



**City of Newport
City Council Minutes
August 21, 2014**

1. CALL TO ORDER

Mayor Geraghty called the meeting to order at 5:30 P.M.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL -

Council Present – Tim Geraghty; Tom Ingemann; Bill Sumner; Tracy Rahm; Steven Gallagher (called in)

Council Absent –

Staff Present – Deb Hill, City Administrator; Bruce Hanson, Supt. of Public Works; Renee Eisenbeisz, Executive Analyst; Fritz Knaak, City Attorney; Jon Herdegen, City Engineer; Sherri Buss, TKDA Planner

Staff Absent – Curt Montgomery, Police Chief; Mark Mailand, Fire Chief;

4. ADOPT AGENDA

Mayor Geraghty - We'll move the Engineer's Report to right after the Consent Agenda. We'll also pull Ordinance 2014-10 from the Consent Agenda and review it right after the Consent Agenda.

Motion by Sumner, seconded by Ingemann, to adopt the Agenda as amended. With 5 Ayes, 0 Nays, the motion carried.

5. ADOPT CONSENT AGENDA

Item 5.D was pulled from the Consent Agenda.

Motion by Ingemann, seconded by Sumner, to approve the Consent Agenda as amended which includes the following items:

- A. Minutes of the August 7, 2014 Regular City Council Meeting
- B. Minutes of the August 7, 2014 City Council Workshop Meeting
- C. List of Bills in the Amount of \$131,742.63
- E. **Resolution No. 2014-39** - Accepting Donations for the Period of August 5 - August 18, 2014
- F. Gambling Permit for the Capital City Strutters

With 5 Ayes, 0 Nays, the motion carried.

D. Ordinance No. 2014-10 - Amending Chapter 11, Housing and Buildings, of the City Code

Councilman Gallagher - Was there a previous ordinance on mobile homes or was it because of the bedrock and basement that prohibited mobile homes anyways from coming in to Newport?

Councilman Rahm - I thought it was the basement and bedrock issue.

Executive Analyst Eisenbeisz - This ordinance is before you because it would be difficult to develop some lots in Newport with the high bedrock if a basement is required. We're recommending that that requirement be removed.

Councilman Sumner - We have houses without basements?

Councilman Ingemann - Yes. The discussion at the Planning Commission was how do you know if it's a mobile or manufactured home. We have a lot of manufactured housing. In order for some of the houses to be built, they'll need to go on a slab because the bedrock is really high. We want to be able to put a manufactured home on a slab.

Admin. Hill - It'll help with infill.

Councilman Rahm - Did someone request this?

Admin. Hill - It came up when we were discussing some of the lots on 2nd Avenue during the street project. Some of them are undevelopable because of the high bedrock and the requirement for a basement. You do have homes that are on a slab and that would work well for smaller lots.

Mayor Geraghty - So we're just inserting this in?

Executive Analyst Eisenbeisz - No, the ordinance is to remove Section 1140.01 which requires a basement and the ordinance regarding mobile homes is currently in the City Code as Section 1140.02 so we're just moving it up.

Councilman Rahm - Was it originally put in to keep mobile homes out?

Councilman Ingemann - Yes.

Attorney Knaak - The only suggestion I would make would be in respect to the language of the ordinance. It should state that the current Section 1140.01 is repealed.

Dan Lund, Planning Commission Chair - Before you approve this, the issue we had was that our definitions for mobile homes and manufactured homes are the same. We were going to bring the definitions before us at the next meeting to make a distinction. If you do this now, someone could come in with a mobile home without a basement because we haven't cleaned up the code yet.

Executive Analyst Eisenbeisz - Mobile homes are only allowed in the RE District with a CUP and I don't believe they could get a CUP before you amend the definitions.

Mr. Lund - But the definitions don't distinguish between the two.

Mayor Geraghty - Does this have to be done now?

Executive Analyst Eisenbeisz - No.

Councilman Ingemann - We need to incorporate what the Planning Commission does.

Individual from Audience - I think I heard someone say that you couldn't dig here because of the bedrock.

Executive Analyst Eisenbeisz - There are areas in Newport that have bedrock so a basement would be difficult to dig.

Individual from Audience - One of those is where we built our house and we did dig a basement, it just cost more. I think you should take that into consideration before you think of putting in units that are of less value.

Motion by Ingemann, seconded by Rahm to table this Ordinance until the September 18, 2014 City Council meeting. With 5 Ayes, 0 Nays, the motion carried.

13. ENGINEER'S REPORT –

A. 2014 Street Improvement Update

Jon Herdegen, City Engineer, presented on this item as outlined in the August 21, 2014 City Council packet. McNamara and their subcontractor will be laying sod in the beginning of September. It is currently scheduled for the week of September 15.

Councilman Ingemann - When will Xcel come in to move those power poles?

Engineer Herdegen - We were told mid-August, I would expect them to be there in the next couple weeks to move them. We do have a number of sanitary sewer repairs that need to be done and we can work around most of the poles right now.

Councilman Sumner - We had some people stop in at the next meeting regarding his father's home. How is that looking?

Engineer Herdegen - It has been graded. His driveway has not been finished. During the meeting, the inspector was speaking with the father. We'll be taking more of his driveway out to make a smooth transition.

Individual from Audience - Where are we on 18th Street?

Engineer Herdegen - The milling is scheduled for early next week and then they'll start on the sanitary sewer repairs. It will be completed this year. The completion date right now is October 30 but we anticipate them being done before that.

6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE

Vang Thao, 1850 10th Avenue - I called earlier and you have licenses for dogs, farm animals, and chickens but I was wondering why you don't have one for pigeons.

Executive Analyst Eisenbeisz - I would classify them as a wild or exotic animal which is a mammal, amphibian, reptile, bird, poultry or fowl, which is of a species not usually domesticated. We don't allow for wild or exotic animals.

Councilman Rahm - Are they outside?

Mr. Thao - Yes, they're for pets.

Councilman Ingemann - We've been homing them for centuries, they're not wild.

Mayor Geraghty - How many?

Mr. Thao - I was thinking four or five.

Ms. Buss - They're usually domesticated.

Mayor Geraghty - We'll look at it and come up with some language.

Attorney Knaak - I think we've had this issue come up within the last 10 or 15 years. They raised 20 or 30 of them.

Paul Hansen, 1925 10th Avenue - Am I correct in assuming that the sod will be placed around September 15?

Engineer Herdegen - Yes.

Mr. Hansen - I want to go on record that it's both sides of my driveway.

Engineer Herdegen - We've identified areas for replacement.

7. MAYOR'S REPORT –

Mayor Geraghty - Pioneer Days was a good success. I'd like to thank Renee for all of her hard work and Arnie from South Suburban Rental. He provides a lot of equipment and supplies and this year he provided games for the kids. I just wanted to thank everyone that helped.

8. COUNCIL REPORTS –

Councilman Gallagher - I also wanted to thank Renee for Pioneer Days, the day was great. I've been working with Representative Dan Schoen and Deb about bringing a couple businesses into town. We're looking at alternative sites because the one building has limitations on their current lease. I wanted to thank Deb and Dan Schoen for all the work they've done.

Councilman Sumner - I also attended Pioneer Day, it was a wonderful day. I attended the talk given by Bob Vogel our HPC consultant, it was a good talk. I'd also like everyone to know that there will be a pig roast at the Cloverleaf on Saturday.

Councilman Ingemann - Nothing to report.

Councilman Rahm - I also attended Pioneer Day, thank you to all of the volunteers that helped out

9. ADMINISTRATOR'S REPORT –

A. Resolution No. 2014-40 - Approving a Variance Requested by Steven Bern for Property Located at 1280 Kolff Court

Sherri Buss, TKDA Planner, presented on this item as outlined in the August 21, 2014 City Council packet.

Motion by Geraghty, seconded by Rahm, to approve Resolution No. 2014-40 approving a variance requested by Steven Bern for property located at 1280 Kolff Court. With 5 Ayes, 0 Nays, the motion carried.

B. Zoning Ordinance Amendments

Sherri Buss, TKDA Planner, presented on these items as outlined in the August 21, 2014 City Council packet.

Councilman Sumner - Was the permitted materials updated recently to allow for plastic materials?

Ms. Buss - That was updated by adding language that allows the Zoning Administrator approve other materials.

Councilman Rahm - It was hard for me to visualize what the fences would look like. I understand they won't be in front but what would the sides look like.

Ms. Buss - It's permitted in the business and industrial districts and always have been.

Councilman Rahm - If someone wanted to put barbed wire behind Newport Center, would that be allowed under this?

Ms. Buss - They could if it were for security purposes and they came in for an administrative permit.

Councilman Rahm - I'm just afraid of what it would look like, we have some control with the permit.

Ms. Buss - I think Deb would need to look at the plan.

Councilman Rahm - I can see industrial uses but I have problems with the others in regards to aesthetics.

Ms. Buss - Another thing about the MX districts is that it needs to be for security purposes. Deb would ask for some evidence that their insurance is requiring a fence. Some auto sales businesses require it.

Councilman Rahm - Most auto sales don't have barbed wire around their businesses.

Ms. Buss - Some of your auto businesses in town have asked for it.

Councilman Ingemann - They can only have three strands correct?

Ms. Buss - Yes and it points in towards their property and needs to be at least six feet above the ground.

Councilman Gallagher - I think the property that we approved a while back has barbed wire facing towards the street. Are they grandfathered in?

Ms. Buss - It's a legal nonconforming structure.

Councilman Ingemann - There's barbed wire around the pump station on 10th Avenue too and I can't remember if that's in or out.

Councilman Sumner - What if insurance requires that it face out?

Ms. Buss - If we have it in our ordinance that it needs to face in, it does. I'd be surprised if an insurance company had that requirement.

Councilman Rahm - I'm just concerned about what areas we're allowing fencing.

Mayor Geraghty - Could the existing car businesses put barbed wire all around their place, how would it look?

Councilman Rahm - That's the whole thing. Like the RV sale place, they don't have barbed wire.

Executive Analyst Eisenbeisz - Yes they do.

Admin. Hill - That's the thing, a lot of people don't notice it.

Luke Van Horn, 756 6th Avenue - As a suggestion, we've done a couple barbed wire fences in Mendota Heights and there are barbed wire alternatives that hide it. That would be a suggestion, to approve certain types. I agree with the concern of how it would look.

Councilman Rahm - I don't see that and can't visualize that.

Mayor Geraghty - Where are they enforcing that?

Mr. Van Horn - Mendota Heights. It's different type of fencing that hides barbed wire.

Mayor Geraghty - We can look at their ordinance language.

Mr. Van Horn - I can bring you some information.

Councilman Rahm - I'd feel more comfortable voting for it if we can see that alternative.

Ms. Buss - Is it the MX districts? You could add some language that says "barbed wire or barbed wire alternative."

Councilman Rahm - That's ok, it's just that no one has shown a picture of the alternative. I don't want to see it all over the place. I think it's too close to the public. I'm ok with the industrial areas.

Motion by Ingemann, seconded by Sumner to approve Ordinance No. 2014-11. With 3 Ayes, Rahm and Gallagher Voting Nay, the motion carried.

Motion by Geraghty, seconded by Ingemann to approve Ordinance No. 2014-12. With 5 Ayes, 0 Nays, the motion carried.

C. Discussion Regarding the Mississippi River Corridor Critical Area Rules

Sherri Buss, TKDA Planner, presented on this item as outlined in the August 21, 2014 City Council packet.

Councilman Rahm - Sherri, where does this all come from?

Ms. Buss - A number of environmental organizations that felt that the critical areas law that was established in 1973 was too vague and was not being addressed by local governments and the DNR. They came forward and asked the Legislature to come up with stronger and defined standards for the critical area.

Councilman Rahm - I'm going to say something for everyone out there, look up an agenda 21 because that's what that's all about. They want to take over all critical waterways in the United States and make them back to the way they used to be. Every property owner within 100 years of adopting this will have to relinquish their property and turn it back to the environment. Look at an agenda 21.

Councilman Ingemann - They have information here about looking at the area visual resource but they haven't come up with that yet. How can they reference something that hasn't been developed. They also talk about an authorized engineer but don't have a list of them.

Ms. Buss - The one about the visual resources plan, there was so much outrage about that that on Tuesday, the DNR told us it was coming out. The last time they had the proposed rules, what they wanted to require was something very difficult for any of us to enforce.

Councilman Ingemann - There are also references that relate to statutes so we have to figure out when a statute is updated and how and if it affects us.

Ms. Buss - They do reference statutes that are involved in this. The standards reference for instance, the stormwater standards so when the PCA updates those, that will mean a requirement for us to update our code. We can try to make it easier by adopting language that says "this statute or the most recent version." This will probably need to be updated every 10 years.

Councilman Ingemann - That's fine but if someone wants to do something, they need to check out all these standards and ordinances.

Ms. Buss - It will be challenging because people will be part of shoreland standards, zoning standards, flood plain standards and now critical area standards. The critical area standards will be enforced through you.

Mayor Geraghty - Is there a coalition of cities that want to get rid of all of this?

Ms. Buss - I'm giving you the worst parts of it. All of the cities have said that the vegetation requirement needs to go. I think it's worth us sending in comments because the cost to you and work that is involved will be a big cost to you and applicants.

Mayor Geraghty - Is this State or Federal initiative?

Ms. Buss - State.

Councilman Rahm - Contact your State representative and talk with them.

Councilman Ingemann - I think the more input we get from the people on the River would be better. If the Planning

Commission could hold a public hearing at their next meeting.

Councilman Sumner - What is the timeframe?

Ms. Buss - The comments need to be in by September 30 and the rules will be put out for the official rule making process in November and getting them adopted in the early part of next year and you have a year to update things.

Councilman Rahm - I think we need to talk to our local representatives and stop this, it's not helping us or in the best interest of anyone living on the River.

Councilman Sumner - Is this on all rivers?

Ms. Buss - Just the critical area on the Mississippi. If they decide to review the shoreland rules it will affect a lot more.

Councilman Ingemann - We need as much input as possible before we submit it.

Mayor Geraghty - There's not enough time for a public hearing notice.

Councilman Rahm - Why wasn't this brought forward before?

Ms. Buss - We could do a special meeting.

Executive Analyst Eisenbeisz - The notice for the September Planning Commission meeting needed to be sent in to the Bulletin yesterday.

Ms. Buss - Could it be after your Council meeting in September?

Executive Analyst Eisenbeisz - You could do a public hearing at the September 18 meeting.

Admin. Hill - Every homeowner was sent a letter by the DNR and they've had public meetings on this.

Councilman Ingemann - So we could say tonight that if people want to come to the September 11 Planning Commission meeting and state their objections they would be noted.

Mayor Geraghty - I would still encourage people to come to the September 4 meeting. In the meantime, you should develop a letter to the DNR.

Ms. Buss - I can put something together and this can go on the Planning Commission agenda as well. I can try to get an early letter to you for the September 4 meeting too.

Mayor Geraghty - Yes, as much as we can start to get it ready. We can include issues from residents in it. I don't understand why the League isn't lobbying against it if cities are so upset.

Ms. Buss - I'm giving you a picture of the half-dozen things that are still problematic to everyone. There is a fair amount in there that is not objectionable. It's these last half-dozen issues. I think the League and all of the cities are so relieved that they have addressed a lot of the issues that were in there last time. I'll draft a letter for you to review on September 4 and bring it to the Planning Commission too.

D. Resolution No. 2014-41 - Authorizing the Mayor and City Administrator to Execute a Purchase Agreement on Behalf of the City for Property Located at Parcel Numbers 01.027.22.21.0015 and 01.027.22.21.0022

Admin. Hill presented on this item as outlined in the August 21, 2014 City Council packet.

Councilman Sumner - Can we make a first refusal on it so it doesn't disappear after getting cleaned up?

Admin. Hill - I wouldn't.

Mayor Geraghty - The resolution is to create a purchase agreement so we can put those terms in the agreement.

Motion by Sumner, seconded by Geraghty, to approve Resolution No. 2014-41 authorizing the Mayor and City Administrator to execute a purchase agreement on behalf of the City for property located at parcel numbers 01.027.22.21.0015 and 01.027.22.21.0022. With 5 Ayes, 0 Nays, the motion carried.

E. Development Agreement between the City of Newport and Presidential Recovery Services, LLC

Admin. Hill presented on this item as outlined in the August 21, 2014 City Council packet. The owners of Presidential Recovery Services have specific questions on the stormwater part of the agreement and would like to set aside the agreement until they have been answered. In order to move forward with the clean-up and grant, Admin. Hill recommended that the City Council approve item #14 of the agreement and the rest at a later time. Item #14 discusses the brownfield remediation and environmental clean-up as well as the costs associated with it. The City received a grant from DEED for \$153,200 and the City will pay for 12% of the total cost of the project. Presidential Recovery Services will pay for anything beyond the \$153,200 and 12% of the total cost.

Motion by Ingemann, seconded by Geraghty, to approve item #14 in the Development Agreement between the City of Newport and Presidential Recovery Services, LLC. With 5 Ayes, 0 Nays, the motion carried.

10. ATTORNEY'S REPORT -

A. Discussion Regarding Previous Copier for City Hall

Attorney Knaak - This is before you again due to an error on my part. You approved \$800 but it's \$1,200.

Motion by Geraghty, seconded by Rahm to settle the account for \$1,200. With 5 Ayes, 0 Nays, the motion carried.

Attorney Knaak - A lawsuit has been commenced in regards to the street vacation for Quade. You'll be getting a memo from me describing the lawsuit and where it will be going.

11. POLICE CHIEF'S REPORT - Nothing to report

12. FIRE CHIEF'S REPORT - Nothing to report

14. SUPERINTENDENT OF PUBLIC WORKS REPORT -

A. Discussion Regarding the Public Works Floor

Superintendent Hanson presented on this item as outlined in the August 21, 2014 City Council packet and attached.

Councilman Sumner - What's the extra \$2,100?

Superintendent Hanson - That would be for the utility room and locker room which didn't get affected by the water. I'm not proposing that at this time.

Councilman Rahm - How did it happen?

Superintendent Hanson - A waterline going to the refrigerator broke.

Councilman Sumner - What's wrong with going to straight concrete?

Superintendent Hanson - They're slippery and there's high maintenance for them. The tiles we had require waxing and buffing.

Councilman Sumner - What's the life?

Superintendent Hanson - The people I have spoken with have had them for 20 years and they're happy with them.

Councilman Ingemann - The insurance is covering \$8,058.

Councilman Rahm - How much does our premium go up? Should we submit it?

Admin. Hill - This is why we have insurance.

Motion by Geraghty, seconded by Rahm to approve the bid from SwedeBro Resurfacing for \$13,406 for repairing the Public Works floor. With 4 Ayes, Sumner Voting Nay, the motion carried.

Superintendent Hanson - I was at a debris management class at Washington County and a lot of suggestions came from it for dealing with floods. One of the ideas that I'll be looking into is having a standard three-day declaration of emergency on hand so you can sign it and we would bring it back to Council to extend it if needed. It sets in motion all the things for FEMA.

Mayor Geraghty - I read your memo from Met Council about a surcharge of \$206,000 , is there anything we can do about that?

Superintendent Hanson - The Engineer and I were looking at that and we'll make some calls to see what we can do about it.

Councilman Ingemann - When the River goes up it's not our fault.

Mayor Geraghty - Are a lot of cities getting similar bills?

Attorney Knaak - Yes.

15. NEW/OLD BUSINESS

Councilman Rahm - I'd just like to say that as soon as we have information on our police investigation that we have a meeting on it.

16. ADJOURNMENT

Motion by Geraghty, seconded by Sumner, to adjourn the regular Council Meeting at 7:09 P.M. With 5 Ayes, 0 Nays, the motion carried.

Signed: _____
Tim Geraghty, Mayor

Respectfully Submitted,

Renee Eisenbeisz
Executive Analyst



PROPOSAL

TMI Coatings, Inc.

3291 Terminal Drive, St. Paul, Minnesota 55121-1610 Phone: 651-452-6100 Fax: 651-452-0598
Painting & Restoration Contractors

City of Newport
Attn: Bruce Hanson
596 7th Avenue
Newport, MN 55055
Phone 651-459-2475 / Fax 651-459-2043
E-mail brhanson@mninter.net

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

Date: July 21, 2014
Regarding: Protective Flooring

Protective Flooring

TMI Coatings, Inc. (TMI) is certified as a woman owned business, so every dollar spent with TMI counts toward your diversity spending goals.

TMI has visited your facility and proposes the following:

Offices, Entry, Break Room and Corridor: up to 1,337 sq. ft.
Locker Room: 12' long x 12' wide, Mop Room: 8' long x 6' wide; up to 192 sq. ft.

- 1. Owner to remove all equipment so TMI has access to all floor areas.
2. TMI to remove vct tile and glue/mastic and vinyl coving. All debris caused from our work on site to be disposed of in owner provided container.
3. TMI to vacuum steel shotblast and/or mechanically abrade floors to roughen, to create an anchor pattern for new flooring adhesion.
4. TMI to apply CHEM-RESIST colored quartz flooring system consisting of a low odor, 100% solids epoxy resin with colored quartz fillers. Apply epoxy resin and broadcast with colored quartz. Sweep off or vacuum up excess quartz. Apply additional resin and quartz for a heavy-duty, thick-film finish. Apply additional epoxy resin for a final seal coat. CHEM-RESIST colored quartz is tough and durable and suitable for industrial use. Finish will be non-slip, owner to choose color.
5. Install 4" high coves at floor/wall junctures.

YOUR COST INCLUDING LABOR AND MATERIALS INSTALLED:

Table with 2 columns: Description and Cost. Rows include Offices, Entry, Break Room and Corridor (\$14,960) and Locker Room and Mop Room (ADD TO ABOVE BID \$ 2,900).

NOTES:

- 1. Bid is based on one job mobilization/demobilization.
2. Bid is based on weekday work; add \$450 for weekend work.

TMI has considerable experience in the coating industry. Enclosed are references for your review.

Thank you for the opportunity to submit this proposal to you. You can check out our company history and other coating services at our website at www.tmicoatings.com. Visit TMI Coatings' blog at www.tmicoatingsblog.net to learn about problems we have solved for customers like you or become a fan of TMI Coatings on Facebook. If you have any questions about our bid, please call me at 651-452-6100.

If e-mail is an effective communication tool for you, feel free to contact me at belwood@tmicoatings.com with any questions or comments regarding this proposal.

Encl.: Floor Coating Reference List, Quartz Step Sample, Color Chart, Floor Coating blog (9/12)
as:tmip/newport01beE(mjw)

ACCEPTANCE

The undersigned hereby accepts TMI's proposal and authorizes TMI to furnish all materials and labor required to complete the work set forth in the proposal pursuant to the proposal terms and conditions set forth on the reverse side hereof, for which we agree to pay you the amount set forth in the proposal. If the proposal terms and conditions set forth on the reverse side hereof were not provided with transmission of TMI's proposal by facsimile, mail or email, the undersigned agrees to request a copy of the proposal terms and conditions before signing below. The undersigned agrees to be bound by the proposal terms and conditions set forth on the reverse side hereof regardless of whether the undersigned requested a copy or read them before signing below.

Accepted: Date _____

Respectfully,
TMI Coatings, Inc.

By _____
Title _____

By [Signature]
Title Brent Elwood, Industrial Sales



1409 159th Ave. NE • Ham Lake, MN 55304
 Office: 763-434-9237 www.swedebro.com Fax: 763-434-8999

Customer: **City of Newport - Public Works** **Date: 8/4/14**
 596 7th Ave
 Newport, MN 55055

RE: Entry, Offices, Break Room and Corridor Floors – Solid Color Epoxy with accent chips

Description:

Entry, Offices, Break Room and Corridor Floors

- Remove all VCT and scrape all mastic.
- Mechanically Shot-blast and/or diamond grind to remove remaining mastic as necessary and to profile and prepare concrete for coatings
- Fill all cracks, seams, defects and joints.
- Apply GP Epoxy system in a solid color TBD and with partial broadcast of 2-3 colors of Torginol vinyl chips for accent.
- Apply top coat of GP4868 polyurethane.

Sub-Total: \$13,406.00

Floor must be swept clean from debris prior to our arrival.

Everything must be off the floor prior to our arrival.

Project will take 3 days to complete and requires EXCLUSIVE access.

Owner to provide dumpster use.

Option

1. Add extra 225 sq. ft. area. **Add: \$2,194.00**

Cement, acid, and stain colors cannot be precise; therefore finished color and texture will vary from any color charts or samples shown. All existing expansion joints may be re-cut; cracks in base substrata may reoccur.

To accept this quote: Pay required deposit, then sign and return the original copy of this document to schedule your installation.
 Please initial any options chosen.
 Bids and prices are valid for 60 days

Total Price		\$
Materials to be Invoiced		
BALANCE DUE		\$

Contract subject to terms/conditions listed. Unpaid balances after 60 days of completion may be sent to collections. Unpaid balances are assessed a 1.5% (18% APR) finance charge per month after 30 days. A mechanic's lien may be filed on any unpaid balances after 60 days.

Buyer's Signature

Date

THIS CONTRACT SUBJECT TO THE TERMS AND CONDITIONS LISTED BELOW

1. The terms set forth in this agreement are intended as the complete and exclusive statement of the contract and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement. Only a memorandum signed by both parties and their authorized agent may amend this contract. Any changes to this contract may subject Buyer to additional charges.
2. Seller will complete work as expediently as possible once started and begin work within terms agreed to. Seller is not responsible for delays beyond his control.
3. This agreement is the actual order of the items listed above and it is understood that all items are custom made and all work is custom. Deposit is non-refundable. *In case of sale of home or business, contract may be terminated upon payment to Seller of a sum equal to one third of the remaining balance.*
4. Buyer agrees to and has read the Chemical Stain Disclaimer form (if necessary), and Expectation form.
5. Balance of money is due upon completion of work. If claim for payment is placed in the hands of an attorney for collection, Buyer agrees to pay Seller a reasonable attorney's fee fixed by the court.
6. Except as provided in writing, Seller does not warrant the goods covered by this agreement and no other warranty expressed or implied is made by Seller. Seller is also not responsible for slip resistance chosen by the Buyer.
7. Warranty is void with regard to any part or parts subject to abuse, neglect, or accidental causes including but not limited to: fire, flood, acts of God, and war.
8. Seller is not responsible for sub-surfaces such as concrete during the installation due to the fact the prior conditions of the surfaces cannot be determined. Any problems that occur due to these sub-surfaces can not be warranted. This includes moisture transmission and hydrostatic pressure in concrete. Any defects in sub-surface will not be addressed unless listed above.
9. Seller will make every reasonable effort, in advance, to protect landscaping, walls and all adjacent areas and items from damage; however, Seller cannot warranty these areas against possible damage. It is the responsibility of the Buyer to protect these areas. Pools must be drained during installation.
10. Seller will not assume responsibility of damage caused by non-recommended maintenance procedures. It is agreed that Seller shall not be liable for any defect or damage resulting from installations requested by Buyer that depart from accepted installation methods. If an unauthorized person services the surface, any warranty is automatically voided and Seller assumes no liability or responsibility for damage.
11. In cases where buyer does not own the home or business to which Seller is installing surface, buyer represents that he has permission of owner to install surface and is fully responsible for completion of contract. Condominium owners, homeowners, and business owners responsible to associations or boards represent that they have or will obtain any necessary approvals.
12. Buyer grants Seller permission to photograph the installation and installation site and use such photographs in future sales presentations and advertising.
13. During the project, Seller may substitute better quality and/or more expensive products and/or processes with or without the verbal or written approval of the Buyer.
14. Buyer must notify Seller a minimum of 48 hours (not including weekends) prior to the scheduled start day of any delays or postponement. If Seller is **not** notified at least 48 hours in advance, additional charges will be added.
15. Any person or company supplying labor or materials for this improvement to your property **may** file a lien against your property **if** that person or company is **not** paid for the contributions. Under Minnesota law, you have the right to pay persons who supplied labor or materials for this improvement directly and deduct this amount from our contract price, or withhold the amounts due them from us until 120 days after completion of the improvement unless we give you a lien waiver signed by persons who supplied any labor or material for the improvement and who gave you timely notice.