board under the provision of Minnesota Statutes Section 471.59 and 398.A to enable the parties to cooperatively analyze the feasibility, environmental impacts, engineering, and construction of multi-modal transportation improvements in the I-94 Corridor including light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS), roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail and the associated land use and development impacts. These activities may include but not be limited to the acquisition and management of federal, state, and local funding in conjunction with the Minnesota Department of Transportation and the Metropolitan Council, and may perform any responsibilities delegated by the Commissioner of Transportation or Metropolitan Council Chair subject to the conditions that sufficient funds are received.

The Parties will communicate and coordinate the Commission's activities as necessary with private corporations, state agencies, counties, municipalities, the Federal Transit Administration, other regulatory, planning, and funding agencies, and other stakeholders for advancement of the Commission's purposes.

The method of accomplishing the purpose of this Agreement is the establishment of a Joint Powers Board to provide a mechanism whereby the Parties jointly address the stated purposes.

## **ARTICLE 3.**

## **TERM**

This Agreement shall be effective (the Effective Date) and the joint powers board established herein may commence exercising the powers and authorized in this Agreement on the day that the Agreement has been approved by resolution and duly executed by the Ramsey County Regional Railroad Authority and the Washington County Regional Railroad Authority by action

of their governing boards. This Agreement shall remain in full force and effect until terminated by the Parties pursuant to Article 10 of the Agreement.

**ARTICLE 4.**

**JOINT POWERS BOARD**

- A. There is hereby created a Joint Powers Board as a public entity, to be known as the I-94 Gateway Corridor Commission. The Commission shall be an entity separate from its member Parties and shall not be deemed an agent or partner of the member Parties and the member Parties shall not be liable for the actions of the Commission. The Commission shall have full authority to exercise all powers stated herein.
- B. The Commission shall consist of one Member and one alternate appointed through resolution by a Party for an initial term commencing with the execution of this Agreement until January 15, 2010. Each Member or alternate must be a member of the governing body, commission, or council which appoints him or her, and must remain so during his or her term.
- C. After January 15, 2010, the governing body, commission, or council shall appoint by resolution its member and alternate for one year terms. In the event that any Member or alternate shall not have been appointed by January 15 in any year, the incumbent Member shall serve until a successor has been appointed. Removal of any Member or alternate during the term for which the Member has been appointed may be done at any time but shall be done only by resolution of the appointing governing body, commission, or council, or automatically if the Member ceases to be a member of the Party which appointed him or her.

**ARTICLE 5.**

**VOTING**

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

- A. In the event that the appointed Member is not present at the meeting, their alternate may cast all of their Party's allocated votes.
- B. All actions of the Board require both a simple majority vote of the Members present and a simple majority vote of the Financial Members present. However, for all actions involving the expenditure of funds and adoption of the budget, a simple majority of the whole Board plus a unanimous vote of all Financial Members is required.

**ARTICLE 6.**

**MEMBERSHIP**

The government units that are eligible for participation in this Commission upon adoption of this agreement by resolution and duly executed by their respective governmental units on or before December 31, 2009 include:

A. Financial Parties

- a. Ramsey County Regional Railroad Authority
- b. Washington County Regional Railroad Authority

B. Non-financial Parties

- a. City of St. Paul
- b. City of Maplewood
- c. City of Landfall
- d. City of Oakdale
- e. City of Woodbury
- f. City of Lake Elmo
- g. City of Afton
- h. City of Lakeland
- i. Town of West Lakeland

C. If an entity identified in this Article 6 does not elect to become a Party by December 31, 2009, it may do so thereafter by amendment to this Agreement pursuant to Article 11 hereof.

D. Following the initial term, Commission Members' terms shall commence on January 15 of a calendar year and end on January 14 of the next succeeding year, or until a successor is appointed.

**ARTICLE 7.**

**POWERS OF COMMISSION**

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

- A. Adopt an annual budget, together with a statement of the sources of funding and an estimated amount required of each Financial Party.
- B. Enter into transactions, including contracts or leases, required in furtherance of this Agreement and statutory mandate and enforce such transactions to the extent available in equity or at law. The contracting and purchasing requirements of one of the Financial Parties designated by the Commission shall apply hereto. The Commission may approve any contract relating to this Agreement up to the amount approved in the annual budget and may authorize the Chair of the Commission to execute those contracts.
- C. Have the power to adopt such by-laws that it may deem necessary or desirable for the conduct of its business. Such by-laws shall be consistent with this Agreement and any applicable laws or regulations. The by-laws may provide for the appointment of ex officio, non-voting members to the Board by the Commission. Approval of the by-laws shall be in accordance with Article 5 of this Agreement.

- D. Apply for and accept gifts, grants and loans of money, other property, or assistance from the United States government, the State of Minnesota, or any person, corporation, partnership, association, or agency public or private for any of its purposes; enter into any agreement in connection therewith to hold, use and dispose of such money, other property; and assistance in accordance with the terms of the gifts, grants, or loans relating thereto.
- E. Acquire and hold such real and personal property as may be required to accomplish the purposes of this Agreement and, upon termination of this Agreement, make distribution of such property as is provided for in this Agreement.
- F. Employ agents and employees, and to fix the compensation and all other terms and conditions of employment thereof.
- G. Incur debts, liabilities, or obligations which do not constitute a debt of any of the Parties. The Joint Powers Board does not have authority to incur debts, liabilities, or obligations which constitute a debt of any of the Parties. The obligations or other forms of indebtedness must be issued in the same manner as would apply to one of the Financial Parties.
- H. Enter into agreements and non-binding memoranda of understanding between the Commission and the United States government, the State of Minnesota, or any person, corporation, partnership, association, or agency public or private in accordance with applicable law.
- I. Sue and be sued in its own name.
- J. Exercise such authority as is necessary and proper to carry out the mandates set forth in this Agreement without individual Party approval unless otherwise specified herein, including but not limited to amending the Agreement in a manner that is not substantive in nature.

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

## **ARTICLE 8.**

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

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

The Commission shall elect a Chair and Vice-Chair at its first regular meeting each year. The Chair and Vice-Chair shall consist of at least one Financial Party member. The Chair and Vice-Chair shall be elected by the Commission for a term of one (1) year. The Chair shall preside at all meetings of the Commission, may establish such committees as may be needed from time to time and shall perform other duties and functions as may be determined by the Commission. The Vice-Chair shall assume the duties of the Chair during the absence of the Chair and perform such other duties as may be determined by

the Commission. If both the Chair and Vice-Chair are absent, the Commission may elect a temporary Chair to conduct its business, provided a quorum is present. Election of a temporary chair shall be by a simple majority vote of the quorum.

**B. Executive Committee**

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

**C. Staff**

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

**D. Vacancies**

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

**E. Meetings**

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

**F. Committees**

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

**ARTICLE 9.**

**FUNDING**

It is understood by the Parties that the activities and duties of the Commission are to be funded primarily by grant monies from the United States Government, the State of Minnesota or any other association or agency. Nevertheless, the Financial Parties identified in this Agreement agree to provide funding, if necessary, for the feasibility, environmental impacts, engineering, and construction of a multi-modal transportation improvement in the I-94 Corridor including light rail transit, bus rapid transit, commuter rail, multi-use trails, and Intelligent Transportation Systems (ITS) along with the associated land use and development impacts, and administrative expenses of the Commission (to the extent not covered by grant funds), and other items deemed necessary to facilitate development of the corridor. The Financial Parties will establish an initial budget. The Financial Members contribution to the initial budget and all subsequent budgets shall be allocated as follows:

50% Ramsey County Regional Railroad Authority  
50% Washington County Regional Railroad Authority

Each Financial Party shall pay its appropriate initial contribution to the regional railroad authority acting as fiscal agent of the Commission within sixty (60) days of the Commission approving a budget.

**A. Annual Budget**

For the calendar year next following the calendar year in which the Effective Date occurs and all subsequent years, the Commission shall establish and approve a budget. Each Financial Member shall be assessed for its proportionate share of the budget according to the schedule established above. The Commission shall establish its first budget within sixty (60) days of the commencement of the Commission.

**B. Financial Members' Budget Approval**

Adoption of the budget and any other matter requiring expenditure of funds shall be in accordance with Article 5 of this Agreement.

**C. Contribution Date**

Except for any initial contribution required by this Agreement, assessments made under the provisions of this article shall be paid by each Financial Party by January 15 of each year. The initial contribution shall be made within sixty (60) days of the adoption of the budget pursuant to Article 7(A) hereof.

**D. Budgeting, Accounting, Fiscal Agent, and Other Services**

The Commission may contract with any Party to provide contract management, legal review, and budgeting and accounting services necessary or convenient for the Commission and otherwise act as the Commission's fiscal agent. Such services shall include, but not be limited to, management of all funds, including contributions and grant monies, payment for contracted services, and relevant bookkeeping and record keeping. The contracting and purchasing requirements of the Party so selected shall apply to transactions of the Commissions. Such Party shall identify the staff person to work as liaison with the Commission.

**E. Accountability for Funds**

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

**ARTICLE 10.**

**WITHDRAWAL AND TERMINATION**

**A. Withdrawal**

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

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

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

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

**C. Termination**

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

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

**D. Disposition of Property and Funds**

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

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

In the event a Financial Party withdraws, the unpaid assessment allocable to such member in the year of withdrawal and subsequent years shall be reallocated to the remaining Financial Party.

**ARTICLE 11.**

**MISCELLANEOUS**

**A. Amendments**

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

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

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

**C. Counterparts**

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

**D. Severability**

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

**E. Entire Agreement**

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

**F. Alternative Dispute Resolution**

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

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



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

**G. Minnesota Laws Govern**

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

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

**WASHINGTON COUNTY REGIONAL RAIL AUTHORITY**

---

Myra Peterson, Chair  
Washington County Board of Commissioners

Date

---

James R. Schug  
County Administrator

Date

Approved as to form:

---

Asst. County Attorney

Date

**CITY OF**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date