

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, Minnesota  
February 3, 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 January 26, 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. Accepting the Work for the 2009 Street Improvement Project and Authorizing Final Payment; Resolution No. 2010-007

J. REGULAR AGENDA:

4. One Year Review of Bus/Truck Terminal Interim Use Permit at 11530 Hudson Blvd. North
5. Authorization to Proceed with Plans and Specifications for 2010 Sealcoat Project

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 Attorney
- City Engineer
- Planning Director

L. Adjourn

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

**DRAFT**

**City of Lake Elmo  
City Council Minutes**

January 26, 2010

Mayor Dean Johnston called the meeting to order at 7:02 p.m.

PRESENT: Council Members DeLapp, Emmons, Park (arrived at 7:05) and Smith.

Also Present: City Administrator Messelt, Planning Director Klatt, City Engineers Griffin and Stempski, Finance Director Bouthilet, Financial Consultant Rigdon and Recording Secretary Luczak.

**APPROVAL OF AGENDA:**

*MOTION: Council Member DeLapp moved to approve the January 26, 2010 City Council Agenda as presented. Council Member Smith seconded the motion. The motion passed 4-0.*

**GROUND RULES:**

**APPROVED MINUTES:**

The January 12, 2010 City Council minutes were approved by consensus, as amended. Mayor Johnston abstained.

**PUBLIC COMMENTS/INQUIRIES:**

Chris Mechelke, Lake Elmo Jaycees President, invited residents to attend the Jaycees sledding activities at Green Acres on Saturday, January 27, 2010 from noon -2 p.m.; cost is \$10/adult.

Michelle Carlson, Lake Elmo Jaycees, presented a check to the City for \$8,000 from the charitable gambling proceeds.

**CONSENT AGENDA:**

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

- Approve payment of disbursements and payroll.
- Adopt Ordinance No. 08-022 approving 2010 Fee Schedule
- Letter of Support for Re-Appointment for Mr. Brian Johnson to South Washington Watershed District Board

**REGULAR AGENDA:**

Public Hearing: 2010 Street and Water Quality Improvements (Jane Road North, Isle Avenue North, 53<sup>rd</sup> Street North and 57<sup>th</sup> Street North) Ordering Improvement and the Preparation of Plans and Specifications; Resolution No. 2010-003.

City Engineer Stempski presented the proposed 2010 Street Improvements, including scope of work, proposed approach and timeline, estimated project costs, estimated local improvement assessment for benefitting properties and pros and cons of selection of either bituminous or concrete curb.

Major Johnston opened the Public Hearing at 7:52 p.m.

The following residents spoke at the public hearing:

- Anne Gelbman, 5034 Isle Ave. N.
- Steven Collier, 8896 Jane Rd. N.
- Rick Wyle, 8880 Jane Rd. N., read a brief letter from William Stevenson, 8895 Jane Rd. N., who was unable to attend. Mr. Wyle also spoke
- Kirby Spike, 9670 53<sup>rd</sup> St. N.
- Mark Hels, 8903 Jane Rd. N.
- Bill Weinberger, 9805 53<sup>rd</sup> St. N.
- Bob Lemanz, 53<sup>rd</sup> St.
- Steve Moeller, 9580 53<sup>rd</sup> St. N.

The Public Hearing closed at 9:03 p.m. A 5-minute recess was called.

Upon return from recess, the City Council debated the merits of concrete versus bituminous curbs, as well as the merits of conducting a survey of affected residents before making a final decision. City Engineer Griffin added his professional assessment regarding the issue of bituminous versus concrete curbs.

*MOTION: Mayor Johnston moved to adopt Resolution 2010-003, ordering the identified improvements and the preparation of Plans and Specifications for such, as directed, with the exception of a final decision to be made at a later date regarding selection of bituminous or concrete curbs,. Council Member Park seconded the motion. The motion passed 5-0. Administrator Messelt was directed to construct an appropriate survey instrument of the impacted neighborhoods and properties.*

Update to Lake Elmo Floodplain Management Ordinance: Final Adoption with DNR Revisions; Ordinance No. 2008-023; Resolution No. 2010-004

Administrator Messelt brought to the Council for consideration the final adoption of the Flood Plain ordinance in Lake Elmo.

Council Member DeLapp requested clarification of two sections of the code.

*MOTION: Council Member Park moved to adopt Ordinance No. 2008-023 rescinding Chapter 152 of the City Code, Floodplain Management and replacing this chapter with a new ordinance that incorporates the revised Flood Insurance Rate Maps for the community and that incorporates all revisions required under the National Flood Insurance Program. Council Member Smith seconded the motion. The motion passed 5-0.*

*MOTION: Council Member Emmons moved to adopt Resolution No. 2010-004 authorizing publication of Ordinance No. 2008-023 by Title and Summary. Council Member Smith seconded the motion. The motion passed 5-0.*

Consideration of City Support for "Complete Streets" Legislation; Resolution No. 2010-005

City Administrator Messelt requested the City Council consider supporting efforts to pass legislation relating to creation of a flexible and desirable statewide "Complete Streets" policy and program. Planning Director Klatt presented a brief summary of the program to Council.

*MOTION: Council Member Smith moved to adopt Resolution No. 2010-005 supporting efforts to pass legislation relating to creation of a flexible and desirable statewide Complete Streets Program. Council Member DeLapp seconded the motion. The motion passed 5-0.*

Resolution Expressing Support for Washington County State Bonding Request for the Acquisition and Designation of a Park and Ride Along the I-94 Corridor

City Administrator Messelt brought forth a request to the City Council from the I-94 Corridor Commission to consider the City of Lake Elmo expressing support for a Washington County State bonding request of a park and ride along the I-94 Corridor. City staff recommended the inclusion of language denoting consideration and future collaboration regarding identification of specific location and traffic flow management.

Council Member DeLapp proposed text amendments to make the draft resolution more consistent with the City's 2010 Comprehensive Plan and accurate with respect to the City's position on future (versus current) growth and development along the I-94 corridor.

*MOTION: Council Member Smith moved to adopt Resolution No. 2010-006, as amended by Council Member DeLapp, Expressing Support for Washington County State Bonding Request for the Acquisition and Designation of a Park and Ride along the I-94 Corridor. Council Member Park seconded the motion. The motion passed 5-0.*

REPORTS AND ANNOUNCEMENTS:

Council Member Smith thanked Jennifer Pelletier and Paul Ryberg, organizer of Beyond the Yellow Ribbon, for their hard work and reported that there was good turnout for the first meeting. She also thanked Public Works for the great work at the Lions Park ice rink.

Council Members Emmons and DeLapp also thanked the Yellow Ribbon Committee for their work. Beyond the Yellow Ribbon will meet the third Thursday of each month.

Planning Director Klatt informed the Council that the Planning Commission viewed a video presentation by Randall Arendt on preserving character and they will be reviewing the exterior storage ordinance.

City Administrator Messelt reported he attended the Metro Cities Legislative kick-off. Budget deficit, bonding and a jobs bill were the main topics discussed.

Representative Bunn, Mayor Johnston and Administrator Messelt would be testifying before the House Higher Education and Work Force Development Policy and Finance Division regarding the City's 2010 Capital Budget Request for regional infrastructure improvements on Wednesday, January 27, 2010.

City Council retreat is tentatively scheduled for Friday, February 26 (evening) and Saturday, February 27 (until mid-afternoon). Location to be determined.

Mayor Johnston stated that three Council Members would like to change the second Council meeting in March to the fourth Tuesday.

*MOTION: Council Member Smith moved to reschedule the March 16, 2010 council meeting to March 23, 2010. Council Member Park seconded the motion. The motion passed 5-0. Staff was directed to advertize this change as widely as possible.*

The meeting adjourned at 9:33 p.m.

Respectfully submitted by Carole Luczak, Recording Secretary.

Resolution No. 2010-003:	Ordering the Improvement and Preparation for Plans and Specifications for the 2010 Street and Water Quality Improvements
Resolution No. 2010-004:	Authorizing Publication of Ordinance No. 08-023 by Title and Summary
Resolution No. 2010-005:	Expressing Support for a Statewide "Complete Streets" Policy and a MN Department of Transportation-Led "Complete Streets" Partnership
Resolution No. 2010-006:	Expressing Support for Washington County State Bonding Request for the Acquisition and Designation of a Park-And-Ride Along the I-94 Corridor
Ordinance No. 008-022:	Setting Municipal Fees for Calendar Year 2010
Ordinance No. 008-023:	Repealing the Existing Floodplain Management Ordinance and Adopting New Floodplain Maps and Regulations in the City of Lake Elmo.



## MAYOR & COUNCIL COMMUNICATION

DATE: 02/03/2010

**CONSENT**

ITEM #: 2

**MOTION** *as part of Consent*

**AGENDA ITEM:** Approve Disbursements and Payroll in the Amount of \$341,672.66

**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 \$ 341,672.66. 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	\$ 6,845.21	Payroll Taxes to IRS 01/28/2010
ACH	\$ 1,179.47	Payroll Taxes to MN Dept. of Revenue 01/28/2010
DD2600 – DD2614	\$ 20,917.00	Payroll Dated 01/28/2010 (Direct Deposit)
35231 – 35237	\$ 7,271.81	Payroll Dated 01/28/2010
35238 - 35264	\$305,459.17	Accounts Payable Dated 2/03/2010
<b>Total: \$341,672.66</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 its Consent Agenda proposed disbursements in the amount of \$341,672.66.

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 February 3<sup>rd</sup>, 2010 Disbursement and Payroll, as Presented *[and modified]* herein.”**

**ATTACHMENTS:**

1. Accounts Payable Dated 02/03/2010

**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: 01/28/2010 - 10:40 AM  
Batch: 008-12-2009

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ERA MUSK ERA MUSKE 01/26/10 01/26/2010		101.42	0.00	02/03/2010	Refund of overpayment on water bill		-	No		0000
601-494-9400-44300 Miscellaneous 01/26/10 Total: ERA MUSK Total:		101.42 101.42								
LMCIT Cities Insurance Trust League of M 11069536 01/14/2010		500.00	0.00	02/02/2010	Insurance Claim Deductible		-	No		0000
101-410-1320-43610 Insurance 11069536 Total: LMCIT Total:		500.00 500.00								
MESSELT Messelt Bruce Chk Req 12/31/2009		82.53	0.00	02/02/2010	Cell Phone - January		-	No		0000
101-410-1940-43210 Telephone Chk Req 12/31/2009		13.00	0.00	02/02/2010	Travel Expense		-	No		0000
101-410-1320-44370 Conferences & Training Chk Req Total: MESSELT Total:		95.53 95.53								
PRAXAIR PRAXAIR DISTRIBUTION INC. 33015474 04/24/2009		33.48	0.00	02/03/2010	Welder Nozzle		-	No		0000
101-430-3100-42400 Small Tools & Minor Equipment 33015474 Total: PRAXAIR Total:		33.48 33.48								
TASCH T.A. Schifsky & Sons Inc 48465 01/24/2009		8.69	0.00	02/03/2010	Tax on Asphalt		-	No		0000
101-430-3120-42240 Street Maintenance Materials 48465 Total:		8.69								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
TASCH Total:		8.69								
TOWER Tower Asphalt, Inc.										
Cert 4	01/25/2010	26,804.36	0.00	02/03/2010	2009 Street Improvements		-			0000
415-480-8000-45300	Improvements Other Than Bldgs									No
Cert 4	01/25/2010	3,684.72	0.00	02/03/2010	Tablyn Portion		-			0000
416-480-8000-45300	Improvements Other Than Bldgs									No
Cert 4 Total:		30,489.08								
TOWER Total:		30,489.08								
WAS-SHER Washington County										
65124	02/17/2010	240,619.18	0.00	02/03/2010	Law Enforcement - Ju 09 - Dec 09		-			0000
101-420-2100-43150	Law Enforcement Contract									No
65124 Total:		240,619.18								
WAS-SHER Total:		240,619.18								
WASHCONS Washington Conservation Dist.										
1768	09/30/2009	500.00	0.00	02/03/2010	4TH QTR shared educator program		-			0000
603-496-9500-44370	Conferences & Training									No
1768 Total:		500.00								
WASHCONS Total:		500.00								
Report Total:		272,347.38								

# Accounts Payable To Be Paid Proof List

User: Administrator  
Printed: 01/28/2010 - 1:37 PM  
Batch: 006-01-2010

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ARAM Aramark, Inc.										
629-6913085	01/21/2010	28.72	0.00	02/03/2010	Uniforms Public Works		-	No		0000
101-430-3100-44170	Uniforms									
	629-6913085 Total:	28.72								
629-6914693	01/25/2010	46.80	0.00	02/03/2010	Monthly rug service Station #2		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-6914693 Total:	46.80								
629-6914964	01/25/2010	94.50	0.00	02/03/2010	Linen City Hall - Annex		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-6914964 Total:	94.50								
629-6914965	01/25/2010	44.94	0.00	02/03/2010	Monthly rug service Station #1		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-6914965 Total:	44.94								
	ARAM Total:	214.96								
COMPENSA Compensation Consultants, Ltd										
1/18/2010	01/18/2010	40.00	0.00	02/03/2010	Monthly Admin Fee - January 2010		-	No		0000
101-410-1320-44300	Miscellaneous									
	1/18/2010 Total:	40.00								
	COMPENSA Total:	40.00								
FXL FXL, Inc.										
Feb-10	02/01/2010	2,000.00	0.00	02/03/2010	Assessing Services - February 2010		-	No		0000
101-410-1320-43100	Assessing Services									
	Feb-10 Total:	2,000.00								
	FXL Total:	2,000.00								
GOVTRNG Government Training Services										
22192240	01/21/2010	225.00	0.00	02/03/2010	2010 MCFOA Annual Conference 3/16		-	No		0000
101-410-1320-44370	Conferences & Training									
	22192240 Total:	225.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PCLine #
GOVTRNG Total:		225.00								
GRACYK Gracyk Kevin										
1-26-10	01/26/2010	55.00	0.00	02/03/2010	Cable-City Council	1/26/2010	-		No	0000
101-410-1450-43620	Cable Operations	55.00								
1-26-10 Total:		55.00								
GRACYK Total:		55.00								
HENNCOL Hennepin Technical College										
193936	01/25/2010	756.80	0.00	02/03/2010	Firefighter I Training - Witter		-		No	0000
101-420-2220-44370	Conferences & Training	756.80								
193936 Total:		756.80								
HENNCOL Total:		756.80								
LINNER Linner Electric Company, Inc.										
20758	01/15/2010	695.00	0.00	02/03/2010	Repair Lights - Lions Field		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs	695.00								
20758 Total:		695.00								
LINNER Total:		695.00								
LOFF Loffler Companies, Inc.										
1086434	01/15/2010	157.65	0.00	02/03/2010	Copy Machines coverage & Base Jan 10		-		No	0000
101-410-1940-44040	Repairs/Maint Contractual Eqpt	157.65								
1086434 Total:		157.65								
LOFF Total:		157.65								
METROFIR Metro Fire										
36916	01/20/2010	128.48	0.00	02/03/2010	1-3/4 Hose - Fire		-		No	0000
410-480-8000-45800	Other Equipment	128.48								
36916 Total:		128.48								
36926	01/20/2010	594.42	0.00	02/03/2010	4" Hose - Fire		-		No	0000
410-480-8000-45800	Other Equipment	594.42								
36926 Total:		594.42								
METROFIR Total:		722.90								
MNDNR MN DNR										
1961-1031	01/30/2009	1,774.00	0.00	02/03/2010	Annual DNR Water Use Permit		-		No	0000
601-494-9400-43820	Water Utility	1,774.00								
1961-1031 Total:		1,774.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MNDNR Total:		1,774.00								
MORTON MORTON SALT										
298441	01/14/2010									
101-430-3125-42290	Sand/Salt	10,969.48	0.00	02/03/2010	Road Salt		-			No 0000
298441 Total:		10,969.48								
299879	01/15/2010	1,593.23	0.00	02/03/2010	Road Salt		-			No 0000
101-430-3125-42290	Sand/Salt	1,593.23								
299879 Total:		1,593.23								
MORTON Total:		12,562.71								
NAMERICA North American Salt Company										
70465091	01/15/2010	6,531.68	0.00	02/03/2010	Treated Road Salt		-			No 0000
101-430-3125-42290	Sand/Salt	6,531.68								
70465091 Total:		6,531.68								
70469276	01/22/2010	2,138.39	0.00	02/03/2010	Treated Road Salt		-			No 0000
101-430-3125-42290	Sand/Salt	2,138.39								
70469276 Total:		2,138.39								
NAMERICA Total:		8,670.07								
NORTHWWS Northern Water Works Supply IN										
S01235537.001	01/12/2010	-619.29	0.00	02/03/2010	Credit		-			No 0000
601-494-9400-42300	Water Meters & Supplies	-619.29								
S011235537.001 Total:		-619.29								
S01233824.001	01/06/2010	3,100.57	0.00	02/03/2010	Water Meters		-			No 0000
601-494-9400-42300	Water Meters & Supplies	3,100.57								
S01233824.001 Total:		3,100.57								
S01235467.001	01/11/2010	543.16	0.00	02/03/2010	Water Meters		-			No 0000
601-494-9400-42300	Water Meters & Supplies	543.16								
S01235467.001 Total:		543.16								
NORTHWWS Total:		3,024.44								
PRESS Press Steven										
1252010	01/25/2010	58.88	0.00	02/03/2010	Cable Planning-1/25/2010		-			No 0000
101-410-1450-43620	Cable Operations	58.88								
1252010 Total:		58.88								
PRESS Total:		58.88								
ROGERS Rogers Printing Services, Corp										
16898	01/25/2010	422.29	0.00	02/03/2010	Envelopes, Business Cards		-			No 0000
101-410-1320-42030	Printed Forms	422.29								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
16898	01/25/2010	204.00	0.00	02/03/2010	Water Invoices		-	No		0000
601-494-9400-42030	Printed Forms	626.29								
	16898 Total:	626.29								
	ROGERS Total:									
RUD Prince-Rud Diane										
01/13/2010	01/13/2010	342.00	0.00	02/03/2010	Cleaning City Hall & Annex		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
01/13/2010	01/13/2010	256.50	0.00	02/03/2010	Cleaning Fire Hall		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
01/13/2010	01/13/2010	-38.50	0.00	02/03/2010	Use Tax		-	No		0000
101-000-0000-20201	Use Tax Payable									
	01/13/2010 Total:	560.00								
	RUD Total:	560.00								
SAMSLUB Sam's Club										
360163120031213	01/25/2010	46.61	0.00	02/03/2010	City Hall Supplies		-	No		0000
101-410-1410-42000	Office Supplies									
360163120031213	01/25/2010	91.50	0.00	02/03/2010	Fire Station Supplies		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	360163120031213 Total:	138.11								
	SAMSLUB Total:	138.11								
SANDCRK Sand Creek Group, Ltd.										
01/22/2010	01/22/2010	750.00	0.00	02/03/2010	Annual Employee Assistance Program		-	No		0000
101-410-1320-44330	Dues & Subscriptions									
	01/22/2010 Total:	750.00								
	SANDCRK Total:	750.00								
SPRINT Sprint										
837908817-026	01/18/2010	79.98	0.00	02/03/2010	Phone Cards for Laptops		-	No		0000
101-420-2220-43210	Telephone									
	837908817-026 Total:	79.98								
	SPRINT Total:	79.98								
	Report Total:	33,111.79								



## MAYOR & COUNCIL COMMUNICATION

DATE: 2/3/10  
CONSENT  
ITEM #: # 3  
MOTION *As part of Consent -  
Resolution 2010-007*

**AGENDA ITEM:** Resolution Accepting the Work from the 2009 Street Improvement Project and Authorizing Payment No. 4 (Final).

**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 accept the work completed by Tower Asphalt, Inc. under the contract for the 2009 Street Improvement Project. Additionally, the City Council is being asked to approve final payment to Tower Asphalt, Inc. for the 2009 Street Improvement Project. No separate motion is required, as this item is part of the approval of the Consent Agenda (unless it is removed for purposes of further discussion).

**STAFF REPORT:** The 2009 Street Improvement Project work has been reviewed by staff and is fully completed in accordance with the contract, plans and specifications. Please refer to attachment No. 2, which is the engineer's letter of final acceptance for this project. The one-year warranty will begin February 3<sup>rd</sup>, 2010 and extend to February 2<sup>nd</sup>, 2011.

Additionally, Tower Asphalt has submitted Payment Certificate No. 4 (Final) in the amount of \$30,489.08 with all required documentation. This request has been reviewed and payment is recommended in the amount requested.

**ADDITIONAL INFORMATION:** The original construction contract for the 2009 Street Project was \$417,811.50. The actual cost to complete the work was \$400,470.52, which equates to a total savings of \$17,340.98

The final assessment hearing for the 2009 Street Improvements will be held in October 2010.

**RECOMMENDATION:** Based upon the above background information and staff report, it is recommended that the City Council adopt Resolution No. 2010-007 accepting the work for the 2009 Street Improvement Project and authorizing final payment to the contractor as part of tonight's Consent Agenda.

Alternatively, the City Council may elect to remove this item from the Consent Agenda and discuss and modify, as appropriate. The City Engineer will be prepared to assist the Council in this endeavor, if needed and appropriate. If done so, the suggested action would be as follows:

*"Move to approve Resolution No. 2010-007 accepting the work for the 2009 Street Improvement Project and authorizing Final Payment No. 4 in the amount of \$30,489.08 . . . [as amended/modified tonight]"*

**ATTACHMENTS:**

1. Resolution No. 2010-007
2. Engineer's recommendation for final acceptance, dated January 25, 2010
3. Payment Certificate No. 4 (Final) for the 2009 Street Improvement Project



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

**RESOLUTION NO. 2010-007**

**A RESOLUTION ACCEPTING THE WORK FOR THE 2009 STREET  
IMPROVEMENT PROJECT**

*WHEREAS, pursuant to a written contract signed with the City on July 7, 2009, Tower Asphalt, Inc. has satisfactorily completed the 2009 Street Improvement Project in accordance with such contract.*

*WHEREAS, the one-year Warranty for the improvements began on February 3<sup>rd</sup>, 2010 and will end on February 2nd, 2011 and an one-year warranty inspection will be completed in January, 2010, and the contractor will be required to repair or replace, as directed by the City, any work or materials that are found to be defective, at the Contractor's sole cost and expense.*

*BE IT RESOLVED, the work completed under said contract is hereby accepted and approved, and,*

*BE IT FURTHER RESOLVED that the City Administrator and Mayor are hereby directed to issue a proper order for the final payment on such contract, taking the contractor's receipt in full.*

Date: \_\_\_\_\_, 2010 CITY OF LAKE ELMO

By: \_\_\_\_\_  
Dean A. Johnston  
Mayor

ATTEST:

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

# TKDA

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(651) 292-0088 Fax  
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January 25, 2010

Honorable Mayor and City Council Members  
City of Lake Elmo  
3800 Laverne Avenue  
Lake Elmo, Minnesota 55042

Re: Engineer's Recommendation for Final Acceptance  
2009 Street Improvement Project  
City of Lake Elmo, Minnesota  
TKDA Project No. 14353.001

Dear Mayor and City Council Members:

We have reviewed the work under Contract for the 2009 Street Improvement Project, and find that the project has been fully completed in all respects according to the Contract, Plans and Specifications as prepared by TKDA. The Improvements are hereby declared to be complete and acceptance of the Contractor's work (Tower Asphalt, Inc.) is recommended.

The one-year Warranty Period will begin on February 3<sup>rd</sup>, 2010 and end on February 2<sup>nd</sup>, 2011.

Sincerely,



Ryan W. Sternpski, P.E.  
Project Manager

DMK:art

cc: Bruce Messelt, City Administrator  
Mike Bouthilet, Public Works

# 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) 292-0883 fax  
www.tkda.com

Proj. No.	14353.001	Cert. No.	4 (F)	St. Paul, MN,	January 6	, 20	10
To	City of Lake Elmo, Minnesota						Owner
This Certifies that	Tower Asphalt, Inc.						Contractor
For	2009 Street Improvements						
Is entitled to	Thirty Thousand Four Hundred Eighty-Nine Dollars and 08/100						(\$ 30,489.08 )
	FINAL						
being	4th	estimate for partial payment on contract with you dated					July 7, 2009
Received payment in full of above Certificate.				TKDA			
Tower Asphalt, Inc.							
, 2010				Ryan W. Stempski, P.E.			

## RECAPITULATION OF ACCOUNT

	CONTRACT PLUS EXTRAS	PAYMENTS	CREDITS
Contract price plus extras	\$ 417,811.50		
All previous payments		\$ 369,981.44	
All previous credits			
Extra No.			
" "			
Compensating Change Order No. 1	\$ (17,340.98)		
" "			
" "			
Credit No.			\$ -
" "			
" "			
" "			
" "			
AMOUNT OF THIS CERTIFICATE		\$ 30,489.08	
Totals	\$ 400,470.52	\$ 400,470.52	\$ -
Credit Balance		\$ -	
There will remain unpaid on contract after payment of this Certificate		\$ -	
	\$ 400,470.52	\$ 400,470.52	\$ -

# CHANGE ORDER

TKDA  
Engineers-Architects-Planners

Saint Paul, MN January 6 20 10 Proj. No. 14353.001 Compensating  
Change Order No. 1

To Tower Asphalt, Inc.

for 2009 Street Improvements

for City of Lake Elmo, Minnesota

You are hereby directed to make the following change to your contract dated July 7, 20 09. The change and the work affected thereby is subject to all contract stipulations and covenants. This Change Order will (increase) (decrease) (net change) the contract sum by Seventeen Thousand Three Hundred Forty Dollars and 98/100 (\$ 17,340.98 ).

## COMPENSATING CHANGE ORDER

This change order shows the actual quantities installed at the unit price bid amounts (see attached itemization):

NET CHANGE = \$ (17,340.98)

Amount of Original Contract	\$ 417,811.50
Additions approved to date (Nos. )	\$ -
Deductions approved to date (Nos. )	\$ -
Contract amount to date	\$ 417,811.50
Amount of this Change Order (Add) (Deduct) (No-Change)	\$ (17,340.98)
Revised Contract Amount	\$ 400,470.52

Approved City of Lake Elmo  
Owner

TKDA

By

By Ryan W. Stempinski, P.E.

Approved Tower Asphalt, Inc.  
Contractor

White - Owner  
Pink - Contractor  
Blue - TKDA

By

ESTIMATE NO. 4 (FINAL)

PERIOD ENDING: December 11, 2009

2009 STREET IMPROVEMENTS  
CITY OF LAKE ELMO, MINNESOTA  
TKDA PROJECT NO. 14353.001

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<b>EDEN PARK DEVELOPMENT</b>						
1	MOBILIZATION	LS	1	1.0	\$ 1,000.00	\$ 1,000.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	30	-	\$ 2.50	-
4	INLET PROTECTION	EA	9	9.0	\$ 100.00	\$ 900.00
5	SAWCUT PAVEMENT (ALL TYPES)	LF	208	83.0	\$ 2.00	\$ 126.00
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	50	40.0	\$ 5.00	\$ 200.00
7	REMOVE & DISPOSE OF EXIST. STORM SEWER (ALL TYPES & SIZES)	LF	16	16.0	\$ 20.00	\$ 320.00
8	SUBGRADE CORRECTION	SY	26	-	\$ 10.00	-
9	LOAD & HAUL RECLAIMED MATERIAL (LV) (P)	CY	459	459.0	\$ 0.00	\$ 2,764.00
10	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	14268	14,268.0	\$ 1.50	\$ 21,402.00
11	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	39	39.0	\$ 100.00	\$ 3,900.00
12	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	1275	1,385.0	\$ 51.85	\$ 71,535.25
13	2360 TYPE LV 4 BITUMINOUS WEARING COURSE	TN	1275	1,130.0	\$ 54.10	\$ 61,133.00
14	BITUMINOUS MATERIAL FOR TACK COAT	GAL	713	500.0	\$ 1.50	\$ 750.00
15	2" 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	50	40.0	\$ 15.00	\$ 600.00
16	SAW & SEAL STREET (40' INTERVALS)	LF	3009	2,996.0	\$ 1.55	\$ 4,643.80
17	ADJUST MANHOLE CASTING	EA	2	2.0	\$ 400.00	\$ 800.00
18	D412 CONCRETE CURB & GUTTER	LF	15	29.0	\$ 70.00	\$ 2,030.00
19	REPAIR AND ADJUST CATCH BASIN	EA	8	8.0	\$ 1,000.00	\$ 8,000.00
20	12" RCP FES WITH TRASH GUARD	EA	1	1.0	\$ 800.00	\$ 800.00
21	CL. 3 RIPRAP W/ GEOTEXTILE FILTER FABRIC	CY	3	3.0	\$ 100.00	\$ 300.00
22	SEEDING, FERTILIZER AND WOOD FIBER BLANKET	SY	25	50.0	\$ 15.00	\$ 900.00
SUBTOTAL - EDEN PARK DEVELOPMENT						\$ 182,694.05
<b>EDEN PARK 2ND ADDITION</b>						
1	MOBILIZATION	LS	1	1.0	\$ 1,000.00	\$ 1,000.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	325	285.0	\$ 2.50	\$ 712.50
4	INLET PROTECTION	EA	2	2.0	\$ 100.00	\$ 200.00
5	SAWCUT PAVEMENT (ALL TYPES)	LF	118	88.0	\$ 2.00	\$ 176.00
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	25	40.0	\$ 5.00	\$ 200.00
7	SUBGRADE CORRECTION	SY	1662	-	\$ 2.75	-
8	LOAD & HAUL RECLAIMED MATERIAL (LV) (P)	CY	216	216.0	\$ 6.00	\$ 1,296.00
9	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	2822	2,822.0	\$ 1.50	\$ 4,233.00
10	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	6	6.0	\$ 100.00	\$ 600.00
11	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	252	260.0	\$ 51.85	\$ 13,738.90
12	2360 TYPE LV 4 BITUMINOUS WEARING COURSE, STREETS (INCL. 4" BIT CURB)	TN	286	221.0	\$ 54.10	\$ 11,956.10
13	BITUMINOUS MATERIAL FOR TACK COAT	GAL	141	140.0	\$ 1.50	\$ 210.00
14	2" 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	25	20.0	\$ 15.00	\$ 300.00
15	SAW & SEAL STREET (40' INTERVALS)	LF	476	450.0	\$ 1.55	\$ 697.50
16	REPAIR AND ADJUST CATCH BASIN	EA	2	2.0	\$ 1,400.00	\$ 2,800.00
17	SAWCUT CATCH BASIN	EA	1	-	\$ 200.00	-
18	SODDING	SY	244	425.0	\$ 3.00	\$ 1,275.00
SUBTOTAL - EDEN PARK 2ND ADDITION						\$ 59,885.00
<b>THE FOREST DEVELOPMENT</b>						
1	MOBILIZATION	LS	1	1.0	\$ 500.00	\$ 500.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	90	90.0	\$ 2.50	\$ 225.00
4	INLET PROTECTION	EA	3	3.0	\$ 100.00	\$ 300.00
5	SAWCUT PAVEMENT (ALL TYPES)	LF	130	98.0	\$ 2.00	\$ 196.00
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	25	22.0	\$ 5.00	\$ 110.00
7	SUBGRADE CORRECTION	SY	1176	-	\$ 2.75	-
8	LOAD & HAUL RECLAIMED MATERIAL (LV) (P)	CY	318	318.0	\$ 6.00	\$ 1,908.00
9	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	5977	5,977.0	\$ 1.50	\$ 8,965.50
10	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	17	17.0	\$ 100.00	\$ 1,700.00
11	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	534	540.0	\$ 52.65	\$ 28,431.00
12	2360 TYPE LV 4 BITUMINOUS WEARING COURSE, STREETS (INCL. 6" BIT CURB)	TN	538	540.0	\$ 54.10	\$ 29,214.00
13	BITUMINOUS MATERIAL FOR TACK COAT	GAL	299	275.0	\$ 1.50	\$ 412.50
14	2" 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	25	22.0	\$ 15.00	\$ 330.00
15	SAW & SEAL STREET (40' INTERVALS)	LF	1506	1,529.0	\$ 1.55	\$ 2,369.95
16	D412 CONCRETE CURB & GUTTER	LF	179	179.0	\$ 25.00	\$ 4,475.00
17	REPAIR AND ADJUST CATCH BASIN	EA	3	3.0	\$ 1,000.00	\$ 3,000.00
18	SODDING	SY	90	120.0	\$ 3.00	\$ 360.00
SUBTOTAL - EDEN PARK 2ND ADDITION						\$ 82,066.95

ESTIMATE NO. 4 (FINAL)

PERIOD ENDING: December 11, 2009

2009 STREET IMPROVEMENTS  
CITY OF LAKE ELMO, MINNESOTA  
TKDA PROJECT NO. 14363.001

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<b>MYRON ELLMAN SUBDIVISION</b>						
1	MOBILIZATION	LS	1	1.0	\$ 1,000.00	\$ 1,000.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	85	63.0	\$ 2.50	\$ 157.50
4	SALVAGE & REINSTALL SIGN	EA	2	1.0	\$ 150.00	\$ 150.00
5	SAWCUT PAVEMENT (ALL TYPES)	LF	101	231.0	\$ 2.00	\$ 462.00
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	65	68.0	\$ 5.00	\$ 340.00
7	REMOVE & DISPOSE OF EXIST. CONCRETE PAVEMENT (DRIVEWAY)	SY	22	4.0	\$ 10.00	\$ 40.00
8	SUBGRADE CORRECTION	SY	1800	51.0	\$ 2.75	\$ 140.25
9	LOAD & HAUL RECLAIMED MATERIAL (LV) (P)	CY	358	358.0	\$ 6.00	\$ 2,148.00
10	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	3498	3,498.0	\$ 1.50	\$ 5,247.00
11	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	13	13.0	\$ 100.00	\$ 1,300.00
12	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	313	207.0	\$ 52.65	\$ 16,163.55
13	2360 TYPE LV 4 BITUMINOUS WEARING COURSE	TN	913	290.0	\$ 54.10	\$ 15,889.00
14	BITUMINOUS MATERIAL FOR TACK COAT	GAL	175	160.0	\$ 1.50	\$ 240.00
15	2"- 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	65	68.0	\$ 75.00	\$ 1,020.00
16	6" CONCRETE DRIVE	SY	22	-	\$ 80.00	\$ -
17	SAW & SEAL STREET (40' INTERVALS)	LF	788	755.0	\$ 1.55	\$ 1,170.25
18	ADJUST EXISTING GATE VALVE BOX	EA	2.0	3.0	\$ 200.00	\$ 600.00
19	ADJUST CURB STOP	EA	1.0	1.0	\$ 200.00	\$ 200.00
20	SODDING	SY	259.0	642.0	\$ 3.00	\$ 1,626.00
SUBTOTAL - MYRON ELLMAN SUBDIVISION						\$ 48,193.66
<b>TABLYN PARK ENTRANCE ROAD AND PARKING LOT</b>						
1	MOBILIZATION	LS	1	1.0	\$ 3,500.00	\$ 3,500.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	790	755.0	\$ 2.00	\$ 1,510.00
4	SAWCUT PAVEMENT (ALL TYPES)	LF	85	-	\$ 2.00	\$ -
5	REMOVE & DISPOSE OF EXIST. PAVEMENT	SY	1862	1,862.0	\$ 2.00	\$ 3,724.00
6	SUBGRADE CORRECTION	SY	289	-	\$ 3.00	\$ -
7	COMMON EXCAVATION	CY	640	640.0	\$ 3.00	\$ 1,920.00
8	SUBGRADE PREPARATION	RS	5	5.0	\$ 100.00	\$ 500.00
9	PLACE & COMPACT RECLAIMED MATERIAL (FROM OTHER SITES)	CY	697	767.0	\$ 4.00	\$ 3,068.00
10	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	156	154.0	\$ 52.65	\$ 8,108.16
11	2360 TYPE LV 4 BITUMINOUS WEARING COURSE, STREETS (INCL. 4" BIT CURB)	TN	183	188.7	\$ 54.10	\$ 10,190.47
12	BITUMINOUS MATERIAL FOR TACK COAT	GAL	87	50.0	\$ 1.50	\$ 75.00
13	SAW & SEAL STREET (40' INTERVALS)	LF	388	388.0	\$ 1.65	\$ 670.40
14	15" RCP CL. 5 STORM SEWER PIPE	LF	49	44.0	\$ 25.00	\$ 1,100.00
15	15" RCP FES WITH TRASH GUARD	EA	1	1.0	\$ 970.00	\$ 970.00
16	48" DIAMETER MANHOLE, TYPE 406S (0'-10' DEPTH)	EA	2	2.0	\$ 2,750.00	\$ 5,500.00
17	CATCH BASIN, TYPE 404	EA	1	1.0	\$ 2,250.00	\$ 2,250.00
18	CL. 3 RIPRAP W/ GEOTEXTILE FILTER FABRIC	CY	3	3.0	\$ 100.00	\$ 300.00
19	SEEDING, FERTILIZER AND WOOD FIBER BLANKET	SY	36	276.0	\$ 3.00	\$ 825.00
20	SODDING	SY	504	380.0	\$ 3.00	\$ 1,170.00
SUBTOTAL - TABLYN PARK ENTRANCE ROAD AND PARKING LOT						\$ 45,690.97

TOTAL ESTIMATE NO. 4 (FINAL)

\$ 400,470.62



## MAYOR & COUNCIL COMMUNICATION

DATE: 2/03/2010  
REGULAR  
ITEM: 4  
MOTION *Staff Direction*

**AGENDA ITEM:** One Year Review of Bus/Truck Terminal Interim Use Permit at 11530 Hudson Boulevard North

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

**THROUGH:** Bruce Messelt, City Administrator

**REVIEWED BY:** City Staff

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to receive a one-year review of the Bus/Trucking Terminal Interim Use Permit at 11530 Hudson Boulevard North. At this point in time, the Council does not need to take any formal action with regards to the Interim Use Permit, unless there are specific questions or concerns regarding the bus/trucking terminal operation on this site. In order to address one of the potential concerns regarding the status of the interim use; Staff is seeking Council authorization to execute the attached interim use/consent agreement which was prepared by the City Attorney at the time of the original review. The specific motion that the Council should consider is as follows:

***“Move to authorize the Mayor to execute the Consent Agreement presented to the City Council related to an interim use permit at 11530 Hudson Boulevard North”***

**BACKGROUND INFORMATION:** The interim Use Permit was originally approved by the Council on December 12<sup>th</sup> of 2009. The City Code specifies that an interim use permit is valid for a period of two years, after which a renewal application must be approved by the City. The interim use permit was issued to Terry Emmerson to operate a bus/trucking terminal at 11530 Hudson Boulevard North. This type of operation is allowed as an interim use, subject to the standards for a non-agricultural low impact use.

At the time of the initial request, the Planning Commission and Council were presented with detailed information concerning the proposed activity and the City's ordinance requirements for such an interim use. This information can be made available to the City Council, if requested.

Since the City's approval was granted, the trucking business has moved into the site and begun operations as a truck storage and maintenance facility.

As part of the initial approval for the bus/truck terminal facility in this location, the Council requested that the permit be reviewed after one year of operation. Should the Council not identify any issues or concerns with the operation (which should be specific to the criteria outlined in the Zoning Ordinance) the applicant will still need to apply for renewal of the interim use prior to December of 2010 in order to continue operating the business on this site.

**STAFF REPORT:** Staff recently toured the site, reviewed the City's ordinances regarding interim uses and non-agricultural low impact uses, and examined the conditions included as part of the resolution approving the bus/trucking terminal operation. Based on this review, it appears that the use is in conformance with all applicable requirements, with a few minor exceptions. Staff would like to specifically note the following:

- **Traffic:** The non-agricultural low impact use standards specify that the daily vehicle trips from the site cannot exceed 6 trips per acre of agricultural land. Because the agricultural area owned by the applicant is 70 acres in size, the total number of vehicle trips cannot exceed 420 per day. The applicant has estimated that there are no more than 120 trips in and out of the site every day by trucks and employee vehicles. Staff's own observations during two longer visits to the site since it began operations and daily trips along Manning Avenue have supported this estimate.
- **Site Operation.** The daily use of the site has not changed substantially from the way it was run as a bus garage. Although the semi-trailers being parked on the site are generally larger than the school buses that previously were stored and serviced here, the number of daily trips is substantially lower now than in the recent past. The overall site activities, including exterior storage, light maintenance/servicing of vehicles, and refueling are very similar to past activities.
- **Landscaping.** One of the conditions of approval stated "that additional screening be provided in all locations recommended by the City Forester in order to replace vegetation that has either died or been removed". The applicant did plant some additional trees on the site in early 2009, but it appears that some of this vegetation has died during the course of the year. As this is a condition of approval, the applicant will need to replace all dead or dying trees in order to remain in compliance with the interim use permit. The condition of trees can be further evaluated as part of the two-year renewal process.
- **Interim Use Permit/Consent Agreement.** The Interim Use provisions in the Zoning Ordinance (and the resolution of approval) require that an applicant for an interim use permit enter into a consent agreement with the City that clarifies the terms and requirements under which the interim use can operate. The City Attorney drafted an agreement for consideration by the Council last year, but to date, this agreement has not been executed. Given the lapse in time since the Council reviewed the interim use



permit, Staff has revised the draft agreement and included it for consideration by the Council at its February 2, 2010 meeting. This document will need to be signed immediately after the meeting in order to ensure that the applicant remains in compliance with all City requirements.

Please note that, in accordance with its draft work plan for the year, the City Council will be reviewing the future land use plan along the I-94 corridor later this year. This land use review will give the Council an additional opportunity to consider the interim use activity within the context of the larger holding district before the two-year renewal on this site is considered. Staff also anticipates conducting a more thorough review of the interim use at this time.

Staff will present recent photographs of site at the City Council meeting. .

**RECOMMENDATION:** The City Council is asked to receive staff's review of the interim use at 11530 Hudson Boulevard North and to authorize the Mayor to execute the attached Consent Agreement with the applicant. The following motion is recommended for taking this action:

***"Move to authorize the Mayor to execute the Consent Agreement presented to the City Council related to an interim use permit at 11530 Hudson Boulevard North"***

As an alternative, the Council can either request additional information from either staff or the applicant or could consider revocation of the interim use permit if findings are prepared that show the site is not in compliance with the City's interim use requirements.

**ATTACHMENTS:**

1. Consent Agreement – Interim Use Permit

**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

## CONSENT AGREEMENT INTERIM USE PERMIT

1.0 Parties. This Consent Agreement/Interim Use Permit ("Agreement") is entered into by and between the City of Lake Elmo, a Minnesota statutory ("City"); and E & E Properties, LLC, a Minnesota limited liability corporation ("Applicant").

2.0 Recitals.

A. Applicant is the record fee owner of the following described property situated in Lake Elmo, MN ("Property"):

That part of the South Half of the Southeast Quarter of Section 36, Township 29 North, Range 21 West, Washington County, Minnesota lying easterly of the West 33.00 feet (2 rods) thereof, EXCEPT that part designated as Parcel 44 on Minnesota Department of Transportation Right of Way Plat No. 82-35, State Project No. 8292 (94-392) 904, recorded as Document No. 424557 in the office of the County recorder, Washington County, Minnesota.

Subject to highway easements in favor of Washington County described in Book 258 of Deeds, page 91 and Book 309 of Deeds, page 831, of record, and on file in said office of the County Recorder.

Also, subject to highway easements in favor of the State of Minnesota as described in Book 109 of Deeds, page 622, Book 109 of Deeds, page 638, and Book 220 of Deeds, page 11, of record and on file in said office of the County Recorder.

B. The Property is zoned HD-A-BP.

C. Interim uses are allowed in the HD-A-BP zoning district subject to the regulations contained in Lake Elmo City Code Section 154.019.

D. Applicant has requested that the City allow a portion of the Property to be used as a bus/truck terminal as illustrated on the Site Plan attached as Exhibit A (Site Plan):

E. On the 30<sup>th</sup> day of October 2008, Applicant submitted a completed application for an Interim Use Permit.

F. On the 10<sup>th</sup> day of November, 2008, the Lake Elmo Planning Commission, at a public hearing, reviewed the Interim Use Permit application, city staff

## CONSENT AGREEMENT

## INTERIM USE PERMIT

comments and reports, Applicant's comments and reports, public comments, and recommended approval of the interim bus/truck terminal use subject to certain conditions.

- G. On the 1st day of December, 2008, and on the 9<sup>th</sup> day of December, 2008, the Lake Elmo City Council reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and the recommendations of the Lake Elmo Planning Commission, and agreed to authorize the interim use subject to the terms and conditions as specified in Section 154.019 of the Zoning Ordinance and Resolution 2008-056 approving the interim use permit.
- H. On the 2<sup>nd</sup> day of February, 2010, the Lake Elmo City Council completed a one-year review of the interim use permit and authorized the Mayor to execute a consent agreement with the Applicant.

3.0 Terms and Conditions. The Lake Elmo City Council hereby authorizes and Applicant, for itself, and its successors and assigns, agree that the interim bus/truck terminal use shall be subject to the following conditions:

- A. The Applicant, and its successors and assigns, shall have no entitlement to future re-approval of the Interim Use Permit.
- B. Applicant and its successors and assigns, agree that in the event of a full or partial taking of the Property by a governmental unit that the value of the Property taken will be based on its highest and best use as it existed prior to the approval of the Interim Use Permit.
- C. The interim use shall be located on that portion of the Applicant's Property illustrated on the Site Plan. The remainder of Applicant's Property shall continue to be used for agricultural purposes.
- D. Applicant shall replace any trees that have died or been removed from the site in order to maintain the site landscaping as depicted on the original Site Plan for the property.
- E. The Interim Use Permit is valid until the first occurring following event:
  - 1. For two (2) years from the date of the approval of the Interim Use Permit (December 9, 2010);
  - 2. Until a violation of the conditions of this Consent Agreement;
  - 3. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or

## CONSENT AGREEMENT

## INTERIM USE PERMIT

4. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.
- 4.0 Rescission of the Conditional Use. The Conditional Use Permit, which was previously issued for the Property is hereby rescinded and replaced by this Consent Agreement/Interim Use Permit.
- 5.0 Acknowledgement and Consent. Applicant acknowledges that this is a legally binding agreement and that Applicant has had an opportunity to review the Agreement with legal counsel. Applicant consents to the terms of this Agreement and its restrictions on the use of the Property and the Interim Use Area.
- 6.0 Effective Date. This Consent Agreement/Interim Use Permit shall be effective upon execution by all parties.

Dated this: February 3rd, 2010

### CITY OF LAKE ELMO

By: \_\_\_\_\_  
Dean Johnston  
Mayor

**E AND E PROPERTIES, LLC**

Attest:

By: \_\_\_\_\_  
Terry Emerson

By: \_\_\_\_\_  
Bruce A. Messelt  
City Administrator

Its: \_\_\_\_\_



## MAYOR & COUNCIL COMMUNICATION

DATE: 2/03/2010  
REGULAR  
ITEM: 5  
MOTION *Staff Direction*

**AGENDA ITEM:** Authorization to Proceed with Plans and Specifications for 2010 Sealcoat Project

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

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

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

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to receive a presentation and update from the City Engineer and staff regarding the proposed 2010 Sealcoat Project. If acceptable, a motion to proceed with the next steps would be as follows:

***"Move to authorize and Direct the City Engineer to Proceed with Preparation of Plans and Specifications for the 2010 Sealcoat Project"***

**BACKGROUND INFORMATION:** The City has conducted an annual sealcoat project as part of its street maintenance efforts for some time. Sealcoating assists in maintaining the City's roadways and extending their usable life. In addition, sealcoating serves as the first step in addressing minor repairs before they become more invasive and expensive.

Should the Council be desirous with proceeding with the proposed project, the appropriate next step would be the ordering of preparations of plans and specifications.

The approved 2010 Annual Budget approved by the City Council in December 2009 includes sufficient funds for conduct of the proposed 2010 Sealcoat Project.

**STAFF REPORT:** The City Engineer and staff will be present to review their report and recommendations at tonight's City Council meeting.

**RECOMMENDATION:** The City Council is asked to receive staff's review of the proposed 2010 Sealcoat Project and to authorize the City Engineer to proceed accordingly, if so desired. The following motion is recommended for taking this action:

***"Move to authorize and Direct the City Engineer to Proceed with Preparation of Plans and Specifications for the 2010 Sealcoat Project"***

As an alternative, the Council can either request additional information from City staff or consider an alternative 2010 project schedule, scope or approach.

**ATTACHMENTS:** None (to be delivered separately or presented at the Meeting)

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... City Engineer/Staff
- 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