

Kittson County Business Subsidy Policy

The following business subsidy criteria are intended to satisfy the requirements of M.S. § §116J.993 through 116J.995 (the “Act”).

Business Subsidy Public Purpose The public purposes of this policy shall be to accomplish the following on behalf of the County:

1. Enhance the economic diversity of the county; and
2. Create high quality job growth; and
3. Provide for job retention; and
4. Stabilize the county; and
5. Increase the tax base.

This policy is adopted in compliance with M.S. § 116J.994 Subd. 2. A copy of the policy shall be submitted to the Department of Employment and Economic Development along with the first annual Business Subsidy report.

Principles of Business Subsidy Implementation

The County shall target its Business Subsidy assistance to businesses that demonstrate a clear and ongoing commitment to the community by providing living wage jobs to their employees, by giving priority to those businesses over other businesses that have not traditionally paid living wages.

The County shall focus its Business Subsidy assistance only to businesses which agree to comply with annual Business Subsidy reporting requirements as required by Job Opportunity Building Zone (JOBZ) statute, M.S. §§ 469.310 – 469.320; and/or as required by the Business Subsidy statute, M.S. §§ 116J.993 – 116J.995.

I. Definitions

Authorized Business Subsidy Signatory means the individual(s) who is/are authorized by this Policy to execute business subsidy agreements on behalf of the County.

JOBZ Business Subsidy means tax exemptions or tax credits available to qualified businesses located in a job zone under the Job Opportunity Building Zone (JOBZ) statute M.S. §§ 469.310 – 469.320. JOBZ Business Subsidies shall include:

1. Exemption from individual income taxes as provided under M.S. § 469.316; and
2. Exemption from corporate franchise taxes as provided under M.S. § 469.317; and

3. Exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in M.S. § 297A.68, Subd. 37; and
4. Exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under M.S. § 297B.03; and
5. Exemption from the property tax as provided in M.S. § 272.02, Subd. 64; and
6. Exemption from wind energy production tax under M.S. § 272.029, Subd. 7; and
7. The jobs credit allowed under M.S. § 469.318.

Business Subsidy means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease or other obligation, or any preferential use of government facilities given to a business, and as defined by the Business Subsidy statute M.S. §§ 116J.993 – 116J.995. Business Subsidies shall include, but not be limited to:

1. Loan; and
2. Grant; and
3. Tax abatement; and
4. TIF or other tax reduction or deferral; and
5. Guarantee of payment; and
6. Contribution of property or infrastructure; and
7. Preferential use of governmental facilities; and
8. Land contribution; and
9. Other specified subsidies.

The following forms of financial assistance are not a Business Subsidy:

1. Assistance of less than \$150,000; and
2. Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of businesses, size, location or similar general

criteria; and

3. Public improvements to buildings or lands owned by the County that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made; and
4. Redevelopment property polluted by contaminants as defined in M.S. § 116J.552, Subd.3; and
5. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50% of the total cost; and
6. Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services; and
7. Assistance for housing; and
8. Assistance for pollution control or abatement, including assistance for a TIF hazardous substance sub district as defined under M.S. § 469.174, Subd. 23; and
9. Assistance for energy conservation; and
10. Tax reduction resulting from conformity with federal tax law; and
11. Workers' compensation and unemployment insurance; and
12. Benefits derived from regulation; and
13. Indirect benefits derived from assistance to educational institutions; and
14. Funds from bonds allocated under M.S. § 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c) (3) of the Internal Revenue Code of 1986, as amended through December 31, 1999; and
15. Assistance for a collaboration between a Minnesota higher education institution and a business; and
16. Assistance for a tax increment financing soils condition district as defined under M.S. § 469.174, Subd. 19; and
17. Redevelopment when the Recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's

estimated market value; and

18. General changes in tax increment financing law and other general tax law changes of principally technical nature; and
19. Federal assistance until the assistance has been repaid to, and reinvested by the local governmental unit; and
20. Business loans or loan guarantees of \$150,000 or less; and
21. Federal loan funds provided through the U.S. Department of Commerce, Economic Development Administration.
23. Property tax abatement granted under M.S. §469.1813 to property that is subject to valuation under Minnesota Rules, chapter 8100.

Business Subsidy Report means the annual reports submitted each year for each business receiving a Business Subsidy in the county. The report is submitted by the Local Government Unit in order to comply with M.S. § 116J.994 Subd. 7 (b).

Criteria means the equitably applied, uniform standards by which the County bases its decision to award any business subsidy to a private business or development project establishing a business and creating jobs in the County.

DEED means Minnesota Department of Employment and Economic Development.

Economic Development Agent means the county department, local or regional economic development agency or other authorized entity that is empowered to solicit, negotiate, sign and execute Business Subsidy Agreements on behalf of the County. The Economic Development Agent for the County shall be the Kittson County Auditor-Treasurer, hereinafter "Agent".

Living Wage Job shall mean a job which pays wages, including benefits not mandated by law, which total at least the rate of 110% of the current poverty level for a family of four.

Local Governmental Unit hereinafter Local Government Unit (LGU) means the county or county economic development authority.

Operation Start Date shall mean the date by which the business begins its operations in the zone as evidenced by constructing a facility or relocating to an existing building in a facility and beginning revenue generating operations and/or hiring employees.

Qualified Business for a JOBZ Business Subsidy means a person that carries on a trade or business at a place of business located within a Job Opportunity Building

Zone as referenced in M.S. § 469.310 Subd. 11; and complies with the reporting requirements specified by M.S. § 469.313 Subd. 2. (5); and shall comply with the criteria in Section II, item 7 (c) of this policy; and shall also mean “Recipient” as defined by Business Subsidy law. A qualified business shall not include a retail business, a low-wage service business, an agricultural production business, or a business that pays less than the living wage defined in this policy.

Recipient means any business entity that receives a Business Subsidy as defined by M.S. § 116J.993 and that has signed a Business Subsidy Agreement with the County.

Relocating Business means a business that relocates to a JOB Zone from another Minnesota non-JOB Zone location.

Relocation Agreement means a binding written agreement between a relocating Qualified Business and the Commissioner of DEED pledging that the Qualified Business increase full-time or full-time equivalent employment in the first full year of operation within the Job Opportunity Building Zone by a minimum of five jobs or 20 percent, whichever is greater, measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; and provides for repayment of all tax benefits if these requirements are not met.

Subzone means the parcel or parcels of land designated by the Commissioner of DEED within a Job Opportunity Building Zone within the boundaries of the County to receive certain tax credits and exemptions specified under M.S. §§ 469.310 – 469.320.

Zone means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by Commissioner of Employment and Economic Development under M.S. § 469.314.

II. BUSINESS SUBSIDY REQUIREMENTS

Business Subsidy Policies The County adopts the following:

1. Any time the County provides a business subsidy to a Qualified Business or Recipient that business is subject to the wage levels, job creation and other criteria set forth in this policy and specified in the Business Subsidy Agreement made with the Local Government Unit. In the event of a conflict between the requirements of the Business Subsidy statute, M.S. §§ 116J.993 – 116J.995 and the JOBZ statute, M.S. §§ 469.310 – 469.320, the JOBZ statute shall supersede.

2. Job Creation & Wage Guidelines:

Assistance may be provided as follows:

Project Type	Retail	Commercial	Industrial
Job Creation Goal	At least 1 FT or FTE	At least 2 FT or FTE	1 FT or FTE for each \$25,000 in Assistance provided
Wage Goal	At least 110% of State or Federal Minimum Wage and provide an employer sponsored Health Insurance Plan	At least 110% of State or Federal Minimum Wage and provide an employer sponsored Health Insurance Plan	At least 110% of the Federal Poverty Level for a family of four and provide an employer sponsored Health Insurance Plan

3. The Qualified Business, in the case of a JOBZ Business Subsidy that is non-quantifiable at the time of the Business Subsidy Agreement, must create and retain for the period of the JOB Zone duration or until December 31, 2015, whichever is shorter, at least one (1) FTE job that pays a living wage.
4. The County may deviate from wage and job criteria in this section by documenting the reason in writing for the deviation and attaching a copy of this reason to the next annual Business Subsidy Report submitted to DEED.
5. In the case of a JOBZ Business Subsidy, the Qualified Business shall be identified in the Business Subsidy agreement as a:
 - a. Trade or business located in and operating in a JOB Zone at the time of Zone designation; or
 - b. New trade or business start-up located within the subzone; or
 - c. Business expanding in the subzone which is a business that maintains its current operations in its current location and is expanding its operations and its payroll within a County subzone; or
 - d. A business relocating from another state; or

e. A business relocating from another Minnesota non-Zone location.

6. A public hearing shall be held by the County as provided by M.S. § 116J.994, when the value of the subsidy exceeds or is expected to exceed \$150,000 from local sources.

The purpose of the hearing is to identify and define the criteria that the Qualified Business or recipient shall meet in order to be eligible to receive a Business Subsidy or become a Qualified Business for purposes of the JOBZ statute. The hearing shall specify all information required to be included in the Business Subsidy Agreement as listed in section 7 (a) (below).

As provided by M.S. § 116J.994, Subd. 5., a public notice shall be published at least 10 days prior to the hearing identifying the location, date and time of the hearing and providing information about the Business Subsidy proposed, including a summary of the terms of the subsidy.

7. Requirements of Businesses.

- a. The business must enter into a Business Subsidy Agreement with the county that includes:
- (1) A description of the subsidy, including the amount and type of subsidy, and the type of district if the subsidy is tax increment financing;
 - (2) A statement of the public purpose(s) of the subsidy;
 - (3) Measurable, specific and tangible goals for the subsidy;
 - (4) A description of the financial obligation of the recipient if the goals are not met;
 - (5) A statement of why the subsidy is needed;
 - (6) A commitment to continue operations in the jurisdiction where the subsidy is used for at least five years after the benefit date, or in the case where JOBZ tax benefits are provided, for the duration of the Job Zone term;
 - (7) The name and address of the parent corporation of the recipient, if any; and
 - (8) A list of all financial assistance by all grantors for the project.

b. Business failing to meet the goals agreed to in the Business Subsidy Agreement must repay the assistance provided with interest, which is set at no less than the implicit price deflator as defined in the Business Subsidy Statute, M.S. §§ 116J.993 – 116J.995. Repayment may be prorated to reflect partial fulfillment of goals.

c. If the business is locating in a JOBZ Zone and the Qualified Business is a Relocating Business under the definition provided in this policy, the business shall also be required to enter in a Relocation Agreement between the Qualified Business and the Commissioner of DEED pledging that the Qualified Relocating Business shall:

(1) Increase full time employment by 20% within the first full taxable year of operation within the Zone and maintains the required level of employment during each year of zone designation;

OR

(2) Make a capital investment in the Zone equivalent to a least 10% of gross revenue for the taxable year immediately preceding relocation to the Zone.

AND

(3) Report to DEED if the business will:

1. Cease one or more operations or functions at a non-Zone location and begin performing substantially the same functions inside the County Zone; and /or,
2. Reduce employment at the non-Zone location starting one year before and ending one year after beginning operations in the Zone where its employees in the Zone are engaged in the same line of business as the employees at the location where it reduced employment; and,

(4) Identify the date when operations are planned to begin in the JOBZ Zone.

Approved and adopted by the Kittson County Board of Commissioner this

5th day of July, 2011.


Chairman, Kittson County Board of Commissioner

ATTEST:


Kittson County Auditor-Treasurer

RESOLUTION

Kittson County Board of Commissioners
Hallock, Minnesota 56728

Date	<u>August 2, 2011</u>	Resolution No.	<u>#11-31</u>
Motion by Commissioner	<u>Anderson</u>	Seconded by Commissioner	<u>Olson</u>

NORTHSTAR AGRI INDUSTRIES TAX ABATEMENT

BE IT RESOLVED by the County Commissioners (the "Commissioners") of Kittson County, Minnesota (the "County"), as follows:

1. Recitals.

- a) Northstar Agri Industries intends to construct a canola crushing facility in the County, at a cost of approximately \$168 million, that is expected to create 47 new permanent jobs (the "Project").
- b) In order to promote industrial development, the creation and retention of jobs, and the expansion of the property tax base, the County wishes to establish a property tax abatement program (the "Abatement") with respect to the land, improvements and personal property (collectively, the "Property") identified as 2100 US Hwy 75, Hallock MN 56728, Kittson County tax parcel numbers 22.0010140, 22.0120965, 22.0120980 and 22.0121060, and including any other Kittson County parcel numbers that may be established in connection with the Project.
- c) On August 2, 2011, the Commissioners held a public hearing on the question of the Abatement, and said hearing was preceded by at least 10 days' but not more than 30 days' prior published notice hereof.
- d) The Abatement is authorized under Minnesota Statutes, Sections 469.1812 through 469.1815 (the "Abatement Law").

2. Findings. The County hereby makes the following findings:

- a) The County expects the benefits to the County of the Abatement to equal or exceed the costs thereof.
- b) Granting the Abatement is in the public interest because it will preserve and expand the tax base of the County, help expand industrial development in the County, and provide employment opportunities in the County.
- c) The Commissioners expect the public benefits described in 2.b. above to be derived from the Abatement. "
- d) For the duration of the Abatement, the Property will not be located in a tax increment financing district.
- e) As of January 2, 2010, the adjusted net tax capacity of the County for the taxes payable year 2011 is \$8,397,012.
- f) The County has not previously granted any abatement pursuant to the Abatement Law.

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

- a) The duration of the Abatement for the Property shall be ten (10) years and shall apply to the taxes payable in the years 2011 through 2020.
- b) The Abatement shall be in the form of a rebate to the Property owner of County property taxes levied on the Property during the Abatement period, including taxes on real and personal property.

- c) Pursuant to the Abatement, the following percentages of the property taxes levied on the Property by the County for each year during the Abatement period shall be refunded:
 - 1. from 2011 through 2017, one hundred percent (100%), and
 - 2. from 2018 through 2020, fifty percent (50%).
- d) The rebate of abated taxes shall be paid to the Property owner by December 31 of each tax year contingent on the Property Owner being current with property taxes.
- e) The amount of the rebate pursuant to the Abatement for anyone year shall not exceed the taxes paid to the County for that year. In any year, the total amount of property taxes to be abated by the County will not exceed ten percent (10%) of the net tax capacity of the County, or \$200,000, whichever is greater.
- f) It is estimated that the total amount of taxes abated over the duration described in 3.a. will be \$634,803. The actual total may vary depending on actual property values and tax rates.
- g) This abatement may not be transferable to a transferee of the Property without written consent of the County.
- h) The Abatement may not be modified or changed during its term without written consent of the Property owner.

VOTING AYE

Commissioners Spilde Anderson Bouvette Olson Younggren

VOTING NAY

Commissioners Spilde Anderson Bouvette Olson Younggren

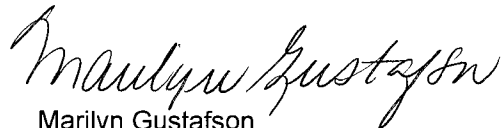
ABSTAINING

Commissioners Spilde Anderson Bouvette Olson Younggren

**State of Minnesota
County of Kittson**

I, Marilyn Gustafson, County Auditor /Treasurer of the County of Kittson, State of Minnesota, do hereby certify that the foregoing resolution is a true and correct copy of a resolution duly passed at a meeting of the Kittson County Board of Commissioners held on the 2nd day of August, 2011.

Witness my hand and official seal at Hallock, Minnesota the 14th day of March, 20 12



Marilyn Gustafson
Kittson County Auditor/Treasurer

(Seal)

BUSINESS SUBSIDY AGREEMENT

This **Business Subsidy Agreement (“Agreement”)** is made and entered into this 20th day of December, 2011 by and between the County of Kittson, Minnesota, a county under the laws of Minnesota (“County”) and PICO Northstar Hallock LLC, a Delaware limited liability company (the “Company”).

Recitals

- A. PICO Northstar Hallock LLC, 2100 US Hwy 75, Hallock MN 56728 is in the process of constructing a canola crushing facility (“Project”) located in Skane Township (P.I.N. 22.010140, 22.0120965, 22.0120980 and 22.0121060, the “Property”), is the owner of the Project, and will be the operator of the Project.
- B. The Company is seeking a subsidy from Kittson County to offset the benefits that JOBZ and Tax Increment Financing would have afforded the Project had the facility been built in the City of Hallock.
- C. The Project will create job opportunities for residents of the County, will increase the tax base of the County, and provide for economic diversity of the County.
- D. The County promotes job development and business growth and has determined that assisting the Company with the Project is in the public interest.
- E. Pursuant to Minnesota Statutes 469.1812 through 469.1815, the County approved the use of tax abatement to subsidize the Project on August 2, 2011.
- F. The County and the Company have agreed upon the terms pursuant to which the County will assist the Company with business subsidies for the Project and desire to reduce their agreement to writing.

Agreement

FOR VALUABLE CONSIDERATION, IT IS HEREBY AGREED by and between the County and the Company as follows:

SECTION 1 Tax Abatement

1.1 County Tax Abatements. Pursuant to the Resolution No. 11-31 of the County Board of Commissioners dated August 2, 2011 (the "Abatement Resolution"), commencing with the taxes payable year of 2011, the County shall abate its respective share of the taxes received, according to the terms set forth in this Section 1 and the Abatement Resolution (the "Abatement").

1.2 Form. The Abatement shall be in the form of a rebate to the Property owner of county property taxes levied on the property during the Abatement period, including taxes on real and personal property.

1.3 Term. The duration of the Abatement shall be ten (10) years and shall apply to the taxes payable in the years 2011 through 2020. Pursuant to the Abatement, the following percentages of the property taxes levied on the Property by the County for each year during the Abatement period shall be refunded:

1.3.1. from 2011 through 2017, one hundred percent (100%), and

1.3.2. from 2018 through 2020, fifty percent (50%).

1.4 Conditions. The rebate of abated taxes shall be paid to the Property owner by December 31 of each tax year contingent on the Property owner having paid in full the current property taxes due.

1.5 Maximum Annual Abatement. The amount of the rebate pursuant to the Abatement for any one year shall not exceed the taxes paid to the County for that year. In any year, the total amount of property taxes to be abated by the County will not exceed ten percent (10%) of the net tax capacity of the County, or \$200,000, whichever is greater.

1.6 Assignment. The abatement may not be transferable to a transferee of the Property without written consent of the County. Such consent shall not be unreasonably withheld.

SECTION 2 Business Subsidy Agreement

2.1 Subsidies. The business subsidy granted to the Company under this Agreement in the form of the Abatement described in Section 1 has an estimated value of \$643,803.

2.2 Need. The Abatement is needed to make the Project financially feasible in the early years of operation.



2.3 Public Purposes. The public purposes of the Abatement are to create job opportunities for residents in the County, increase the tax base in the County and provide economic diversity of the County.

2.4 Goals. The parties agree to the following measurable, specific, and tangible goals (“Goals”) for the Project:

2.4.1. Operating Goals. The “Benefit Date” shall be the date that this Agreement is executed. The Company must continue operation of the Project as a “Qualified Facility” for at least five (5) years after the Benefit Date (“Operating Goals”). For the purposes of this Agreement, the term Qualified Facility means an active construction-stage or operational canola crushing facility located on the Property.

2.4.2. Job and Wage Goals. The Company shall cause to be created at least 1 full time equivalent job for each \$25,000 in assistance provided at a rate of 110% of the Federal Poverty Level for a family of four and provide an employer sponsored health insurance plan and shall maintain jobs meeting these criteria at the Project for at least five (5) years after the Project becomes operational (the “Job Goals”). The “Federal Poverty Level” refers to the poverty guidelines updated periodically in the *Federal Register* by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).

2.5 Remedies. If the Company fails to meet the Goals established in Section 2.4, the Company shall repay the Abatement to the County, plus interest set at the implicit price deflator defined in Minnesota Statutes, Section 275.70, Subd. 2. accruing from and after the Benefit Date, compounded semi-annually. Any such repayment shall be prorated to reflect partial fulfillment of the Goals, such that the percentage of the Abatement repaid is equal to (i) the percentage of five years following the Benefit Date for which the Operational Goals were not fulfilled or (ii) the percentage of jobs required by the Job Goals that Company does not create and maintain, whichever is greater.

2.6 Reports and Termination. The Company shall report its progress on achieving the Job Goals and the Operational Goals established in this Agreement on each anniversary of the execution of this Agreement until its termination which shall be the 10 year anniversary of its execution.

SECTION 3 Miscellaneous

3.1 Attorney Fees and Costs. Any party who breaches this Agreement shall be liable to the other party for reasonable attorney fees and costs incurred as a result of the breach, in addition to compensatory damages.

3.2 Indemnification.



3.2.1. Except for any willful misrepresentation or any willful or wanton misconduct of the County, the Company shall protect, defend and hold harmless the County, now and forever, from and against all claims, demands, suits, actions and other proceedings whatsoever brought by any person or entity whatsoever, arising or allegedly arising from the action or inactions of the Company and all persons acting on its behalf or under its direction or control in connection with the transactions contemplated by this Agreement.

3.2.2. Except for any willful misrepresentation or any willful or wanton misconduct of the Company, the County shall protect, defend and hold harmless the Company, now and forever, from and against all claims, demands, suits, actions and other proceedings whatsoever brought by any person or entity whatsoever, arising or allegedly arising from the action or inactions of the County and all persons acting on its behalf or under its direction or control in connection with the transactions contemplated by this Agreement.

3.3 Assignment. The Company may assign its rights and obligations under and pursuant to this Agreement but only with the prior, written consent of the County, which consent shall not be unreasonably withheld.

3.4 Notices. Except as otherwise expressly provided in this agreement, a notice demand or other communication under this Agreement shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt request, or delivered personally as follows:

3.4.1. if to the County: **Kittson County**
Attn: Auditor-Treasurer
410 5th Street South, Suite 214
Hallock, MN 56728

3.4.2. if to the Company: **PICO Northstar Hallock LLC**
Attn: Neil C. Juhnke
15 Broadway N., Suite 600
Fargo, ND 58102

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

3.5 Captions. Any captions in this Agreement are for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

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

3.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.



3.8 Venue. Any action brought upon or pursuant to this Agreement shall be venued in District Court in and for Kittson County, Minnesota.

3.9 Protection of Interests. If any party fails to perform any of its obligations as set forth in this Agreement, the other party at its option may cause the same to be performed and deduct the costs of such performance from amounts then due the party in default or charge such costs as an amount immediately due and payable by the party in default.

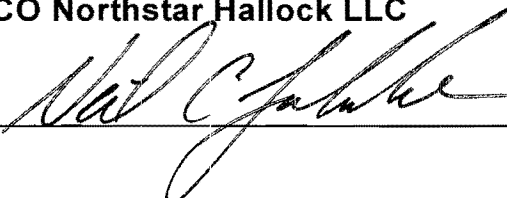
3.10 Amendment. This Agreement may be modified or amended but only by a written instrument that expressly states that it constitutes such an amendment and that is signed by the parties hereto.

3.11 Entire Agreement. This contract contains the entire agreement between the parties and no party has relied upon any verbal or written representations, agreements or understandings not set forth herein.

3.12 Binding Effect. This Agreement shall inure to the benefit of and shall bind the County and the Company and their respective successors and assigns.

Dated: December 20, 2011

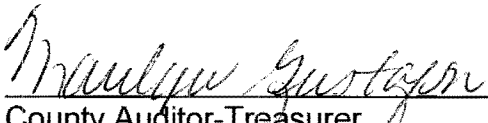
PICO Northstar Hallock LLC

 - President

County of Kittson, Minnesota

By: 
Chair, Board of Commissioners

Attest:


County Auditor-Treasurer