



Economic Development Authority Agenda

1. Call to Order
 - a. Pledge of Allegiance
 - b. Roll Call
 - c. Agenda Modifications
 - d. Adopt Agenda
2. Approve Minutes of the May 4, 2021 meeting and the May 18, 2021 Special Meeting
3. Business Items
 - A. Purchase Agreement with Coyote Creek Industries, LLC for the sale of EDA owned land legally described as Lot 1, Block 1, Isanti Centennial Complex 7th Rearrangement
 - B. Purchase agreement with Wolf River Industries, LLC for the sale of EDA owned land legally described as Lot 2, Block 1, Isanti Centennial Complex 7th Rearrangement
4. Other Business / Updates / Communications
5. Adjournment

Economic Development Authority
Meeting Minutes
May 4, 2021

1. **Call to Order:** Meeting was called to order by Chair Johnson at 8:26pm
 - a. **Pledge of Allegiance**
 - b. **Roll Call:** Members present: Jeff Johnson, Steve Lundeen, Paul Bergley, Jimmy Gordon, Luke Merrill. Absent: Justin Nielson. Staff present: Sheila Sellman
 - c. **Agenda Modifications:** None
 - d. **Adopt Agenda:** Motion by Lundeen, second by Merrill to adopt agenda, motion passed 6-0.
2. **Approve Minutes of April 6, 2021 Regular Economic Development Authority Meeting and Minutes from Special Meeting of April 20, 2021:** Motion by Lundeen, second by Bergley to approve, motion passed 6-0.
3. **Closed Session**
Consider sale of EDA land pursuant to Minnesota Statutes Section 13D.05 Subd. 3 (c) PID 16.090.0140 and 161150010: The EDA went into closed session. After closed session the EDA directed staff to proceed.
4. **Call for Special EDA meeting on May 18, 2021 at 6:30pm to Award Bonds and approve Lease Agreement and Trust Indenture:** Motion by Bergley, second by Collison, motion passed 6-0.
5. **Other Business / Updates / Communications**
6. **Adjournment:** Motion by Lundeen, second by Collison, motion passed 6-0, meeting adjourned at 8:47pm.

Economic Development Authority
Special Meeting Minutes
May 18, 2021

1. **Call to Order:** Mayor Johnson called the meeting to order at 6:40pm
 - a. **Pledge of Allegiance**
 - b. **Roll Call:** Members present: Jeff Johnson, Steve Lundeen, Jimmy Gordon, Paul Bergley, Luke Merrill and Justin Nielson. Absent Dan Collison. Staff present: Community Development Director Sheila Sellman, City Administrator Josi Wood, Finance Director Mike Betker. Financial Advisor Jessica Green Northland Securities
 - c. **Agenda Modifications:** None
 - d. **Adopt Agenda:** Motion by Merrill, second by Lundeen motion passed 6-0

2. **Resolution (and supporting documentation) authorizing the issuance of \$3.28 Million lease revenue bonds 2021A:** Jessica Green with Northland Securities gave a summary of the Bond Sale. The sale was for \$3,165,000 in Public Project Lease Revenue Bonds, Series 2021A (City of Isanti, Minnesota Lease with Option to Purchase). The Bonds have been structured to result in relatively level annual debt service payments over 15 years. Rental Payments to be made b the City to the EDA. A debt reserve fund will also be established. The sale was negotiated and the Bonds are underwritten by Northland Securities. S&P rating of A+. Final maturity date is December 15, 2036 with option call on December 15, 2029.

3. **Adjournment:** Motion by Lundeen, second by Bergley to adjourn, motion passed 6-0 meeting adjourned at 6:49pm

Respectfully Submitted by Sheila Sellman Community Development Director/EDA Secretary



Request for EDA Action

To: Economic Development Authority
From: Sheila Sellman, Community Development Director
Date: June 1, 2021
Subject: Purchase Agreement with Coyote Creek Industries LLC

Background:

At the December 1, 2020 EDA meeting the EDA entered into a purchase agreement with LTL LED, LLC to purchase EDA owned property located on Dual Blvd E PID 16.124.0020. As part of the purchase the EDA agreed to subdivide the subject parcel and sell the southern 10-acres to LTL. On January 5, 2021 the EDA approved the First Amendment to the Purchase Agreement to change the language to state they are buying the northern 10-acres. At the April 6, 2021 meeting LTL LED, LLC requested to assign the purchase agreement to an affiliated entity Wolf River Industries LLC.

The applicant is requesting to change the purchase agreement into two of their affiliated names Wolf River Industries LLC and Coyote Creek Industries LLC. The City Attorney suggested we enter into new purchase agreements with these name changes with all terms and conditions of the Purchase Agreements be the same as what has already been approved by the EDA.

Recommendation:

Staff recommends approval the purchase agreement

Action Required:

Motion to approve Purchase Agreement with Coyote Creek Industries LLC

Attachments:

- Purchase Agreement

PURCHASE AGREEMENT
(Northern Lot)

This Agreement is entered into by and between the **City of Isanti Economic Development Authority**, a public body corporate and politic and political subdivision of the State of Minnesota (“Seller”), and **Coyote Creek Industries, LLC**, a Minnesota limited liability corporation (“Buyer”).

In consideration of the Earnest Money, the mutual covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. **EFFECTIVE DATE.** The effective date of this Agreement is December 1, 2020 (the “Effective Date”).
2. **SALE OF PROPERTY.** Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller the property legally described as follows:

Lot 1, Block 1, Isanti Centennial Complex 7th Rearrangement, Isanti County, Minnesota (“Property”).

3. **PURCHASE PRICE.** The purchase price for the Property is \$1.00 (the “Purchase Price”).

4. **TITLE COMMITMENT.**

- a. Seller makes no representations or warranties with respect to the status of title to the Property. Within 30 business days after the Effective Date, Seller shall, at Seller’s expense, obtain a commitment from Escrow Agent to issue an owner’s policy of title insurance insuring Buyer’s title to the Property (the “Title Commitment”) and deliver the Title Commitment and copies of or internet access to copies of all recorded documents referenced in the Title Commitment to Buyer.
- b. Buyer shall have until the date 30 days after the receipt of the Title Commitment and the Survey (collectively, “**Title/Survey**”) to review Title/Survey and to give Seller written notice of (i) any defects in the marketability of Seller title to the Property or any encumbrances on Seller’s title to the Property that are objectionable to Buyer, and (ii) the specific actions Buyer requests that Seller take with respect to each such defect or encumbrance (a “**Title Objection Notice**”). Any defects in or encumbrances on Seller’s title that Buyer does not identify in a timely Title Objection Notice are each a “**Permitted Exception.**” Within three business days after Seller’s receipt of a Title Objection Notice from Buyer, Seller will notify Buyer, in writing, of the actions, if any, that Seller is willing to take with respect to each of the matters identified in the Title Objection Notice and the time frame in which Seller will take those actions (“**Seller’s Title Notice**”). If Seller’s Title Notice indicates that Seller agrees to take action in response to

Buyer's Title Objection Notice on or before the closing date established pursuant to Section 10, the parties shall proceed to closing pursuant to the terms of this Agreement. If Seller's Title Notice indicates that Seller does not agree to take action in response to Buyer's Title Objection Notice on or before the closing date established in Section 11, Buyer may, at any time with three business days after Buyer's receipt of Seller's Title Notice, terminate this Agreement by written notice to Buyer in which case this Agreement is terminated and Escrow Agent must disburse any Earnest Money to Buyer ("**Buyer's Title Termination Notice**"). If Buyer does not deliver a Buyer's Title Termination Notice to Seller within the three business days after Buyer's receipt of Seller's Title Notice, then Seller must perform in accordance with Seller's Title Notice, Buyer shall be deemed to have waived Buyer's objections to the extent Seller has not agreed to address them in Seller's Title Notice, the matters to which Buyer objected and Seller did not agree to resolve are deemed Permitted Exceptions, and the parties shall proceed to Closing in accordance with the terms of this Agreement and the terms of Seller's Title Notice.

5. **RIGHT OF ENTRY.** At all times after Buyer executed this Agreement and prior to any termination of this Agreement, Buyer (and its employees, agents, and contractors) may enter the Property for the purpose of conducting soil tests, environmental tests and survey work, subject to the following conditions:
- a. Within one week after the termination of this Agreement, if either Seller or Buyer terminate this Agreement in accordance with the provisions hereof prior to Closing, Buyer must repair and or restore any damage Buyer or its employees, agents or contractors cause to the Property and remove any personal property, refuse or debris Buyer or its employees, agents or contractors brought onto or authorized third parties to bring onto the Property.
 - b. Buyer must defend and indemnify Seller from and against and hold Seller harmless Seller from all "Claims," as defined in Section 8, arising out of, resulting from or relating to any loss of or damage to any property or business or out of any injury to or death of any person, if the loss, damage, injury, or death arises or is alleged to arise either wholly or in part from: (a) any action or omission of Buyer or its employees, agents, or contractors, while on the Property pursuant to this Section; or (b) actions or omissions of Buyer or Buyer's employees, agents, or contractors that cause or result in the release of any Hazardous Substance onto the Property or onto other property; provided Buyer will have no liability or obligation for incidental or consequential damages or damages relating to pre-existing conditions on the Property, including without limitation Hazardous Substances located on, within or under the Property and discovered by Buyer during its due diligence investigations.
 - c. Buyer must comply with and shall cause its employees, agents, and contractors to comply with all applicable laws, while on the Property.

- d. Other than a standard Phase I environmental assessment, Buyer may not commence any environmental testing on the Property until Buyer submits a work plan for such testing to Seller and Seller approves the work plan, in writing. Seller may not unreasonably withhold, condition or delay Seller's approval of a work plan.
- e. If this Agreement is terminated, Buyer must, promptly and without demand from Seller, provide Seller with true and complete copies of all final reports relating to Buyer's geotechnical and environmental investigations and testing of the Property including, without limitation, any reports relating to any Phase I Environmental Site Assessment of the Property.
- f. The cost of any test or survey work will be borne solely by Buyer.

The payment and indemnification provisions of this Section 5 shall survive any termination or cancellation of this Agreement.

6. PROPERTY SOLD AS IS. Subject to Buyer's right to terminate this Agreement pursuant to Section 7, Buyer agrees to accept the Property in its current condition, including, without limitation, its current environmental and geological condition, and in an "AS-IS" and with "ALL FAULTS" condition. Buyer's payment of the Purchase Price at Closing constitutes Buyer's acknowledgment and agreement that:

- a. Seller has not made any written or oral representations or warranties of any kind with respect to the Property (including without limitation express or implied warranties of title, merchantability, or fitness for a particular purpose);
- b. Buyer has not relied on any written or oral representation or warranty made by Seller, its agents or employees with respect to the condition or value of the Property;
- c. Buyer has had an adequate opportunity to inspect the condition of the Property, including without limitation any environmental testing, and to inspect documents applicable thereto, and Buyer is relying solely on such inspection and testing; and
- d. The condition of the Property is fit for Buyer's intended use.
- e. Buyer accepts all risk of Claims (including without limitation all Claims under any Environmental Law and all Claims arising at common law, in equity or under a federal, state or local statute, rule or regulation) whether past, present or future, existing or contingent, known or unknown, arising out of, resulting from or relating to the condition of the Property, known or unknown, contemplated or un contemplated, suspected or unsuspected, including without limitation the presence of any Hazardous Substance on the Property, whether such Hazardous Substance is located on or under the Property, or has migrated from or to the Property.

7. INSPECTION PERIOD.

- a. Except as otherwise provided in Section 5, Buyer shall have from the date that Buyer signs this agreement until February 1, 2021 (the “**Inspection Period**”) to investigate the Property and determine, in Buyer’s sole judgment, whether (i) the condition of the Property is suitable to Buyer’s intended use; and (ii) Buyer will be able to obtain all governmental approvals and utilities necessary for Buyer’s intended use of the Property. Buyer acknowledges and agrees that Seller has not made any covenants, representations or warranties regarding Buyer’s ability to obtain governmental approvals from the City or any other governmental entity. The City will review, consider and act on any applications Buyer submits to the City for governmental approvals in accordance with City Code.
- b. Buyer may, at any time on or before 5:00 p.m. on the last day of the Inspection Period, terminate the Agreement by written notice to Seller based on Buyer’s determination, in Buyer’s sole and absolute discretion, that the condition of the Property is not suitable for Buyer’s intended use or that Buyer may not be able to obtain all governmental approvals and utilities necessary for Buyer’s intended use of the Property. In addition, this Agreement automatically terminates at 5:00 p.m. on the last day of the Inspection Period unless, prior to that time Buyer delivers a written notice of Buyer’s intention to proceed (a “**Notice to Proceed**”) to Seller.
- c. Within ten days after the Effective Date, Seller shall provide Buyer with all copies of all reports and other studies involving the Property which are in the possession or control of Seller, including but not limited to all environmental reports, soils reports, surveys and planning studies, flood plain analyses, evaluations or exploration reports, all engineering studies and plans pertaining to the Property and all other documents or instruments which relate to the condition or developability of all or any portion of the Property.

8. DEFINITIONS. As used in this Agreement:

“**Claim**” or “**Claims**” means any and all liabilities, suits, claims, counterclaims, causes of action, demands, penalties, debts, obligations, promises, acts, fines, judgments, damages, consequential damages, losses, costs, and expenses of every kind (including without limitation any attorney’s fees, consultant’s fees, costs, remedial action costs, cleanup costs and expenses which may be related to any claims).

“**Environmental Law**” means the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Federal Water Pollution Control Act (the Clean Water Act), 33 U.S.C. § 1251 et seq. the Clean Air Act, 42 U.S.C. § 7401 et seq., and the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., all as amended from time to time, and any other federal, state, local or other governmental

statute, regulation, rule, law or ordinance dealing with the protection of human health, safety, natural resources or the environment now existing or hereafter enacted.

“Hazardous Substance” or “Hazardous Substances” means any pollutant, contaminant, hazardous substance or waste, solid waste, petroleum product, distillate, or fraction, radioactive material, chemical known to cause cancer or reproductive toxicity, polychlorinated biphenyl or any other chemical, substance or material listed or identified in or regulated by any Environmental Law.

9. **RELEASE.** By accepting the deed to the Property, Buyer, for itself, its directors, officers, stockholders, divisions, agents, affiliates, subsidiaries, predecessors, successors, and assigns and anyone acting on its behalf or their behalf hereby fully releases and forever discharges Seller from any and all Claims (including without limitation all Claims arising under any Environmental Law and all Claims arising at common law, in equity or under a federal, state or local statute, rule or regulation), past, present and future, known and unknown, existing and contingent, arising out of, resulting from, or relating to the condition of the Property, and Buyer hereby waives any and all causes of action (including without limitation any right of contribution) Buyer had, has or may have against Seller and anyone acting on its behalf with respect to the condition of the Property, whether arising at common law, in equity or under a federal, state or local statute, rule or regulation. The foregoing shall apply to any condition of the Property, known or unknown, contemplated or un contemplated, suspected or unsuspected, including without limitation the presence of any Hazardous Substance on the Property, whether such Hazardous Substance is located on or under the Property, or has migrated from or to the Property.
10. **NOTICES.** Notices permitted or required by this Agreement must be in writing and shall be deemed given when delivered in legible form to the party to whom addressed. Notices may be sent by certified mail or e-mail. Notices are effective two business days after they are mailed via certified mail, return receipt requested or, if sent by email, upon email transmission (provided that any email transmission that occurs after 5:00 pm Central Time will be deemed provided on the following day). If delivered at the Closing, a notice shall be deemed given when hand-delivered to the party's representative at the Closing. The business addresses of the parties are as follows:

Seller: Josi Wood
 City Administrator
 City of Isanti
 110 1st Ave. N.W.
 Isanti, MN 55040
 Email: jwood@cityofisanti.us

Buyer: Coyote Creek Industries, LLC
 Justin Nielson
 2422 Arnold Palmer Drive

Proceed to Seller or on such earlier date as Seller and Buyer may establish by mutual, written agreement. The Closing shall take place at the offices of the Escrow Agent, or at some other place as the parties may mutually agree prior to such date. At the option of either Party, the executed closing documents, Purchase Price and closing costs may be deposited with the Escrow Agent and disbursed by the Escrow Agent pursuant to avoid the necessity for a Closing at which the Parties are present.

- a. **Seller's Obligations at Closing.** At Closing, Seller must deliver to Escrow Agent, for delivery to Buyer:
 - i. A limited warranty deed, duly executed and acknowledged on behalf of the Seller, conveying title to the Property, subject to (A) the lien of real estate taxes, if any, not yet due and payable and any installments of special assessments certified for payment therewith; (B) Building, Subdivision and Zoning Ordinances; (C) Matters that would be disclosed by an accurate survey of the Property; (D) matters that constitute Permitted Exceptions pursuant to Section 6; (E) a covenant restricting the use of the land pursuant to Minn. Stat. § 469.105, subd. 6; and (F) a reverter clause consistent with the requirements of Section 28.
 - ii. A certified copy of a duly adopted Resolution authorizing Seller's sale of the Property to Buyer; and
 - iii. Seller's affidavits, well disclosure certificate (if required), settlement statement approved by Seller and Buyer, and any other documents required by the Escrow Agent.
- b. **Buyer's Obligations at Closing.** At Closing, Buyer must:
 - i. Wire Transfer (or deliver a certified check in) an amount equal to the amount of the Purchase Price adjusted to reflect amounts Buyer must pay or will receive pursuant to Section 11(c), to Escrow Agent for disbursement to Seller and others pursuant to this Agreement and the Settlement Statement;
 - ii. File or cause Escrow Agent to file an Electronic Certificate of Real Estate Value, if required and necessary.

c. **Closing Costs.**

i. At Closing, the following Seller closing costs and expenses must be paid from the Purchaser Price or, if the Purchase Price is not sufficient, paid by Seller:

1. Seller shall pay all outstanding property taxes, including but not limited to, payable 2020 for the Property.
2. Seller's own attorney's fees.
3. One-half the cost of any closing fees.
4. The costs of abstracting, title examination, preparation and issuance of the Title Commitment including any updates.
5. Any recording fees and taxes for title clearance documents.
6. State Deed Tax and Conservation fee.

ii. At Closing Buyer must pay the Purchase Price to Seller and the following costs and expenses:

1. Buyer's portion of prorated property taxes, if any.
2. Buyer's own attorney's fees.
3. One-half the cost of any closing fees.
4. Documentary and recording fees for the deed(s).
5. The cost of the owner's title insurance policy, if Buyer elects to purchase an Owner's title insurance policy.
6. All special assessments levied or pending against the Property as of the Closing Date, if any.
7. The cost of platting the Property, including all professional fees and recording costs.

d. **Possession.** Seller must deliver possession of the Property to Buyer at Closing.

12. REAL ESTATE BROKERS. Seller and Buyer represent and warrant to each other that they have dealt with no brokers, real estate agents, finders or the like in connection with this transaction. Seller and Buyer agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any broker's fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorney's fees.

13. ASSIGNMENT. This Agreement may not be assigned without the written consent of the non-assigning Party.

14. THIRD PARTY BENEFICIARY. There are no third-party beneficiaries of this Agreement, intended or otherwise.

the transactions described herein, shall not be considered joint ventures or partners.

- 16. CAPTIONS.** The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.
- 17. ENTIRE AGREEMENT / MODIFICATION.** This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement and no waiver or modification of any of its terms will be effective unless in writing executed by the parties.
- 18. BINDING EFFECT.** This Agreement binds and benefits the Parties and their successors and assigns.
- 19. CONTROLLING LAW.** This Agreement is made under the laws of the State of Minnesota and such laws will control its interpretation.
- 20. REMEDIES.**
- a. If Buyer fails to perform any of the terms or conditions of this Agreement within the specified time limits, Seller may declare this Agreement terminated pursuant to Minnesota Statutes section 559.21. Seller's sole remedy in the event of Buyer's default is retention of the Earnest Money, if any, unless Buyer defaults under Section 5 or 9 of this Agreement, in which case Seller may retain the Earnest money or suspend the performance of its obligations under this Agreement and commence an action in Isanti County District Court to recover its actual damages arising from the default.
 - b. If Seller fails to perform any of the terms or conditions of this Agreement within the specified time limits, Buyer may, as its sole remedy, declare this Agreement terminated, or, in the alternative, Buyer may have this Agreement specifically enforced and recover any incidental damages. Buyer waives all claims for consequential damages against Seller based on Seller's breach or alleged default hereunder.
- 21. WAIVER.** Failure of Seller or Buyer to insist upon the performance of any of the covenants, agreements and/or conditions of this Agreement or to exercise any right or privilege herein shall not be deemed a waiver of any such covenant, condition or right.
- 22. SURVIVAL OF TERMS AND CONDITIONS.** The terms and conditions of this Agreement shall survive and be in full force and effect after the delivery of the deed and shall not be deemed to have merged therein.

- 23. SEVERABILITY.** Each provision of this Agreement shall apply to the extent permitted by applicable law and is intended to be severable. If any provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of the Agreement.
- 24. CONSTRUCTION.** The Parties acknowledge that this Agreement was initially prepared by Seller solely as a convenience and that all Parties and their counsel hereto have read and full negotiated all the language used in this Agreement. The Parties acknowledge that because all Parties and their counsel participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement to construe ambiguous or unclear language in favor of or against any Party.
- 25. COUNTERPARTS; DIGITAL COPIES.** This Agreement may be executed in any number of counterparts and the signature pages of the separate counterparts combined into a single copy of this Agreement which will then constitute a fully executed version of this Agreement. A facsimile, .pdf file or digital copy of a signed counterpart or of an assemblage of counterparts of this Agreement shall be deemed to be an original thereof.
- 26. TIME PERIODS.** The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. Central Time on the last day of the applicable time period provided for in this Agreement. If the time for the performance of any obligation or taking any action under this Agreement expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.
- 27. PRIOR AGREEMENT SUPERSEDED.** LTL LED, LLC and Seller entered into a Purchase Agreement dated January 5, 2021, concerning the purchase and sale of land. That Purchase Agreement was subsequently amended by the First Amendment (substituting a different 10 acres to be sold, including the Property) and the Second Amendment (substituting Wolf River Industries, LLC as the Buyer). This Purchase Agreement supersedes and replaces the original Purchase Agreement and its Amendments with respect to the Property, as defined above.

SELLER: The City of Isanti Economic Development Authority

By: _____
Jeff Johnson, Mayor

Dated: _____, 2021

By: _____
Jaden Strand, City Clerk

Dated: _____, 2021

BUYER: Coyote Creek Industries, LLC

By: _____

Dated: _____, 2021

By: _____

Dated: _____, 2021

404500



Request for EDA Action

To: Economic Development Authority
From: Sheila Sellman, Community Development Director
Date: June 1, 2021
Subject: Purchase Agreement with Wolf River Industries LLC

Background:

At the December 1, 2020 EDA meeting the EDA entered into a purchase agreement with LTL LED, LLC to purchase EDA owned property located on Dual Blvd E PID 16.124.0020. As part of the purchase the EDA agreed to subdivide the subject parcel and sell the southern 10-acres to LTL. On January 5, 2021 the EDA approved the First Amendment to the Purchase Agreement to change the language to state they are buying the northern 10-acres. At the April 6, 2021 meeting LTL LED, LLC requested to assign the purchase agreement to an affiliated entity Wolf River Industries LLC.

The applicant is requesting to change the purchase agreement into two of their affiliated names Wolf River Industries LLC and Coyote Creek Industries LLC. The City Attorney suggested we enter into new purchase agreements with these name changes with all terms and conditions of the Purchase Agreements be the same as what has already been approved by the EDA.

Recommendation:

Staff recommends approval the purchase agreement

Action Required:

Motion to approve Purchase Agreement with Wolf River Industries LLC

Attachments:

- Purchase Agreement

PURCHASE AGREEMENT

(Southern Lot)

This Agreement is entered into by and between the **City of Isanti Economic Development Authority**, a public body corporate and politic and political subdivision of the State of Minnesota (“Seller”), and **Wolf River Industries, LLC**, a Minnesota limited liability corporation (“Buyer”).

In consideration of the Earnest Money, the mutual covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. **EFFECTIVE DATE.** The effective date of this Agreement is December 1, 2020 (the “Effective Date”).
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- a. Seller makes no representations or warranties with respect to the status of title to the Property. Within 30 business days after the Effective Date, Seller shall, at Seller’s expense, obtain a commitment from Escrow Agent to issue an owner’s policy of title insurance insuring Buyer’s title to the Property (the “Title Commitment”) and deliver the Title Commitment and copies of or internet access to copies of all recorded documents referenced in the Title Commitment to Buyer.
- b. Buyer shall have until the date 30 days after the receipt of the Title Commitment and the Survey (collectively, “**Title/Survey**”) to review Title/Survey and to give Seller written notice of (i) any defects in the marketability of Seller title to the Property or any encumbrances on Seller’s title to the Property that are objectionable to Buyer, and (ii) the specific actions Buyer requests that Seller take with respect to each such defect or encumbrance (a “**Title Objection Notice**”). Any defects in or encumbrances on Seller’s title that Buyer does not identify in a timely Title Objection Notice are each a “**Permitted Exception.**” Within three business days after Seller’s receipt of a Title Objection Notice from Buyer, Seller will notify Buyer, in writing, of the actions, if any, that Seller is willing to take with respect to each of the matters identified in the Title Objection Notice and the time frame in which Seller will take those actions (“**Seller’s Title Notice**”). If Seller’s Title Notice indicates that Seller agrees to take action in response to

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- a. Within one week after the termination of this Agreement, if either Seller or Buyer terminate this Agreement in accordance with the provisions hereof prior to Closing, Buyer must repair and or restore any damage Buyer or its employees, agents or contractors cause to the Property and remove any personal property, refuse or debris Buyer or its employees, agents or contractors brought onto or authorized third parties to bring onto the Property.
 - b. Buyer must defend and indemnify Seller from and against and hold Seller harmless Seller from all "Claims," as defined in Section 8, arising out of, resulting from or relating to any loss of or damage to any property or business or out of any injury to or death of any person, if the loss, damage, injury, or death arises or is alleged to arise either wholly or in part from: (a) any action or omission of Buyer or its employees, agents, or contractors, while on the Property pursuant to this Section; or (b) actions or omissions of Buyer or Buyer's employees, agents, or contractors that cause or result in the release of any Hazardous Substance onto the Property or onto other property; provided Buyer will have no liability or obligation for incidental or consequential damages or damages relating to pre-existing conditions on the Property, including without limitation Hazardous Substances located on, within or under the Property and discovered by Buyer during its due diligence investigations.
 - c. Buyer must comply with and shall cause it employees, agents, and contractors to comply with all applicable laws, while on the Property.

including, without limitation, any reports relating to any Phase I Environmental Site Assessment of the Property.

- f. The cost of any test or survey work will be borne solely by Buyer.

The payment and indemnification provisions of this Section 5 shall survive any termination or cancellation of this Agreement.

6. PROPERTY SOLD AS IS. Subject to Buyer's right to terminate this Agreement pursuant to Section 7, Buyer agrees to accept the Property in its current condition, including, without limitation, its current environmental and geological condition, and in an "AS-IS" and with "ALL FAULTS" condition. Buyer's payment of the Purchase Price at Closing constitutes Buyer's acknowledgment and agreement that:

- a. Seller has not made any written or oral representations or warranties of any kind with respect to the Property (including without limitation express or implied warranties of title, merchantability, or fitness for a particular purpose);
- b. Buyer has not relied on any written or oral representation or warranty made by Seller, its agents or employees with respect to the condition or value of the Property;
- c. Buyer has had an adequate opportunity to inspect the condition of the Property, including without limitation any environmental testing, and to inspect documents applicable thereto, and Buyer is relying solely on such inspection and testing; and
- d. The condition of the Property is fit for Buyer's intended use.
- e. Buyer accepts all risk of Claims (including without limitation all Claims under any Environmental Law and all Claims arising at common law, in equity or under a federal, state or local statute, rule or regulation) whether past, present or future, existing or contingent, known or unknown, arising out of, resulting from or relating to the condition of the Property, known or unknown, contemplated or un contemplated, suspected or unsuspected, including without limitation the presence of any Hazardous Substance on the Property, whether such Hazardous Substance is located on or under the Property, or has migrated from or to the Property.

- a. Except as otherwise provided in Section 5, Buyer shall have from the date that Buyer signs this agreement until February 1, 2021 (the “**Inspection Period**”) to investigate the Property and determine, in Buyer’s sole judgment, whether (i) the condition of the Property is suitable to Buyer’s intended use; and (ii) Buyer will be able to obtain all governmental approvals and utilities necessary for Buyer’s intended use of the Property. Buyer acknowledges and agrees that Seller has not made any covenants, representations or warranties regarding Buyer’s ability to obtain governmental approvals from the City or any other governmental entity. The City will review, consider and act on any applications Buyer submits to the City for governmental approvals in accordance with City Code.
- b. Buyer may, at any time on or before 5:00 p.m. on the last day of the Inspection Period, terminate the Agreement by written notice to Seller based on Buyer’s determination, in Buyer’s sole and absolute discretion, that the condition of the Property is not suitable for Buyer’s intended use or that Buyer may not be able to obtain all governmental approvals and utilities necessary for Buyer’s intended use of the Property. In addition, this Agreement automatically terminates at 5:00 p.m. on the last day of the Inspection Period unless, prior to that time Buyer delivers a written notice of Buyer’s intention to proceed (a “**Notice to Proceed**”) to Seller.
- c. Within ten days after the Effective Date, Seller shall provide Buyer with all copies of all reports and other studies involving the Property which are in the possession or control of Seller, including but not limited to all environmental reports, soils reports, surveys and planning studies, flood plain analyses, evaluations or exploration reports, all engineering studies and plans pertaining to the Property and all other documents or instruments which relate to the condition or developability of all or any portion of the Property.

8. DEFINITIONS. As used in this Agreement:

“**Claim**” or “**Claims**” means any and all liabilities, suits, claims, counterclaims, causes of action, demands, penalties, debts, obligations, promises, acts, fines, judgments, damages, consequential damages, losses, costs, and expenses of every kind (including without limitation any attorney’s fees, consultant’s fees, costs, remedial action costs, cleanup costs and expenses which may be related to any claims).

“**Environmental Law**” means the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Federal Water Pollution Control Act (the Clean Water Act), 33 U.S.C. § 1251 et seq. the Clean Air Act, 42 U.S.C. § 7401 et seq., and the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., all as amended from time to time, and any other federal, state, local or other governmental

statute, regulation, rule, law or ordinance dealing with the protection of human health, safety, natural resources or the environment now existing or hereafter enacted.

“Hazardous Substance” or “Hazardous Substances” means any pollutant, contaminant, hazardous substance or waste, solid waste, petroleum product, distillate, or fraction, radioactive material, chemical known to cause cancer or reproductive toxicity, polychlorinated biphenyl or any other chemical, substance or material listed or identified in or regulated by any Environmental Law.

- 9. RELEASE.** By accepting the deed to the Property, Buyer, for itself, its directors, officers, stockholders, divisions, agents, affiliates, subsidiaries, predecessors, successors, and assigns and anyone acting on its behalf or their behalf hereby fully releases and forever discharges Seller from any and all Claims (including without limitation all Claims arising under any Environmental Law and all Claims arising at common law, in equity or under a federal, state or local statute, rule or regulation), past, present and future, known and unknown, existing and contingent, arising out of, resulting from, or relating to the condition of the Property, and Buyer hereby waives any and all causes of action (including without limitation any right of contribution) Buyer had, has or may have against Seller and anyone acting on its behalf with respect to the condition of the Property, whether arising at common law, in equity or under a federal, state or local statute, rule or regulation. The foregoing shall apply to any condition of the Property, known or unknown, contemplated or un contemplated, suspected or unsuspected, including without limitation the presence of any Hazardous Substance on the Property, whether such Hazardous Substance is located on or under the Property, or has migrated from or to the Property.
- 10. NOTICES.** Notices permitted or required by this Agreement must be in writing and shall be deemed given when delivered in legible form to the party to whom addressed. Notices may be sent by certified mail or e-mail. Notices are effective two business days after they are mailed via certified mail, return receipt requested or, if sent by email, upon email transmission (provided that any email transmission that occurs after 5:00 pm Central Time will be deemed provided on the following day). If delivered at the Closing, a notice shall be deemed given when hand-delivered to the party's representative at the Closing. The business addresses of the parties are as follows:

Seller: Josi Wood
City Administrator
City of Isanti
110 1st Ave. N.W.
Isanti, MN 55040
Email: jwood@cityofisanti.us

Buyer: Wolf River Industries, LLC
Justin Nielson
2422 Arnold Palmer Drive

Notices not given in the manner or within the time limits set forth in this Agreement are of no effect and may be disregarded by the party to whom they are directed.

11. CLOSING. This transaction shall close within 30 days after Buyer delivers a Notice to Proceed to Seller or on such earlier date as Seller and Buyer may establish by mutual, written agreement. The Closing shall take place at the offices of the Escrow Agent, or at some other place as the parties may mutually agree prior to such date. At the option of either Party, the executed closing documents, Purchase Price and closing costs may be deposited with the Escrow Agent and disbursed by the Escrow Agent pursuant to avoid the necessity for a Closing at which the Parties are present.

- a. **Seller's Obligations at Closing.** At Closing, Seller must deliver to Escrow Agent, for delivery to Buyer:
 - i. A limited warranty deed, duly executed and acknowledged on behalf of the Seller, conveying title to the Property, subject to (A) the lien of real estate taxes, if any, not yet due and payable and any installments of special assessments certified for payment therewith; (B) Building, Subdivision and Zoning Ordinances; (C) Matters that would be disclosed by an accurate survey of the Property; (D) matters that constitute Permitted Exceptions pursuant to Section 6; (E) a covenant restricting the use of the land pursuant to Minn. Stat. § 469.105, subd. 6; and (F) a reverter clause consistent with the requirements of Section 28.
 - ii. A certified copy of a duly adopted Resolution authorizing Seller's sale of the Property to Buyer; and
 - iii. Seller's affidavits, well disclosure certificate (if required), settlement statement approved by Seller and Buyer, and any other documents required by the Escrow Agent.
- b. **Buyer's Obligations at Closing.** At Closing, Buyer must:
 - i. Wire Transfer (or deliver a certified check in) an amount equal to the amount of the Purchase Price adjusted to reflect amounts Buyer must pay or will receive pursuant to Section 11(c), to Escrow Agent for disbursement to Seller and others pursuant to this Agreement and the Settlement Statement;
 - ii. File or cause Escrow Agent to file an Electronic Certificate of Real Estate Value, if required and necessary.

c. **Closing Costs.**

i. At Closing, the following Seller closing costs and expenses must be paid from the Purchaser Price or, if the Purchase Price is not sufficient, paid by Seller:

1. Seller shall pay all outstanding property taxes, including but not limited to, payable 2020 for the Property.
2. Seller's own attorney's fees.
3. One-half the cost of any closing fees.
4. The costs of abstracting, title examination, preparation and issuance of the Title Commitment including any updates.
5. Any recording fees and taxes for title clearance documents.
6. State Deed Tax and Conservation fee.

ii. At Closing Buyer must pay the Purchase Price to Seller and the following costs and expenses:

1. Buyer's portion of prorated property taxes, if any.
2. Buyer's own attorney's fees.
3. One-half the cost of any closing fees.
4. Documentary and recording fees for the deed(s).
5. The cost of the owner's title insurance policy, if Buyer elects to purchase an Owner's title insurance policy.
6. All special assessments levied or pending against the Property as of the Closing Date, if any.
7. The cost of platting the Property, including all professional fees and recording costs.

d. **Possession.** Seller must deliver possession of the Property to Buyer at Closing.

12. REAL ESTATE BROKERS. Seller and Buyer represent and warrant to each other that they have dealt with no brokers, real estate agents, finders or the like in connection with this transaction Seller and Buyer agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any broker's fees or commissions resulting for their actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorney's fees.

13. ASSIGNMENT. This Agreement may not be assigned without the written consent of the non-assigning Party.

14. THIRD PARTY BENEFICIARY. There are no third-party beneficiaries of this Agreement, intended or otherwise.

15. JOINT VENTURE. Seller and Buyer, by entering into this Agreement and completing the transactions described herein, shall not be considered joint ventures or partners.

16. CAPTIONS. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

17. ENTIRE AGREEMENT / MODIFICATION. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement and no waiver or modification of any of its terms will be effective unless in writing executed by the parties.

18. BINDING EFFECT. This Agreement binds and benefits the Parties and their successors and assigns.

19. CONTROLLING LAW. This Agreement is made under the laws of the State of Minnesota and such laws will control its interpretation.

20. REMEDIES.

a. If Buyer fails to perform any of the terms or conditions of this Agreement within the specified time limits, Seller may declare this Agreement terminated pursuant to Minnesota Statutes section 559.21. Seller's sole remedy in the event of Buyer's default is retention of the Earnest Money, if any, unless Buyer defaults under Section 5 or 9 of this Agreement, in which case Seller may retain the Earnest money or suspend the performance of its obligations under this Agreement and commence an action in Isanti County District Court to recover its actual damages arising from the default.

b. If Seller fails to perform any of the terms or conditions of this Agreement within the specified time limits, Buyer may, as its sole remedy, declare this Agreement terminated, or, in the alternative, Buyer may have this Agreement specifically enforced and recover any incidental damages. Buyer waives all claims for consequential damages against Seller based on Seller's breach or alleged default hereunder.

21. WAIVER. Failure of Seller or Buyer to insist upon the performance of any of the covenants, agreements and/or conditions of this Agreement or to exercise any right or privilege herein shall not be deemed a waiver of any such covenant, condition or right.

22. SURVIVAL OF TERMS AND CONDITIONS. The terms and conditions of this Agreement shall survive and be in full force and effect after the delivery of the deed and shall not be deemed to have merged therein.

by applicable law and is intended to be severable. If any provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of the Agreement.

- 24. CONSTRUCTION.** The Parties acknowledge that this Agreement was initially prepared by Seller solely as a convenience and that all Parties and their counsel hereto have read and full negotiated all the language used in this Agreement. The Parties acknowledge that because all Parties and their counsel participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement to construe ambiguous or unclear language in favor of or against any Party.
- 25. COUNTERPARTS; DIGITAL COPIES.** This Agreement may be executed in any number of counterparts and the signature pages of the separate counterparts combined into a single copy of this Agreement which will then constitute a fully executed version of this Agreement. A facsimile, .pdf file or digital copy of a signed counterpart or of an assemblage of counterparts of this Agreement shall be deemed to be an original thereof.
- 26. TIME PERIODS.** The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. Central Time on the last day of the applicable time period provided for in this Agreement. If the time for the performance of any obligation or taking any action under this Agreement expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.
- 27. PRIOR AGREEMENT SUPERSEDED.** LTL LED, LLC and Seller entered into a Purchase Agreement dated January 5, 2021, concerning the purchase and sale of land that includes the Property. That Purchase Agreement was subsequently amended by the First Amendment (substituting a different 10 acres to be sold) and the Second Amendment (substituting Wolf River Industries, LLC as the Buyer). This Purchase Agreement supersedes and replaces the original Purchase Agreement and its Amendments with respect to the Property, as defined above.

By: _____
Jeff Johnson, Mayor

Dated: _____, 2021

By: _____
Katie Brooks, City Clerk

Dated: _____, 2021

BUYER: Wolf River Industries, LLC

By: _____

Dated: _____, 2021

By: _____

Dated: _____, 2021

404538

PURCHASE AGREEMENT
(Southern Lot)

This Agreement is entered into by and between the **City of Isanti Economic Development Authority**, a public body corporate and politic and political subdivision of the State of Minnesota (“Seller”), and **Wolf River Industries, LLC**, a Minnesota limited liability corporation (“Buyer”).

In consideration of the Earnest Money, the mutual covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. **EFFECTIVE DATE.** The effective date of this Agreement is December 1, 2020 (the “Effective Date”).
2. **SALE OF PROPERTY.** Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller the property legally described as follows:

Lot 2, Block 1, Isanti Centennial Complex 7th Rearrangement, Isanti County, Minnesota (“Property”).
3. **PURCHASE PRICE.** The purchase price for the Property is \$1.00 (the “Purchase Price”).
4. **TITLE COMMITMENT.**
 - a. Seller makes no representations or warranties with respect to the status of title to the Property. Within 30 business days after the Effective Date, Seller shall, at Seller’s expense, obtain a commitment from Escrow Agent to issue an owner’s policy of title insurance insuring Buyer’s title to the Property (the “Title Commitment”) and deliver the Title Commitment and copies of or internet access to copies of all recorded documents referenced in the Title Commitment to Buyer.
 - b. Buyer shall have until the date 30 days after the receipt of the Title Commitment and the Survey (collectively, “**Title/Survey**”) to review Title/Survey and to give Seller written notice of (i) any defects in the marketability of Seller title to the Property or any encumbrances on Seller’s title to the Property that are objectionable to Buyer, and (ii) the specific actions Buyer requests that Seller take with respect to each such defect or encumbrance (a “**Title Objection Notice**”). Any defects in or encumbrances on Seller’s title that Buyer does not identify in a timely Title Objection Notice are each a “**Permitted Exception.**” Within three business days after Seller’s receipt of a Title Objection Notice from Buyer, Seller will notify Buyer, in writing, of the actions, if any, that Seller is willing to take with respect to each of the matters identified in the Title Objection Notice and the time frame in which Seller will take those actions (“**Seller’s Title Notice**”). If Seller’s Title Notice indicates that Seller agrees to take action in response to

SELLER: The City of Isanti Economic Development Authority

By: _____
Jeff Johnson, Mayor

Dated: _____, 2021

By: _____
Jaden Strand, City Clerk

Dated: _____, 2021

BUYER: Wolf River Industries, LLC

By: _____

Dated: _____, 2021

By: _____

Dated: _____, 2021

404538



EDA MEMO

To: Economic Development Authority
From: Sheila Sellman, Community Development Director
Date: June 1, 2021
Subject: Other Business/Updates/Communications

Below is a list of Other Business/updates and communications from the Community Development Director.

- Invitations to the Mayor's Luncheon have been mailed
- ECRDC, Chamber of Commerce and ARCC are having a booth at the Mayor's luncheon
- EDA Intern Will Bucheger started May 10th
- Presented at the Chamber Board meeting on May 11th. The Board is going to have quarterly meetings with City Staff to discuss local happenings and partnership roles
- Attended the Ribbon Cutting for Samantha Rose Creative Co on May 21st they are in the green building behind the post office at 22 Broadway
- Attended an EDAM meeting on May 26th