

CITY OF LAKE ELMO

RESOLUTION NO. 98-41

IT IS RESOLVED that the City of Lake Elmo enter into Mn/DOT Agreement No. 77509 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the City of the State's share of the costs of the acquisition of landscape materials to be placed along Trunk Highway No. 5 from 350 feet west of Jamaca Avenue to 1400 feet west of Jamaca Avenue, under State Project No. 8214-969A (T.H. 5=045).

IT IS FURTHER RESOLVED that the Mayor and the _____ are authorized to execute the Agreement. (Title)

CERTIFICATION

State of Minnesota
County of Washington

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Council of the City of Lake Elmo at an authorized meeting held on the _____ day of _____, 1998, as shown by the minutes of the meeting in my possession.

Notary Public _____
My Commission Expires _____
NOTARY STAMP

(Signature)

(Type or Print Name)

(Title)

OFFICE OF
ENVIRONMENTAL
SERVICES

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
LANDSCAPE PARTNERSHIP
AGREEMENT

Mn/DOT
AGREEMENT NO.

77509

S.P. 8214-969A (T.H. 5=045)
State Funds

The State of Minnesota
Department of Transportation, and
The City of Lake Elmo

ORIGINAL
AMOUNT ENCUMBERED

Re: Mn/DOT cost landscape materials
acquisition by the City for use
along T.H. 5

\$4,792.00

AMOUNT RECEIVABLE

(None)

Mn/DOT Accounting Information:

Vendor Number:		Fiscal Year:		Agency: T-79
Fund:	Org/Sub:	Appr:	Amount:	

Contract: _____
Number/Date/Entry Initials

Order: _____
Number/Date/Signatures
*[Individual signing certifies that funds have been
encumbered as required by Minn. Stat. § 16A.15.]*

Budget Office: _____
(Authorized Signature)

THIS AGREEMENT is made and entered into by and between the State of Minnesota, Department of Transportation, hereinafter referred to as "Mn/DOT", and the City of Lake Elmo, Minnesota, acting by and through its City Council, hereinafter referred to as the "City".

WHEREAS the City is about to perform landscaping along Trunk Highway No. 5 from 350 feet west of Jamaca Avenue to 1400 feet west of Jamaca Avenue within the corporate City limits in accordance with plans, specifications and/or special provisions designated as the "City of Lake Elmo Partnership Landscaping Plan", which project has been designated by Mn/DOT as State Project No. 8214-969A (T.H. 5=045); and

WHEREAS the City has requested participation by Mn/DOT in the costs of landscape materials acquisition in accordance with the terms of Mn/DOT's "Community Roadside Landscaping Partnership Program"; and

WHEREAS Mn/DOT is willing to participate in the costs of the landscape materials acquisition as hereinafter set forth; and

WHEREAS Minnesota Statute Section 161.20, subdivision 2 (1996) authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

IT IS, THEREFORE, MUTUALLY AGREED AS FOLLOWS:

ARTICLE I - PROJECT ADMINISTRATION BY THE CITY

Section A. Landscape Materials Acquisition

The City shall acquire landscape materials in accordance with Mn/DOT-approved plans, specifications and/or special provisions designated as the "City of Lake Elmo Partnership Landscaping Plan". Landscaping shall be performed by City forces in accordance with Mn/DOT-approved plans, specifications and/or special provisions which are on file in the City's office and in Mn/DOT's Office of Environmental Services in Oakdale, and are made a part hereof by reference with the same force and effect as though fully set forth herein.

Section B. Purchase Order to be Furnished to Mn/DOT

The City shall, within 7 days after ordering the landscape materials, submit to Mn/DOT's Landscape Programs Coordinator in Oakdale a copy of the purchase order for the landscape materials.

Section C. Direction, Supervision and Inspection

Landscape materials acquisition performed in accordance with this Agreement shall be under the direction of the City; however, the Mn/DOT cost participation landscape materials to be acquired under this Agreement shall be open to inspection by Mn/DOT's authorized representatives. The City shall give Mn/DOT's Landscape Programs Coordinator five days notice of its intention to receive delivery of the landscape materials.

Responsibility for the control of the Mn/DOT cost participation landscape materials acquisition covered under this Agreement shall be on the City and shall be carried out in accordance with Mn/DOT-approved plans, specifications and/or special provisions designated as the "City of Lake Elmo Partnership Landscaping Plan".

The City must verify whether or not nursery vendors are under a Gypsy Moth Compliance Agreement between the Minnesota Department of Agriculture, hereinafter referred to as the "MDA", and the United States Department of Agriculture or under an MDA Japanese Beetle Quarantine. All plant material shipped from nursery vendors subject to quarantines must be accompanied by a Current Certificate of Compliance for gypsy moth and/or Japanese beetle. To determine if vendors are subject to quarantines, call the MDA Supervisor of Plant Regulatory Services at (612) 296-8388.

Section D. Completion of Materials Acquisition and Installation

The City shall cause the acquisition and installation of landscape materials to be started and completed in accordance with the time schedule in the Community Roadside Landscaping Partnership Program

Project Application, which is on file in Mn/DOT's Office of Environmental Services and is made a part hereof by reference with the same force and effect as though fully set forth herein. The completion date for the landscape materials acquisition and installation may be extended, by an exchange of letters between the appropriate City official and Mn/DOT's Landscape Programs Coordinator, for unavoidable delays encountered in the performance thereof.

Section E. Compliance with Laws, Ordinances and Regulations

The City shall, in connection with the acquisition of the landscape materials, comply with all Federal, State and Local laws, including Minnesota Statute Section 16B.101 (1996), and all applicable ordinances and regulations.

Section F. Right-of-Way, Easements and Permits

The City is hereby authorized to work on Mn/DOT right-of-way for the purposes of installing and maintaining the landscape materials, including any necessary replacement of landscape materials that fail to survive.

The City shall, without cost or expense to Mn/DOT, obtain all rights-of-way, easements, construction permits and/or any other permits and sanctions that may be required in connection with the installation of landscape materials. Prior to advance payment by Mn/DOT, the City shall furnish Mn/DOT with certified copies of the documents for those rights-of-way and easements, and certified copies of those construction permits and/or other permits and sanctions required for Mn/DOT landscaping.

ARTICLE II - MN/DOT COST

Section A. Basis

Mn/DOT's full and complete share of the costs of the landscaping to be performed along Trunk Highway No. 5 from 350 feet west of Jamaca

Avenue to 1400 feet west of Jamaca Avenue within the corporate City limits under State Project No. 8214-969A (T.H. 5=045) shall be equal to the delivered cost of the landscaping materials acquired in accordance with the "City of Lake Elmo Partnership Landscaping Plan", however, the maximum obligation of Mn/DOT under this Agreement shall not exceed \$12,000.00, unless the maximum obligation is increased by execution of an amendment to this Agreement. It is estimated that the cost of the landscape materials acquisition is \$4,792.00.

Section B. Payment

Mn/DOT shall pay to the City an amount equal to the delivered cost of the landscape materials, not to exceed the maximum obligation, after the following conditions have been met:

1. Encumbrance by Mn/DOT of Mn/DOT's total cost share.
2. Execution and approval of this Agreement and Mn/DOT's transmittal of same to the City.
3. Receipt by Mn/DOT's Landscape Programs Coordinator, from the City, of the following:
 - a. Copies of the purchase orders for the landscape materials, as provided for in Article I, Section B. of this Agreement.
 - b. Certified copies of the documents, as provided for in the second paragraph of Article I, Section F. of this Agreement.
 - c. A written request for payment, accompanied by copies of supplier invoices for the landscape materials acquisition and delivery.

ARTICLE III - GENERAL PROVISIONSSection A. Installation and Maintenance by the City

After acquisition of the landscape materials, the City shall install the landscape materials along Trunk Highway No. 5 and provide for the proper maintenance thereof, without cost or expense to Mn/DOT. Maintenance shall include, but not be limited to, removal and replacement of all materials that fail to survive. Criteria for maintenance and replacement are shown and described in EXHIBIT "A", Maintenance Responsibilities Plan and Schedule, which is attached hereto and made a part hereof by reference.

Section B. Responsibilities of the City

The City shall, in connection with the landscape materials acquisition, installation and maintenance, comply with the following conditions:

1. Use of Mn/DOT right-of-way shall in no way impair or interfere with the safety or convenience of the traveling public in its use of the highway.
2. Preserve and protect all utilities located on lands covered by this Agreement, without cost or expense to Mn/DOT.
3. As required by Minnesota Statute 216D (1996), notify Gopher State One Call System (1-800-252-1166) at least 48 hours before any excavation is done on this project.
4. No advertising signs or devices of any form or size shall be constructed or shall be permitted to be constructed or placed upon Mn/DOT right-of-way covered by this Agreement.
5. Upon completion of the installation of landscape materials and during performance of maintenance operations, restore all

disturbed areas of Mn/DOT right-of-way so as to perpetuate satisfactory drainage, erosion control and aesthetics.

Any use of Mn/DOT right-of-way permitted by this Agreement shall remain subordinate to the right of Mn/DOT to use the property for highway and transportation purposes. This Agreement does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge facility that would become subject to Section 4(f) of the Federal-Aid Highway Act of 1968.

Section C. Examination of Books, Records, Etc.

As provided by Minnesota Statute Section 16B.06, subdivision 4 (1996), the books, records, documents, and accounting procedures and practices of Mn/DOT and the City relevant to this Agreement are subject to examination by Mn/DOT and the City, and either the legislative auditor or the State auditor as appropriate.

Section D. Cancellation of Agreement

Mn/DOT may cancel and terminate this Agreement for any cause or reason, including Mn/DOT's desire to use any portion of Mn/DOT right-of-way subject to this Agreement for transportation purposes, by giving the City written notice at least 90 days prior to the date which such termination shall become effective. Upon cancellation of this Agreement, the City will be required to restore and return the area to a condition satisfactory to Mn/DOT's Metropolitan Division Engineer at Roseville.

Section E. Claims

All employees of the City and all other persons employed by the City or volunteering in the performance of landscape materials acquisition, installation and/or maintenance covered under this Agreement shall not be considered employees of Mn/DOT. All claims that arise under the Worker's Compensation Act of the State of

Minnesota on behalf of the employees or volunteers while so engaged and all claims made by any third parties as a consequence of any act or omission on the part of the employees or volunteers while so engaged on landscape materials acquisition, installation and/or maintenance covered under this Agreement shall in no way be the obligation or responsibility of Mn/DOT.

Section F. Nondiscrimination

The provisions of Minnesota Statute Section 181.59 (1996) and of any applicable law relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein.

Section G. Agreement Approval

Before this Agreement shall become binding and effective, it shall be approved by a City Council resolution and receive approval of State and City officers as the law may provide in addition to the Commissioner of Transportation or his authorized representative.

ARTICLE IV - AUTHORIZED AGENTS

Mn/DOT's Authorized Agent for the purpose of the administration of this Agreement is Scott Bradley, Landscape Programs Coordinator, or his successor. His current address and telephone number are 3485 Hadley Avenue North, Oakdale, Minnesota 55128, (612) 779-5076.

The City's Authorized Agent for the purpose of the administration of this Agreement is Mary Kueffner, City Administrator, or her successor. Her current address and telephone number are 3800 Laverne Avenue North, Lake Elmo, Minnesota 55042, (612) 777-5510.

IN TESTIMONY WHEREOF the parties have executed this Agreement by their authorized officers.

DEPARTMENT OF TRANSPORTATIONCITY OF LAKE ELMO

Recommended for approval:

By _____
Director
Office of Environmental Services

By _____
Mayor

Date _____

By _____
Division Engineer

Approved:

By _____
State Design Engineer

By Mary Kueffner
City Administrator, July 14, 1998
(Title and Date)

Date _____

OFFICE OF THE ATTORNEY GENERALDEPARTMENT OF ADMINISTRATION

Approved as to form and execution:

By _____
Assistant Attorney General

By _____

Date _____

State of Minnesota
County of Washington

This Agreement was acknowledged before me this _____ day of

_____, 1998, by MARY KUEFFNER and
(Name)

WYN JOHN, the Mayor and _____
(Name) (Title)

of the City of Lake Elmo, and they executed this Agreement on behalf of the municipality intending to be bound thereby.

Notary Public _____

My Commission Expires _____

NOTARY
STAMP

MKS

EXHIBIT "A"

Maintenance Responsibilities Plan and Schedule

Table 1a. REQUIRED LANDSCAPE MAINTENANCE ACTIVITIES

MAINTENANCE CONSIDERATION				
PLANT GROUPS	PRUNING		WEED CONTROL	FERTILIZATION See Table 5, Fertilization Schedule
	When To	Type Of		
Evergreen Trees	Anytime - Dry	Corrective and Deadwood Removal	Maintain mulch at 3" minimum around trees in mowed areas, keep weed free.	Yes
Shade Trees	Anytime - Dry*	Training and Corrective		Yes
Ornamental Trees	Winter**	Corrective		Yes
Evergreen Shrubs	Anytime - Dry	Deadwood Removal		Yes
Deciduous Shrubs	Dormant	Corrective and Renewal	Maintain minimum 3" woodchip mulch in a weed free condition until shrub crown closure.	Yes
Vines	Dormant	Deadwood Removal		No
Groundcovers				

* Do not prune oaks during April, May and June. Do not prune honeylocust while dormant or when humid or wet.

** Do not prune apples, crabapples or mountain ash during April, May and June.

TABLE 1b. REQUIRED LANDSCAPE MAINTENANCE ACTIVITIES

MAINTENANCE CONSIDERATION				
PLANT GROUPS	WATERING	INSECT AND DISEASE CONTROL	RODENT PROTECTION	REMOVALS AND REPLACEMENTS
Evergreen Trees	Yes until established (2 yrs.).	As needed.	Yes - Pine Only	Remove all dead plants.
Shade Trees			Yes	Replace dead or dying plants unless the visual appearance or design intent are not noticeably compromised by the lost plants.
Ornamental Trees	Supplemental watering may be needed during drought periods (especially during July and August) even after plants are established.	Remove diseased plants which pose threats to adjacent plantings.	Yes	
Evergreen Shrubs			No *	
Deciduous Shrubs			No *	
Vines			No *	
Groundcovers			No *	

* Rodent protection is generally not practical for mass shrub plantings, maintaining clean mulched planting areas free of weed growth will reduce problems. Mowed turf in formal planting areas will help reduce rodent problems.

TABLE 2a. CALENDAR OF LANDSCAPE MAINTENANCE

ACTIVITY	January	February	March	April	May	June
Pruning	See Table 1a for Best Time for Specific Species.					
Weed Control:	Planting beds must be kept in a weed free condition.					
Remulch				OXX	XXXX	XO
Herbicide	Must be applied by a licensed Pesticide Applicator.					
Fertilization: Turf Shrubs, Trees				XXXX		
Insect & Disease	Time of control depends on the type of insect or disease and when it is detected.					
Sunscauld Protection				Remove wrap*		
Watering	During first and second growing seasons approximately once a week or as needed to maintain adequate but not excessive soil moisture.					
Maintain Rodent Protection	0000	0000	0000	0000	0000	0000
Turf Maintenance Mowing					OOX	XXXX
Mower Damage Prevention				X	XXXX	XXXX
Replanting Evergreen Trees Deciduous Trees Container Plants Turf				OXX OXX XXX O	XXO XXXX XXXX XXXX	XXXO XXOO

X - Optimum Time O - Less than Optimum Time

* Undiluted white latex paint is recommended, repaint as necessary until trees reach 4" caliper.

TABLE 2b. CALENDAR OF LANDSCAPE MAINTENANCE

ACTIVITY	July	August	September	October	November	December
Pruning	See Table 1a for Best Time for Specific Species.					
Weed Control:	Planting beds must be kept in a weed free condition.					
Remulch	XXXX	XXXX	XXXX	XXXX	OO	XO
Herbicide	Must be applied by a licensed Pesticide Applicator.					
Fertilization: Turf Shrubs, Trees				XXXX XXXX		
Insect & Disease	Time of control depends on the type of insect or disease and when it is detected.					
Sunscauld Protection				Apply or maintain paint. Install wrap*.		
Watering	During first and second growing seasons approximately once a week or as needed.					
Maintain Rodent Protection	OOOO	OOOO	XXXX	XXXX	XOOO	OOOO
Turf Maintenance Mowing	XXXX	XXXX	XXXX	XXOO		
Mower Damage Prevention	XXXX	XXXX	XXXX	XXOO		
Replanting Evergreen Trees Deciduous Trees Container Plants Turf		OX	XXXO	OXXX	XO	
	OOOO OOOO	OOOX OOXX	XXXO XXXX	OO		

X - Optimum Time O - Less than Optimum Time

* Undiluted white latex paint is recommended, repaint as necessary until trees reach 4" caliper.

TABLE 3. DESCRIPTIONS OF TYPES OF PRUNING

TYPES OF PRUNING	WHEN TO PRUNE	DESCRIPTION
Disease Removal	After Diagnosis	Removal of fungal bacterial growths. Sterilize pruners between cuts.
Deadwood Removal	See Table 1	Removal of dead branches, normally from the interior portion of the crown.
Training	See Table 1	Maintaining the central leaders and acceptable symmetry in evergreen, shade and ornamental trees. Remove of suckers and water sprouts.
Corrective	See Table 1	Removal of storm-damaged, vehicle-damaged or vandalized limbs.
Renewal	See Table 1	Removing all top growth at or near the ground line and remulch. Or removal of 1/3 of the oldest stems at the ground line.

TABLE 4. WEED CONTROL METHODS - INTEGRATED APPROACH

METHOD	CATEGORY		
	TREES	SHRUB BEDS	TURF
Replanting - Filling Voids		X	X
Fertilization	X	X	X
Remulch *	X	X	X
Herbicides	X	X	X
Weed Whip	No	X	

- * Wood chip mulch should be replenished around shade trees and low growing shrubs every 3-5 years. Place mulch to a 4" depth. Mulching will help control weeds, reduce mower damage and conserve moisture.

TABLE 5. FERTILIZATION SCHEDULE

CATEGORY	FREQUENCY	TIME OF APPLICATION	ANALYSIS	RATE
Mowed Turf	Every 3 Years	April or October	12-12-12	300 lbs/acre
Shrub Beds*	Every 3 Years	October or April	12-12-12	25 lbs/1000 sq. ft.
Shade Trees*	Every 3 Years	October or April	12-12-12	10 lbs/1000 sq. ft.

Note: Do not fertilize trees and turf during the same season. Offset tree fertilization by one season in order to prevent fertilizer burn on turf.

- * Plants that fix nitrogen, like silver buffaloberry, caragana, honeylocust, Russian olive or other legumes, should not be fertilized except under special conditions.
Tall shrubs do not need to be fertilized if leaf color remains normal.