

APPROVED



Grand Forks Growth Fund, A Jobs Development Authority Staff Report

**Growth Fund Committee – December 5, 2016
JDA – December 5, 2016**

Agenda Item: Assumption Request from Reile's Transfer & Delivery, Inc.

Submitted by: Meredith Richards, Community Development Deputy Director

Staff Recommended Action: Approve request subject to provision of corporate guaranties from Reile's Transfer and Delivery, and authorize execution of appropriate documents to be prepared by City Attorney

Committee Recommended Action:

JDA Action:

In October 2014, the JDA gave final approval for PACE (\$158,532) and EDARLF (\$300,000) loans to Reile's Transfer & Delivery to assist with construction of their distribution center at 4675 N. Washington. Reile's has since formed a real estate holding company, SAS Holdings, LLC, and has requested that their loans be transferred to/assumed by SAS, with existing lenders maintaining current mortgage positions. It should be noted that while the attached overview references only the EDARLF (Loan #3039), the client has requested that the PACE loan (#1103) also be transferred. No other changes are requested.

ANALYSIS AND FINDINGS OF FACT:

- Reile's has been making scheduled payments on the EDARLF loan since January 2015; final payment is due 12/1/2021. Payment of the PACE loan is deferred until 2023. Both loans are secured by subordinate mortgages only.
- Payments to all lenders have been made as scheduled and loan-to-value ratios are lower now than at the time of approval (see attached). Reile's request does not appear to compromise the JDA's financial position; however, securing corporate guaranties on both loans would enhance it.
- Bank of North Dakota has approved the request.

SUPPORTING MATERIAL:

- Overview of Asset Transfer (dated October 19, 2016) and related documents
- Debt/loan-to-value summary

Overview of Asset Transfer
 Reile's Transfer & Delivery, Inc. to SAS Holdings, LLC
 10/19/2016

Background:

When Reile's Transfer & Delivery, Inc. [Reile's] was planning to build the warehouse project in Grand Forks in 2014, the original intent was to establish a new real estate holding company to own the assets as part of Ken Reile's estate plan. However, setting up this "NewCo" didn't happen by the time Reile's was to close on the project. The NewCo was planning to have Ken and Ginger Reile as the principle owners with their three children also as minority owners. A long-term triple net lease was to be secured between Reile's and the NewCo.

The Transfer Plan:

The goal is by November 1, 2016 to transfer certain assets and liabilities between 2 entities that Ken Reile owns and controls. Ken understands that this transfer will be done without impacting the security or terms to the lenders. To facilitate this transfer, Ken Reile has established SAS Holdings, [SAS] a North Dakota LLC to hold these assets and liabilities related to the Grand Forks warehouse project and to be the lessor to Reiles for the operation of the project. SAS has the following members/owners:

| Member | Ownership |
|---------------------|------------------|
| Ken Reile | 35% |
| Ginger Reile | 35% |
| Brandon Reile Trust | 10% |
| Shawn Reile | 10% |
| Rachelle Wenzel | 10% |

A copy of the SAS North Dakota registration is attached as Doc. A. The SAS Member Control Agreement is attached to this Packet as Doc. B.

The assets to be transferred are the project land and excess land, the building and some improvements/equipment. A list of the equipment to be retained by Reile's and transferred to SAS is attached as Doc. C.

The notes/loans to be transferred as of 11/01/2016 to SAS are:

| Notes/Loan | Current Balance | Long Term Balance | Total |
|------------------|-----------------|-------------------|---------------------|
| Alerus-815628002 | \$34,301.92 | \$357,361.77 | \$391,663.69 |
| Alerus-815628003 | 146,900.07 | 4,202,958.28 | 4,349,858.35 |
| Alerus-815628005 | 9,608.45 | 251,914.20 | 261,522.65 |
| JD Loan 3039 | 11,234.95 | 269,068.10 | 280,303.05 |
| SBA-6553405001 | 158,910.86 | 3,604,217.76 | <u>3,763,128.62</u> |
| Total | | | \$9,046,476.36 |

Alerus will provide transfer documents for the Notes/Loans above and will be attached as Doc. D.

A long-term lease between SAS and Reiles is attached as Doc. E. It is a ten-year triple net lease with an addition five-year renewal option. The lease payments received from Reiles will cover the obligations SAS has to the bank as well as provide an operating margin for SAS.

Execution:

Ken Reile will sign the necessary transfer documents provided by Alerus with an effective date of November 1, 2016.

Doc A
SAS Holdings Certificate of Organization



Doc B.
SAS Holdings, LLC Member Operating Agreement

Operating Agreement

This Operating Agreement is for SAS Holdings, LLC
a North Dakota Limited Liability Company

This Operating Agreement (the "Agreement") is entered into on or as of November 1, 2016 by and among the Members listed on Exhibit A attached to this Agreement.

Recitals

- A. On September 13, 2016 Articles of Organization for SAS Holdings LLC (the "Company"), a limited liability company under the laws of the State of North Dakota, were filed with the North Dakota Secretary of State.
- B. The Members hereby adopt and approve this operating agreement for the Company on the following terms and conditions:

Agreement
Article I
Organizational Matters

- 1.1. **Name.** The Company shall conduct business under the name "SAS Holdings, LLC." If the majority of Members approve, the Company may also conduct business under a fictitious name filed with the county clerk of the county where the Company has its principal office.
- 1.2. **Term.** The Company's beginning date is the date that the Articles of Organization were filed. The Company shall be perpetual unless the Members terminate the Company earlier as provided in Article 9 of this Agreement. The Members may continue the Company as provided in Article 9.
- 1.3. **Office and Agent.** The Company shall continuously maintain an office and a registered agent within the State of North Dakota. The principal office of the Company shall be at 4007 33rd Street NW PO Box 9161 Fargo, ND 58106 or such location as the Members may determine. As required, the Company shall file a Statement of Information with the North Dakota Secretary of State stating its registered agent for service of process.
- 1.4. **Business of the Company.** The Company shall engage in the following business, and any activities necessary or appropriate to carry out that business,

unless all the majority of Members approve a change in the Company's business: real estate holdings.

Article 2 Capital Contributions

- 2.1 Capital Contributions.** Each Member shall contribute capital to the Company in the amount shown on Exhibit A of this Agreement. No Member shall be required or permitted to make any additional contributions to the Company without the majority consent of the other Members.
- 2.2 Capital Accounts.** The Company shall keep books and records which clearly show each Member's capital contributions and withdrawals ("Capital Account").
- The Company shall determine the balance of each Member's Capital Account according to Treasury Regulations Section 1.704-1(b)(2)(iv).
 - If a Member sells or transfers his Membership Interest in the Company that Member's Capital Account shall carry over to the new owner according to Treasury Regulations Section 1.704-a(b)(2)(iv)(1).
- 2.3 No Interest.** The Company shall not pay any interest on capital contributions.

Article 3 Members

- 3.1 Admission of Additional Members.** Upon majority approval of the existing Members, additional members may be admitted into the Company on terms determined by the Members.
- 3.2 Withdrawals or Resignations.** No member may withdraw without the majority approval of the Members. However, if a Member's interest is based on providing services to the Company, that Member shall be allowed to withdraw or resign as a Member at any time upon 120 days prior written notice to the Company. In the event of such withdrawal, such Member's Membership Interest will be available for sale as described in Section 7.2. If it is not purchased, the withdrawing Member shall have only an economic interest in the Company after withdrawal. The Withdrawing Member shall the right to share in the Company's income, gain, losses, deductions, credit or similar items, and to receive distributions from the Company, but not the right to access Company business information or to participate in the Company management, except as required by law. The Withdrawing Member shall not be entitled to a return of the Member's capital, and may not withdraw contracts or personal guarantees that (s)he may have given.

- 3.3 **Payments to Members.** There may be minimum or guaranteed payments to Members. These payments will be determined by a majority of the members. In addition, the Company shall reimburse the Members for the actual costs including organization expenses incurred to form the Company.

Article 4 Management and Control of the Company

- 4.1 **Management and Powers.** The intent of each Member is to have passive activity in the Company. The affairs of the Company shall be managed by a Board of Governors [BOG] who may direct the management of the Company by way of members working as managers. These managers as directed by the BOG shall actively engage in the Company management. Accordingly, such managers (s) shall have the authority and discretion to manage the business, property and affairs of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business property and affairs.
- 4.2 **Limitations on Power of Members.** Notwithstanding any other provisions of this Agreement, no debt or liability of more than \$5,000.00 may be contracted on behalf of the Company without the approval of Ken Reile and a majority of Membership Interests. The signature of Ken Reile is required to sign contracts and obligations on behalf of the Company. Additionally, the majority approval of the Members must be obtained prior to:
- A. The merger of the Company with another business entity.
 - B. The establishment of different Member classes.
 - C. A change in the authorized businesses of the Company (Section 1.4),
 - D. Any act which would make it impossible to carry on the ordinary business of the Company
 - E. The confession of judgment against the Company
 - F. Any other transaction described in this Agreement, which requires the approval, consent or vote of all of the Members.
 - G. The sale, exchange or other disposition of substantially all of the Company's assets occurring as part of single or multiple transactions or plan.
- 4.3 **Member Approval.** The "vote" or "approval" of the Members shall mean approval by a majority percentage of Membership Interest which must include Ken Reile. Members shall vote or approve by their percentage interest as shown on Exhibit A of this Agreement. No annual or regular meetings of the Members are required. However, if such meetings are held, such meetings shall be noticed, held and conducted pursuant to the Act.
- 4.4 **Devotion of Time.** The Members are not required to devote all of their time or business efforts to the Company. Each Member shall devote whatever time or effort (s)he deems appropriate to carry out the Company's business.

- 4.4 **Competition.** Members may be financially interested, either directly or indirectly in any other business entity that is engaged in the same or similar business as that conducted by the Company.
- 4.5 **Protection of Trade Secrets.** Each Member acknowledges that the customer lists, trade secrets, processes, methods and technical information of the Company and any other matters designated by the majority of the Members are the Company's assets. Each Member agrees not to disclose any of these assets to anyone outside the Company, except with written consent by the Company, even if the Member withdraws from the Company.
- 4.6 **Transactions between the Company and the Members.** Any Member may enter into a contract or transaction with the Company with the approval of the majority of other Members. If there is a potential conflict of interest, this approval must be in writing.

Article 5

Allocations of Net Profits and Net Losses and Distribution

5.1 Allocations of Net Loss and Quarterly Distributions

- A. **Net Loss.** Net loss for income tax purposes shall be allocated to Members in proportion to their Membership Interest. Loss allocations to a Member shall be made only to the extent that such loss allocations will not create a Capital Gain for that Member in the event of foreclosure of the Company's assets.
- B. Any loss not allocated to a Member because of the 5.1.A. shall be allocated to the other Members to the extent where it does not create a Capital Gain to another Member.
- C. **Quarterly Distribution of Available Cash.** At the end of each calendar quarter, the available cash of the Company, if any, must be distributed to the Members, pro rata according to their percentage interest. Available cash means cash beyond what is required as reasonable working capital, as determined by the Members.

5.2 Special allocations.

- A. **Minimum Gain Chargeback for Nonrecourse and Recourse Liabilities.** The Company shall allocate income, loss and gain to comply with the minimum gain chargeback requirement contained in Treasury Regulations Section 1.704-2(f) and 1.704-2(i)(5)). Nonrecourse Liability shall be allocated in accordance with Treasury Regulations Section 1.704-2(g)(2). Recourse Liability shall be allocated to Members in accordance with Treasury Regulations Section 1.704-2(i)(4).
- B. **Nonrecourse Deductions.** Notwithstanding Section 5.2, any nonrecourse deductions (as defined in Treasury Regulations Section 1.704-2(b)(1)) for

any fiscal year or other period shall be specially allocated to the Members in proportion to their Membership Interests.

- C. **Member Nonrecourse Deductions.** Those items of Company loss, deduction or Code Section 705(a)(2)(B) expenditures which are attributable to Member Nonrecourse Debt shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt according to Treasury Regulations Section 1.704-2(i).
- D. **Qualified Income Offset.** Notwithstanding Section 5.2, if a Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Section 1.704-1(b)(2)ii)(d)(4),(5) or (6), or any other event creates a deficit balance in such Member's Capital Account in excess of such Member's share of Company Minimum Gain, items of Company income and gain shall be specially allocated to such Member so that such excess deficit balance is eliminated as quickly as possible.

5.4 **Code Section 704(c) Allocations.** Notwithstanding any other provision in this Article VI, in accordance with Treasury Regulations Code Section 704(c), income, gain, loss and deduction with respect to any property contributed to the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market value on the date of contribution. This shall be solely for tax purposes and shall not affect a Member's Capital Account, share of profits, losses or other items of distributions.

Article 6

Transfer and Assignment of Interests

6.1 Transfer and Assignment of Interests. With the exception of transfers between family members, stated in 6.3, Members who wish to transfer, assign, convey or sell their Membership Interest must obtain majority written approval from the other Members. The other Members may approve or reject this request in their sole discretion.

6.2 Substitution of Members. If majority written approval is received, the transferee shall:

- (i) Execute an instrument satisfactory to the Members which accepts and adopts the terms and provisions of this Agreement.
- (ii) Pay any reasonable expenses in connection with his or her admission as a new Member.

The admission of a new Member shall not release the Member who assigned the Membership Interest from any liability that Member may have to the Company.

6.3 Family Transfers. The Membership Interest of any Member may be transferred by inter vivos gift or by testamentary transfer to any spouse, parent, sibling, child or grandchild of the Member, or to a trust for the benefit of the Member or such spouse, parent, sibling, child or grandchild of the Member. If the transfer is to a revocable living trust, the transferring Member may also reacquire the Membership in whole or in part upon complying with Section 6.2.

6.4 Transfers in violation of this Agreement and Transfers of Partial Membership Interest. Transfers violating this Article 6 shall only have an economic interest in the Company, with no right to participate in the Company management or exercise any rights of a Member.

Notwithstanding the preceding sentence, if, in the determination of the Remaining Members, a transfer violating Article 6 would cause the termination of the Company under the Code, in the sole discretion of the Managers, the transfer shall be null and void.

Article 7

Consequences of Death, Dissolution, Retirement or Bankruptcy of Member

7.1 Dissolution Event. Upon the occurrence of the death, withdrawal, resignation, expulsion, bankruptcy or dissolution of any Member (“Dissolution Event”), the Company shall dissolve unless the Remaining Members who hold a majority of Remaining Membership Interest agree within ninety (90) days to continue the business of the Company. The Company and/or the Remaining Members may purchase the Former Member’s Membership Interest as provided in this Article.

7.2 Purchase Price. The purchase price for the Former Member’s interest shall be the fair market value of the Former Member’s Interest as determined by agreement of the former Member and the Purchasing Members. If the Former Member and the Purchasing Members cannot agree on the purchase price within 30 days after the Dissolution Event, the purchase price shall be determined by an independent appraiser. The Purchasing Members as a group, and the Former Member, shall each pay one-half of the cost of the appraisal. If the Dissolution Event results from a breach of this Agreement by the Former Member, the purchase price shall be reduced by an amount equal to the damages suffered by the Company or the Purchasing Members as a result of such breach.

7.3 Notice of Intent to Purchase. Within fifteen (15) days after a Dissolution Event, each Remaining Member shall notify the Members in writing of whether (s)he chooses to purchase a portion of the Former Member’s Interest. Each Purchasing Member shall be entitled to purchase a portion of the Former Member’s Interest in the same proportion as their Membership Interest compared with the percentage interest of all Purchasing Members. If the

Remaining Members fail to purchase the entire interest of the Former Member, the Company shall purchase any remaining share of the Former Member's Interest.

- 7.4 **Payment of Purchase Price.** The closing shall occur no later than 30 days following the determination of the purchase price. The Purchasing Members may pay all of the purchase in cash, or one fifth (1/5) at closing, with the remainder due in a negotiable promissory note, payable in four equal annual principal installments plus prevailing interest
- 7.5 **Closing of Purchase of Former Member's Interest.** At the closing for the sale of a Former Member's Interest, the Former Member shall provide a document conveying their interest and representing that the interest is free of encumbrances.

Article 8

Accounting, Records, Reporting by Members.

- 8.1 **Books and Records.** The Company's books and records shall be kept using standard accounting methods for federal income tax purposes. The Company shall maintain at its principal office:
- A. A current Members list showing their full name and last known business or residence, their capital contributions, Capital Account balance and Membership Interest;
 - B. A copy of the Articles of Organization and any and all amendments
 - C. Copies of the Company's federal, state, and local income tax or information returns for the six (6) most recent taxable years;
 - D. A copy of this Operating Agreement and any and all amendments;
 - E. The Company's books and records as they relate to the internal affairs or the Company for at least the current and past four (4) fiscal years.
- 8.2 **Reports.** By March 15th of each year, the Company shall prepare information necessary for the Members to prepare their annual federal and state income tax returns.
- 8.3 **Bank Accounts.** The Members shall maintain Company funds in one or more separate bank accounts in the name of the Company and shall not commingle the funds with any other person or entity. Any Member, acting alone, may endorse and deposit into the Company's accounts any checks made payable to the Company. The Members shall authorize one or more of the Members to sign checks and drafts in the Company's name.
- 8.4 **Tax Matters for the Company.** Ken Reile is designated as "Tax Matters Partner" to represent the Company (at the Company's expense) in connection with all tax authorities. The Tax Matters Partner may spend Company funds for associated professional services and costs.

Article 9 Dissolution and Winding Up

9.1 Conditions of Dissolution: The Company shall dissolve:

- A. If there is a judicial dissolution pursuant to Section 17351 of the Corporations Code;
- B. If the Members unanimously vote to dissolve the Company;
- C. If there is a Dissolution Event and the Remaining Members fail to agree to continue the business of the Company within ninety (90) days after the occurrence of such event or the Company or the Remaining Members fail to purchase the former Member's Interest as provided in Article 7; or
- D. Upon the sale of substantially all of the assets of the Company.

9.2 Winding Up. Upon the dissolution, the Company's assets shall be disposed of and its affairs wound up. After determining that all the known debts and liabilities of the Company have been paid, the remaining assets shall be distributed to the Members according to their Capital Account balances, after taking into account income and loss allocations for the Company's final taxable year.

9.3 Limitations on Payments Made In Dissolution. Except as otherwise specifically provided in this Agreement, each Member shall only be entitled to look solely at the assets of the Company for the return of his or her positive Capital Account balance and shall have no recourse against any other Member except as provided in Article 10.

Article 10 Indemnification

10.1 Indemnification of Agents. The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason that (s)he was a Member, officer, employee or other agent of the Company to the fullest extent permitted by applicable law. The standard of the fiduciary duty each member is to act in the highest good faith to the members and the Company. A member may not seek to obtain an advantage in the Company affairs by misconduct, misrepresentation, concealment, threat or adverse pressure.

Article 11 Investment Representations

Each Member hereby represents and warrants to, and agrees with, the Members, the other Members and the Company as follows:

11.1 Preexisting Relationship or Experience. (S)he has a preexisting personal or business relationship with the Company or one or more of its Members, or by reason of his or her business or financial experience (s)he is capable of evaluating the risks and merits of an investment in the Company and of protecting his or her own interests in connection with this investment.

11.2 No Advertising. (S)he has not seen, received, been presented with or been solicited by a leaflet, public promotional meeting, article or any other form of advertising with respect to the sale of the Membership Interest.

11.3 Investment Intent. (S)he is acquiring the Membership Interest for investment purposes for his or her own account only and not with a view to or for. No other person will have any direct or indirect beneficial interest in or right to the Membership Interest.

Article 12 Miscellaneous

12.1 Complete Agreement. This Agreement and the Articles of Organization constitute the complete and exclusive statement of agreement among the Members and replace and supersede all prior written and oral agreements among the Members. To the extent that any provision of the Articles of Organization conflict with any provision of this agreement, the Articles of Organization shall control.

12.2 Binding Effect. Subject to the provisions of this Agreement relating to transferability, this Agreement will be binding upon and inure to the benefit of the Members and their respect successors and assigns.

12.3 Jurisdiction. Each Member hereby consents to the exclusive jurisdiction of the state and federal courts sitting in North Dakota in any action on a claim arising out of, under or in connection with this Agreement.

12.4 Severability. If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected.

12.5 Notices. Any notice to be given or to be served upon the Company or any party hereto in connection with this Agreement must be in writing at the addresses shown on Exhibit A. Any party may designate any other address in substitution of the foregoing address by giving 5 days written notice to all Members.

12.7 Amendments. All amendments to this Agreement will be in writing and signed by all the Members.

12.6 **Multiple Counterparts.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one or the same instrument.

12.7 **Attorney Fees.** In the event that any dispute between the Company, the Members or among the Members should result in litigation or arbitration, the prevailing party in such a dispute shall be entitled to recover from the other party all reasonable fees, cost and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses.

12.8 **Remedies Cumulative.** The remedies under this Agreement are cumulative and shall not exclude any other remedies to which any person may be lawfully entitled.

All of the Members of SAS Holdings LLC, a North Dakota Limited Liability Company, have executed this agreement, effective as of the date written above.

Ken Reile, MEMBER

Ginger Reile, MEMBER

Brandon Reile "Trust", MEMBER

Shawn Reile, MEMBER

Rachelle Wenzel, MEMBER

Exhibit A

List of Members

| Member Equity | Percent | Initial Equity |
|---------------------|---------|----------------|
| Ken Reile | 35.00% | \$17,722.62 |
| Ginger Reile | 35.00% | \$17,722.62 |
| Brandon Reile Trust | 10.00% | \$5,063.61 |
| Shawn Reile | 10.00% | \$5,063.61 |
| Rachelle Wenzel | 10.00% | \$5,063.61 |
| | Total | \$50,636.07 |

Member Address

Ken Reile _____

“Brandon Reile Trust” _____

Shawn Reile _____

Rachelle Wenzel _____

Doc E.

Lease between Reiles and SAS

LEASE AGREEMENT

This Lease Agreement (this "Lease") made and entered into as of this _____ day of November 1, 2016, by and between **SAS Holdings, LLC** hereinafter referred to as "Landlord", and **REILES TRANSFER AND DELIVERY, INC.**, a North Dakota corporation, hereinafter referred to as "Tenant".

WITNESSETH:

The Landlord, for and in consideration of the rents, covenants and agreements hereinafter specified to be paid, kept and performed by the Tenant, hereby leases to Tenant leased premises consisting of a building with approximately 150,000 square feet and the land, hereinafter called the "Leased Premises", located at 4675 N. Washington St. Grand Forks, N.D. 58203, together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to the said leased premises. The Leased Premises are more specifically depicted on the site plan attached hereto and incorporated herein as Exhibit "A". The leased premises, the remainder of the building of which the leased premises are part, the Tract A land on which the building is located, all appurtenances, thereto, and all rail, driveways, parking facilities related to the building and Tract B land are hereinafter called the "Leased Premises". Note that all equipment, facilities and fixtures that are in or on the Leased Premises at the time of this Lease are the assets of Tenant. A list of these assets is described in Exhibit C. This Lease is considered a Triple Net Lease.

1. TERM.

Tenant's occupancy of the areas of Leased Premises shall commence as of the date the Lease noted above and shall be for a period of 10 years. Tenant shall have the option to extend the Lease for a 5 year term with a 120 day notice. If Tenant does not exercise the option to extend the Term, Tenant shall promptly vacate the Lease Premises by the Termination date.

2. RENT.

Tennant agrees to pay to Landlord, at Landlord's address as hereinafter set forth, Monthly Rent of \$74,917.00 for said Leased Premises at the rates set forth due and payable on the first day of each and every month, in advance for the first 60 months or 1-5 years. The Monthly Rent for the following 60 months or years 6 – 10 will be \$76,790.00 due and payable on the first day of each and every month, in advance. If the Lease is extended 5 years as noted in section 1, for years 11 – 15 the Monthly Rent will be \$78,710.00. The Monthly Rent will be adjusted by the amount of the Bank of North Dakota (permanent) share of the P.A.C.E. Program Interest Buy-down Agreement shown in Exhibit B until that agreement has ended.

3. UTILITIES.

Tenant shall be responsible for all utilities and services at the Lease Premises, including but not limited to heat, air conditioning, electric service, gas service, water, sewer, trash collection, mowing and snow removal.

4. REAL ESTATE TAXES and ASSESSMENTS.

Tenant shall be responsible for all applicable real estate taxes and assessments associated with Lease Premises for the term of the Lease.

5. TENANT'S INSURANCE.

Throughout the Term of this lease, Tenant shall maintain in force policies of public liability insurance naming Landlord against the claims of all persons for personal injuries or property damage, or both, arising out of or incident to Tenant's use or occupancy of the leased premises. Any insurance of Tenant's may be under a blanket policy. Landlord shall be named as an additional insured under said policy or policies; and Tenant shall deliver certificates evidencing such public liability policy or policies having a combined single limit for personal injury and property damage of not less than \$1,000,000 with respect to injuries, death or damages. Such certificates shall provide that the coverage cannot be cancelled without at least thirty (30) days prior written notice to Landlord. Tenant, at its sole cost and expense, shall at all times be solely responsible for insuring all of Tenant's fixtures, equipment, and Tenant improvements in or appurtenant to the Leased Premises against loss or damage by fire or other casualty. Tenant agrees to procure and pay the cost of fire and casualty insurance on the Leased Premises, and will furnish Landlord, upon request, with a certificate showing such insurance to be in effect. All proceeds of any such fire and casualty insurance placed on the Property shall be payable to Landlord.

6. MAINTENANCE BY TENANT.

The Tenant shall, at its expense, keep the leased premises, including the maintenance of the exterior and interior walls and all partitions, interior structural work, fixtures, equipment and appurtenance thereto, (including but not limited to furnaces and air conditioning systems) clean, neat and in good order, condition and repair, damage by unavoidable casualty excepted. Landlord shall have no maintenance or repair obligations, except for structural repair or replacement of foundations and footings.

7. ALTERATIONS, ADDITIONS AND IMPROVEMENTS.

Tenant shall not make or allow to be made any alterations, additions or improvements of the Leased Premises without prior written consent of Landlord. Tenant shall furnish complete plans and specifications for any proposed alteration, addition or improvement for review and approval by Landlord. Consent for non-structural alterations, additions or improvements shall not be unreasonably withheld by Landlord. Tenant shall have the right at all times to erect or install shelves, bins, machinery and trade fixtures, as are reasonably necessary for the conduct of Tenant's business operations therein provided Tenant complies with all applicable governmental laws,

ordinances and regulations and provided that the installation of such items does not diminish the value of the leased premises. A licensed contractor approved by Landlord and any electrical alterations shall perform all alterations, additions or improvements or installations shall be performed only by a licensed electrician and shall be inspected and approved by the appropriate governmental authority. During any period of approved construction Tenant shall provide Landlord with evidence that all general and subcontractors, including electricians, are licensed and covered with appropriate liability and workers compensation insurance as required by the State of North Dakota. All improvement items noted herein that are not structural, shall be the property of Tenant and shall be added to Exhibit B in this Agreement. If items are removed during the term of this Lease, Tenant will return the Leased Premises to a like condition, prior to the alteration, addition or improvement. A like condition means holes in floors or walls will be patched.

8. LIENS PROHIBITED.

Tenant shall not permit any liens to attach to any interest in the leased premises or the parking or storage areas for labor, services, or materials furnished thereto pursuant to a contract with Tenant; and, in the event such liens do attach, Tenant shall cause such to be promptly released by payment, bonding or otherwise and shall indemnify Landlord against losses arising out of any such claim (including, without limitation, legal fees and court costs). Landlord hereby notifies all persons and entities that any liens claimed by any party as the result of improving the leased premises pursuant to a contract with Tenant, or with any person other than Landlord, shall extend to, and only to, the right, title and interest of Tenant in and to the leased premises. This paragraph shall be construed so as to prohibit, the interest of Landlord in the leased premises being subject to any lien for any improvements made by Tenant or any other person on the leased premises. Tenant agrees that, upon request of Landlord, it will execute, acknowledge and deliver a recordable memorandum of this lease, prepared by Landlord, for the purpose of giving constructive notice of the provisions of this paragraph.

9. USE OF LEASED PREMISES.

The Tenant shall not, without the prior written consent of the Landlord, use the leased Lease Premises for any purpose other than for storing and distributing in connection with Tenant's business, and for no other use or purpose whatsoever. All material stored at or distributed from the premises must be non-hazardous and compatible with food grade products. In no event shall Tenant use any portion of the premises for any illegal or unlawful use. Tenant shall be permitted to park trailers at the leased premises, provided, however, Landlord may designate the specific areas in which trailers may be parked.

The Tenant shall comply with all laws, orders and regulations of federal, state and county authorities relating to the use or occupancy of the Lease Premises. Tenant shall further not allow the leased premises to be used in a disreputable manner or in any manner that constitutes a nuisance nor shall Tenant commit or permit waste of the Leased Premises.

10. GENERAL ACCESS TO LEASED PREMISES.

The Tenant may at any time during the terms of this lease or any renewal thereof, determine and change the hours during which it shall keep the leased premises open for business. The Tenant's servants, employees, customers, agents and business invitees shall at all times during which the Tenant is open for business have the free and uninterrupted right of access to the leased premises.

11. INDEMNITY.

A. Indemnification by Tenant: Except to the extent caused by Landlord's gross negligence or willful misconduct, Tenant agrees to pay, and to protect, indemnify and save harmless Landlord and all beneficiaries, invitees, agents and employees of Landlord from and against any and all liabilities, losses, damages, costs, expenses (including all reasonable attorney's fees and expenses of Landlord), causes of action, suits, claims, demands or judgments of any nature caused by Tenant arising directly from (a) any injury to, or the death of, any person or any damage to Lease Premises in or on the premises or (b) violation by Tenant of any material agreement or condition of this lease.

B. Indemnification by Landlord: Except to the extent, caused by Tenant's gross negligence or willful misconduct, Landlord agrees to pay, and to protect, indemnify and save harmless Tenant and all beneficiaries, invitees, agents and employees of Tenant from and against any and all liabilities, losses, damages, costs, expenses (including all reasonable attorney's fees and expenses of Tenants), causes of action suits, claims, demand or judgments of any nature caused by Landlord arising directly from (a) any injury to, or the death of, any person or any damage to Lease Premises in as a result of Landlord's gross negligence or (b) violation by Landlord of any material agreement or condition of this Lease.

12. DESTRUCTION OF OR DAMAGES TO LEASED PREMISES.

A. Reconstruction of Damaged Premises. In the event the leased premises shall be partially or totally destroyed by a fire or other casualty insured under the fire and extended coverage insurance carried by Tenant, so as to become partially or totally untenable, then the damage to the leased premises may be repaired by Landlord, unless Landlord shall elect not to rebuild as hereinafter provided, and the rent shall be abated in proportion to the amount of the leased premises rendered untenable until repaired. If Landlord elects to cause such repairs to be made, the obligation of Landlord hereunder shall in any event be limited to restoration of the leased premises to the condition in which they existed as of the commencement date of this lease. In no event shall Landlord be required to repair or replace Tenant's stock-in-trade, trade fixtures, furnishings or equipment. In the event the leased premises shall be partially or totally destroyed, Landlord may terminate this Lease by written notice to Tenant.

13. WAIVER OF SUBROGATION. Each party hereto does hereby remise, release and discharge the other party hereto and any officer, agent, employee or representative of such party, of and from any liability whatsoever hereafter arising from the loss, damage or injury caused by fire or other casualty for which insurance (permitting release of

liability) is carried by the injured party at the time of such loss, damage or injury, to the extent of any recovery by the injured party under such insurance.

14. RIGHT TO SUBLET OR ASSIGN.

Tenant shall not assign this lease, or any right or privilege granted herein, or sublet all or any portion of the leased premises without the prior written consent of the Landlord, which consent shall not be unreasonably withheld. Any transfer of any Tenant's interest in this lease or the leased premises by operation of law, regardless of whether the same is characterized as voluntary or involuntary, or any sale of all or substantially all of either Tenant's assets or shares of stock (if applicable) shall be construed as an "assignment" under the terms of this paragraph. No subletting or assignment shall in any way release the Tenant from its obligations under the terms and conditions of this Lease.

15. LANDLORD'S RIGHT OF ENTRY.

The Landlord and its agents shall be permitted to enter the leased premises at all reasonable times during reasonable business hours for the purpose of inspecting and making any necessary repairs to the leased premises. Landlord may have reasonable access to the leased premises for the purpose of exhibiting the same to prospective tenants. Landlord will provide notice to Tenant prior to entering leased premises and Tenant may restrict access to prospective tenants if they are competitors.

16. QUIET ENJOYMENT.

Landlord covenants, warrants and represents that it has full right and power to execute and perform this lease and to grant the estate leased herein and that Tenant, on payment of the rent herein reserved and performing the covenants and agreements herein contained, shall peaceably and quietly have, hold and enjoy the demised leased premises during the full term of this lease and any extension or renewal hereof.

17. DEFAULT.

The following events shall be deemed to be events of default under this lease:

- a. If Tenant fails to pay rental when due and such default continues for a period of more than ten (10) days.
- b. If Tenant shall fail to comply with any term, condition or covenant of this lease, other than the payment of rent, and shall not cure such failure within ten (10) days after written notice thereof to Tenant, or if such failure cannot reasonably be cured within said ten (10) days, Tenant shall not have commenced to cure such failure within said ten (10) days and shall not thereafter, with reasonable diligence and good faith, proceed to cure such failure.
- c. If Tenant shall file a petition under any section or chapter of the Federal Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or Tenant shall be adjudged bankrupt or insolvent in proceeding filed against Tenant thereunder.
- d. If Landlord does not maintain the premises as required by this Lease. If Landlord does not pay the taxes when due. If Landlord does not provide insurance for the real property.

Upon the occurrence of an event of default, the either part at its option, may exercise any one or more of the following options:

(1) Terminate Tenant's right to possession under this lease and re-enter and take possession of the demised leased premises and relet or attempt to relet said leased premises on behalf of Tenant, at such rent and under such terms and conditions as Landlord may deem best under the circumstances for the purpose of reducing Tenant's liability, and Landlord shall not be deemed to have thereby accepted a surrender of the leased premises, and Tenant shall remain liable for all rents and additional rents due under this lease and for all damages suffered by Landlord because of Tenant's breach of any of the covenants of this lease. At any time during such repossession or reletting, Landlord may, by delivering written notice to Tenant, elect to exercise its option under the following subparagraph to accept a surrender of the leased premises, terminate and cancel this lease, and retake possession and occupancy of the demised leased premises on behalf of the Landlord.

(2) Declare this lease to be terminated, ended and null and void, and re-enter upon and take possession of the demised leased premises whereupon the term hereby granted and all right, title and interest of Tenant in the demised leased premises shall end. Such termination shall be without prejudice to Landlord's right to collect from Tenant any rental or additional rental which has accrued prior to such termination, together with all damages suffered by Landlord because of the Tenant's breach of any covenant under this lease. In addition, Landlord shall have the right to immediately recover from Tenant the amount by which the rent and additional rent reserved herein for the balance of the term shall exceed the then reasonable rental value of the leased premises for the same period. remaining unpaid rent for the balance of this lease to be immediately due and payable and may, at Landlord's option, take immediate action to recover and collect same either by distress or otherwise; or

(3) Exercise any and all rights and privileges that the Parties may have under the laws of either the State of North Dakota or of the United States or America, or both.

18. ENTIRE AGREEMENT MODIFICATION, SEVERABILITY.

This lease contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties. If any term or provision of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this lease shall be valid and be enforced to the fullest extent permitted by law.

19. INTERPRETATION.

This Lease shall be governed under the laws of North Dakota. The covenants contained herein shall bind, and the benefits hereof shall inure to, the respective heirs, personal representatives, successors, and permitted assigns of the parties hereto, jointly and severally. Unless the context requires otherwise, the singular shall be construed to include the plural and vice versa. The paragraph headings used herein are for indexing purposes only and are not to be used in interpreting or construing the terms of this lease. No term, covenant or provision of this lease shall be construed by any court, government, governmental agency or authority against any party hereto by reason of such party's being deemed to prove drafted or structured such term, covenant or provision.

20. RELATIONSHIP OF PARTIES.

Nothing contained herein shall be deemed or construed by the parties hereto, by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than relationship of Landlord and Tenant. Whenever herein the singular number is used the same shall include the plural, and masculine gender shall include the feminine and neuter genders.

21. BINDING EFFECT.

The terms, provisions and covenants and conditions contained in this lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided.

22. NOTICES.

Any notice required or permitted to be delivered hereunder must be in writing and sent by the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the parties hereto at the respective addresses set out opposite their names below, or at such other address as they have heretofore specified by written notice delivered in accordance herewith:

LANDLORD: SAS Holdings, LLC
P.O. Box 9161
Fargo, North Dakota 58106
Attn: Chris Brucks

TENANT: Reiles Transfer and Delivery, Inc.
4007 33rd Street N
Fargo, North Dakota 58106
Attn: Del Carver

The checks for rental accruing hereunder shall also be forwarded to the Landlord at its above address until Tenant is notified otherwise in writing.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed and delivered the day and year first above written. EACH OF THE PARTIES HERETO ACKNOWLEDGES HAVING READ AND FULLY UNDERSTOOD THIS LEASE.

“Landlord”

SAS Holdings, LLC

By: _____

Name: _____

Title: _____

“Tenant”

REILES TRANSFER AND DELIVERY, INC.

By: _____

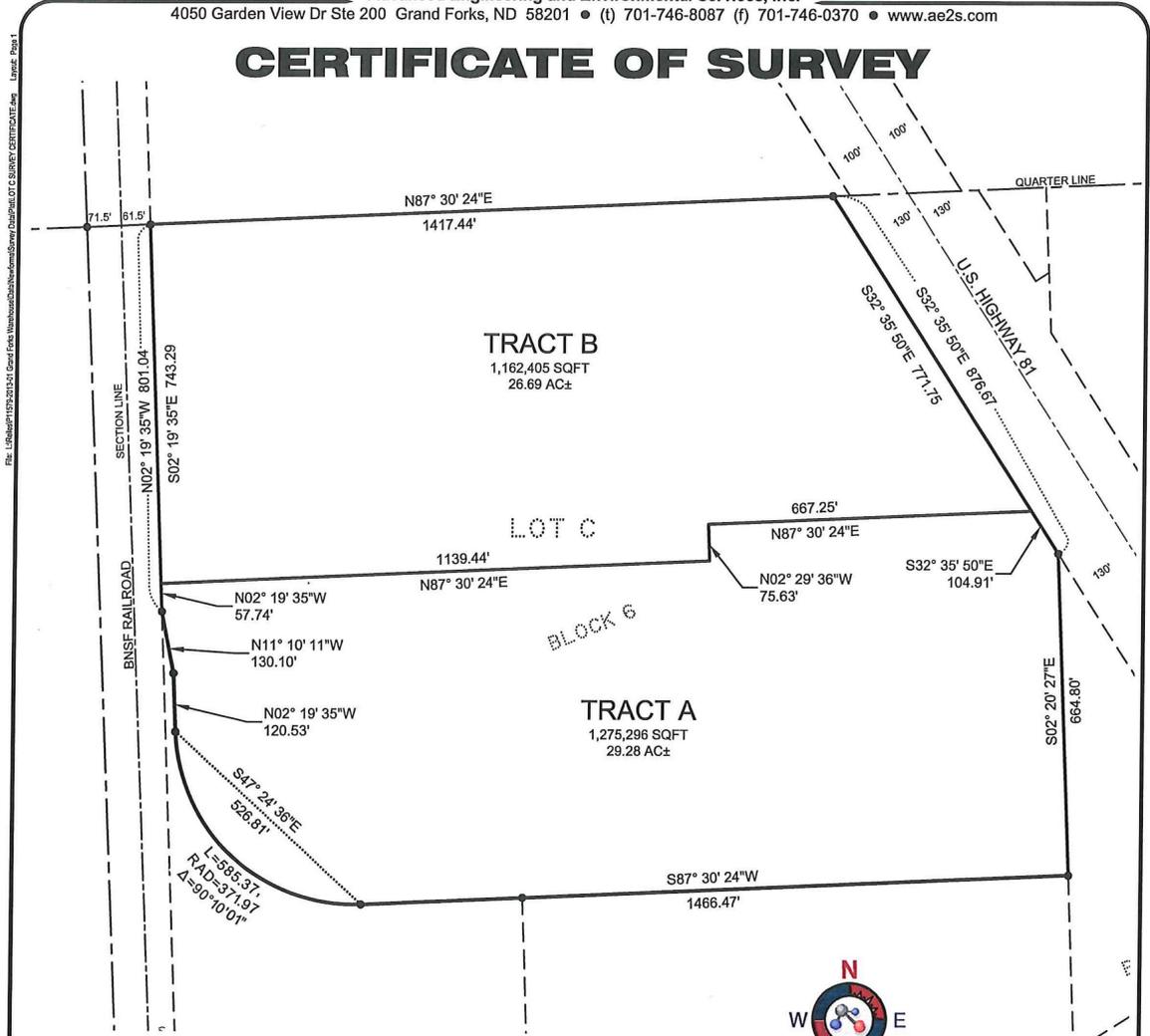
Name: _____

Title: _____

EXHIBIT A.
Use of all Property and Land noted as Tract A and Tract B

Advanced Engineering and Environmental Services, Inc.
4050 Garden View Dr Ste 200 Grand Forks, ND 58201 • (t) 701-746-8087 (f) 701-746-0370 • www.ae2s.com

CERTIFICATE OF SURVEY



File: L:\11579\2013\01 Grand Forks Warehouse\Drawings\Survey\Certificates\COB Survey\CERTIFICATE.dwg
 Lamin: Page 1
 Plotted By: Casey Blum Date: Friday, December 20, 2013

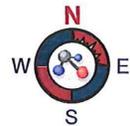
CERTIFICATE OF SURVEYOR

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of North Dakota.

Steven E. Swanson

Steven E. Swanson, R.L.S. 4185

Date: 12-20-2013



Scale in Feet
1" = 300'

LEGEND

● FOUND CORNERS



REILE'S GRAND FORKS WAREHOUSE
REILE'S TRANSFER & DELIVERY, INC
GRAND FORKS, NORTH DAKOTA

CERTIFICATE OF SURVEY

| | | |
|----------------------------------|---------------------------|-----------------|
| DRAWING TYPE CERTIFICATE | CHECKED / APPROVED SES | SHEET 1 of 3 |
| PREPARED BY COB | DATE DEC, 2013 | 1 |
| PROJECT NUMBER P11579-2013-01 | | |

CERTIFICATE OF SURVEY

THAT PART OF LOT C, BLOCK 6 OF THE REPLAT OF ALL OF BLOCK 1, LOTS 1, 2, 3, 4, 5, 6, 7, 8, 10 AND 11, BLOCK 2, AND ALL OF BLOCK 3 AND 4, MINN-DAK SUBDIVISION AND LOTS A AND B, BLOCK 2, OF THE REPLAT OF LOT 9, BLOCK 2, MINN-DAK SUBDIVISION, GRAND FORKS COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT A

Commencing at the Northwest Corner of said Lot C; thence South 02 degrees 19 minutes 35 seconds East along the west line of said Lot C a distance of 743.29 feet to the Point of Beginning; thence North 87 degrees 30 minutes 24 seconds East parallel to the north line of said Lot C for a distance of 1139.44 feet; thence North 02 degrees 29 minutes 36 seconds West for a distance of 75.63 feet; thence North 87 degrees 30 minutes 24 seconds East parallel with the north line of said Lot C a distance of 667.25 feet to a point on the north easterly line of said Lot C; thence South 32 degrees 35 minutes 50 seconds East along the north easterly line of said Lot C a distance of 104.91 feet to the East Corner of said Lot C; thence South 02 degrees 20 minutes 27 seconds East along the east line of said Lot C a distance of 664.80 feet to the Southeast Corner of said Lot C; thence South 87 degrees 30 minutes 24 seconds West along the south line of said Lot C a distance of 1466.47 feet to the beginning of a curve; thence said curve turning to the right through an angle of 90 degrees 10 minutes 01 second, having a radius of 371.97 feet, and whose long chord bears North 47 degrees 24 minutes 36 seconds West for a distance of 526.81 feet; thence North 02 degrees 19 minutes 35 seconds West along the west line of said Lot C a distance of 120.53 feet; thence North 11 degrees 10 minutes 11 seconds West along the west line of said Lot C a distance of 130.10 feet; thence North 02 degrees 19 minutes 35 seconds West along the west line of said Lot C a distance of 57.74 feet to the Point of Beginning;

Containing 29.28 acres more or less.

TRACT B

Beginning at the Northwest Corner of said Lot C; thence North 87 degrees 30 minutes 24 seconds East along the north line of said Lot C a distance of 1417.44 feet to the Northeast Corner of said Lot C; thence South 32 degrees 35 minutes 50 seconds East along the north easterly line line of said Lot C a distance of 771.75 feet; thence South 87 degrees 30 minutes 24 seconds West parallel with the north line of said Lot C a distance of 667.25 feet; thence South 02 degrees 29 minutes 36 seconds East a distance of 75.63 feet; thence South 87 degrees 30 minutes 24 seconds West parallel to the north line of said Lot C a distance of 1139.44 feet to the west line of said Lot C; thence North 02 degrees 19 minutes 35 seconds West along the west line of said Lot C a distance of 743.29 feet to the Point of Beginning;

Containing 26.69 acres more or less.

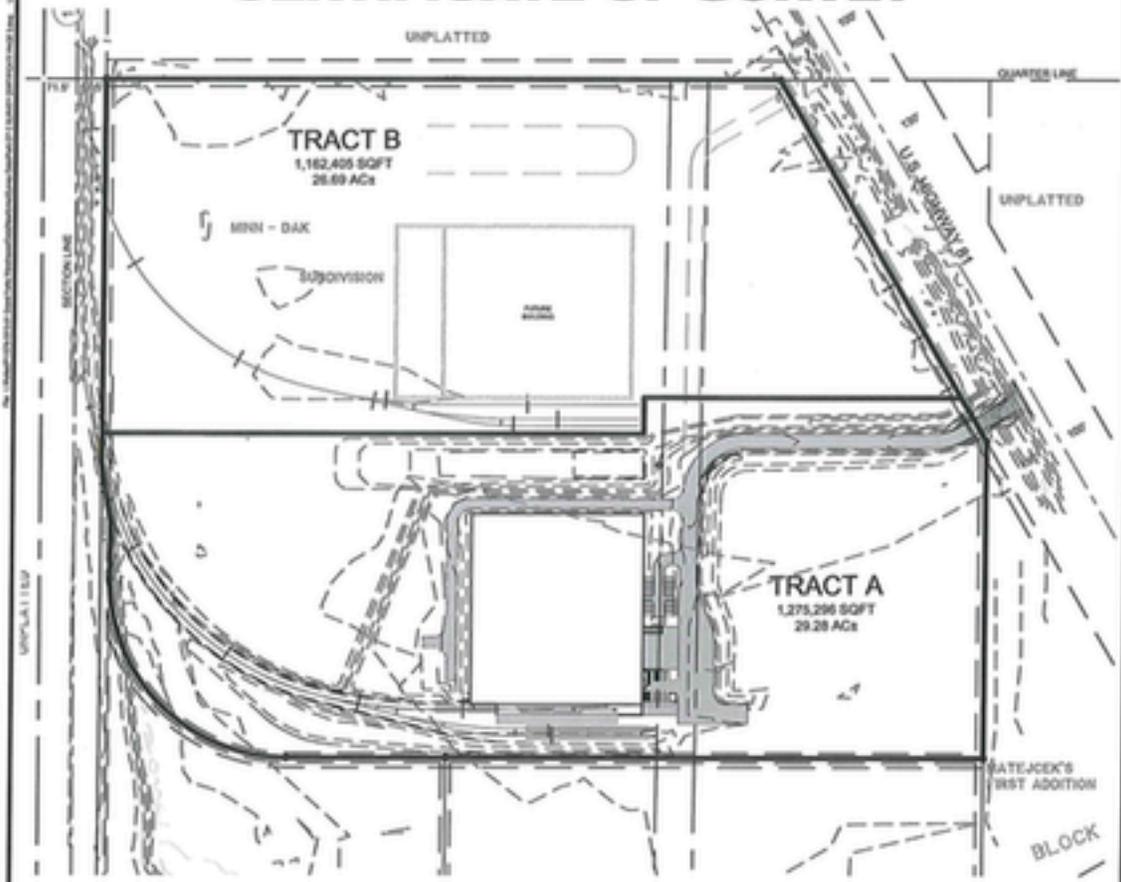


REILE'S GRAND FORKS WAREHOUSE
REILE'S TRANSFER & DELIVERY, INC
GRAND FORKS, NORTH DAKOTA

CERTIFICATE OF SURVEY

| | | |
|----------------------------------|----------------------------|-----------------|
| ISSUING FIRM CERTIFICATE | ENGINEER / APPROVED SES | SHEET 2 of 3 |
| PREPARED BY COB | DATE DEC. 2013 | 2 |
| PROJECT NUMBER P11579-2013-01 | | |

CERTIFICATE OF SURVEY



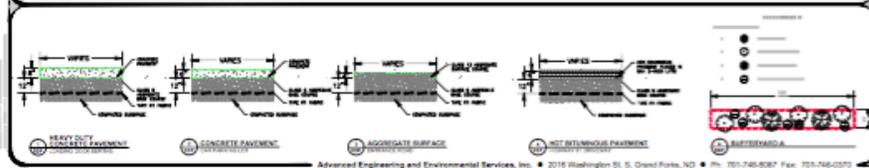
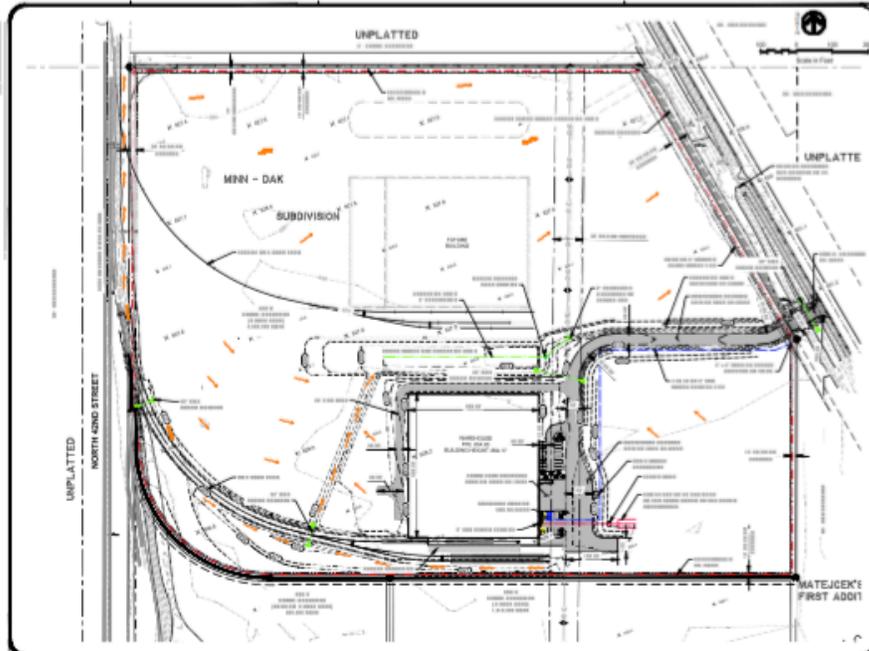
Scale in Feet
 1" = 300'



REILE'S GRAND FORKS WAREHOUSE
 REILE'S TRANSFER & DELIVERY, INC
 GRAND FORKS, NORTH DAKOTA

CERTIFICATE OF SURVEY

| | | |
|----------------------------------|-------------------------|-----------------|
| ISSUED FOR CERTIFICATE | CHECKED/APPROVED SES | SHEET 3 of 3 |
| PREPARED BY COB | DATE DEC 2013 | 3 |
| PROJECT NUMBER P11579-2013-01 | | |



AES

RELIE'S GRAND FORKS WAREHOUSE
GRAND FORKS, NORTH DAKOTA, ND

DDP

**Reile's Transfer & Delivery
Loan-to-Value Comparison**

Developed Parcel: 29.3 Acres

Value \$ 10,700,000 (2014 Appraisal)

| | As approved - 2014 | LTV | Current | LTV |
|--------|---------------------------|------------|------------------|------------|
| Alerus | \$ 5,035,000 | 47.1% | \$4,599,035 | 43.0% |
| SBA | \$ 4,028,000 | 84.7% | \$3,750,053 | 78.0% |
| PACE | <u>\$ 161,538</u> | 86.2% | <u>\$158,532</u> | 79.5% |
| | \$ 9,224,538 | | \$8,507,620 | |

Vacant Parcel: 26.7 Acres

Value \$ 750,000 (2014 Appraisal)

| | As approved - 2014 | LTV | Current | LTV |
|---------|---------------------------|------------|------------------|------------|
| Alerus | \$ 450,000 | 60.0% | \$388,907 | 51.9% |
| EDA-RLF | <u>\$ 300,000</u> | 100.0% | <u>\$279,523</u> | 89.1% |
| | \$ 750,000 | | \$668,430 | |

Note: Payments to all lenders have been made as agreed