



**NOTICE OF PUBLIC HEARING  
ON PROPOSED TAX ABATEMENT AMENDMENT**

Notice is hereby given that on Tuesday, February 12, 2019, at 7:00p.m. or as soon thereafter as the matter may be heard, the Stacy City Council will conduct a public hearing in the Council Chambers of City Hall, 30955 Forest Blvd, in the City of Stacy, MN for the purpose of receiving written or oral comments on the proposed tax abatement to assist Fox Valley Metrology, for a tax abatement to finance costs relating to a building expansion of 7,290 sq.ft and expanding fiber to the Stacy Ponds Business Park, in an amount not to exceed a total of \$95,935 for a period of not more than nine (9) years. Current Tax Parcel number is: 19.00133.13, 30477 Stacy Ponds Drive, Stacy, MN. Said hearing is being held pursuant to M.S. 469.1812 to 469.1815.

All persons interested may appear and be heard at the time and place as set forth above or may file written comments with the Stacy City Clerk prior to the date of hearing at the City Office at 651-462-4486.

By Order of the  
City of Stacy  
City Council

Mark Utecht, Mayor  
Sharon Payne, City Clerk

**TO:** Stacy City Council  
**FROM:** Nancy Hoffman, HRA-EDA Executive Director  
**SUBJECT:** Fox Valley Tax Abatement Application  
**MEETING DATE:** February 12, 2019

**RE: Consider a Tax Abatement Request – Fox Valley Metrology**

**Business Background:**

Fox Valley Metrology is a metrology lab. They provide calibration, equipment sales and repair, and services of precision measuring equipment. The company began in 1996 with 4 employees. The company grew to 124 employees. Their corporate office is in Oshkosh, WI. They also have sites in St. Croix Falls, WI and Fenton, MO. Fox Valley purchased the Stacy facility in 2016 from Midwest Calibration. The business is faced with moving and expanding in either St. Croix Falls or Stacy. The company has decided they would prefer to expand in Stacy with support from the city and the county. They have requested Lot 3, Block 1 of the Stacy Ponds Business Park, the vacant site that abuts their existing site Lot 2, Block 1. The cost of the lot is \$57,935 based on \$1.40 per square foot with .95 acres (41382 sf). The city is estimating roughly \$10,000 in costs related to selling the property and combining the lot. This is an estimate, but only the actual costs will be reimbursed.

In order to expand in Stacy, the Company is also in need of faster Internet speeds for uploading documents. Midcontinent would bring fiber optics to the Business Park for Fox Valley and all of the other sites in the Business Park would be able to connect. Midcontinent provided a cost of \$35,000 of which they would provide \$9,000. At their December 20, 2018, the HRA-EDA agreed to providing \$26,000 in the form of a loan to bring the fiber to the business park.

The request is to use tax abatements generated from the expansion to repay the City for the land and the HRA-EDA for fiber to the park.

**Proposed Development:**

Fox Valley is requesting the parcel of property to construct a 7,784 sf expansion and remodel the existing building on the existing site and onto the second parcel. The expansion will include offices, various labs and shipping and receiving. The existing building will be remodeled for office and boardrooms. The total project cost is roughly \$1,850,000. The Chisago County Assessor's Office projects the expansion to have an assessed value of \$500,000

**Abatement Request Information:**

Use of Abatement: Purchase of Lot 3 Block 1 and to bring fiber broadband to the Business Park for Fox Valley and to be available for all the other sites in the business park. The Tax Abatements would go back to the City and the HRA-EDA to reimburse for costs of purchasing the lot and to bring fiber optics to the business park.

**Tax Impact:**

The amount of the tax abatement requested is based on increase in taxes from 2018 to the proposed new taxes generated upon completion of the 7,784 sf building expansion. Current taxes on the existing land and building are \$7,376.

Total Tax Abatement Annual Increase in Taxes  
Chisago County Increase in Taxes       \$7,000  
City of Stacy Increase in Taxes         \$4,000

**Amount of Abatement Requested: \$95,935**

Chisago County Portion - \$61,398 (\$7,000 annually for a period of no more than 9 years or until land and fiber are paid in full)

City of Stacy Portion - \$34,537 (\$4,000 annually for a period of no more than 9 years or until the land and fiber are paid in full)

**Job Impact:**

Jobs Retained: 13 FT @ average \$17 per hour with benefits  
                  1 PT @ average \$13.50 per hour with benefits  
Jobs Created: 15 FT @ average \$17 per hour with benefits  
                  2 PT @ average \$13 per hour with benefits

**Compliance of Project With Business Subsidy Criteria:**

After meeting with business, the proposed project meets the following sections of the Business Subsidy Criteria.

**Approval Criteria:**

- *increase or preserve tax base (must provide at least one other benefit)*
- *create or retain quality jobs (retention considered only when job loss is imminent)*

**Additional priority can be given for:**

- *projects that create living wage jobs of at least \$12 per hour plus benefits.*
- *projects constructed of block, engineered concrete, brick or quality metal buildings (not pole barns) which contain decorative accessory masonry materials.*
- *retains a business at risk of relocating outside of the county/state.*

**Project Schedule:**

City of Stacy EDA's recommendation to the City Council to consider the request December 10, 2018. - Completed.

City of Stacy called for a public hearing on January 8, 2019

City of Stacy Public Hearing – February 12, 2019

Chisago HRA -EDA – Consider recommendation to the Chisago County Board January 29, 2019

Chisago County Board – Call for a public hearing February 6, 2019

Chisago County Board – Public Hearing March 5, 2019

The company would like to begin construction in May 2019.

**Action Requested:** Consider the Fox Valley Metrology Tax Abatement request and approve the resolution.



**CHISAGO COUNTY**  
**Business Assistance Financing Application – Tax Abatement**

**APPLICANT INFORMATION:**

Business Name: Fox Valley Metrology Date: 11/19/18

Business Address: 30447 Stacy Ponds Drive

City: Stacy State: MN Zip Code: 55079

Business Type:  Corporation  Sole Proprietorship  Partnership

Please select:  New Business  Existing Business # of Years in Business 22

Contact Person / Authorized Representative: Chris Kuczynski Title: VP-Operations

Daytime Phone: 715-483-5334 x6002 Alternate Phone: 920-527-1810 Fax: 715-483-5345

**PROJECT INFORMATION:**

*Please attach description of business.*

*Please attach description of the proposed project (including building size, building type, site plan and sketches).*

*Please attach a description of why the assistance is needed, be specific.*

*Please attach a legal description of the property.*

Location of Proposed Project: 30421 and 30447 Stacy Ponds Drive Stacy, MN 55079

Parcel #'s: Lot 3, Block 1

Present ownership of site: Lot 3 City of Stacy / Lot 2 30447 Stacy Ponds Drive, Fox Valley Metrology

Anticipated project start date: 5/1/2019 Completion Date: 12/31/2019

Amount of Business Assistance Requested: \$85,119.00

Job Goals – as stated below TOTAL EMPLOYMENT NUMBERS will be included in development agreement:

	Current Jobs			+	New Job Creation			=	TOTAL EMPLOYMENT NUMBERS	
	# of Employees	Average Hourly Wage	Benefits? yes/no		# of Employees	Average Hourly Wage	Benefits? yes/no			
Full Time	13	\$17.00	yes		15	\$17.00	yes	28	FT	
Part Time	1	\$13.50	no		2	\$13.00	no	3	PT	

**LENDER INFORMATION:** Contact Name: Meghann Kasper  
 Name of Bank: Bank First Phone Number: 920-236-8606

**LEGAL COUNSEL:** Contact Name: Emily Dunham  
 Name of Firm : Reef Baivier Lim Muza Sundet & Dunham, S.C. Phone Number: 920-231-8380

**FINANCIAL INFORMATION:** *Additional financial information may be requested.*

Estimated Project Related Costs:

1. Land Acquisition	\$ <u>59,119.00</u>
2. Site Development	\$ <u>391,750.00</u>
3. Building Cost	\$ <u>1,205,864.00</u>
4. Equipment	\$ <u>100,000.00</u>
5. Architectural/Engineering Fees	\$ <u>75,000.00</u>
6. Legal Fees	\$ <u>5000.00</u>
7. Off-Site Development Costs	\$ <u>10,000.00</u>
8. Other (please explain)	\$ _____
<b>9. TOTAL PROJECT COST</b>	<b>\$ <u>1,846,733.00</u></b>

Sources of Financing

1. Private Financing Institution	\$ <u>1,761,614.00</u>
2. Business Assistance Requested (Total Request)	\$ <u>85,119.00</u>
3. Other Public Funds	\$ _____
4. Developer Equity	\$ _____
<b>5. TOTAL SOURCES</b>	<b>\$ <u>1,846,733.00</u></b>

**PUBLIC PURPOSE:** What benefits will the County and its residents gain if assistance is provided?

Job Creation     Job Retention     Job Training     Land Clean Up  
 Tax Base     Removal of Blight     Redevelopment     Other (please list)

**USE OF TAX ABATEMENT FUNDS:** Please check all that apply.

Building Improvements     Building Expansion     New Construction  
 Equipment purchases     Infrastructure/utilities     Assessments  
 Site Improvements     Land acquisition     Demolition/clean-up

**TAX IMPACT AND PROPOSED TAX ABATEMENT BREAKDOWN:** COMPLETED BY HRA-EDA STAFF

Current Market Value \$ 315,900  
 (Land MV: \$ 64,400 / 64,800 Lot 2 / Lot 3 # of acres: \_\_\_\_\_; Bldg MV: \$ 186,700)

Current Property Taxes: City \$ 1,609 County \$ 2,756 Total \$ 4,365

Estimated Market Value Following Completion \$ 775,900  
 (Land MV: \$ 64,400 / 24,800 Lot 2 / Lot 3 # of acres: \_\_\_\_\_; Bldg MV: \$ 751,100)

Estimated Property Taxes: City \$ 4,000 County \$ 7,000 Total \$ 11,000  
*Annual*

PROPOSED TAX ABATEMENT REQUEST: \$ 95,935

City Total: \$ 34,537 (Annual Amt: \$ 4,000 for 9 years)  
 City Approval: Pending (Date: 12/19) Approval Date: \_\_\_\_\_

County Total: \$ 61,398 (Annual Amt: \$ 7,000 for 9 years)

**AUTHORIZED SIGNATURE OF APPLICANT**

I/We certify that all statements on this application are true and correct to the best of my/our knowledge and that any intentional misstatements will be grounds for disqualification.

I/we authorize and agree to provide reasonable access to information, and reasonable access to construction project site to allow monitoring the project implementation for compliance with program objectives and assistance guidelines.

By signing – applicant(s) agrees to job creation requirements, provide additional information if requested, and may be required to provide to Chisago County HRA-EDA a deposit to cover administration and consulting expenses associated with your project. Unused funds will be returned upon completion of this process.

If abatement request is approved – an abatement agreement is required.

Christopher A. Kuczynski	<small>Digitally signed by Christopher A. Kuczynski DN: cn=Christopher A. Kuczynski, o=Fox Valley Metrology, ou, email=chds@foxvalleymetrology.com, c=US Date: 2018.12.19 11:23:54 -0500</small>	VP-Operations	12/19/18
Applicant		Title	Date
_____		_____	_____
Applicant		Title	Date

**WHEN COMPLETE – PLEASE RETURN TO:**

Chisago County HRA-EDA, 38871 – 7<sup>TH</sup> Avenue, PO Box 815, North Branch, MN 55056, 651-674-5664

Submit along with application: – *collected*.

- 1) Preliminary financial commitment from bank/funding source (commitment letter)
- 2) Pro Forma Analysis
- 3) Businesses Articles of Incorporation or Partnership Agreement
- 4) Legal Description
- 5) All other materials as outlined in application

**TENNESSEN WARNING: DATA PRIVACY STATEMENT**

In accordance with the Minnesota Government Data Practices Act, the Chisago County HRA-EDA is required to inform you of your rights as they pertain to private information collected from you. Private data is that information which is available to you from the Chisago County HRA-EDA but is not available to the public. The personal information the Chisago County HRA-EDA collects about you is generally considered private.

The information collected from you, as part of the attached application will be used to determine your eligibility for public financial assistance. You are not required to provide this information, but if you do not, the Chisago County HRA-EDA will not be able to determine your eligibility for assistance.

The private data we collect will be disseminated and used only when it is required for administration and management of the program. Persons or agencies with whom this information may be shared include:

1. Members of the Chisago County HRA-EDA and Chisago County staff who review applications.
2. Staff persons involved in administration of the assistance program.
3. Auditors who perform required audits of Chisago County HRA-EDA and Chisago County programs.
4. Authorized personnel from the Minnesota Department of Employment and Economic Development and the U.S. Department of Housing and Urban Development or other state and federal agencies providing funding assistance to you.
5. Personnel from the Chisago County HRA-EDA and/or City financial advisor to assist in the review of the application.
6. Those persons whom you authorize to see the data.
7. Law enforcement personnel in the case of suspected fraud.
8. Personnel from the City and/or Jurisdiction who will be reviewing and considering tax abatement.

Unless otherwise authorized by state statute or federal law, other government agencies using the private data must also treat it as private.

You may wish to exercise your rights as contained in Minnesota Government Data Practices Act. Those rights include:

1. The right to see and obtain copies of the data maintained on you,
2. The right to be told the contents and meaning of the data, and
3. The right to contest the accuracy and completeness of the data.

To exercise these rights, contact Nancy Hoffman, Executive Director, Chisago County HRA-EDA, 38871 7<sup>th</sup> Avenue, PO Box 815, North Branch, MN 55056, 651-674-5664.

**I/we have read and understand** the above information regarding my/our rights as a subject of government data.

**Christopher A. Kuczynski**  
Digitally signed by Christopher A. Kuczynski  
 DN: cn=Christopher A. Kuczynski, o=Fox  
 Valley Metrology, ou,  
 email=chris@foxvalleymetrology.com, c=US  
 Date: 2019.01.28 06:15:28 -0600

Applicant \_\_\_\_\_ VP-Operations \_\_\_\_\_ 1/28/19 \_\_\_\_\_  
 Title \_\_\_\_\_ Date \_\_\_\_\_

Applicant \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

## **Who We Are**

Fox Valley Metrology is a full-service metrology lab that strives to ensure your equipment is given the highest level of care and precision possible.

As a single-source partner to the Quality Assurance Departments of thousands of organizations worldwide, we provide calibration, repair and new equipment sales services of precision measuring equipment, all under one roof.

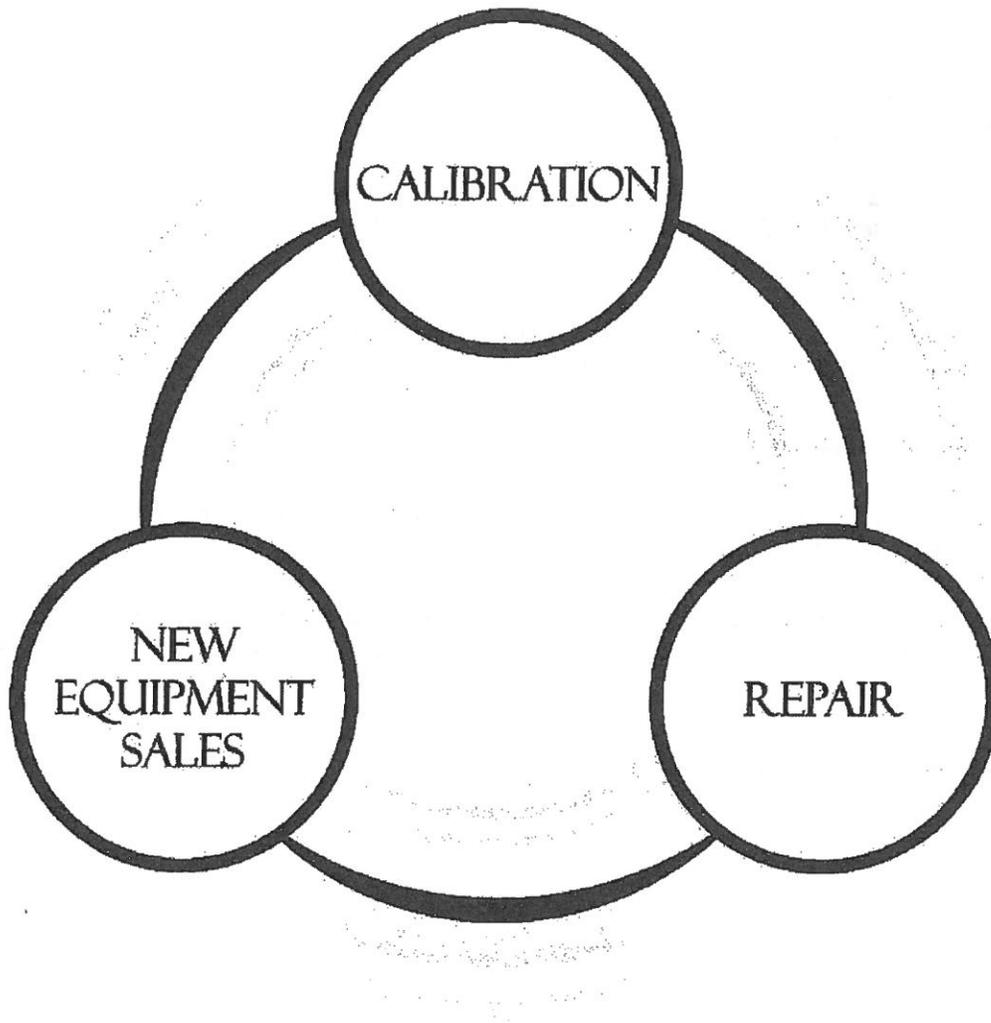
Every day, we increase our partners' profits through many value added benefits made possible by the most advanced technology and some of the best personnel in the industry.

## **Mission Statement**

To provide the best value in the calibration industry, through the most accurate and precise services available - all in the most timely fashion.

We accomplish this through the employment of the most skilled professionals in the industry, consistent focus on improvement and a relentless drive to be the driving force in technological advances in the quality field.

## **360° Comprehensive Coverage**



You have a lot of things to worry about running your quality program. Let's not make managing your gages one of them.

By offering calibration, repair and new equipment sales services all under one roof, Fox Valley Metrology provides a single source solution, providing comprehensive coverage over the life cycle of all your precision measuring equipment.

# History

Since its inception in 1996, Fox Valley Metrology has grown tremendously, securing multiple awards along the way.

- **JANUARY 1996** - Fox Valley Metrology opens for business with four employees: co-founder Mark Toll, co-founder Gerry Roge, Martin Johnson and Brian Gliszinski.
- **JUNE 1996** - Fox Valley Metrology expands its capabilities by introducing an electronics laboratory.
- **SEPTEMBER 1996** - Fox Valley Metrology expands again by adding a repair lab. By the end of 1996, the company had added three full-time employees and had transformed itself into the area's first full service metrology laboratory.
- **MAY 1998** - Fox Valley Metrology purchases Twin Pines Metrology which is located in northwestern Wisconsin near the Minnesota border.
- **DECEMBER 1998** - In its third year in existence, Fox Valley Metrology had surpassed one million dollars in sales for the year and had tripled its employee staff.
- **JANUARY 2000** - Fox Valley Metrology expands again, adding a full-time information technology staff.
- **JUNE 2000** - Fox Valley Metrology finishes its new 3000+ square foot building expansion. The new expansion had doubled the laboratory space as well as added a new shipping and receiving area.
- **JULY 2000** - Fox Valley Metrology improves its industry leading website by introducing the innovative (patent pending) Online Certifications section.
- **OCTOBER 2000** - Fox Valley Metrology expands its repair department to include the calibration of hand tools.
- **NOVEMBER 2001** - Fox Valley Metrology is awarded by the Oshkosh Chamber of Commerce as the 2001 Small Business of the Year. Fox Valley Metrology is also featured in the Oshkosh Northwestern newspaper.
- **APRIL 2003** - Fox Valley Metrology president Mark Toll is awarded by The National Republican Congressional Committee's Business Advisory Council as the 2003 Businessman of the Year.
- **MAY 2003** - Ground is broken on a new facility in St. Croix Falls, Wisconsin for Twin Pines Metrology.
- **AUGUST 2003** - Twin Pines Metrology officially moves into their new facility.
- **JANUARY 2005** - Twin Pines Metrology's sales doubles since moving into their new facility.
- **APRIL 2005** - Fox Valley Metrology hires an expert in the RF field from the Navy to head up our new RF department.
- **JUNE 2005** - Fox Valley Metrology purchases \$300,000 worth of equipment capable of calibrating all RF equipment up to 26.5 GHz.
- **JUNE 2005** - Fox Valley Metrology opens a new location in Fenton, Missouri.
- **OCTOBER 2009** - Fox Valley Metrology's Fenton office moves to a new building, doubling our office and lab space.
- **JUNE 2010** - Fox Valley Metrology further expands our capabilities by purchasing a lab in Hartland, Wisconsin.

- **JULY 2011** - Fox Valley Metrology doubles their footprint in Oshkosh by acquiring a second building at 495 Waukau Ave., across from their corporate office. This allowed for an expansion of the Dimensional and Repair Labs.
- **AUGUST 2012** - Fox Valley Metrology purchases \$4 Million of new standards, including the latest RF.
- **SEPTEMBER 2014** - Fox Valley Metrology once again expands its operations to support a rapidly growing customer base. The acquisition of a state of the art Full Service Metrology lab just minutes outside of the Twin Cities Metro area continues FVM's long tradition of taking the lead in total customer satisfaction. This lab allows FVM the unique opportunity to take dimensional calibration to a new level with the addition of the industry leading Mahr 828CiM 1000 having high accuracy and extremely low measurement uncertainty.
- **JANUARY 2016** - Fox Valley Metrology celebrates its 20th Anniversary, having grown to 124 employees during its 20 years. The company now has clients in all 50 states as well as 18 other countries, worldwide.
- **JULY 2016** - Fox Valley Metrology further expands its expertise into the Industrial Services world, through its acquisition of Good Measure, LLC.
- **JUNE 2017** - As a testament to the tremendous growth that the company has seen, Fox Valley Metrology breaks ground on its 15,000 square foot expansion of its Corporate Headquarters, located in Oshkosh, WI. The expansion is comprised of the most state-of-the-art calibration equipment compiled in one lab in the United States.



**PROJECT INFORMATION**

PROPOSED BUILDING ADDITION FOR:  
**FOX VALLEY METROLOGY**  
 30447 STACY POND DRIVE • STACY, MN 55079

PROFESSIONAL SEAL

**PRELIMINARY DATES**

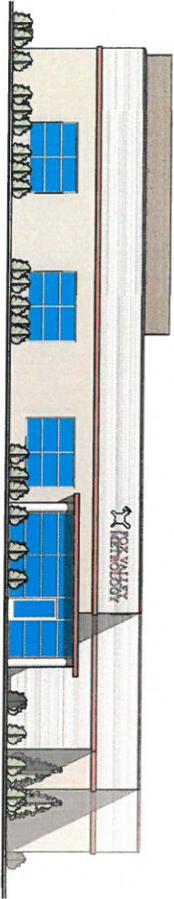
JULY 19, 2018
JULY 26, 2018
OCT. 18, 2018
DEC. 3, 2018

**NOT FOR CONSTRUCTION**

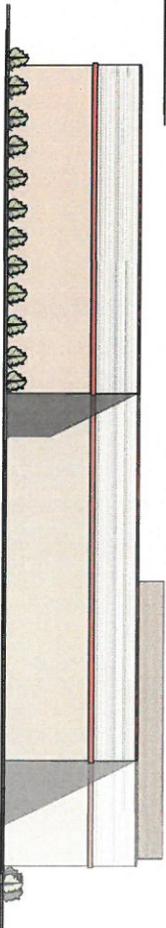
**FOR NUMBER**  
 1837840

**SHEET NUMBER**  
**C1.2**

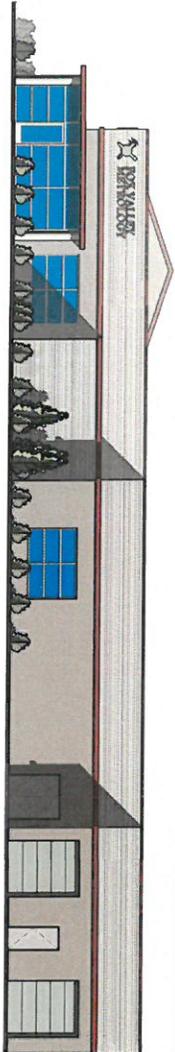




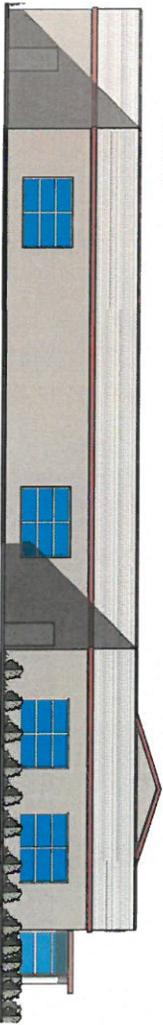
WEST ELEVATION  
SCALE: 1/8" = 1'-0"



EAST ELEVATION  
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



NORTH ELEVATION  
SCALE: 1/8" = 1'-0"

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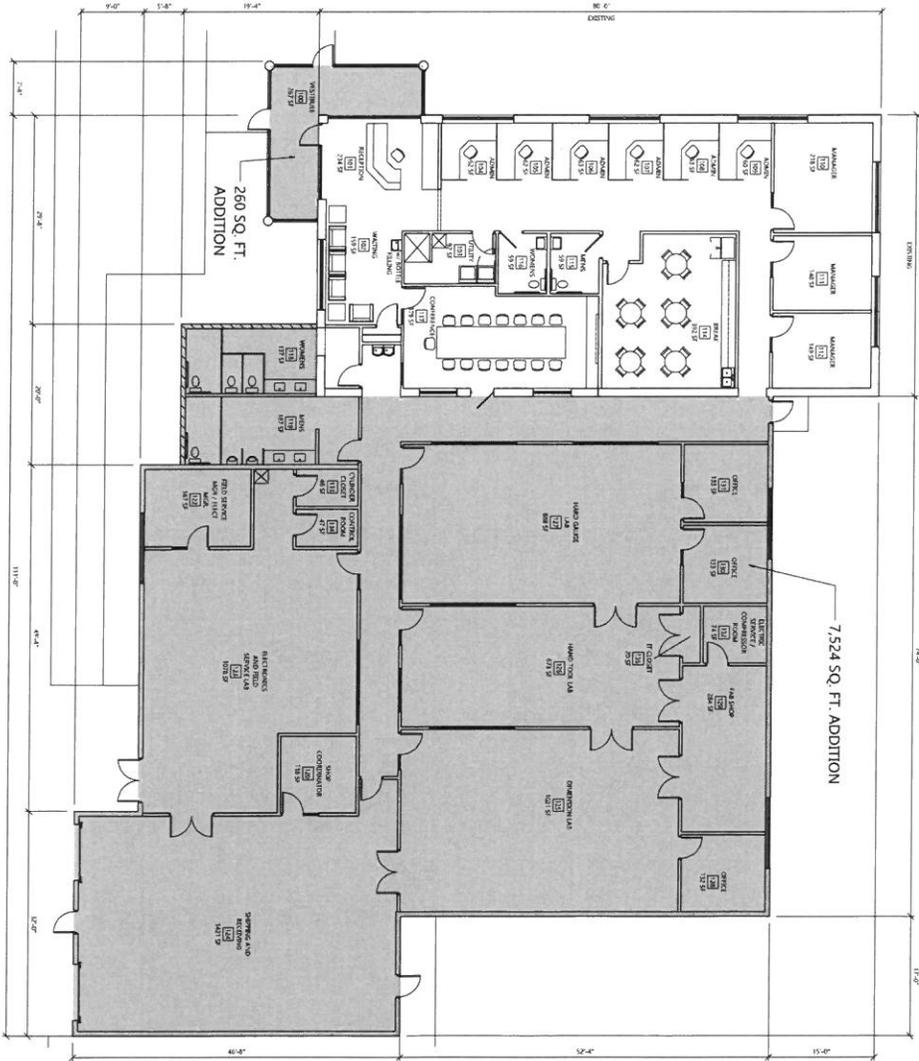
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30447 STACY POND DRIVE • STACY, MN 55079

PROFESSIONAL SEAL

PRELIMINARY DATES	
JULY 19, 2018	
JULY 26, 2018	
OCT. 18, 2018	
NOT FOR CONSTRUCTION	

JOB NUMBER  
1837840

SHEET NUMBER  
**A2.0**



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PROFESSIONAL SEAL

<b>PERMIT/DRAWING DATES</b>
JULY 19, 2018
JULY 26, 2018
AUGUST 2, 2018
OCT 18, 2018
NOV 30, 2018
DEC 3, 2018

**NOT FOR CONSTRUCTION**

**A1.1**

JOB NUMBER  
1837840

SHEET NUMBER

Fox Valley Metrology has facilities in Oshkosh, WI, Fenton, MN, St. Croix Falls, WI and Stacy MN. The company is looking to expand in St. Croix Falls or Stacy. Fox Valley Metrology is requesting the lot to the south, Lot 3, Block 1 of Stacy Ponds Business Park to expand in Stacy. They are also looking to have fiber to the building so that they will have fast enough Internet to upload documents. Bringing the fiber to the Stacy Ponds Business Park will benefit all of the businesses in the park.



## CHISAGO COUNTY ASSESSOR

CHISAGO COUNTY GOVERNMENT CENTER  
313 NORTH MAIN STREET ROOM 246  
CENTER CITY, MN 55012-9663

Chase Peloquin | Assistant County Assessor  
Phone: (651) 213-8563

E-mail: [chase.peloquin@chisagocounty.us](mailto:chase.peloquin@chisagocounty.us)

- TAX ESTIMATE -  
FOX VALLEY METROLOGY - STACY

Monday, October 29, 2018

Nancy,

Please consider that this is only an *estimate of value and taxes* for the **remodel and addition**, based on the plans and specifications you provided on Monday, October 29, 2018. These estimates consider the 2018 taxes payable rates.

**Parcel Number: 19.00133.12**

<u>Light Mfg. Remodel &amp; Addition</u>	
2018 Assessed Value:	\$251,100
<u>Project Added Value:</u>	<u>\$500,000</u>
Total Value	\$751,100
 <i>Tax Breakdown - Based on 2018 Tax Rates</i>	
<i>Additional taxes generated by this project</i>	
County:	\$7,000
School:	\$4,500
State:	\$4,500
<u>City:</u>	<u>\$4,000</u>
Estimated Added Tax:	\$20,000
<u>Current Tax (Pay 2018):</u>	<u>\$7,376</u>
Total Estimated Tax:	\$27,376

Sincerely,

Chase Peloquin, SAMA  
Assistant County Assessor  
Chisago County

## Property Tax Abatements for Economic Development

***What is economic development property tax abatement?***

Minnesota law authorizes political subdivisions to grant property tax abatements for economic development (e.g., to encourage a business to locate or expand at a location or to redevelop an area). Minn. Stat. §§ 469.1813 - 469.1816. Abatements can be used for purposes similar to tax increment financing (TIF), a widely used development tool.

These economic development tax abatements should be distinguished from property tax abatements that are granted by the county board primarily to correct errors (e.g., to reduce the assessor's market value or to change the classification of the property). Minn. Stat. § 375.192.

***For what purposes may abatements be used?***

The law allows abatements to be used for a broad range of purposes, if the political subdivision finds that public benefits exceed the costs. Permitted uses of abatements include:

- General economic development, such as increasing the tax base or jobs
- Construction of public facilities or infrastructure (e.g., streets and roads)
- Redevelopment of blighted areas
- Providing access to services for residents (e.g., housing or retail would be common examples)
- Deferring or phasing in a large (over 50 percent) property tax increase
- Stabilizing the tax base resulting from the updated utility valuation administrative rules

***Which property taxes may be abated?***

Counties, cities, towns, and school districts may grant abatements of the taxes they impose by resolution. For towns, action at the town meeting is not required. Taxes imposed by special taxing districts (e.g., watersheds or regional agencies) cannot be abated. Similarly, the state general property tax (on commercial/industrial and seasonal-recreational properties) cannot be abated. In the Twin Cities metropolitan area and on the Iron Range, the fiscal disparities tax cannot be explicitly abated. However, a political subdivision may increase its abatement amount to reflect the amount of the tax imposed under fiscal disparities. The abatement does not directly enter into the fiscal disparities calculations.

***How long does an abatement apply?***

The political subdivision sets the length of the abatement, which cannot exceed 15 years. The term can be extended to 20 years if only two of the three political subdivisions (city/town, county, and school district) grant an abatement.

***What is the limitation on abatements?***

The total amount of property taxes abated may not exceed the larger of:

- 10 percent of the net tax capacity of the political subdivision, or
- \$200,000.

***How do the mechanics of abatement work?***

The abatement resolution, approved by the political subdivision, sets the duration and the amount to be abated. The political subdivision has considerable flexibility in setting the terms of the abatement; for example, it may set the abatement as a percentage of tax payable, a dollar amount, the tax attributable to a portion of the parcel's market value, or something else. The local government adds the abatement to its property tax levy. The owner pays property tax and the political subdivision uses the payments as provided by the abatement resolution. For example, the abatement may be used to pay bonds or be paid to the property owner.

***May abatements be used to pay bonds used to fund public or private improvements?***

The abatement law authorizes the issuance of bonds to be paid with the abatements. For example, bonds could be issued to construct public improvements or to pay for a site for a business. The bonds can be general obligation bonds or revenue bonds. The abatement bond provisions parallel those in the TIF law: the abatement bonds are not subject to referendum approval and are excluded from debt limits.

Under Department of Education administrative guidance, school districts may only issue abatement bonds for certain school parking improvements without voter approval. School districts have issued about \$47 million of these abatement bonds for parking improvements. The \$5 million annual levy to pay these bonds is not included in the school abatement levies in the table below.

***How do abatements compare with TIF?***

The legislature designed the abatement law as an alternative to and a supplement to TIF; both programs can be used for similar purposes, rely on property tax funding, and have very similar bonding powers. But they differ in these important respects:

- TIF can be used for longer durations (up to 25 years in some cases) than abatements (typically 15 years)
- TIF requires approval only by the municipality (usually the city) to capture all local property taxes, while abatement requires each entity's approval to capture its taxes and cannot capture special district taxes
- TIF use is subject to more legal restrictions than abatement. These include a blight test for redevelopment districts, but-for findings, and stricter limits on what increments may be spent on.

***How widely has abatement been used?***

The following amounts of abatement levies were reported for property taxes payable in 2018, as reported to the Departments of Revenue (cities and counties) and Education (schools).

	Number	Amount
Cities	73	\$12,485,808
Counties	31	2,409,625
Schools	12	1,608,875
Total	116	\$16,504,308

**For more information:** See the House Research publication *Tax Increment Financing*, September 2018.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

House Research Department | 600 State Office Building | St. Paul, MN 55155 | 651-296-6753 | [www.house.mn/hrd/hrd.htm](http://www.house.mn/hrd/hrd.htm)

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# **CHISAGO COUNTY TAX ABATEMENT – TAX INCREMENT FINANCING INVESTMENT POLICY**

## **1. PURPOSE AND AUTHORITY**

- 1.01 The purpose of this policy is to establish the application process and the criteria for tax abatement and tax increment financing investment applications in Chisago County. This process and these requirements apply to both the Chisago County Housing & Redevelopment Authority-Economic Development Authority (HRA-EDA) and the Chisago County Board of Commissioners for reviewing and considering said applications.
- 1.02 Chisago County is authorized to make tax increment financing investments or to provide tax abatement pursuant to Minnesota Statutes §469.1812 through §469.1815.

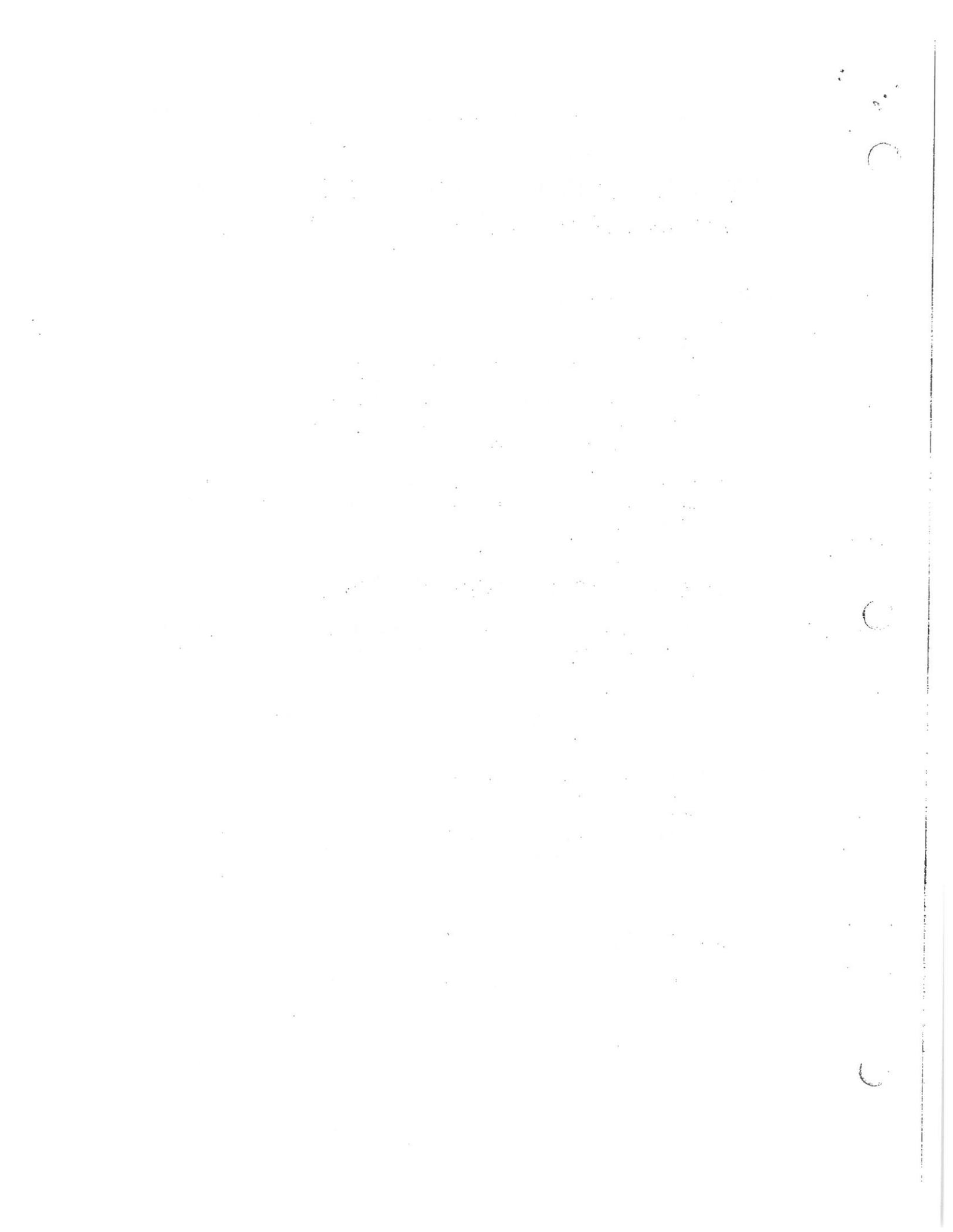
## **2. APPLICATION REQUIREMENTS AND PROCESS**

- 2.01 Each request for tax abatement and tax increment financing investment shall be submitted in writing to Chisago County HRA-EDA on a form provided by the HRA-EDA.
- 2.02 Chisago County HRA-EDA shall review each application and make recommendations to the Chisago County Board.
- 2.03 Chisago County Board of Commissioners shall hold a public hearing on the tax abatement or tax increment financing investment application following which the investment may be approved. The investment will be implemented only upon passage of a resolution and Tax Abatement Agreement or Tax Increment Financing (TIF) Development Agreement specifying the terms of the investment.

## **3. PUBLIC POLICY REQUIREMENTS**

Each application requesting tax abatement or tax increment financing investment from the County must:

- 3.01 Demonstrate in the application that the benefits to the County will be at least equal to the costs of the tax abatement or tax increment financing investment.
- 3.02 Demonstrate support from the local unit of government.

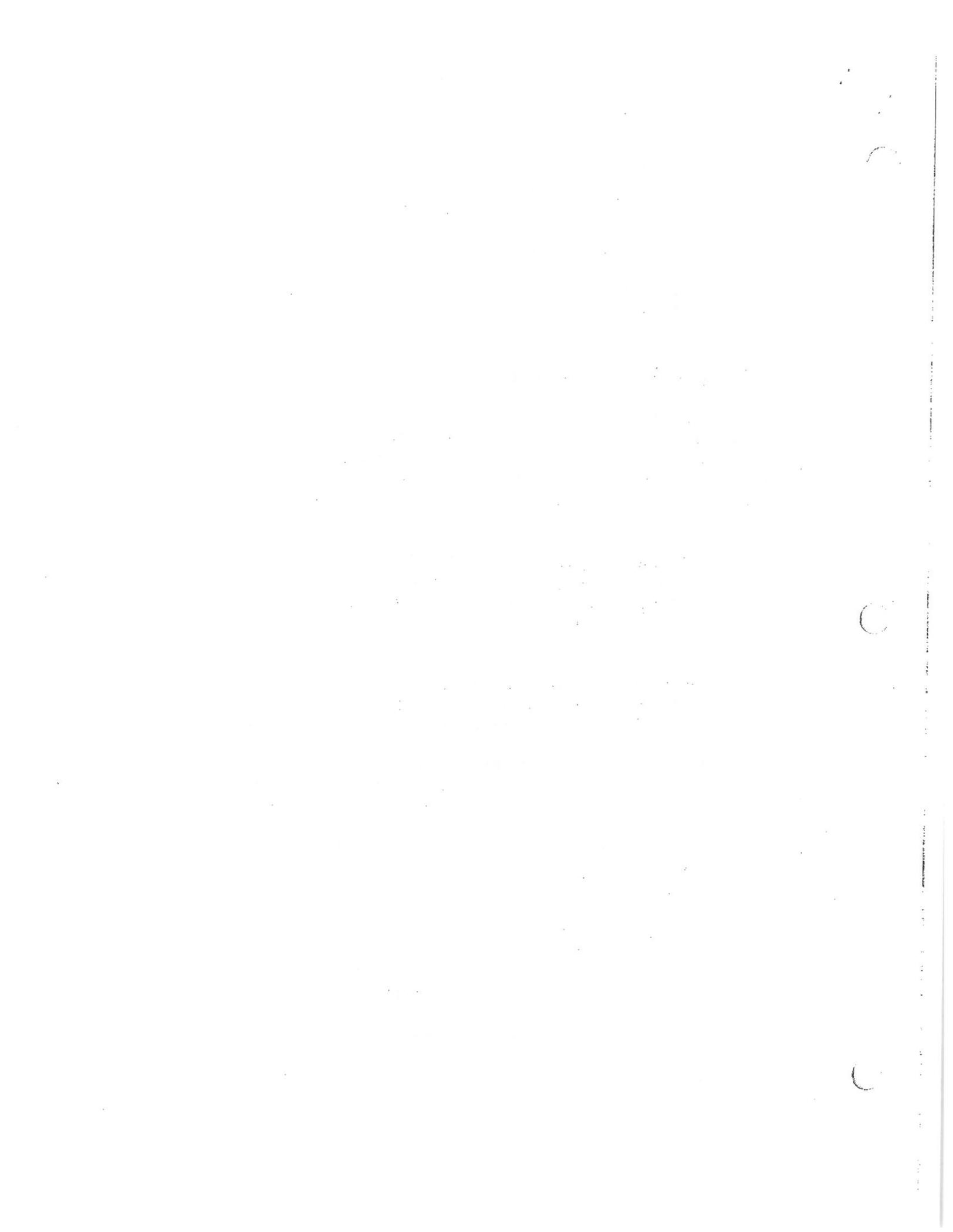


- 3.03 Demonstrate that the project will benefit the County in at least two of the following ways:
- a) Increase or preserve tax base;
  - b) Create or retain jobs (retention only considered when job loss is imminent and demonstrable);
  - c) Provide or help acquire, finance or construct public facilities;
  - d) Help develop or renew blighted areas;
  - e) Help provide access to services for residents of the County;
  - f) Retain the business if it is at risk of relocating outside of the County.

#### **4. APPLICATION CONSIDERATION**

The following criteria will be considered by Chisago County when reviewing applications for tax abatement or tax increment financing investment in accordance with Minnesota Statutes. However, it should not be presumed that a project meeting these criteria will automatically be approved. Meeting these criteria creates no contractual rights on the part of any applicant, business, community, proposed project or developer.

- 4.01 The County may consider retail or service businesses for tax abatement or tax increment financing investment if it is determined the proposed project accomplishes at least two of the following goals:
- a) Creates quality employment;
  - b) Creates tax base;
  - c) Provides or helps acquire, finance or construct public facilities;
  - d) Helps develop or renew blighted areas;
  - e) Helps provide access to services for residents of the county; or
  - f) Retains a business if it is at risk of relocating outside of the county.
- 4.02 The County may consider the impact of the project on the surrounding area including but not limited to: Pollution; traffic; sewer and water; parks; and, need for additional government services such as law enforcement.
- 4.03 The preferred term of tax abatement or tax increment financing investment will be 5 years or less. The County Board can approve longer or shorter terms at its discretion.
- 4.04 The County may limit the amount of the tax abatement or tax increment financing investment:
- a) To a specific dollar amount per year or in total;
  - b) To the increase in property taxes resulting from improvement of the property;
  - c) To the increases in property taxes resulting from increases in the market value or tax capacity of the property;
  - d) In any other manner the County determines is appropriate;



- e) The County may not abate tax attributable to the value of the land or the area wide tax under Minnesota Statutes, §276A or §473F.
- 4.05 Equal consideration may be given to businesses currently located in the County which are expanding and adding on to their existing building and new businesses seeking to locate in the County. Preference may be given to businesses that demonstrate a legitimate risk of relocating in another state.
- 4.06 Tax abatements and tax increment financing investments will only be provided within debt limit guidelines and other appropriate financial requirements and policies.

**5. APPLICATIONS WILL RECEIVE PRIORITY FOR:**

- 5.01 Priority will be given to projects that create quality employment. "Quality employment" for the purpose of this policy is defined as a job which pays \$12.00 per hour or more, plus benefits.
- 5.02 Preference will be given to projects which include manufacturing, distribution, or technology-based firms or business which employ a majority of professional or skilled labor.
- 5.03 Preference will be given to projects constructed of block, engineered concrete, brick or engineered steel buildings (not pole) which contain decorative accessory materials (brick).
- 5.04 The applicant, proposed project or potential development must comply with the applicable Comprehensive Plan and Zoning Ordinances, or required changes to the Plan and Ordinances must be under active consideration at the time of approval.
- 5.05 To be considered as a redevelopment project at least 90 percent of the tax abatement or tax increment financing investment by the County must be expended by the applicant to eliminate blight conditions which justify creation of a redevelopment district.

**Revised/Approved by County Board: July 23, 2008  
Co. Bd. Policy Number #2008-4**

**Revised/Approved by HRA-EDA Board: June 24, 2008  
Revised: July 19, 2000  
Adopted: October 25, 1999**

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**RESOLUTION NO.**  
**APPROVING TAX ABATEMENT ASSISTANCE FOR**  
**TWIN PINES METROLOGY, LTD**  
**dba FOX VALLEY, LLC.**  
**IN THE CITY OF STACY, MN**

**BE IT RESOLVED** by the City of Stacy City Council (the “City”) as follows:

1. Recitals.

1.1 Twin Pines Metrology, LTD dba Fox Valley Metrology, LLC, a Minnesota limited liability company, (the “Developer”) proposes to purchase Lot 3, Block 1 of Stacy Ponds Business Park current PID number for the site is 19.00133.13 to expand their building located on Lot 2, Block 1 of Stacy Ponds Business park with a current PID number 19.00133.12 of herein (the “Property”).

1.2 Developer proposes to add an expansion of approximately 7,784 sq. ft. and renovate the existing facility on the Property and the Developer anticipates hiring not less than 15 FTE employees (at an average of \$17.00 per hour) with benefits and 2 PT employees (with an average hourly rate of \$13.00) over the next five years. The developer is also requesting fiber optics be brought into the Stacy Ponds Business Park for faster Internet speeds that are required for the business (the “Project”).

1.3 The Developer has requested assistance from the City in the form of tax abatement as allowed by Minnesota Statutes Section 469.1813 (the “Statute”).

1.4 The City’s EDA (“Authority”) has recommended approval of the Developer’s tax abatement assistance request with certain specified contingencies.

2. Findings.

2.1 The Property is not located in a tax increment financing district.

2.2 The proposed tax abatement assistance relating to the Property and the Project upon the terms and subject to the conditions and contingencies set forth in this Resolution is in the best interest of the City and meets the criteria for granting such assistance in that:

- a. The Project will increase the tax base of the City.
- b. The Project will provide additional employment opportunities in the City.
- c. Retains a business at risk of relocating outside of the City and State.
- d. Brings high speed Internet service to the Stacy Ponds Business Park.

2.3 Without the tax abatement assistance recommended for approval hereunder, it is unlikely that the Developer would complete the Project and they would develop in Wisconsin.

2.4 The tax abatement assistance provided by the City hereunder does not constitute a Business Subsidy under Minnesota Statutes 116J.993, Subd. 3(1).

2.5 The granting of the tax abatement assistance set forth herein will not cause the City to be in violation of the limits set forth in Minnesota Statutes Sections 469.1813, Subd. 8.

3. Resolution.

3.1 The City hereby agrees that upon completion of the Project the City will provide the Developer tax abatement assistance in an amount equal to the increase in property taxes received by the City as a result of the construction of the Project commencing with the first increase in such taxes and continuing thereafter until the earlier of (i) nine (9) years from such first increase date or (ii) Developers receipt of \$34,537.00 in total City tax abatement subject to the conditions, contingencies and requirements described herein.

3.2 The tax abatement assistance recommended for approval hereunder is contingent upon and subject to the following:

a. The City's receipt and review of such documentation as shall be necessary to establish that the Developer will receive the tax abatement assistance amounts for use with respect to eligible costs relating to the Project. Such documentation may consist of, but not be limited to: invoices in support of such eligible costs.

b. The execution of a tax abatement and development agreement ("Tax Abatement and Development Agreement") between the City, the County and the Developer substantially setting forth the specific terms of the tax abatement assistance granted by the City and containing such terms and provisions as shall be appropriate in the determination of the City staff, officers and consultants to carry out the intent of this Resolution including without limitation, Developer's agreement to: retain 13 FTE jobs (at \$17.00 per hour with benefits) and 1 PT job (at \$13.50 per hour) and to create 15 FTE jobs (at an average of \$17.00 per hour with benefits and 2 PT jobs (at an average of \$13.00 per hour ) over the next 5 years (the "Project").

3.3 The City of Stacy Mayor and Clerk to the Board are authorized and directed with the assistance of City staff and consultants, to execute the Tax Abatement Development Agreement.

3.4 The City of Stacy Mayor and Clerk to the Board are hereby authorized and directed to take any and all such further actions consistent with this Resolution as shall be reasonably required to carry out the transactions contemplated by this Resolution.

Motion by Council Member XXXX and seconded by Council Member XXXX the resolution and upon a vote being taken thereon, the following voted:

IN FAVOR THEREOF:

OPPOSED:

Whereupon the resolution was declared duly passed and adopted.

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**CONTRACT FOR PRIVATE DEVELOPMENT**

**STACY, MINNESOTA**

**THIS AGREEMENT**, made on or as of the \_\_\_ day of \_\_\_\_\_, 2019, by and between the **CITY OF STACY**, a Minnesota municipal corporation and **TOLLROGE PROPERTIES, LLC**, a Wisconsin limited liability company.

**WITNESSETH:**

**WHEREAS**, Developer operates a metrology lab which provides calibration, equipment sales, and repair of precision measuring equipment on the Developer Property;

**WHEREAS**, Developer has requested that the City approve the sale of the City Property to the Developer for use in connection with the expansion of Developer's business; and

**WHEREAS**, the City believes that the development and use of the City Property as an expansion of the Developer's business and the fulfillment generally of this Agreement is in the best interest of the City and the health, safety, morals and welfare of the residents of the City and in accord with the public purposes and provisions of the applicable state and local laws and requirements.

**WHEREAS**, Developer has indicated that construction of the Minimum Improvements would not occur on the Property due to the extraordinary site development and acquisitions costs associated with building on the Property but for tax abatement assistance from the City and County;

**WHEREAS**, pursuant to the Tax Abatement Act, the City may grant an abatement of the taxes imposed by such governmental units on parcels of property, subject to certain conditions set forth in such act;

**WHEREAS**, the City desires to pledge Tax Abatement to encourage development of the

Minimum Improvements;

**NOW, THEREFORE**, in consideration of the City Property, Purchase Price, and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

**ARTICLE I.**  
**DEFINITIONS**

In this Agreement, unless a different meaning clearly appears from the context:

**"Agreement"** or **"Contract"** means this Contract for Private Development by and between the City and the Developer, as the same may be from time to time modified, amended or supplemented.

**"Articles and Sections"** mentioned by number only are the respective Articles and Sections of this Agreement so numbered.

**"City"** means the City of Stacy, Minnesota.

**"City Property"** means the real property legally described in Exhibit "A" attached hereto.

**"City Tax Abatement"** means the City's Tax Abatement in the amount of \$34,537.00 on the City Property and Developer Property as described in Article V hereof and as authorized by the City Tax Abatement Resolution, pursuant to the Tax Abatement Act.

**"County"** means the County of Chisago, Minnesota.

**"County Tax Abatement"** means the County's Tax Abatement in the amount of \$61,398.00 on the City Property and Developer Property pursuant to a tax abatement agreement between Developer and the County.

**"Deed"** means the limited warranty deed described in Section 3.1 to be executed by the City conveying the City Property to the Developer.

**"Developer"** means Tollroge Properties, LLC, a Wisconsin limited liability company.

**"Developer Property"** means the real property as legally described in Exhibit "B" attached hereto.

**"Event of Default"** means an action by the Developer listed in Article VI of this Agreement.

**"Minimum Improvements"** means a 7,784 square foot expansion and remodel of Developer's existing building on the Developer Property and onto the City Property, including offices, labs and shipping & receiving, as depicted in the Plans.

**“Mortgage”** means the mortgage in favor of the City attached hereto as Exhibit “D”.

**“Permitted Encumbrances”** means those liens, restrictions, covenants and encumbrances currently of record against the City Property.

**“Plans”** means the plans and specifications for construction of the Minimum Improvements in a form and with details acceptable to the City, in its sole discretion.

**“Promissory Note”** means the promissory note in favor of the City in the amount of Fifty Seven Thousand Nine Hundred Thirty Five Dollars and 00/100ths (\$57,935.00), a copy of which is attached hereto as Exhibit “C”.

**“Purchase Price”** means the sum of Fifty Seven Thousand Nine Hundred Thirty Five Dollars and 00/100ths (\$57,935.00) which Developer shall pay the City for the purchase of the City Property.

**“Tax Abatement Act”** means Minnesota Statutes, Sections 469.1812 through 469.1815, as amended or supplemented from time to time.

**“Unavoidable Delays”** means delays outside the control of the party claiming its occurrence which are the direct result of strikes, other labor troubles, unusually severe or prolonged bad weather, Acts of God, fire or other casualty, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the City pursuant to this Agreement) which directly result in delays. Unavoidable Delays shall not include delays in the Developer's obtaining permits or governmental approvals necessary directly to enable construction of the Minimum Improvements, unless such permitting or approvals process is unforeseeably delayed.

## **ARTICLE II.**

### **REPRESENTATIONS AND WARRANTIES**

**Section 2.1. Representations and Warranties by the City.** The City represents and warrants that:

- (a) The City is a Minnesota municipal corporation and has the power to enter into this Agreement and carry out its obligations hereunder.
- (b) The City makes no representation or warranty, either express or implied, as to the City Property or its condition or soil conditions thereon, or that the City Property is suitable for the Developer's needs except as specifically set forth in this Agreement.
- (c) To the best knowledge of the City, the City is not in default concerning any of its obligations or liabilities regarding the City Property.
- (d) There is no action, litigation, investigation, condemnation or proceeding of any

kind, including but not limited to condemnation, pending or, to the best knowledge of the City, threatened against the City or any portion of the City Property.

- (e) The City has no actual knowledge that a "well" (as defined in Minnesota Statutes Section 103I.005, subd. 21) is located on the City Property.
- (f) The City has no actual knowledge of an "individual sewage treatment system" (as defined in Minnesota Statutes Section 115.55, subd. 1(g)) located on the City Property.
- (g) The City certifies that, as of the date hereof, no methamphetamine production has occurred on the City Property, pursuant to Minn. Stat. § 152.0275.
- (h) Subject to satisfaction of the terms and conditions of this Agreement, the City will convey the City Property to the Developer for development in accordance with this Agreement.

All representations and warranties shall survive Closing for a period of two (2) years.

**Section 2.2. Representations and Warranties by the Developer.** The Developer represents and warrants that:

- (a) The Developer has the capacity to enter into this Agreement and to perform its obligations hereunder.
- (b) The Developer will construct, operate and maintain the Minimum Improvements upon the City Property and the Developer Property in accordance with the terms of this Agreement, and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).
- (c) The Minimum Improvements will be constructed by the Developer, at its sole expense, in such manner, and at such expense as are necessary to make the City Property and Developer Property usable by the Developer, including all such improvements as are necessary to make said facility comply with all applicable federal, state and local rules, regulations, ordinances and laws.
- (d) The Developer will use its best efforts to construct the Minimum Improvements in accordance with all local, state or federal laws or regulations.
- (e) The Developer will obtain, in a timely manner, all required permits, licenses and approvals, including platting and zoning approvals, and meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed. The City does not hereby warrant or represent that it will approve an application filed by Developer.

- (f) The Developer will cooperate with the City, and the City will cooperate with the Developer with respect to any litigation commenced with respect to the City Property or the Minimum Improvements.
- (g) The Developer will construct the Minimum Improvements on the City Property and Developer Property in accordance with the Plans.
- (h) Whenever any Event of Default occurs and if the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, the Developer agrees that it shall, within ten (10) days of written demand by the City, pay to the City the reasonable fees of such attorneys and such other expenses so incurred by the City.
- (i) The Developer will convey to the City all tax abatements received from the County under the County Tax Abatement Agreement towards payment of the Promissory Note and Mortgage and will execute an irrevocable written request for payment of the County tax abatement directly to the City, in a form approved by the City and County.

All representations and warranties shall survive Closing.

### **ARTICLE III.** **CONVEYANCE OF CITY PROPERTY**

**Section 3.1. Sale and Purchase of Property.** Subject to the satisfaction of the terms and conditions of this Agreement, the City agrees to sell the City Property to the Developer and the Developer agrees to purchase the City Property from the City in “as-is” condition through the execution and delivery of a limited warranty deed and conveying marketable title to the City Property, subject to:

- (a) building and zoning laws, ordinances, state and federal regulations;
- (b) restrictions related to use or improvements of the City Property that do not affect Developer’s intended use or improvement of the City Property;
- (c) easements that do not interfere with Developer’s intended improvements and use;
- (d) reservations of minerals or mineral rights to the State of Minnesota (if any);
- (e) this Contract;
- (f) The City Tax Abatement agreement;

- (g) The County Tax Abatement agreement;

**Section 3.2. City Conditions Precedent to Conveyance of City Property.** The City's obligation to convey the City Property shall be subject to the satisfaction of, or waiver by the City of, all of the following conditions precedent:

- (a) The Developer not being in default beyond applicable notice and cure periods under the terms of this Agreement;
- (b) Developer shall have submitted proof to the City of Developer's fee simple ownership of the Developer Property.
- (c) Developer shall execute, acknowledge and deliver to the City the Promissory Note and Mortgage.
- (d) The Developer entering into a Tax Abatement and Development Agreement for the County Tax Abatement and the City Tax Abatement;
- (e) The Developer executing and providing to the County an irrevocable request directing payment of the tax abatements under the County Tax Abatement Agreement to the City in a form approved by the City and County.

If the contingencies have not been satisfied or waived by the parties by the Closing Date, then the City may elect to terminate this Agreement by written notice delivered to the Developer. Upon such termination, neither party will have any further rights or obligations regarding this Agreement or the City Property. If this Agreement is terminated as permitted under the terms of this Section, then upon request by the City, the City and Developer agree to sign a cancellation of this Agreement or Developer shall deliver a Quit Claim Deed to the City Property to the City. Developer agrees to diligently proceed to satisfy the conditions of this Section.

**Section 3.3. Purchase Price.** The Purchase Price for the City Property shall be payable by Developer to the City in the manner set forth in the Promissory Note.

**Section 3.4. Closing.**

- (a) The Closing of the purchase and sale contemplated by this Agreement shall occur at the Title Company's office or another location agreed to by the parties on or before June 30, 2019 ("Closing Date") provided all conditions precedent for the City and Developer to close have either been met or waived and the Developer has executed and delivered to the City the Mortgage and Promissory Note, and the City shall convey the City Property to the Developer through the execution and delivery of the Deed and all other documents reasonably required by Developer and the Title Company (as hereinafter defined).
- (b) The Developer shall take possession of the City Property upon execution and delivery of the Deed by the City at closing.

- (c) The Deed shall be in recordable form and shall be promptly recorded along with this Agreement.
- (d) At Closing, the Developer shall pay:
  - (i) the cost of the ALTA Owner's title insurance policy, including the cost of any endorsements or extended coverage provisions, if any;
  - (ii) one-half of the closing fees charged by the Title Company;
  - (iii) the cost for any environmental investigation, tests, or surveys elected to be completed by Developer, including consultants hired by Developer;
  - (iv) all taxes payable in accordance with the terms of this Agreement;
  - (v) its own attorneys' fees; and
  - (vi) recording fees for documents required to be recorded at Closing.
- (e) At Closing, the City shall pay:
  - (i) the cost for issuance of the title commitment; and
  - (ii) one-half of the closing fees charged by the Title Company; and
  - (iii) state deed tax relating to the conveyance of the City Property and conservation fees; and
  - (iv) all taxes and assessments payable in accordance with this Agreement.
- (f) All costs incidental to the Closing not otherwise specifically allocated under this Agreement shall be allocated in accordance with the custom and practice for similar transactions in Minnesota.

**Section 3.5. Title.** Within thirty (30) days after the date of this Agreement, the City shall obtain a current commitment for the issuance of a ALTA Form B owner's policy of title insurance (the "Commitment") issued by Land Title ("Title Company") in the amount of the Purchase Price, accompanied by copies of all recorded documents affecting the City Property and searches for real estate taxes, bankruptcies, judgments, liens and assessments. A mortgage, monetary lien or any other lien or encumbrance against the property shall be deemed to be a title objection.

Developer shall have ten (10) days after receipt of the Commitment to make its objections to matters disclosed in the Title Commitment in writing to the City. Any exceptions disclosed in the Commitment and not timely object to by the Developer shall be deemed Permitted Encumbrances. The City shall have the right, but not the obligation within ninety (90) days after it receives such objections to have the same removed or satisfied. If Developer's objections are not removed or satisfied by the City, then Developer may, at its sole discretion and as its sole and exclusive remedy, either (a) terminate this Agreement by written notice to the City and the City and Developer shall each be released from any further obligations and liability under this Agreement, except for any provisions of this Agreement which are made to survive the termination of this Agreement, and shall execute a mutual cancellation agreement evidencing the termination of this Agreement, or (b) waive such objections by written notice to the City and proceed to closing with the understanding that such uncured objections shall be included as Permitted Encumbrances on

the Deed at Closing; provided, however that if Developer has not notified the City of its election to either waive such objections or terminate this Agreement within five (5) days after expiration of the City's period to cure such objections, the Developer shall be deemed to have elected to waive such objections pursuant to clause (b) above.

**Section 3.6. City's Documents.** On the Closing Date, the City shall execute and deliver to Developer:

- (a) The Deed.
- (b) A customary affidavit that there are no unsatisfied judgments of record, no actions pending in any state or federal courts, no tax liens, and no bankruptcy proceeding filed against City, and no labor or materials have been furnished to the City Property by or on behalf of the City for which payment has not been made, and that to the City's actual knowledge there are no unrecorded interests relating to the City Property.
- (c) A settlement statement reflecting the financial provisions of the Closing, consistent with the provisions of this Agreement.
- (d) Such other documents as may be reasonably required by the Title Company for issuance of a title insurance policy to the Developer for the City Property.

**Section 3.7. Developer's Documents.** On the Closing Date, the City shall execute and deliver to Developer:

- (a) The Mortgage and Promissory Note.
- (b) A settlement statement reflecting the financial provisions of the Closing, consistent with the provisions of this Agreement.
- (c) All other documents reasonably determined by either party or the title insurance company to be necessary to transfer and provide title insurance for the City Property.

**Section 3.8. Right of Entry.** Upon reasonable notice to City, Developer and Developer's authorized agents shall have the right during the period from the date of this Agreement to the Date of Closing to enter in and upon the City Property in order to make, at Developer's expense, surveys, measurements, soil tests, geotechnical tests and other tests that Developer shall deem necessary. Developer agrees to restore any resulting damage to the City Property caused by Developer or its agents and to indemnify, hold harmless and defend City from any and all claims by third persons of any nature whatsoever arising from Developer's right of entry hereunder, including all actions, proceedings, demands, assessments, costs, expenses and attorneys' fees. Notwithstanding the foregoing, Developer's indemnification obligations set forth above shall not include any obligation to indemnify the City for the discovery of any existing conditions discovered as a result of Developer's inspections and testing.

**Section 3.9. Other Charges.** In addition to the charges referred to in this Agreement,

other fees due the City include building permit fees such as for signs, electrical, and plumbing, and all other fees for development.

**ARTICLE IV.**  
**CONSTRUCTION AND USE OF MINIMUM IMPROVEMENTS**

**Section 4.1. Construction of Minimum Improvements.** The Developer agrees that it will construct the Minimum Improvements on the City Property and Developer Property in accordance with the Plans and will operate and maintain, preserve and keep the Minimum Improvements or cause the Minimum Improvements to be maintained, preserved and kept with the appurtenances and every part and parcel thereof in good repair and condition.

**Section. 4.2. Plans.**

- (a) On or before May 1 2019, the Developer shall submit to the City a site plan for the City Property and Developer Property and the Plans for the Minimum Improvements. The Plans shall provide for the construction of the Minimum Improvements and shall be in conformity with this Agreement, the site plan, and all applicable state and local laws and regulations. The City and/or the City Engineer shall approve the Plans in writing if, in the reasonable discretion of the City and/or City Engineer: (i) the Plans conform to the terms and conditions of this Agreement; (ii) the Plans conform to all applicable federal, state and local law, ordinances, rules and regulations; (iii) the Plans are adequate to provide for the construction of the subject Minimum Improvements; and (iv) no Event of Default has occurred and is continuing hereunder. No approval by the City and/or City Engineer under this Section 4.2 shall relieve the Developer of the obligation to comply with the terms of this Agreement, applicable federal, state and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements. No approval by the City and/or City Engineer shall constitute a waiver of an Event of Default. The City and/or City Engineer shall review the Plans within thirty (30) days after submission of a complete set of Plans and either approve the same or provide Developer with a list of reasonable, specific required changes to be made to the Plans. Upon making the specific changes to the Plans as reasonably required by the City and/or City Engineer, the Developer shall submit the Plans with the required changes to the City Engineer for his approval.
- (b) If the Developer desires to make any material change in any Plans after their approval by the City and/or City Engineer, the Developer shall submit the proposed change to the City Engineer for his approval. If the Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 of this Agreement with respect to such previously approved Plans, the City and/or City Engineer shall approve the proposed change and notify the Developer in writing of its approval.
- (c) Developer shall plat the City Property and Developer Property into one lot and shall record said plat with Chisago County by May 31, 2019, 2019.

**Section 4.3. Commencement and Completion of Minimum Improvements.** The

Developer shall secure all governmental permits and approvals, including building permits necessary to be obtained in order to permit construction of the Minimum Improvements by May 1, 2019. Developer shall commence construction of the Minimum Improvements by June 1, 2019. Subject to Unavoidable Delays, the Developer shall complete construction of the Minimum Improvements, except for landscaping, exterior matters such as paving, and minor punch list items, on or before June 1, 2020.

**Section 4.4. Construction Requirements.** In constructing the Minimum Improvements, the Developer shall comply with all federal, state and local laws and regulations.

**Section 4.5. Indemnification.** The Developer shall hold the City and its officers, employees, and agents harmless from claims made by it and third parties for damages sustained or costs incurred resulting from (i) approval of this Agreement; and (ii) Developer's construction of the Minimum Improvements required hereunder. The Developer shall indemnify the City and its officers, employees, and agents for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorneys' fees.

**ARTICLE V.**  
**REAL PROPERTY TAXES**

**Section 5.1. Real Property Taxes.** The Developer shall, so long as this Agreement remains in effect, pay all real property taxes with respect to all parts of the City Property and Developer Property which are payable pursuant to any statutory or contractual duty that shall accrue until title to the City Property is vested in another person. The Developer agrees that for the period of Tax Abatement provided under Article V:

(a) It will not seek administrative review or judicial review of the applicability of any tax statute relating to the ad valorem property taxation of real property contained on the City Property and Developer Property determined by any tax official to be applicable to the City Property or Developer Property or raise the inapplicability of any such tax statute as a defense in any proceedings with respect to the City Property and Developer Property, including delinquent tax proceedings; provided, however, " tax statute" does not include any local ordinance or resolution levying a tax;

(b) It will not seek administrative review or judicial review of the constitutionality of any tax statute relating to the taxation of real property contained on the City Property and Developer Property determined by any tax official to be applicable to the v or the Developer or raise the unconstitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings with respect to the City Property and Developer Property; provided, however, " tax statute" does not include any local ordinance or resolution levying a tax;

(c) It will not seek any tax deferral or abatement, either presently or prospectively authorized under Minnesota Statutes, Section 469.181, or any other State or federal law, of the ad valorem property taxation of the City Property and Developer Property so long as this

Agreement remains in effect.

## **ARTICLE VI** **EVENTS OF DEFAULT**

**Section 6.1. Events of Default Defined.** The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement (unless the context otherwise provides), any one or more of the following events:

- (a) If any warranty or representation by the Developer in this Agreement is untrue in any material respect.
- (b) Failure of the Developer to pay taxes when due on the City Property.
- (c) The Developer does any of the following prior to completion of construction of the Minimum Improvements: (i) files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under United States Bankruptcy Laws or any similar federal or state laws; or (ii) make an assignment for the benefit of its creditors; or (iii) admit, in writing, its inability to pay its debts generally as they become due; or (iv) be adjudicated, bankrupt or insolvent.
- (d) Failure by Developer to observe or perform any other covenant, condition, obligation, term, or agreement to be observed or performed pursuant to this Agreement.

**Section 6.2. Remedies on Default.** Whenever any Event of Default occurs, the City may take any one or more of the following actions after providing thirty (30) days written notice to Developer, if the Event of Default has not been cured within said thirty (30) days:

- (a) Suspend its performance under the Agreement until it receives assurances from the Developer, deemed adequate by the City, that the Developer will cure the default and continue their performance under the Agreement.
- (b) Terminate this Agreement.
- (c) Take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to the City to collect any payments due or damages arising under this Agreement, the Promissory Note, or the Mortgage, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement, the Promissory Note, or the Mortgage.

### **Section 6.3. Intentionally Omitted.**

**Section 6.4. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement

or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**Section 6.5. Attorneys' Fees.** Whenever any Event of Default occurs and either the City shall employ attorneys or incur expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, the Developer agrees that it shall, within ten (10) days of written demand by the City pay to the City the reasonable fees of such attorneys and such other expenses so incurred by the City.

**ARTICLE VII.**  
**ADDITIONAL PROVISIONS**

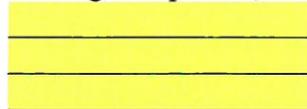
**Section 7.1. Waiver and Release by Developer.** The Developer hereby waives, releases and forever discharges the City from any claim for costs incurred in preliminary plans, specifications, site testing improvements, professional fees or legal fees in connection with the Minimum Improvements.

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

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

- (a) In the case of the Developer, is addressed or delivered personally to:

Tollroge Properties, LLC



- (b) In the case of the City, is addressed or delivered personally to:

City of Stacy  
Stacy City Hall,  
30955 Forest Blvd  
Stacy MN 55079

with a copy to its Attorney:

CAMPBELL KNUTSON  
Professional Association  
860 Blue Gentian Road, Suite 290  
Eagan, Minnesota 55121  
Telephone: (651) 452-5000

- (c) Either party may, upon written notice to the other party, change the address to which such notices and demands are made.

**Section 7.4. Disclaimer of Relationship.** The Developer acknowledges that nothing contained in this Agreement nor any act by the City or the Developer shall be deemed or construed by the Developer or any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner or joint venture between the City and the Developer.

**Section 7.5. Covenants Running with the Land.** The terms and provisions of this Agreement shall be deemed to be covenants running with the City Property and Developer Property, shall not merge with the Deed to the City Property and Developer Property, and shall be binding upon any successors or assigns of the Developer and any future owners or encumbrances of the City Property and Developer Property.

**Section 7.6. Counterparts.** This Agreement is executed in any number of counterparts, each of which shall constitute one and the same instrument.

**Section 7.7. Law Governing.** This Agreement will be governed and construed in accordance with the laws of Minnesota.

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

**CITY OF STACY**

By: \_\_\_\_\_  
Mark Utecht, Mayor

By: \_\_\_\_\_  
Sharon Payne, City Clerk

STATE OF MINNESOTA    )  
                                  ) ss.

COUNTY OF CHISAGO )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by Mark Utecht and Sharon Payne, respectively the Mayor and City Clerk for the City of Stacy, a Minnesota municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

**DEVELOPER:  
TOLLROGE PROPERTIES, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the \_\_\_\_\_, of Tollroge Properties, LLC, a Wisconsin limited liability company, on its behalf.

\_\_\_\_\_  
Notary Public

DRAFTED BY:  
CAMPBELL KNUTSON, P.A.  
860 Blue Gentian Road, Suite 290  
Eagan, Minnesota 55121  
Telephone: (651) 452-5000  
ABS

**EXHIBIT "A"**  
**TO**  
**CONTRACT FOR PRIVATE DEVELOPMENT**

*Legal Description of City Property*

Lot 3, Block 1, STACY PONDS BUSINESS PARK 1<sup>st</sup> ADDITION, Chisago County, Minnesota.

PID: 19.00133.13

**EXHIBIT "B"**  
**TO**  
**CONTRACT FOR PRIVATE DEVELOPMENT**

*Legal Description of Developer Property*

Lot Two (2), Block One (1), STACY PONDS BUSINESS PARK 1<sup>st</sup> ADDITION, Chisago County,  
Minnesota.

PID 19.00133.12

**EXHIBIT "C"**  
**TO**  
**CONTRACT FOR PRIVATE DEVELOPMENT**

Promissory Note

**PROMISSORY NOTE**

\$57,935.00

Stacy, Minnesota

\_\_\_\_\_, 2019

**FOR VALUE RECEIVED**, the undersigned, **TOLLROGE PROPERTIES, LLC**, a Wisconsin limited liability company ("**Borrower**"), with its principal office at \_\_\_\_\_, promises to pay to the order of the **CITY OF STACY**, a Minnesota municipal corporation, or its successors and assigns ("**City**"), at its principal office at Stacy City Hall, 30955 Forest Blvd Stacy MN 55079, or at such other place as the holder of this Note ("**Note**") may require, the principal sum of Fifty Seven Thousand Nine Hundred Thirty Five Dollars and 00/100ths (\$57,935.00), as required under the terms of the Contract for Private Development between the Borrower and the City, dated \_\_\_\_\_, 2019 ("**Contract for Private Development**"). Principal payable under this Note shall be paid as follows:

(a) The outstanding principal sum is due in cash or certified funds on \_\_\_\_\_ 202\_ ("**Payment**").

(b) Notwithstanding the foregoing, \_\_\_\_\_

The principal balance shall be payable in coin or currency which at the time of payment is legal tender for the payment of public or private debts in the United States of America. This Promissory Note may be prepaid in full or in part at any time.

The interest rate (termed "**Note Rate**") shall be set at the rate of \_\_\_% per year. Per diem interest during the Loan Term shall be computed on the basis of a three hundred sixty (360) day year but shall be payable on the actual days elapsed during the term of this Note.

All payments made under this Note shall be applied first to costs, second to any late charges due hereunder, the interest, and finally to principal, except that if any advances made by the City due to the occurrence of an Event of Default are not repaid on demand, any moneys received, at the option of the City, may first be applied to repay such advances, plus interest thereon at the Note Rate, and the balance, if any, shall be applied on account of any principal and/or interest then due.

This Note is secured by a Mortgage of even date herewith (the "**Mortgage**") by which Borrower has granted to the City a mortgage lien on certain real property, as therein defined, located in Chisago County, Minnesota (the "**Property**"). The terms of the Mortgage are incorporated herein by

reference and made a part hereof.

Borrower shall be in default upon the occurrence of any of the following events, circumstances or conditions ("**Events of Default**"):

- A. Failure by any party obligated on this Note or any other obligations Borrower has with the City to make payment when due; or
- B. Failure to comply with any provision of the Contract for Private Development; or
- C. The dissolution or insolvency of, the appointment of a receiver by or on behalf of, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against Borrower, or any co-signer, endorser or surety of this Note.
- D. Sale of the Property without the City's written consent.

It is agreed that time is of the essence in performance of this Note. Notwithstanding any provision contained in the Note, the City agrees to provide written notice to the Borrower of any default by Borrower under the Note. The Borrower shall have an opportunity to cure such default for a period of thirty (30) days following receipt of such notice. The City agrees not to take any action until the expiration of the thirty (30) day period. In the event Borrower fails to cure any defaults under the Note within thirty (30) days of the notice of a default, then, at the City's option, all or any part of this Note shall be immediately due and payable without notice or demand. The City may exercise all rights and remedies provided by law, equity, this Note, any mortgage, deed of trust or similar instrument and any other security, loan or surety agreements pertaining to this Note. The City is entitled to all rights and remedies provided at law or equity whether or not expressly stated in this Note. By choosing any remedy, the City does not waive its right to an immediate use of any other remedy if the Event of Default continues or occurs again.

The remedies of the City, as provided herein and in the Mortgage shall be cumulative and concurrent and may be pursued singularly, successively, or together at the sole discretion of the City and may be exercised as often as the occasion therefor shall arise.

Upon the occurrence of an Event of Default, the City may recover from Borrower all reasonable expenses of collection in realizing on any security interest, and if the same is referred to an attorney for collection or any action at law or in equity is brought with respect hereto, Borrower shall pay the City all reasonable expenses and costs of collection, including but not limited to reasonable attorneys' fees and court costs. Any such fees and costs shall be added to the principal, and interest shall accrue thereon at the Note Rate and shall be secured by the Collateral (as hereinafter defined).

Regarding this Note, to the extent not prohibited by law, Borrower and any other signers:

- A. Waive protest, presentment for payment, notice of intent to accelerate and notice of dishonor.

- B. Consent to any renewals and extensions for payment on this Note, regardless of the number of such renewals or extensions.
- C. Consent to the release, substitution or impairment of any Collateral (as hereinafter defined).
- D. Consent that Borrower is authorized to modify the terms of this Note or any instrument securing or relating to this Note.
- E. Consent to any and all sales, repurchases and participations of this Note to any person in any amounts and waive notice of such sales, repurchases or participations of this Note.

All agreements between the City and Borrower are hereby expressly limited so that in no contingency or event whatsoever, by reason of acceleration of maturity of the indebtedness evidenced hereby or otherwise, shall the amount paid or agreed to be paid to the City for the use, forbearance, loaning or detention of the indebtedness evidenced hereby exceed the maximum permissible under applicable law. If from any circumstances whatsoever, fulfillment of any provisions hereof or of the Mortgage shall involve transcending the limit of validity prescribed by law, then the obligation to be fulfilled shall automatically be reduced to the limit of such validity and if from any circumstances the City should ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be in excess of such highest lawful rate shall be applied to the reduction of the principal balance evidenced hereby and not to the payment of interest or returned to Borrower, at the option of the City. This provision shall control every other provision of all agreements between Borrower and the City and shall also be binding upon and available to any subsequent holder or endorsee of this Note.

The City is under no duty to preserve or protect any Collateral, as hereinafter defined, until the City is in actual or constructive possession of the Collateral. For purposes of this paragraph, the City shall only be considered to be in "actual" possession of the Collateral when the City has physical, immediate and exclusive control over the Collateral and has affirmatively accepted such control. The City shall only be considered to be in "constructive" possession of the Collateral when the City has both the power and the intent to exercise control over the Collateral.

This Note is secured by the following type(s) (or items) of real property and/or personal property ("**Collateral**"): the real property described in the Mortgage.

Borrower represents and warrants to the City that the Loan is for business purposes.

Borrower shall maintain property insurance covering the Collateral that secures this Loan until such time as the Loan is paid in full. Borrower may obtain the property insurance from any reputable insurance company of Borrower's choice that is reasonably acceptable to the City.

Borrower and all other makers, co-signers and sureties shall be jointly and severally liable under this Note.

Upon written request by Developer, the City shall subordinate its rights and interest in the Property, the Minimum Improvements, this Note, and the Mortgage to the lien of a first mortgagee on a form approved by the lender and the City Attorney, which approval will not be unreasonably withheld, conditioned or delayed.

#### GENERAL PROVISIONS.

- A. **TIME IS OF THE ESSENCE.** Time is of the essence in Borrower's performance of all duties and obligations imposed by this Note.
- B. **NO WAIVER BY CITY.** No delay or omission on the part of the City in exercising any right hereunder shall operate as a waiver of such right or of any other remedy under this Note. A waiver on any one occasion shall not be construed as a bar to or waiver of any such right or remedy on a future occasion, unless any such waiver is in writing and is signed by the City.
- C. **AMENDMENT.** The provisions contained in this Note may not be amended, except through a written amendment that is signed by Borrower and the City.
- D. **INTEGRATION CLAUSE.** This written Note, the Mortgage and the Contract for Private Development and all documents executed concurrently herewith, represent the entire understanding between the parties as to the obligations and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.
- E. **FURTHER ASSURANCES.** Borrower agrees, upon the City's request and within a reasonable time period, to provide any information, and to execute, acknowledge, deliver and record or file such further instruments or documents as the City may reasonably require to secure this Note or confirm any lien.
- F. **GOVERNING LAW.** This Note shall be governed by the laws of the State of Minnesota, provided that such laws are not otherwise preempted by federal laws and regulations.
- G. **FORUM AND VENUE.** In the event of litigation pertaining to this Note, the exclusive forum, venue and place of jurisdiction shall be in the State of Minnesota, unless otherwise designated in writing by the City or otherwise required by law.
- H. **SUCCESSORS.** This Note shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the parties; provided however, that Borrower may not assign, transfer or delegate any of the rights or obligations under this Note.
- I. **NUMBER AND GENDER.** Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.
- J. **DEFINITIONS.** The terms used in this Note, if not defined herein, shall have their meanings as defined in the other documents executed contemporaneously or in conjunction with this Note.

- K. PARAGRAPH HEADINGS. The headings at the beginning of any paragraph, or any subparagraph, in this Note are for convenience only and shall not be dispositive in interpreting or construing this Note.
- L. IF HELD UNENFORCEABLE. If any provision of this Note shall be held unenforceable or void, then such provision to the extent not otherwise limited by law shall be severable from the remaining provisions and shall in no way affect the enforceability of the remaining provisions nor the validity of this Note.
- M. CHANGE IN APPLICATION. Borrower will notify the City in writing before any changes in its name or address.
- N. NOTICE. All notices under this Note must be in writing. Any notice given by the City to Borrower will be effective upon personal delivery or 24 hours after mailing by first class United States mail, postage prepaid, addressed to Borrower at the address indicated on page one of this Note. Such address may be changed by written notice to the other party.

RECEIPT OF COPY. Borrower acknowledges that Borrower has read and received a copy of this Note by its signature below.

BORROWER AND CITY ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS NOTE OR THE INDEBTEDNESS SECURED HEREBY.

IN WITNESS WHEREOF, the undersigned has executed this Note as of the day and year first above written.

**BORROWER:**  
**TOLLROGE PROPERTIES, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MINNESOTA    )  
                                   )ss.  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the \_\_\_\_\_, of Tollroge Properties, LLC, a Wisconsin limited liability

company, on its behalf.

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Notary Public

**EXHIBIT "D"**  
**TO**  
**CONTRACT FOR PRIVATE DEVELOPMENT**

*Mortgage*

*(Reserved for Recording Data)*

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**MORTGAGE**

THIS INDENTURE (hereinafter referred to as the "**Mortgage**"), dated as of the \_\_\_\_ day of \_\_\_\_\_, 2019, between **TOLLROGE PROPERTIES, LLC**, a Wisconsin limited liability company ("**Mortgagor**"), and **CITY OF STACY**, a Minnesota municipal corporation ("**Mortgagee**").

WITNESSETH, that the said Mortgagor, in consideration of the debt hereinafter described, the receipt and sufficiency of which is hereby acknowledged, does hereby CONVEY unto the said Mortgagee, its successors and assigns, forever, the following real property [all of the following being hereafter collectively referred to as the ("**Property**")]:

- A. **REAL PROPERTY.** All the tracts or parcels of real property lying and being in the County of Chisago, State of Minnesota, all as more fully described in Exhibit "A" attached hereto and made a part hereof, together with all the estates and rights in and to the real property and in and to lands lying in streets, alleys and roads adjoining the real property and all buildings, structures, improvements, fixtures and annexations, access rights, easements, rights of way or use, servitudes, licenses, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the real property ("**Real Property**") subject to encumbrances of record as of the date hereof or hereafter consented to in writing by Mortgagee (the "**Permitted Encumbrances**").

AND THE SAID MORTGAGOR, for itself, its administrators, successors and assigns, does covenant with the Mortgagee, its successors and assigns, that Mortgagor is lawfully seized of the Property and has good right to sell and convey the same; that the Property is free from all encumbrances except the Permitted Encumbrances; that the Mortgagee, its successors and assigns, shall quietly enjoy and possess the Property; and that the Mortgagor will WARRANT AND DEFEND the title to the same against all lawful claims not specifically excepted in this Mortgage.

TO HAVE AND TO HOLD THE SAME, together with the possession and right of possession of the Property, unto the Mortgagee, its successors and assigns, forever.

PROVIDED, NEVERTHELESS, that if the Mortgagor, its administrators, personal representatives, successors and assigns (A) shall pay to the Mortgagee, its successors or assigns, the sum of Fifty Seven Thousand Nine Hundred Thirty Five Dollars and 00/100ths (\$57,935.00) or such lesser amount as may be adjusted according to the terms of that certain Promissory Note (“**Note**”) of even date herewith, the terms and conditions of which are incorporated herein by reference and made a part hereof, together with any extensions or renewals thereof, the balance of said principal sum being due and payable in full on \_\_\_\_\_, 202\_\_\_\_, unless due earlier according to the terms of the Note, and (B) shall repay to the Mortgagee, its successors or assigns, at the times demanded and with interest thereon at the same rate specified in the Note, all sums advanced in protecting the lien of this Mortgage, in payment of taxes and special assessments on the Property, in payment of insurance premiums covering improvements thereon, in payment of principal and interest on prior liens, in payment of expenses and attorneys' fees herein provided for and all sums advanced for any other purpose authorized herein (the Note and all such sums, together with interest thereon, being collectively referred to as the "**Indebtedness Secured Hereby**"), and shall keep and perform all of the covenants and agreements in the Note, the Contract for Private Development, between Mortgagor and Mortgagee dated \_\_\_\_\_, 2019, to which this Mortgage is attached as an Exhibit (“Contract for Private Development”), as amended, and herein contained, then this Mortgage shall become null and void and shall be released at Mortgagor’s expense.

AND IT IS FURTHER COVENANTED AND AGREED AS FOLLOWS:

**ARTICLE ONE**  
**GENERAL COVENANTS, AGREEMENTS, WARRANTIES**

**SECTION 1.1: PAYMENT OF INDEBTEDNESS / OBSERVANCE OF COVENANTS.** Mortgagor will duly and punctually pay or cause to be paid each and every installment of principal on the Note and all other Indebtedness Secured Hereby, as and when the same shall become due, and shall duly and punctually perform and observe all of the covenants, agreements and provisions contained herein, in the Note, and any other instrument given as security for the payment of the Note.

**SECTION 1.2: MAINTENANCE; REPAIRS.** Mortgagor agrees that it will keep and maintain the Property in good repair and operating condition, free from any waste or misuse, and will comply with all requirements of law, municipal ordinances and regulations, restrictions and covenants affecting the Property and its use. Except for the improvements contemplated in the Contract for Private Development, Mortgagor agrees that without the prior consent of the Mortgagee it will not expand any improvements on the Property erect any new improvements or make any material alterations in any improvements which will affect the market value of the Property, and will complete within a reasonable time any buildings now or at any time in the process of erection on the Property. Mortgagor agrees not to acquiesce in any rezoning classification, modification or restriction affecting the Property. Mortgagor will not use or occupy the Property in any manner that violates any applicable laws, rules, regulations or orders with respect to the Property including but not limited to the Americans with Disabilities Act.

**SECTION 1.3: PAYMENT OF OPERATING COSTS, LIENS AND LEVIES.** Mortgagor agrees that it will pay all operating costs and expenses of the Property, keep the Property free from mechanic's, materialmen's and other liens, keep the Property free from levy, execution or attachment, and upon request will exhibit to Mortgagee satisfactory evidence of such payment and discharge.

**SECTION 1.4: PAYMENT OF IMPOSITIONS.** Mortgagor will pay when due and before any penalty all taxes, assessments, water charges, sewer charges and other fees, taxes, charges and assessments of every kind and nature whatsoever assessed or charged against or constituting a lien on the Property or any interest therein, or the Indebtedness Secured Hereby ("**Impositions**"), and will upon demand furnish to the Mortgagee proof of the payment of any such Impositions. In the event of a court decree or an enactment after the date hereof by any legislative authority of any law imposing upon a mortgagee the payment of the whole or any part of the Impositions herein required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or a mortgagee's interest in mortgaged property, so as to impose such Imposition on the Mortgagee or on the interest of the Mortgagee in the Property, then, in any such event, Mortgagor shall bear and pay the full amount of such Imposition, provided that if for any reason payment by Mortgagor of any such Imposition would be unlawful, or if the payment thereof would constitute usury or render the Indebtedness Secured Hereby wholly or partially usurious, Mortgagee, at its option, may declare the whole sum secured by this Mortgage with interest thereon to be immediately due and payable, without prepayment premium, or Mortgagee, at its option, may pay that amount or portion of such Imposition as renders the Indebtedness Secured Hereby unlawful or usurious, in which event Mortgagor shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of said Imposition.

**SECTION 1.5: CONTEST OF IMPOSITIONS, LIENS AND LEVIES.** Mortgagor shall not be required to pay, discharge or remove any Imposition, or any lien or levy ("**Lien or Levy**") so long as the Mortgagor shall in good faith contest the same or the validity thereof by appropriate legal proceedings which shall operate to prevent the collection of the Levy, Lien or Imposition so contested and the sale of the Property, or any part thereof to satisfy the same, provided that the Mortgagor shall, prior to the date such Levy, Lien or Imposition is due and payable, have given such reasonable security as may be demanded by the Mortgagee to insure such payments and prevent any sale or forfeiture of the Property by reason of such non-payment. Any such contest shall be prosecuted with due diligence and the Mortgagor shall promptly after final determination thereof pay the amount of any such Levy, Lien or Imposition so determined, together with all interest and penalties, which may be payable in connection therewith. Notwithstanding the provisions of this Section, Mortgagor shall (and if Mortgagor shall fail so to do, Mortgagee may but shall not be required to) pay any such Levy, Lien or Imposition notwithstanding such contest if in the reasonable opinion of the Mortgagee the Property shall be in jeopardy or in danger of being forfeited or foreclosed.

**SECTION 1.6: PROTECTION OF SECURITY.** Mortgagor agrees to promptly notify Mortgagee of and appear in and defend any suit, action or proceeding that materially affects the value of the Property, the Indebtedness Secured Hereby or the rights or interest of Mortgagee hereunder, unless such action was commenced by Mortgagee in which case no notice to Mortgagee is necessary. The Mortgagee may elect to appear in or defend any such action or proceeding and, except in the case of an action commenced by Mortgagee, Mortgagor agrees to indemnify and reimburse Mortgagee from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and reasonable attorneys' fees.

**SECTION 1.7: ADDITIONAL ASSURANCES.** Mortgagor agrees upon reasonable request by the Mortgagee to execute and deliver such further instruments and will do such further acts as may be necessary or proper to carry out more effectively the purposes of this Mortgage and, without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the granting clause hereof, or intended so to be. Mortgagor agrees to pay any recording fees, filing fees, stamp taxes or other

charges arising out of or incident to the filing or recording of the Mortgage, such further assurances and instruments and the issuance and delivery of the Note.

**SECTION 1.8: SUBORDINATION OF THIS MORTGAGE.** Notwithstanding anything contained herein to the contrary, upon written request by Mortgagor, the Mortgagee shall subordinate its rights and interest in the Property, the Minimum Improvements, the Note, and this Mortgage to the lien of a first mortgagee on a form approved by the lender and the City Attorney, which approval shall not be unreasonably withheld, conditioned or delayed.

**SECTION 1.9: MAXIMUM AMOUNT.** The maximum amount this Mortgage shall secure shall not be more than Fifty Seven Thousand Nine Hundred Thirty Five Dollars and 00/100ths (\$57,935.00) at any time, together with interest and all amounts expended by the Mortgagee to protect the Mortgagee's interest in the Property secured by this Mortgage and to enforce the terms hereof.

## **ARTICLE TWO** **INSURANCE AND ESCROWS**

**SECTION 2.1: INSURANCE.** Mortgagor shall obtain and keep in full force and effect during the term of this Mortgage at its sole cost and expense, standard "Builder's Risk" insurance with respect to all construction in progress on the Property and "All-Risk" or "Fire-extended coverage - difference in conditions" property insurance against loss by fire, lightning and risk customarily covered by standard extended coverage endorsement, including the cost of debris removal, all in the amounts of not less than the full insurable value, with agreed amount and full replacement cost endorsements, whichever is greater, and Flood Insurance in the maximum obtainable amount unless evidence is provided that the Property is not within a flood plain as defined by the Federal Insurance Administration.

Such insurance policies shall be written on forms and with insurance companies satisfactory to Mortgagee, shall name as the insured parties the Mortgagor and the Mortgagee as their interests may appear, shall be in amounts sufficient to prevent the Mortgagor from becoming a co-insurer of any loss thereunder, shall contain endorsements that no act or negligence of Mortgagor or any occupant of the Property and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy shall affect the validity and enforceability of such insurance as against Mortgagee, and shall bear a satisfactory mortgagee clause in favor of the Mortgagee with loss proceeds under any such policies to be made payable to the Mortgagee, subject, however, to any claims by any first mortgagee lender for the Property. Mortgagee agrees to make any such loss proceeds available to Mortgagor in the event the parties agree to restore and/or repair the Property. Mortgagor shall also obtain and keep in full force and effect during the term of this Mortgage comprehensive general public liability insurance covering the legal liability of the Mortgagor against claims for bodily injury, death or property damage occurring on, in or about the Property in the amount of at least One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00), which policies shall name the Mortgagee as additional insured. All required policies of insurance or acceptable certificates thereof, together with evidence of the payment of current premiums therefor, shall be delivered to the Mortgagee. The Mortgagor shall, within thirty (30) days prior to the expiration of any such policy, deliver other original policies or certificates of the insurer evidencing the renewal of such insurance together with evidence of the payment of current premiums therefor. All policies shall specifically provide that the Mortgagee shall receive thirty (30) days prior written notice before cancellation of any such policies. In the event of a foreclosure of this Mortgage or any acquisition of the

Property by the Mortgagee, all proceeds payable under this policy, whether payable before or after a foreclosure sale, or during the period of redemption, if any, shall become the absolute property of the Mortgagee to be utilized at its discretion. In the event of foreclosure or the failure to obtain and keep any required insurance, the Mortgagor empowers the Mortgagee to effect insurance upon the Property at Mortgagor's expense and for the benefit of the Mortgagee in the amounts and types aforesaid for a period of time covering the time of redemption from foreclosure sale, and if necessary, to cancel any or all existing insurance policies. Mortgagor agrees to furnish Mortgagee copies of all inspection reports and insurance recommendations received by Mortgagor from any insurer.

**ARTICLE THREE**  
**INTENTIONALLY OMITTED**

**ARTICLE FOUR**  
**APPLICATION OF INSURANCE AND AWARDS**

**SECTION 4.1: DAMAGE OR DESTRUCTION OF THE PROPERTY.** Mortgagor will give the Mortgagee prompt notice of any damage to or destruction of the Property. If the insurance proceeds are sufficient to pay all costs of repair and/or restoration, then the parties will in good faith consider that option.

**SECTION 4.2: CONDEMNATION.** Subject to the rights of any first mortgagee lender of the Property to which this Mortgage may be subordinated, Mortgagor will give the Mortgagee prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assigns, transfers and sets over to the Mortgagee the entire proceeds of any award or claim for damages for all or any part of the Property taken or damaged under the power of eminent domain or condemnation, the Mortgagee being hereby authorized to intervene in any such action in the name of the Mortgagor and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds to the extent such proceeds and claims for damage are not assigned to any first mortgagee lender for the Property. Any expenses incurred by the Mortgagee in intervening in such action or collecting such proceeds shall be reimbursed to the Mortgagee first out of the proceeds. The proceeds or any part thereof shall be applied upon or in reduction of the Indebtedness Secured Hereby then most remotely to be paid, whether due or not, without the application of any prepayment premium, or to the restoration or repair of the Property, the choice of application to be solely at the discretion of Mortgagee.

**SECTION 4.3: DISBURSEMENT OF INSURANCE AND CONDEMNATION PROCEEDS.** Should any insurance or condemnation proceeds be applied to the restoration or repair of the Property, the restoration or repair shall be done under the supervision of an architect acceptable to Mortgagee and pursuant to plans and specifications approved by the Mortgagee. In such case the insurance or condemnation proceeds shall be held by Mortgagee, subject to the rights of any first mortgagee lender for the Property, for such purposes and will from time to time be disbursed by Mortgagee to defray the costs of such restoration or repair under such safeguards and controls as the Mortgagee may reasonably require to assure completion in accordance with the approved plans and specifications and free of liens or claims. Any surplus which may remain after payment of all costs of restoration or repair may at the option of the Mortgagee be applied on account of the Indebtedness Secured Hereby then most remotely to be paid, whether due or not, without application of any prepayment premium or shall be returned to Mortgagor as its interest may appear, the choice of application to be solely at the discretion of Mortgagee.

**ARTICLE FIVE**  
**RIGHTS OF MORTGAGEE**

**SECTION 5.1: RIGHT TO CURE DEFAULT.** If the Mortgagor shall fail to comply with any of the covenants or obligations of this Mortgage, the Mortgagee may, but shall not be obligated to, without further demand upon Mortgagor, and without waiving or releasing Mortgagor from any obligation in this Mortgage contained, remedy such failure, and the Mortgagor agrees to repay upon demand all sums incurred by the Mortgagee in remedying any such failure, together with interest on all such sums advanced at a rate equal to that then in effect under the terms of the Note. Mortgagee shall give Mortgagor at least thirty (30) days' notice of the failure to comply prior to the Mortgagee taking remedial action, but Mortgagee's failure to give any such notice shall have no effect on Mortgagor's obligation to repay Mortgagee for any sums advanced together with interest thereon. All such sums, together with interest as aforesaid, shall become so much additional Indebtedness Secured Hereby, but no such advance shall be deemed to relieve the Mortgagor from any failure hereunder.

**SECTION 5.2: NO CLAIM AGAINST THE MORTGAGEE.** Nothing contained in this Mortgage shall constitute any consent or request by the Mortgagee, express or implied, for the performance of any labor or services or for the furnishing of any materials or other property in respect of the Property or any part thereof, nor as giving the Mortgagor or any party in interest with Mortgagor any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would create any personal liability against the Mortgagee in respect thereof or would permit the making of any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the lien of this Mortgage.

**SECTION 5.3: INSPECTION.** Upon reasonable prior notice to Mortgagor, Mortgagor will permit the Mortgagee's authorized representatives to enter the Property for the purpose of inspecting the same; provided the Mortgagee shall have no duty to make such inspections and shall not incur any liability or obligation for making or not making any such inspections.

**SECTION 5.4: WAIVERS; RELEASES; RESORT TO OTHER SECURITY; ETC.** Without affecting the liability of any party liable for payment of any Indebtedness Secured Hereby or performance of any obligation contained herein and without affecting the rights of the Mortgagee with respect to any security not expressly released in writing, the Mortgagee may, at any time, and without notice to or the consent of the Mortgagor or any party in interest with the Property or the Note (a) release any person liable for payment of all or any part of the Indebtedness Secured Hereby or for performance of any obligation herein, (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the Indebtedness Secured Hereby or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof, (c) accept any additional security, (d) release or otherwise deal with any property, real or personal, including any or all of the Property, including making partial releases of the Property; or (e) resort to any security agreements, pledges, contracts of guarantee, assignments of rents and leases or other securities, and exhaust any one or more of said securities and the security hereunder, either concurrently or independently and in such order as it may determine.

**SECTION 5.5: RIGHTS CUMULATIVE.** Each right, power or remedy herein conferred upon the Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to Mortgagee, at law or in equity, or under any other agreement, and each and every right,

power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. No delay or omission by the Mortgagee in the exercise of any right, power or remedy arising hereunder or arising otherwise shall impair any such right, power or remedy or the right of the Mortgagee to resort thereto at a later date or be construed to be a waiver of any default or event of default under this Mortgage or the Note.

**SECTION 5.6: SUBSEQUENT AGREEMENTS.** Any agreement hereafter made by the Mortgagor and Mortgagee pursuant to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.

**SECTION 5.7: WAIVER OF MARSHALING.** Mortgagor hereby waives any rights available with respect to marshaling of assets so as to require the separate sales of any portion of the Property, or as to require the Mortgagee to exhaust its remedies against a specific portion of the Property before proceeding against the other and does hereby expressly consent to and authorize the sale of the Property or any part thereof as a single unit or parcel.

## **ARTICLE SIX** **EVENTS OF DEFAULT AND REMEDIES**

**SECTION 6.1: EVENTS OF DEFAULT.** It shall be an “Event of Default” under this Mortgage if (a) the Mortgagor shall fail to pay any principal or interest due on the Note when and as the same become due (whether at the stated maturity or at a date fixed for any installment payment or any accelerated payment date or otherwise); or (b) the Mortgagor shall fail to pay when due any other Indebtedness Secured Hereby; or (c) the Mortgagor shall, except as to defaults under (a), (b) above, after 30 days prior notice from Mortgagee, fail to comply with or perform any other term, condition or covenant of the Note, this Mortgage, the Contract for Private Development or any other instrument securing the Note; or (d) the Mortgagor shall sell, convey, transfer, further mortgage or encumber or dispose of the Property, or any part thereof, or any interest therein, or agrees so to do, except in accordance with the terms of this Mortgage; or (e) the Mortgagor shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, dissolution, liquidation, arrangement, composition, readjustment or similar relief under any present or future bankruptcy or insolvency statute, law or regulation or shall file an answer admitting to or not contesting the material allegations of a petition filed against it in such proceedings, or shall not within sixty (60) days after the filing of such a petition have the same dismissed or vacated, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties, or shall not within sixty (60) days after the appointment without its consent or acquiescence of a trustee, receiver or liquidator of any material part of its properties have such appointment vacated; or (f) any representation or warranty made by Mortgagor herein, in the Note, or in any other instrument given as security for the Note shall be materially false, breached or dishonored.

**SECTION 6.2: MORTGAGEE'S REMEDIES / RIGHT TO FORECLOSE.** Upon the occurrence of an Event of Default, Mortgagee shall provide written notice to Mortgagor of any default. Mortgagor shall have an opportunity to cure such default for a period of thirty (30) days following receipt of such notice. Mortgagee agrees not to take any action until the expiration of the thirty (30) day period. In the event

Mortgagor fails to cure any defaults within thirty (30) days of the notice of a default, then Mortgagee may, at its option, exercise any or all of the following rights and remedies (and any other rights and remedies available to it):

(a) Declare the entire principal of the Note, together with all sums advanced hereunder and interest thereon, to be immediately due and payable, and thereupon the Note, including both principal and interest accrued thereon, and all sums advanced hereunder and interest thereon, shall be immediately due and payable without presentment, demand or notice of any kind; or

(b) Proceed to protect and enforce its rights by a suit or suits in equity or at law (1) for the specific performance of any covenant or agreement contained herein or in the Contract for Private Development, or (2) in aid of the execution of any power herein or therein granted, or (3) for the foreclosure of this Mortgage, or (4) for the enforcement of any other appropriate legal equitable remedy; or

(c) Foreclose this Mortgage by action or advertisement, and Mortgagor hereby authorizes Mortgagee to do so, power being herein expressly granted to sell the Property at public auction without any prior hearing or notice thereof and to convey the same to the purchaser, in fee simple, pursuant to the statutes of Minnesota in such case made and provided, and out of the proceeds arising from such sale, to pay all Indebtedness Secured Hereby with interest, and all legal costs and charges of such foreclosure and reasonable attorney's fees permitted by law, which costs, charges and fees Mortgagor agrees to pay. In the event of a sale under this Mortgage, whether by virtue of judicial proceedings or advertisement or otherwise, the Property may, at the option of Mortgagee, be sold as an entirety or in such other manner and order as Mortgagee in its sole discretion may elect; or

(d) Without releasing Mortgagor from any obligation hereunder or under the Note and this Mortgage, cure any Event of Default. In connection therewith, Mortgagee may enter upon the Property and do such acts and things as Mortgagee reasonably deems necessary or desirable to protect the Property, including without limitation: (1) paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim, property taxes and charges; (2) paying any insurance premiums; and (3) employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee in the foregoing. Should Mortgagee make any such payments, the amount thereof shall be secured hereby, and Mortgagor shall reimburse Mortgagee immediately upon demand, and said amount shall bear interest at the rate specified in the Note until repaid; or

(e) It is expressly understood and agreed by Mortgagor that in the event of any foreclosure or other sale under this Mortgage by virtue of judicial proceeding, advertisement or otherwise, the Property may be sold as one parcel without exhausting Mortgagee's right, except as the same may be limited by applicable law, to such remedy for any unsatisfied part of the Borrower's indebtedness under the Note and this Mortgage or the Contract for Private Development, and without exhausting the power to exercise such remedy for any other part of said indebtedness, whether matured at the time or subsequently maturing. If a part of the Property is sold pursuant to this Section 6.2 and the proceeds thereof do not fully pay and satisfy the Borrower's indebtedness under the Note, and the Contract for Private Development, such sale, if so made, shall not in any manner affect the unpaid and unsatisfied part of said indebtedness; or

(f) Exercise any and all remedies available to Mortgagee under the Contract for Private Development and any and all rights under the laws of the State of Minnesota, whether or not herein specified.

The exercise of any right or remedy with respect to any part of the Property shall not affect the availability of any other of Mortgagee's rights and remedies under other applicable law or this Mortgage. All expenses (including any receivers' fees, attorneys' fees, costs and agents' compensation) incurred by Mortgagee pursuant to the powers herein contained shall be secured hereby and shall bear interest from the date incurred at the rate provided in the Note until paid by Mortgagor.

**SECTION 6.3: RECEIVER.** Upon the occurrence and continuance of an Event of Default hereunder and after the expiration of any applicable cure periods, the Mortgagee shall be entitled as a matter of right without notice and without giving bond and without regard to the solvency or insolvency of the Mortgagor, or waste of the Property or adequacy of the security of the Property, to apply for the appointment of a receiver in accordance with the statutes and law made and provided for who shall collect the rents, and all other income of any kind; manage the Property so to prevent waste; complete construction of the Minimum Improvements (as defined in the Contract for Private Development) already under construction and pay for the same; pay all expenses for normal maintenance of the Property and perform the terms of this Mortgage and apply the rents, issues and profits in the following order: (a) to the payment of the reasonable fees of said receiver; (b) to the payment when due of prior or current real estate taxes or special assessments with respect to the Property or, if required by this Mortgage, payment of the periodic escrow for payment of the taxes or special assessments; (c) to the payment when due of premiums for insurance of the type required by this Mortgage or, if required by this Mortgage, payment of the periodic escrow for the payment of the premiums; and (d) to the repayment of the Indebtedness Secured Hereby and to or for the construction of the Improvements, operation, maintenance, upkeep and repair of the Property, including payment of taxes on the Property and payments of premiums of insurance on the Property. The Mortgagor does hereby irrevocably consent to such appointment.

**SECTION 6.4: INTENTIONALLY OMITTED.**

**SECTION 6.5: REMEDIES ARE CUMULATIVE.** All remedies herein expressly provided for are cumulative of any and all other remedies existing at law or in equity and are cumulative of any and all other remedies provided for in any other instrument securing the payment of the Note or relating to same, or any part thereof, or otherwise benefiting Mortgagee and Mortgagor shall, in addition to the remedies herein provided, be entitled to avail itself of all such other remedies as may now or hereafter exist at law or in equity for the collection of the Note, and the enforcement of the covenants herein and the foreclosure of the liens and security interest evidenced hereby, and the resort to any remedy provided for hereunder or under any such other instrument or provided for by law shall not prevent the concurrent or subsequent employment of any other appropriate remedy or remedies.

**SECTION 6.6: RIGHT TO DISCONTINUE PROCEEDINGS.** In the event Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted under this Mortgage and shall thereafter elect to discontinue or abandon the same for any reason, Mortgagee shall have the unqualified right to do so and in such event Mortgagor and Mortgagee shall be restored to their former positions with respect to the Indebtedness Secured Hereby. This Mortgage, the Property and all rights, remedies and recourse of the Mortgagee shall continue as if the same had not been invoked.

**SECTION 6.7: ACKNOWLEDGEMENT OF WAIVER OF HEARING BEFORE SALE.** Mortgagor understands and agrees that if any default is made under the terms of this Mortgage, Mortgagee has the right inter alia,

to foreclose this Mortgage by advertisement pursuant to Minnesota Statutes Chapter 580, as hereafter amended, or pursuant to any similar or replacement statute hereafter enacted; that if the Mortgagee elects to foreclose by advertisement, it may cause the Property, or any part thereof, to be sold at public auction; that notice of such sale must be published for six (6) successive weeks at least once a week in a newspaper of general circulation and that no personal notice is required to be served upon Mortgagor. Mortgagor further understands that under the Constitution of the United States and the Constitution of the State of Minnesota, it may have the right to notice and hearing before the Property may be sold and that the procedure for foreclosure by advertisement described above does not insure that notice will be given to the Mortgagor and said procedure for foreclosure by advertisement does not require any hearing or other judicial proceeding. MORTGAGOR HEREBY RELINQUISHES, WAIVES AND GIVES UP ANY CONSTITUTIONAL RIGHTS IT MAY HAVE TO NOTICE AND HEARING BEFORE SALE OF THE PROPERTY AND EXPRESSLY CONSENTS AND AGREES THAT THE PROPERTY MAY BE FORECLOSED BY ADVERTISEMENT AS DESCRIBED ABOVE. MORTGAGOR ACKNOWLEDGES THAT IT IS REPRESENTED BY LEGAL COUNSEL OR THAT IT HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL; THAT BEFORE SIGNING THIS DOCUMENT THIS PARAGRAPH AND MORTGAGOR'S CONSTITUTIONAL RIGHTS WERE FULLY EXPLAINED BY SUCH COUNSEL AND THAT MORTGAGOR UNDERSTANDS THE NATURE AND EXTENT OF THE RIGHTS WAIVED HEREBY AND THE EFFECT OF SUCH WAIVER.

## **ARTICLE SEVEN** **MISCELLANEOUS**

**SECTION 7.1: RELEASE OF MORTGAGE.** When all Indebtedness Secured Hereby has been paid, this Mortgage and all assignments herein contained shall be void and this Mortgage shall be released by the Mortgagee at the cost and expense of the Mortgagor, otherwise to remain in full force and effect.

**SECTION 7.2: CHOICE OF LAW.** This Mortgage is made and executed under the laws of the State of Minnesota and is intended to be governed by the laws of said State.

**SECTION 7.3: CHANGES OF OWNERSHIP.** In the event that the ownership of the Property becomes vested in a person or persons other than the Mortgagor, the Mortgagee may continue to deal with the Mortgagor without any obligation to deal with such successor or successors in interest with reference to this Mortgage and the Indebtedness Secured Hereby until notified of such vesting and approval of such successor or successors in accordance with the terms of this Mortgage. Upon such notification, the Mortgagee may thereafter deal with such successor in place of Mortgagor without any obligation to thereafter deal with Mortgagor and without waiving any liability of Mortgagor hereunder or under the Note.

**SECTION 7.4: SUCCESSORS AND ASSIGNS.** This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon the Mortgagor and its successors and assigns, including without limitation each and every from time to time record owner of the Property or any other person having an interest therein, shall run with the land and shall inure to the benefit of the Mortgagee and its successors and assigns.

**SECTION 7.5: UNENFORCEABILITY OF CERTAIN CLAUSES.** The unenforceability or invalidity of any provision hereof shall not render any other provision or provisions herein contained unenforceable or

invalid.

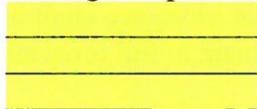
**SECTION 7.6: CORRECTIONS OF ERRORS.** Mortgagor will, upon reasonable request of Mortgagee (a) promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in any other instrument executed in connection herewith or in the execution of acknowledgment thereof, (b) execute, acknowledge, deliver, procure, and file or record any documents or instruments (including specifically any financing statement) reasonably necessary by Mortgagee to protect the lien or the security interest hereunder against the rights or interest of third persons, and Mortgagor will pay all costs of recording the same.

**SECTION 7.7: CAPTIONS AND HEADINGS.** The captions and headings of the various sections of this Mortgage are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchanged.

**SECTION 7.8: NOTICES.** Any notice which any party hereto may desire or may be required to give to any other party shall be in writing and the mailing thereof by certified mail to their respective addresses as set forth below, or to such other places any party hereto may hereafter by notice in writing designate, shall constitute service of notice hereunder.

In the case of the Mortgagor:

Tollroge Properties, LLC



In the case of the Mortgagee:

City of Stacy  
Stacy City Hall,  
30955 Forest Blvd  
Stacy MN 55079

with a copy to its Attorney:

CAMPBELL KNUTSON  
Professional Association  
860 Blue Gentian Road, Suite 290  
Eagan, Minnesota 55121  
Telephone: (651) 452-5000

Either party may, upon written notice to the other party, change the address to which such notices and demands are made.

MORTGAGOR AND MORTGAGEE ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS MORTGAGE OR THE INDEBTEDNESS SECURED HEREBY.

IN WITNESS WHEREOF, the Mortgagor has caused these presents to be executed this \_\_\_ day of \_\_\_\_\_, 2019.

**MORTGAGOR:  
TOLLROGE PROPERTIES, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_, of Tollroge Properties, LLC, a Wisconsin limited liability company, on its behalf.

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**  
**TO**  
**MORTGAGE**

*Legal Description*

Lot Two (2), Block One (1), STACY PONDS BUSINESS PARK 1<sup>st</sup> ADDITION, Chisago County, Minnesota.

AND

Lot 3, Block 1, STACY PONDS BUSINESS PARK 1<sup>st</sup> ADDITION, Chisago County, Minnesota.

PIDs 19.00133.12 and 19.00133.13