



**LE SUEUR COUNTY BOARD OF COMMISSIONERS
MEETING AGENDA
March 31, 2015**

1. **9:00 a.m. Agenda**
2. **9:00 a.m. Construction Bids**
3. **9:05 a.m. Tax Abatement**



Le Sueur County, MN

Tuesday, March 31, 2015

Board Meeting

Item 1

9:00 a.m. Agenda

Staff Contact:



Le Sueur County, MN

Tuesday, March 31, 2015

Board Meeting

Item 2

9:00 a.m. Construction Bids

Staff Contact:



Building a Better World
for All of Us®

March 12, 2015

RE: Le Sueur County, Minnesota
Fifth Street (CSAH 3) Area Street and
Utility Improvement Project
SEH No. LESUR 125487
SAP No. 040-603-025

Honorable Mayor
and Members of the City Council
City of Montgomery
201 Ash Avenue SW
Montgomery, MN 56069

Dear Mayor and Council Members:

At 1:00 p.m., Friday, February 6, 2015, five (5) bids were received for the above-referenced project. For the Base Bid, the bids ranged from a high of \$5,899,000.00 to a low of \$4,793,008.55; the Engineer's Estimate was \$4,728,463.25. The low bid was submitted by S.M. Hentges & Sons, Inc. The results were as follows:

Bidder	Base Bid	Add/Alternate 1 Mill & Overlay Option	Add/Alternate 2 Reclamation Option	Add/Alternate 3 Cured-in-Place Pipe Lining	Add/Alternate 4 Gas Main Removal
Engineer's Estimate	\$4,728,463.25	\$22,662.00	\$91,030.00	\$53,900.00	\$92,655.00
S.M. Hentges & Sons, Inc. Jordan, MN	\$4,793,008.55	\$16,320.00	\$67,691.00	\$40,502.00	\$41,437.05
Chard Tiling & Excavating, Inc. Belle Plaine, MN	\$5,118,808.50	\$23,722.50	\$88,880.00	\$53,900.00	\$34,640.50
A-1 Excavating Inc. Bloomer, WI	\$5,489,010.25	\$24,454.00	\$72,597.00	\$50,820.00	\$19,704.00
R. L. Larson Excavating, Inc. St. Cloud, MN	\$5,753,202.60	\$18,725.00	\$77,746.00	\$41,580.00	\$39,408.00
Veit & Company, Inc. Rogers, MN	\$5,899,000.00	\$16,867.50	\$84,903.00	\$66,220.00	\$26,444.50

We find no reason to deny awarding the contract to S.M. Hentges & Sons, Inc. S.M. Hentges & Sons, Inc. has done satisfactory work with SEH previously. If the council agrees, it is recommended that you make the award to this contractor.

Engineers | Architects | Planners | Scientists

SEH is 100% employee-owned | sehinc.com | 507.388.1989 | 877.316.7636 | 888.908.8166 fax

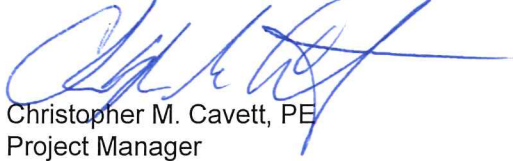
Honorable Mayor and
Members of the City Council
February 9, 2015
Page 2

The award of either the Mill and Overlay Option (Alternate No. 1) OR the Reclamation Option (Alternate No. 2) are still pending the announcement of the Local Road Improvement Program (LRIP) Grant. If the City and County are successful in obtaining the LRIP grant, Alternate No. 2 will be awarded.

We anticipate the announcement of the LRIP awards by March 27, 2015. Le Sueur County is anticipating the award of bid on March 31, 2015.

Sincerely,

SHORT ELLIOTT HENDRICKSON INC.



Christopher M. Cavett, PE
Project Manager

jb

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RESOLUTION NO. _____
 RESOLUTION ACCEPTING BIDS
 FIFTH STREET (CSAH 3) AREA STREET AND UTILITY IMPROVEMENT PROJECT

WHEREAS, pursuant to an advertisement for bids for the construction of **Fifth Street (CSAH 3) Area Street and Utility Improvement Project**, bids were received, opened, and tabulated according to law, and the following bids were received in response to the advertisement:

<u>Contractor</u>	<u>Base Bid</u>	<u>Alternate 1</u>	<u>Alternate 2</u>	<u>Alternate 3</u>	<u>Alternate 4</u>
SM Hentges & Sons, Inc. Jordan MN	\$4,793,008.55	\$16,320.00	\$67,691.00	\$40,502.00	\$41,437.05
Chard Tiling & Excavating, Inc. Belle Plaine, MN	\$5,118,808.50	\$23,722.50	\$88,880.00	\$53,900.00	\$34,640.50
A-1 Excavating, Inc. Bloomer, WI	\$5,489,010.25	\$24,454.00	\$72,597.00	\$50,820.00	\$19,704.00
R.L. Larson Excavating, Inc. St. Cloud, MN	\$5,753,202.60	\$18,725.00	\$77,746.00	\$41,580.00	\$39,408.00
Veit & Company, Inc. Rogers, MN	\$5,899,000.00	\$16,867.50	\$84,903.00	\$66,220.00	\$26,444.50

AND WHEREAS, it appears that SM Hentges & Sons, Inc., of Jordan, Minnesota, is the lowest responsible bidder,

AND WHEREAS, Le Sueur County and the City of Montgomery have entered into this project jointly,

AND WHEREAS, the City of Montgomery and Le Sueur County have jointly submitted a grant application for the Local Road Improvement Program (LRIP) through the Minnesota Department of Transportation, with the announcement of said grant award still pending,

AND WHEREAS, Le Sueur County will act as the lead agency for the administration of this project,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MONTGOMERY, MINNESOTA:

1. The City of Montgomery hereby concurs with the bids received.
2. The City of Montgomery hereby authorizes Le Sueur County to enter into the contract with SM Hentges & Sons, Inc., of Jordan,

Minnesota, on behalf of the City of Montgomery, Minnesota, for the construction of the **Fifth Street (CSAH 3) Area Street and Utility Improvement Project**.

3. The based bid is in the amount of \$4,793,008.55.
4. The project includes consideration of four alternates:
 - a. The City of Montgomery authorizes Le Sueur County to award Alternate No. 1 or Alternate No. 2 dependent on the announcement of the award of a Local Road Improvement Program (LRIP) Grant through the Minnesota Department of Transportation, with Alternate No. 2 authorized to be awarded if the City and County are successfully awarded the LRIP grant. The County's award of the project is pending the announcement of the LRIP grant.
 - b. The City of Montgomery authorizes the award of Alternate No. 3 which is for the Cured-in-Place Pipe lining of the sanitary sewer on Fifth Street NE from Mill Avenue to Hickory Avenue, with costs funded 100% by the City of Montgomery.
 - c. Alternate No 4 will be awarded at the County's option for removal of gas main with cost to be reimbursed by Centerpoint Energy to the County.

Adopted by the council this 16th day of April, 2015.

Jean Keogh, Mayor

ATTEST:

Brian Heck
City Administrator



Le Sueur County, MN

Tuesday, March 31, 2015

Board Meeting

Item 3

9:05 a.m. Tax Abatement

Staff Contact:

**RESOLUTION APPROVING PROPERTY TAX ABATEMENT FOR THE
760 PEARL ST. E., KASOTA WAREHOUSE EXPANSION PROJECT**

NOW THEREFORE, BE IT RESOLVED by the County Board of Commissioners (the “Board”) of the Le Sueur County, Minnesota (the “County”), as follows:

1. **Recitals.**

(a) In order to increase the tax base within the County it is appropriate to provide financial assistance, in the form of Tax Abatement (the “Abatement”), in conjunction with the 760 Pearl St.E., Kasota Warehouse Expansion Project (“the Project”).

(b) It has been proposed that the said financial assistance be funded, in part, through adoption of a Le Sueur County Tax Abatement Program. The following specific parcel (the “Property”) is included in the tax abatement program:

Parcel Number	Property Address
05.623.0060	760 Pearl St. E., Kasota, MN 56050

(c) Currently, the County's portion of the abatement (“the Abatement”) is estimated at \$3,206 for taxes payable in 2012 and \$5,988 for taxes payable in 2013 through 2021, inclusive, and at\$57,106 over the duration of the Abatement Program.

(d) The proposed duration of the Abatement Program is January 1, 2012 through December 31, 2021 inclusive.

(e) The County will retain the Abatement to reimburse the property owner, on a pay-as-you-go basis, for a portion of the Project costs.

(f) On the date hereof, the Board held a public hearing on the question of the Abatement, and said hearing was preceded by at least 10 days but not more than 30 days prior published notice hereof.

(g) The Abatement is authorized under Minnesota Statutes, Sections 469.1812 through 469.1815 (the “Abatement Law”).

2. **Findings for the Abatement.** The Board hereby makes the following findings:

(a) The Board expects the benefits to the County of the Abatement to at least equal the costs thereof; and

(b) Granting the Abatement is in the public interest because it will increase the tax base of the County, help retain and expand commercial enterprise in the County, provide employment opportunities, and finance development costs in the County that are necessary to maintain and promote the health, safety and welfare of the community; and

(c) The Board expects the public benefits described in 2(b) above to be derived from the Abatement.

3. **Terms of Abatement.** The abatement is hereby approved. The terms of the abatement are as follows:

(a) The Abatement shall be for a term of ten years. The Abatement shall apply to the taxes payable in the years 2012 through 2021, inclusive; and

(b) The Abatement shall be for 100% levied by the County on the Property subject to the Abatement; and

(c) The Abatement may not be modified or changed during the term set forth in 3(a) above, except with the prior written consent of the Board; and

(d) The Abatement shall be subject to all the terms and limitations of the Abatement Law; and

(e) The Abatement shall comply with the applicable provisions of Le Sueur County Resolution #2006-13 "Business Subsidy Policy and Criteria"; and

(f) For the term of the Abatement, the Property will not be located in a tax increment financing district; and

(g) In any year, the total amount of property taxes abated by the County by this and other resolutions does not exceed the greater of ten percent (10%) of the current levy or \$200,000; and

(g) The County will retain the Abatement to reimburse the property owner, on a pay-as-you-go basis, for a portion of the costs of Project.

4. **Authorization to Execute Development Agreement.** The hereby approves a development agreement to be entered into with the property owner, and authorizes the Board Chairperson and County Administrator to execute the development agreement on behalf of the County.

Adopted by the Le Sueur County Board this 28th day of June 2011.

DEVELOPMENT AGREEMENT
BY AND BETWEEN
LE SUEUR COUNTY
AND
KASOTA LAND COMPANY
(760 PEARL ST. E., KASOTA WAREHOUSE EXPANSION PROJECT)

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DEVELOPMENT AGREEMENT

THIS AGREEMENT, made as of the _____ day of _____, 2012, by and between the Le Sueur County, Minnesota (the "County"), a body politic and corporate, and Kasota Land Company, (the "Developer"),

WITNESSETH:

WHEREAS, pursuant to Minnesota Statutes, Sections 469.1812 through 469.1815, the County has established a Tax Abatement Program by resolution of the County Board adopted June 28, 2011; and

WHEREAS, the County believes that the development and construction of a certain Project (as defined herein), and fulfillment of this Agreement are vital and are in the best interests of the County, will result in preservation and enhancement of the tax base, provide employment opportunities, promote and preserve the health, safety and welfare of their residents and is in accordance with the public purpose and provisions of the applicable state and local laws and requirements under which the Project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the others as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. All capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Abatement means 100% of the property taxes levied by the County on the Development Property for taxes payable in 2012 through 2021, inclusive;

Agreement means this Agreement, as the same may be from time to time modified, amended or supplemented;

Business Day means any day except a Saturday, Sunday or a legal holiday or a day on which banking institutions in the County are authorized by law or executive order to close;

County means Le Sueur County, Minnesota;

County Board means the County Board of Commissioners of Le Sueur County, Minnesota;

Developer means Kasota Land Company;

Development Property means the real property located in Le Sueur County property tax identification number 05.623.0060;

Event of Default means any of the events described in Section 4.1;

Payment Date means July 31, 2012, and each December 31 and July 31, of each year thereafter to and including December 31, 2021; provided, that if any such Payment Date should not be a Business Day, the Payment Date shall be the next succeeding Business Day;

Project means the Developer's 19,500-ft.² warehouse expansion located at 760 Pearl St. E., Kasota;

State means the State of Minnesota;

Tax Abatement Program means the "Le Sueur County Tax Abatement Program in support of the warehouse expansion located at 760 Pearl St. E., Kasota adopted at a Public Hearing of County Board on June 28, 2011";

Unavoidable Delays means delays, outside the control of the party claiming its occurrence, including, but not limited to delays which are the direct result of strikes, other labor troubles, unusually severe or prolonged bad weather, acts of God, fire or other casualty to the Project, litigation commenced by third parties which, by injunction or other similar

judicial action or by the exercise of reasonable discretion, directly results in delays, or acts of any federal, state or local governmental unit (other than the County) which directly result in delays.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the County. The County makes the following representations and warranties:

(1) The County is a political subdivision and has the power to enter into this Agreement and carry out its obligations hereunder.

(2) The Tax Abatement Program was created, adopted and approved in accordance with the terms of Minnesota Statutes, Sections 469.1812 through 469.1815.

(3) The development contemplated by this Agreement is in conformance with the development objectives and policies set forth in the County plans, codes and ordinances.

(4) To finance a portion of the Project costs, the County proposes, subject to the further provisions of this Agreement, to apply Abatement generated by the Development Property.

(5) The County has made the findings required by Minnesota Statutes, Sections 469.1812 through 469.1815 for the Tax Abatement Program.

(6) The County has not received any notice from any local, state or federal official that the activities of the Developer or the County with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the Developer has been notified). The County is not aware of any state or federal claim filed or planned to be filed by any party relating to any violation of any local, state or federal environmental law, regulation or review procedure, and the County is not aware of any violation of any local, state or federal law, regulation or review procedure which would give any person a valid claim under the Minnesota Environmental Rights Act or other state or federal environmental statute.

(7) The County makes no representation or warranty, either express or implied, as to the Development Property or its condition or the soil conditions thereon, or that the Development Property shall be suitable for the Developer's purposes or needs.

(8) The County will not unreasonably delay nor withhold any consent or action requested of them by the Developer or otherwise contemplated by this Agreement provided such consent or requested action complies with all applicable local, state or federal laws or regulations and this Agreement.

Section 2.2 Representations and Warranties of the Developer. The Developer makes the following representations and warranties:

(1) The Developer has the power to enter into this Agreement and to perform its obligations hereunder and is not in violation of any local, state or federal laws.

(2) The Developer is a Minnesota corporation with full power and authority to enter into this Agreement and carry out the covenants contained herein.

(3) The Developer will cause development of the Project to be constructed in accordance with the terms of this Agreement and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, energy conservation, building code and public health laws and regulations).

(4) The Developer will obtain or cause to be obtained, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state, and federal laws and regulations which must be obtained or met before the Project may be lawfully constructed.

(5) The Developer has not received any notice or communication from any local, state or federal official that the activities of the Developer or the County with respect to the Development Property may or will be in violation of any environmental law or regulation. As of the date of the execution of this Agreement, the Developer is aware of no facts the existence of which would cause it to be in violation of any local, state or federal environmental law, regulation or review procedure, which would give any person a valid claim under the Minnesota Environmental Rights Act.

(6) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(7) The Developer will cooperate fully with the County with respect to any litigation commenced by third parties with respect to the Project.

(8) The Developer agrees to pay the total amount of any costs, charges, expenses and attorney's fees reasonably incurred or paid at any time by the County because of any Event of Default by Developer as to any stipulation, agreement, and covenant of this Agreement, resulting in any suit or proceeding at law or in equity to which the County shall become a party in reference to the Developer's interest in the Development Property or the Project.

(9) The Developer will cooperate with the County in resolution of any traffic, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Project.

(10) Barring Unavoidable Delays, the Project will be completed by December 31, 2011.

ARTICLE III

UNDERTAKINGS BY DEVELOPER, CITY AND COUNTY

Section 3.1 Basis for Assistance. The Developer's proposal for development of the Project will bring about a warehouse expansion on the Development Property, which will result in preservation and enhancement of the tax base, provide employment opportunities and promote and preserve the health, safety and welfare of the community. The Abatement will enable the Developer to proceed with the Project; therefore, the County believes that it is in its best interests to enter into this Agreement and to assist the development efforts.

Section 3.2 Project Financing.

(1) The Developer has secured the financing necessary to complete the Project, in a form and under conditions satisfactory to the Developer.

(2) The Developer shall commit not less than \$200,000 of equity and other financing (exclusive of the Abatement) to be used for the completion of the Project.

(3) The County agrees to use the Abatement to reimburse the Developer for a portion of the Project costs.

Section 3.3 Project Costs. Project costs are estimated to be at least \$400,000. Project costs shall be paid by the Developer. The County agrees to provide the Abatement to reimburse the Developer for Project costs subject to the following:

(1) The Developer shall complete the Project by December 31, 2011, subject to Unavoidable Delays.

(2) The Developer shall fund 100% of the cost of the Project. The County shall use Abatement to reimburse the Developer, on a pay-as-you-go basis, for a portion of the Project costs as provided in Section 3.4 hereof.

Section 3.4. Reimbursement. Pursuant to the County resolution approved June 28, 2011, the County agrees to reimburse the payments made by the Developer under Section 3.3 for Project costs subject to the following conditions:

(1) The Developer shall have demonstrated in writing to the reasonable satisfaction of the County that the Project has been completed, that the Developer has incurred and paid all costs of the Project, as described in Section 3.3, and that

Developer has otherwise complied with all County requirements for the Project and the terms and conditions of this Agreement.

(2) The amounts payable by the County to the Developer shall be payable solely from the Abatement.

(3) On each Payment Date and subject to the provisions of this Agreement, the County shall pay the Abatement, less an allowance for reasonable administrative expenses, generated by the Project and received by the County during the preceding six months.

(4) The Abatement shall be a special and limited obligation of the County and not a general obligation of the County. The payment amounts herein due shall be payable solely from the Abatement from the Tax Abatement Program which are paid to the County and which the County is entitled to retain pursuant to the Minnesota Statutes, Sections 469.1812 through 469.1815.

(5) The County's obligation to make payments on any Payment Date or any date thereafter shall be conditioned upon the requirement that:

(A) There shall not at that time be an Event of Default that has occurred and is continuing under this Agreement.

(B) This Agreement shall not have been rescinded pursuant to Section 4.2(2).

(C) The Developer has paid its property taxes and the County has received from the County the Abatement generated by the Project.

Section 3.5 Duration of Abatement Program. The Tax Abatement Program shall exist for a maximum period of 10 years beginning with real estate taxes payable in 2012 and continuing through 2021. The County may choose to terminate the Tax Abatement Program at an earlier date if the obligations of this Agreement have been met or an Event of Default causes the County to rescind or cancel this Agreement.

Section 3.6 Limitation of Obligation to Reimburse. In the event the Abatement is insufficient to reimburse the Developer pursuant to Section 3.4 of this Agreement, the County shall have no obligation to fund the shortfall.

Section 3.7 Change in Use of Project. The Developer agrees that for itself, its successors and assigns it shall devote the Development Property to, and in accordance with, the uses specified in this Agreement. The County's obligations pursuant to the Note shall be subject to the continued use of the Development Property as a warehouse facility. The conversion of any portion of the Project to any other use shall result in the termination of the reimbursement of the Abatement, unless the County first approves said change in use.

Section 3.8 Transfer of Development Property and Assignment of Agreement.

(1) Prior to Completion of the Project. The Developer represents and agrees that prior to completion of the Project, the Developer shall not transfer in any form the Development Property or any part thereof or any interest therein, or enter into any contract or agreement to do any of the same without the prior written approval of the County. The County shall be entitled to require as conditions to any such approval that:

(A) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the County, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer.

(B) Any proposed transferee, by instrument in writing satisfactory to the County and in form recordable among the land records shall, for itself and its successors and assigns, and expressly for the benefit of the County, have expressly assumed all of the obligations of the Developer under this Agreement and agreed to be subject to all of the conditions and restrictions to which the Developer is subject.

(C) There shall be submitted to the County for review and prior written approval all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property.

(2) Subsequent to Completion of the Project. Upon completion of the Project, Developer may transfer the Development Property and/or assign its interest in this Agreement to a third party provided that said third party shall, for itself and its successors and assigns, and expressly for the benefit of the County, have expressly assumed all of the

obligations of the Developer under this Agreement and agreed to be subject to all the conditions and restrictions to which the Developer is subject.

ARTICLE IV

EVENTS OF DEFAULT

Section 4.1 Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean whenever it is used in this Agreement any one or more of the following events:

(1) Failure by the Developer to timely pay any ad valorem real property taxes, special assessments, utility charges or other governmental impositions with respect to the Development Property.

(2) Failure by the Developer to cause the construction of the Project to be completed pursuant to the terms, conditions and limitations of this Agreement.

(3) Failure by the Developer, County to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement.

Section 4.2 Remedies on Default. Whenever any Event of Default referred to in Section 4.1 occurs and is continuing, the County or the Developer, as the case may be, may take any one or more of the following actions after the giving of thirty (30) days' written notice to the other, but only if the Event of Default has not been cured within said thirty (30) days.

(1) If the Developer defaults, the County may suspend its performance under this Agreement until it receives assurances from the Developer, deemed adequate by the County, that the Developer will cure the default and continue its performance under this Agreement.

(2) If the Developer defaults, the County may cancel and rescind this Agreement, except that no cancellation may be effective at any time that the Developer is proceeding in good faith to cure the defect and/or give reasonable assurances to the County as required in (1) above, or if there exists a good faith dispute with the County as to an event of default as defined above, and the Developer posts a bond or other security as reasonably adequate to cure the alleged default.

(3) If the Developer defaults, the County may take any action, including legal or administrative action, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

(4) If the County defaults, the Developer may seek specific performance of the County's obligations hereunder and pursuant to the Note.

Section 4.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to either party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 4.4 No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 4.5 Agreement to Pay Attorney's Fees and Expenses. Whenever any Event of Default occurs and the County employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement, the Developer agrees that it shall, on demand therefor, pay the reasonable fees of such attorneys and such other expenses so incurred.

Section 4.6 Release and Indemnification Covenants.

(1) The Developer releases from and covenants and agrees that the County and their governing body members, officers, agents, servants and employees shall not be liable for and agrees to indemnify and hold harmless the County, and their governing body members, officers, agents, servants, and employees against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Project.

(2) Except for any willful misrepresentation or any willful or wanton misconduct of the following named parties, the Developer agrees to protect and defend the County, and their governing body members, officers, agents, servants and employees, now or forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, maintenance and operation of the Project.

(3) The County and their governing body members, officers, agents, servants and employees shall not be liable for any damages or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Development Property or Project due to any act of negligence of any person.

(4) All covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the County and not of any governing body member, officer, agent, servant or employee of the County in the individual capacity thereof.

ARTICLE V

CONSTRUCTION OF PROJECT

Section 5.1 Construction of Project. The Developer agrees that it will construct the Project on the Development Property in accordance with the approved construction plans and at all times prior to the termination of this Agreement will operate and maintain, preserve and keep the Project or cause the Project to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition.

Section 5.2 Completion of Construction. Subject to Unavoidable Delays, the Developer shall complete the Project by December 31, 2011. All work with respect to the Project to be constructed or provided by the Developer on the Development Property shall be in conformity with the construction plans as submitted by the Developer and approved by the County. Nothing in this Agreement shall be deemed to impair or limit any of the County's rights or responsibilities under its zoning laws or construction permit processes.

ARTICLE VI

BUSINESS SUBSIDIES

Section 6.1 Business Subsidies.

(1) The County and the Developer recognize and agree that the use of the Abatement to fund a portion of the cost of expanding the warehouse on the Development Property is a "Business Subsidy" under Subsidy Law, Minnesota Statutes, sections 116J.993 - 116J.995, inclusive, and is subject to the provisions thereof, including without limitation reporting requirements and a five year commitment by the Developer to operate the warehouse on the Development Property.

(2) In order to satisfy the provisions of the Subsidy Law, the Developer acknowledges and agrees that the amount of the Business Subsidy granted to the Developer under this Agreement will not exceed 457,106, which is a portion of the cost to expand warehouse on the Development Property.

(3) The County has established the Tax Abatement Program in order to provide the Business Subsidy to the Developer.

(4) The public purposes of the Business Subsidy to increase and preserve the tax base, and provide employment opportunities in the County.

(5) For the purposes of this Agreement, the Developer shall expressly for the benefit of the County assume all obligations to cause the retention and creation jobs pursuant to this Section 6.1.

(6) As of the June 28, 2011 there were four (4) full-time equivalent (FTE) employees employed by the business occupying the Development Property.

(7) The goals of the Business Subsidy are:

(i) completion of the warehouse expansion on the Development Property and occupancy thereof by the by a business meeting the jobs and wage goals of this agreement for at least five years after the "Benefit Date" of the Business Subsidy, which is hereby determined to be the date of the occupancy for the completed project; and

(ii) retention of four (4) FTE jobs and creation of at least two (2) FTE jobs at an hourly wage of at least \$11.00 per hour within one year from the Benefit Date.

(8) If the goals are not met, the Developer agrees to repay all of the Business Subsidy to the County, plus interest thereon from its date at the implicit price deflator, as defined under Minnesota Statutes, section 275.70, subdivision 2 ("Interest") accruing from and after the Benefit Date, compounded semiannually. If the goals are met in part, the Developer will repay a portion of the Business Subsidy (plus Interest) determined by multiplying the Business Subsidy by a fraction, the numerator of which is the number of jobs in the goals which were not retained/created at the wage level set forth above and the denominator of which is six (6) retained/created FTE jobs (i.e. number of jobs set forth in (6) (ii).

(9) That the proposed warehouse expansion on the Development Property would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future.

(10) The Developer agrees to continue operations on the Development Property for at least five years after the Benefit Date.

(11) There are no other state or local government agencies providing financial assistance for the Project other than the County or township.

(12) The Developer represents that it is not in default on the date hereof on any subsidy agreement entered into by the Developer under the Subsidy Law.

(13) For purposes of the Subsidy Law, the assistance provided in this Agreement shall be considered a forgivable loan to the Developer from the County.

(14) This Section 6.1 is intended to be the "subsidy agreement" required by Minnesota Statutes, section 116J.994, subdivision 3, of the Subsidy Law. In the event that any provision of this Agreement is inconsistent or in conflict with any provision of the Subsidy Law, and in the event that any provision of the Subsidy Law provides additional requirements, the provisions of the Subsidy Law shall apply and govern. In addition to all reporting obligations of the Developer under this Agreement, the Developer agrees to provide the County with any additional information, which may be required in order for the County to comply with their reporting requirements, as they may exist or be amended from time to time, under the Subsidy Law.

(15) Nothing in this Section 6.1 is intended to limit or otherwise amend the other terms of this Agreement. To the extent that provisions in this Section 6.1 are more extensive or restrictive than any related term elsewhere in this Agreement, the provisions hereof shall govern. The above commitment of the Developer to operate the Project for at least five years from the Benefit Date is a requirement of the Subsidy Law (subject to procedures therein allowing relaxation or waiver of said requirement) and shall apply and govern.

(16) The Developer agrees to:

(i) report its progress on achieving the goals to the County until the goals are met, or the Business Subsidy is repaid, whichever occurs earlier,

(ii) include in the report the information required in Minnesota Statutes, section 116J.994, subdivision 7 on forms developed by the Minnesota Department of Trade and Economic Development, and

(iii) send completed reports to the County. The Developer agrees to file these reports no later than March 1 of each year commencing March 1, 2012, and within 30 days after the deadline for meeting the goals. The County agrees that if it does not receive the reports, it will mail the Developer a warning within one week of the required filing date. If, after 14 days of the postmarked date of the warning, the Developer fails to provide a report, the Developer agrees to pay to the County a penalty of \$100 for each subsequent day until the report is filed up to a maximum of \$1,000.

ARTICLE VII

ADDITIONAL PROVISIONS

Section 7.1 Conflicts of Interest. No member of the governing body or other official of the County shall participate in any decision relating to the Agreement, which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested. No member, official or employee of the County shall be personally liable to the County in the event of any default or breach by the Developer or successor or on any obligations under the terms of this Agreement.

Section 7.2 Titles of Articles and Sections. Any titles of the several parts, articles and sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 7.3 Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by any party to any other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

(1) in the case of the Developer is addressed to or delivered personally to:

James Halbur
1258 Bakers Bay Road
Kasota, MN 56050

(2) in the case of the County is addressed to or delivered to the County at:

Le Sueur County Courthouse
88 South Park Avenue
Le Center, MN 56057
Attn: County Administrator

or at such other address with respect to any such party as that party may, from time to time, designate in writing and forward to the other, as provided in this Section.

Section 7.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 7.5 Law Governing. This Agreement will be governed and construed in accordance with the laws of the State of Minnesota.

Section 7.6 Duration. This Agreement shall remain in effect through December 31, 2021 or until such time as the undertakings by the Developer and County as set forth herein have occurred, whichever is first.

IN WITNESS WHEREOF, the County has caused this Agreement to be duly executed in its name and on its behalf and its seal to be hereunto duly affixed, the County has caused this Agreement to be duly executed in its name and on its behalf and its seal to be hereunto duly affixed, and the Developer has caused this Agreement to be duly executed in its name and on its behalf, on or as of the date first above written.

DEVELOPER: I have read and I agree to all of the above provisions of this Agreement; by and through the Representative of Kasota Land Company:

By [Signature]
Its Chief Executive Officer
Date 4/15/2012

COUNTY: We have read and we agree to all of the above provisions of this Agreement; by and through the Representatives of Le Sueur County, a body politic and corporate:

By [Signature]
Its County Administrator
Date 4/17/12

By [Signature]
Its Board Chairman
Date 4/17/12

STATE OF MINNESOTA)
): ss
COUNTY OF LE SUEUR)

The foregoing instrument was acknowledged before me this 17th day of April 2012, by Joseph D. Pettis and Darrell Pettis the Board Chairman and the County Administrator, respectively, of Le Sueur County, on behalf of the County.



[Signature]
Notary Public

STATE OF MINNESOTA)
): ss
COUNTY OF LE SUEUR)
Blue Earth

The foregoing instrument was acknowledged before me this 5th day of April 2012, by James Halbur the Chief Executive Officer of Kasota Land Company, a Minnesota Corporation.



[Signature]
Notary Public