FARGO TAX EXEMPT REVIEW COMMITTEE
Tuesday, October 23, 2018 – 1:00 p.m.
City Commission Chambers, Civic Center
AGENDA

1. **Approve Tax Exempt Review Committee meeting minutes of 9/25/2018 meeting**

    a) September 25, 2018 minutes [Page 1-2]

2. **Review & Approve Changes to PILOT & TIF Policies and Downtown Housing Incentive Area Map**

    a) Memo from Jim Gilmour and news release for public input [Page 3-4]

    b) Recommended housing PILOT policy changes [Page 5]

    c) Recommended Downtown Housing Incentive Area map [Page 6]

    d) Recommended PILOT policy for University Mixed Use zone [Page 7-15]

    e) Recommended Tax Increment Financing policy [Page 16-24]

TAX EXEMPT REVIEW COMMITTEE
Fargo, North Dakota

Regular Meeting **Tuesday, September 25, 2018**

The August meeting of the Tax Exempt Review Committee of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 1:00 p.m., Tuesday, September 25, 2018.
The committee members present or absent are:
Present: Dave Piepkorn, Mayor Tim Mahoney, Bruce Grubb, Kent Costin, Ben Hushka, Jim Gilmour, Robert Wilson, Erik Johnson, Jackie Gapp, Jim Buus, Chuck Hoge
Absent: Jessica Ebeling, Mark Lemer, Joseph Raso
Others Present: Kati Wilcox, Rick Steen, Erin Anderson

Commissioner Piepkorn called the meeting to order at 1:00 p.m.

Mayor Tim Mahoney made a motion to approve the minutes from the August meeting held on August 28, 2018. Jim Buus seconded the motion, which carried.

PILOT Application by The Edge 2, LLC for a for-profit Low Income Housing Tax Credit apartment project

Ben Hushka introduced the PILOT application, explaining the policy on these projects is to tax at restricted rent levels using a gross rent multiplier of 5.5. Mr. Hushka also prepared spreadsheets in agenda packet showing the payments with and without county-level participation.
Jim Gilmour explained the process of achieving the necessary financing is competitive in nature. He asked Erin Anderson from Commonwealth Development Corporation to go into further detail regarding the point system utilized by the state for awarding project financing and the role an approved application would play. Local support points are critical for the success of these projects.
Ms. Anderson provided a brief overview of what the project entails. The first phase, Edge Artist Flats, is currently under construction. It was clear from the beginning that there was enough space on the site for a second structure and enough demand for low-income housing in the area to move forward with a second phase, Edge Artist Flats 2. However, there is a limited number of tax credits available each funding round, requiring the need to break these larger projects into phases.
The new development will contain 48 apartment units and greatly mirror the first phase. However, the new building will also take part in a recently approved Income Averaging program. This allows a wider array of incomes to qualify - up to 80% area median income versus the 50% with the first phase. They expect the average income for residents of the housing complex will be approximately 54% of area median income.
At Commissioner Piepkorn's request, Erin Anderson explained the proposed rents and income limits for residents. A Supportive Housing Trust Fund has units set aside without a rental fee for those who are disabled, homeless, or otherwise without income. The remaining four tiers are variant on the residents' percentage of median income, which are individually re-evaluated each year. A supportive housing provider refers those who may be eligible to rent the apartments and property managers review all submitted applications final approval.
Rick Steen stated a concern on the county level is that once approved, renters are able to stay in the complex indefinitely, even if their income increases significantly and surpasses the level required for initial approval. Erin Anderson expounded on this comment, stating the organization

does not want renters to be deterred from finding employment, or better employment, out of fear of losing their home.

Chuck Hoge asked if the 48-unit structure was an ideal size for this project, or if more units would be constructed if the credits were available. Erin Anderson explained the size of this project works out well in terms of both the physical lot size and the amount of funding and credits available to complete the project. Jim Gilmour explained the process of taking these projects in phases is typical as it allows the available incentives to be spread around as much as possible. Even projects on larger lots tend to build 40-50 units at a time. Erin Anderson agreed.

Kent Costin asked for clarification on the process of selecting applicants. Ms. Anderson explained that units are available on a first-come, first-served basis. Applicants must then pass a criminal background check, credit check, and income qualification guidelines. She is expecting a large demand for units, however since construction has just started on the first phase, there is no projectable timeline in terms of how long applicants must wait for housing.

Through continued discussion among various members of the committee, Erin Anderson stated rent amounts are based on the tax credits program's guidelines for affordability. Ben Hushka then explicated the PILOT payments would be approximately $41,000 plus taxes paid yearly without county participation, or $30,308 plus taxes with county participation. The current tax on vacant land would be approximately $3,200.

Jim Gilmour reiterated his stance on approving the PILOT application, illustrating a desperate need for low-income housing in Fargo and local support being vital to achieving necessary funding from the state. An added benefit is collecting the $30,000 in property taxes, versus the $3200 for the vacant lot. Commission Piepkorn added the location is also a positive factor. The cost of land near downtown is increasing so having a low-income housing unit available now will be of great benefit. Jim Buus stated the project meets all the policy requirements and does not see why the application should not be approved.

Mayor Mahoney made a motion to approve the application, which Jim Buus seconded. After Commissioner Piepkorn opened the floor to further discussion, Rick Steen asked more-detailed questions regarding the amount of property tax and/or PILOT payments allocated to the county. Ben Hushka clarified the PILOT payments will be allocated among the taxpayer funded entities the same way property taxes are. Commission Piepkorn urged Mr. Hushka and Jim Gilmour to attend the county commission to offer these explanations and clarifications there as well. After no further questions, the motion carried.

The meeting adjourned at 1:36p.m., Tuesday, September 25, 2018.

THE CITY OF Fargo
FAR MORE

M E M O R A N D U M

TO: **TAX EXEMPT REVIEW COMMITTEE**

FROM: **JIM GILMOUR, DIRECTOR OF STRATEGIC PLANNING AND RESEARCH**

DATE: **OCTOBER 15, 2018**

SUBJECT: **TAX INCREMENT AND PILOT POLICIES**

The proposed changes to the TIF and PILOT policies have been out for public review since September 20th. I have attached the news release on the request for public input and as of today, I have not received any written or verbal comments.

I have attached the proposed policies that you reviewed in August. Please review again and let me know if you have any questions or comments.

RECOMMENDED MOTION: To recommend approval of a policy for Tax Increment Financing, changes to the Economic Development policy on the use of PILOT incentives for housing projects and changes to the policy on the use of PILOT incentives for housing in the University Mixed Use Zoning District.

Attachments

City Seeking Public Input on Tax Incentive Policies

09/20/2018

The City of Fargo is seeking public input as an important component of its review of the City's policies on Tax Increment Financing (TIF) and Payment in Lieu of Taxes (PILOT) incentives. A copy of the proposed policies and policy changes are available on the City's website at www.FargoND.gov/StrategicPlanning.

These policies will guide how the City of Fargo will use these programs in redevelopment activities and development of needed housing.

Comments and suggestions for changes can be sent to Jim Gilmour, Director of Strategic Planning and Research, Fargo City Hall, 225 4th Street North, Fargo, ND 58102 or submitted via email.

Comments and questions will be received until October 19, 2018.

New Apartment Buildings within the Downtown Housing Incentive Area

Market Rate Downtown Apartments: Years 1 through 5 - 100% exempt on the increased value of the improvements. Years 6 through 15 – The percentage exempt will be based on a financial review and "but for" test. The amount exempt will be no more than 90% of the improved value.

Apartment Buildings for Lower Income Households

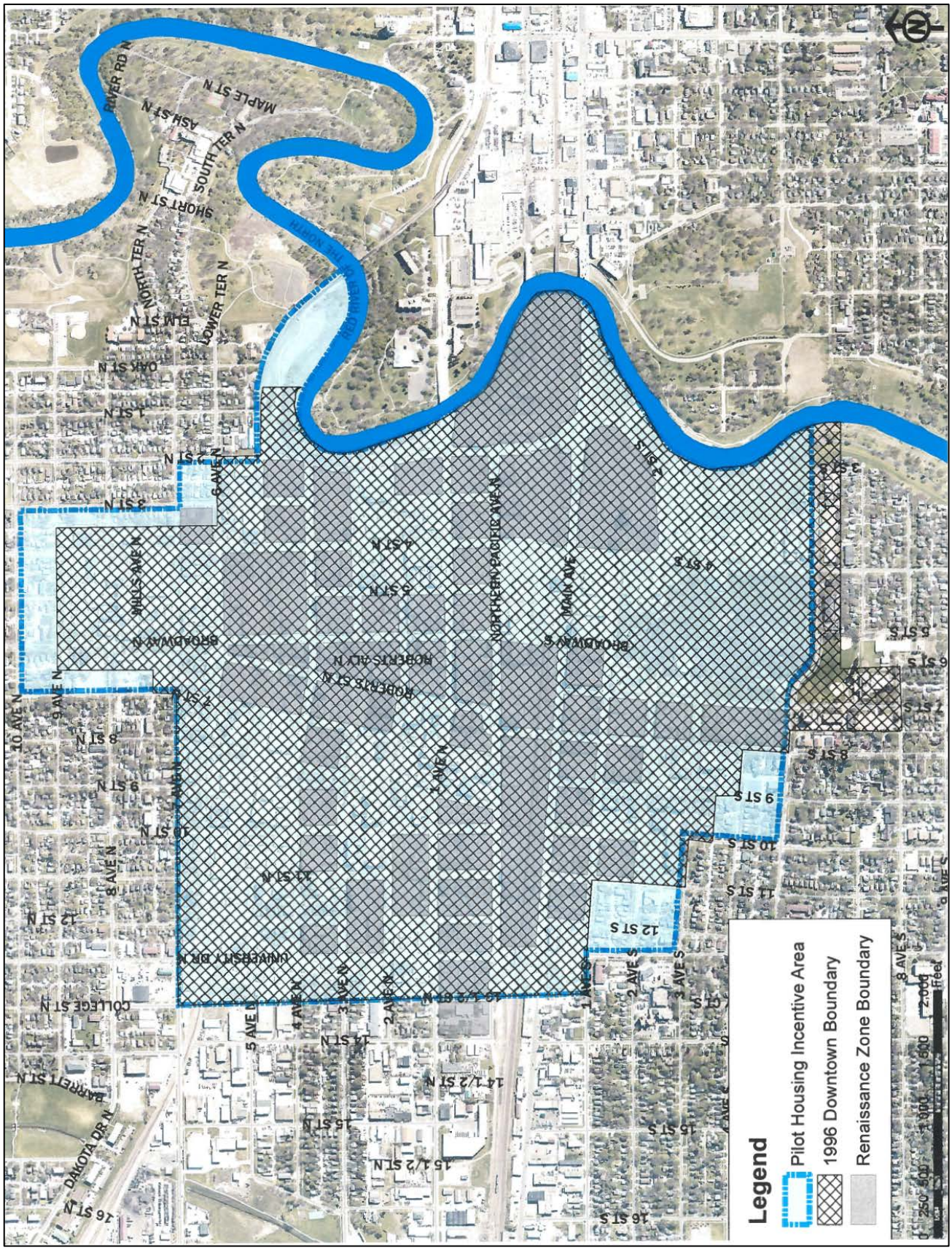
PILOT Years % of Building Exempt Equivalent

Lower Income Apartments: Years 1 through 20 – The percentage of the exemption may be up to 100% of the value of the buildings based on a financial review and "but for" test.

Incentives for lower income apartments may be for new buildings and substantial rehabilitation necessary to maintain existing lower income apartments units.

Lower income apartments are those where the developer is required to rent to lower income households at below market rents as required by the Department of Housing and Urban Development, the Low Income Housing Tax Credit Program, or the ND Housing Finance Agency.

Downtown Housing Incentive Area Map



The City of Fargo

North Dakota

Payment in Lieu of Taxes Policy

University Mixed Use Zoning District

I. POLICY PURPOSE

For the purposes of this document, the term "City" shall include the Fargo City Commission.

The purpose of this policy is to establish the City of Fargo's position relating to the use of Payment in Lieu of Taxes (PILOT) for private development above and beyond the requirements and limitations set forth by State Law. This policy shall be used as a guide in the processing and review of applications requesting Payment in Lieu of Taxes. The fundamental purpose is to encourage desirable development or redevelopment that would not otherwise occur but for the assistance.

The City of Fargo is granted the power to utilize PILOT by the TAX EXEMPTIONS FOR NEW AND EXPANDING BUSINESSES, as amended. It is the intent of the City to provide the minimum amount of tax exemptions at the shortest term required for the project to proceed. The City reserves the right to approve or reject projects on a case by case basis, taking into consideration established policies, project criteria, and demand on city services in relation to the potential benefits from the project. Meeting policy criteria does not guarantee the award of PILOT to the project. Approval or denial of one project is not intended to set precedent for approval or denial of another project.

II. OBJECTIVES OF PILOT program in the University Mixed Use Zone

As a matter of adopted policy, the City will consider using PILOT to assist private development projects to achieve one or more of the following objectives:

• To create opportunities for affordable housing.

• To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development.

• To assist developers enough to achieve development on sites which would not otherwise be developed without PILOT assistance.

• To remove blight and/or encourage the development of new housing that is of high quality and provides housing in close proximity to North Dakota State University.

• To offset increased costs of redevelopment (i.e. contaminated site cleanup, infrastructure needs, and higher land costs) over and above the costs normally incurred in development.

• To contribute to the implementation of other public policies, as adopted by the City from time to time, such as the promotion of quality urban or architectural design, energy conservation, and decreasing capital and/or operating costs of local government.

III. POLICIES FOR THE USE OF PILOT – University Area Housing

Policy #1

The property must be zoned University Mixed Use.

Policy #2

The maximum PILOT incentive will be a 100% exemption for the first 5 years, and a 50% exemption for an additional 5 years, applied to the increased value of a redevelopment project. This will maintain the base value of the project for the taxing districts.

Policy #3

To the extent required by state, federal or local law or regulations, a relocation plan should be provided by the developer. Relocation payments to tenants of businesses or residential uses must be made. These relocation payments should follow state/federal guidelines, as applicable, for assistance (E.g. NDCC Ch. 54-01.1 and USC).

Policy #4

The amount or value of the PILOT tax exemption will be limited to the extraordinary costs of development, and the extraordinary costs are limited to following costs. The amount of the assistance is defined as the estimated present value of the future PILOT tax exemptions, which would include an allowance for interest.

1. The costs of land acquisition, subject to the limits outlined in Policy #5.

2. Relocation of existing tenants.

3. The costs of demolition, including the removal of building foundations, parking lots, and the removal and replacement of unsuitable soil.

4. Public improvements that are in the public right-of-way such as sidewalks, driveway approaches, lighting, and connections to the water, sanitary sewer, and storm water systems.

5. On site storm water retention including the cost of excavation, underground storm water lines, or underground storage facilities. It does not include water collection systems such as parking lots, sidewalks, or curb/gutters.

6. Architectural and engineering costs are limited to those necessary services to implement other activities allowed by this policy. Developer fees and legal costs are not permitted.

7. The required city fees and the estimated costs of interest from the time the costs are paid by the developer to the next February 15 date when property taxes are due to be paid.

Policy #5

Land acquisition assistance should not encourage the acquisition of land at excessive prices, the land acquisition assistance should not be the primary extraordinary costs, and the assistance should not reduce the cost below the base value of the land. Therefore, land acquisition costs are limited to the lowest of the following amounts.

1. The total acquisition cost allowed by the PILOT program may not be more than 150% of the assessor's market value for the property for property tax purposes.

2. The amount of land acquisition costs allowed for by the PILOT program may not exceed 50% of the total PILOT assistance. This restricts total PILOT assistance for land to 50% of the total costs that may be eligible in Policy #4.

3. The cost of land acquisition allowed for by the PILOT program must be less than the difference between the actual purchase price paid by the developer and the assessor's market value for the land (as opposed to land and buildings).

Policy #6

The estimated value of the PILOT assistance should be limited to a percentage up to 15% of hard capital costs of development including the costs of acquisition. In other words, the tax exemption assistance will be equal to or less than 15% of hard construction costs plus the land acquisition costs, excluding the costs of professional fees, developer fees, furniture and fixtures, interest, profit, and other soft costs. In addition, Developer must provide at least 10% of total capital costs as Developer's equity in the project.

Policy #7

PILOT assistance for UMU projects should not be viewed by the developer as an entitlement. When undertaking any PILOT project the due diligence procedures in determining the feasibility and level of public assistance must be reviewed by the City's financial consultant in conjunction with City staff. The financial consultant must use accepted public financing procedures in determining project feasibility and levels of public assistance. Particularly when public assistance includes substantial reimbursement to the developer of costs of acquisition or land write-down amounts, review of the level of public assistance may include an estimate of the return on investment anticipated by the project and analysis as to

whether the expected return on investment, including the public assistance, is within reason.

Policy #8

When undertaking a PILOT project a non-refundable administrative fee equal to 5% of the total value of the estimated tax exemption must be paid by the developer after final approval by the City Commission and prior to the final approval of the development agreement. These fees are to reimburse the City for costs expended by staff and consultants to determine the feasibility, level of public assistance and the preliminary costs of project development by the City. Other City costs such as engineering, bond carrying costs, and annual special assessment administration will be in addition to this administrative fee if warranted. To the extent that PILOT assistance exceeds $2 million or more, the administrative fee on said excess may be negotiated to a sum less than 5%, as may be appropriate. A non-refundable deposit, set by schedule, shall be paid to the City along with an initial application for a PILOT project. The City, upon approval of the Finance Committee, may require additional sums to be deposited, from time to time, to defray such costs initially borne by the City. The deposit and any other additional sums paid to the City may be offset against and accredited toward the 5% administrative fee.

Policy #9

Applications for PILOT assistance are to be submitted to the Department of Planning and Development and the City Assessor. The application must include a description of the project and an estimate of the level of assistance needed to proceed with the project. The application will be reviewed by the appropriate Committee and the City Commission to determine if City staff, City financial advisors, and the City Attorney should proceed with a review of the project pro-forma, and draft of a developer's agreement.

Policy #10

The development should be compatible with long term City redevelopment plans, and create a high quality development that will have a positive impact on the tax base and the surrounding area. The developer's agreement should include design standards to ensure that the development will be compatible with the long term plans for the area.

Policy #11

Interest rates allowed to be recouped as eligible costs shall be one percent (1%) over the municipal bond indexed rate for taxable municipal bonds or over such indexed rate for tax-exempt municipal bonds, as appropriate, as identified by the

City Finance Director, with consultation with the City's financial advisor as needed.

Policy #12

The development should comply with City plans and policies that encourage the development of affordable housing and workforce housing. Rents should not substantially exceed, by more than 50%, fair market rents in Fargo.

IV. PROJECT QUALIFICATIONS

All University Mixed Use Zoning PILOT projects considered by the City of Fargo must meet each of the following requirements:

a. To be eligible, a project shall result in a minimum increase of $1 million in property valuation, or, if not, the developer shall establish that other goals and objectives of the project warrant approval.

b. The project shall meet at least one of the objectives set forth in Section II and satisfy all the provisions set forth in Section III of this document.

c. The developer shall demonstrate that the project is not financially feasible but for the use of the PILOT program. The projected internal rate of return as determined by the City's financial advisor based upon information provided by the developer must be no more than a percentage that provides a reasonable rate of return of a particular project.

d. The project must be consistent with the City's Comprehensive Plan, Land Use Plan, and Zoning Ordinances.

V. APPLICATION PROCESS

1. Applicant submits letter requesting PILOT support for a project. The letter shall describe the project and shall be submitted to the City Commission for preliminary review and direction authorizing the staff to move forward with the application process.

2. Applicant submits the completed application along with all application fees. (See Policy #8 - non-refundable deposit.)

3. City staff reviews the application and completes the Application Review Worksheet. The application and supporting documentation will be submitted to the City's financial advisor for due diligence consideration. At least three (3) weeks should be allowed for due diligence review and consideration [upon submittal of a complete and approved application.]

A. As part of the application review, the city staff shall be authorized to inquire as to the character, reputation, fitness of the applicant to engage in the project and to bear the responsibilities entailed therein, and any other pertinent information. Such inquiry may include background checks on the applicant and principles of the applicant, as the case may be.

B. With respect to certain proprietary, commercial and financial information that is submitted as part of the application and review process, said information may be exempt from the North Dakota Open Records law, Chapter 44-04, N.D.C.C., and to the extent that N.D.C.C. §44-04-18.4 allows, it is the City's intention to maintain confidentiality of such information when requested by the applicant. Section 44-04-18.4, N.D.C.C. provides:

"Confidentiality of trade secret, proprietary, commercial, and financial information.

1. Trade secret, proprietary, commercial, and financial information is confidential if it is of a privileged nature and it has not been previously publicly disclosed.

2. "Trade secret" includes:

a. A computer software program and components of a computer software program which are subject to a copyright or a patent, and any formula, pattern, compilation, program, device, method, technique, or process supplied to any state agency, institution, department, or board which is the subject of efforts by the supplying person or organization to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons or organizations that might obtain economic value from its disclosure or use; and

b. A discovery or innovation which is subject to a patent or a copyright, and any formula, pattern, compilation, program, device, method, technique, or process supplied to or prepared by any public entity which is the subject of efforts by the supplying or preparing entity, person, business, or industry to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by any person who might obtain economic value from its disclosure or use.

3. “Proprietary information” includes information received from a sponsor of research conducted by a public entity, as well as any discovery or innovation generated by that research, technical, financial, and marketing information and other documents related to the commercialization, and any other discovery or innovation produced by the public entity which an employee or the entity intends to commercialize.

4. This section does not limit or otherwise affect a record pertaining to any rule of the State Department of Health or to any record pertaining to the application for a permit or license necessary to do business or to expand business operations within this state, except as otherwise provided by law.

5. Unless made confidential under subsection 1, the following economic development records and information are exempt:

a. Records and information pertaining to a prospective location of a business or industry, including the identity, nature, and location of the business or industry, when no previous public disclosure has been made by the business or industry of the interest or intent of the business or industry to locate in, relocate within, or expand within this state. This exemption does not include records pertaining to the application for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

b. Trade secrets and commercial or financial information received from a person, business, or industry that is interested in or is applying for or receiving financing or technical assistance, or other forms of business assistance.

6. Unless made confidential under subsection 1 or made exempt under subsection 5, bids or proposals received by a public entity in response to a request for proposals by the public entity are exempt until such time all of the proposals have been received and opened by the public entity or until such time that all oral presentations regarding the proposals, if any, have been heard by the public entity. Records included with any bid or proposal naming and generally describing the entity submitting the proposal shall be open.”

In advance of the submission to the City of such confidential records or information, the City and Applicant will make appropriate arrangements for the handling of such information and records to protect the confidentiality thereof.

4. The report from the financial advisor is submitted to the Tax Exempt Review Committee for its recommendation, 6. Notices are published as required.

7. Public hearing(s) on the proposed project.

8. The City Commission grants final approval or denial of the proposal.

The City of Fargo Policy on Tax Increment Financing

1. Policy Purpose

The purpose of this policy is to establish the City of Fargo's (City) position relating to the use of Tax Increment Financing (TIF) for private development above and beyond the requirements and limitations set forth by State Law. This policy shall be used as a guide in the processing and review of applications requesting tax increment assistance. The fundamental purpose of TIF in Fargo is to encourage desirable development or redevelopment that would not otherwise occur but for the assistance provided through TIF.

The City of Fargo is granted the power to utilize TIF by the Tax Increment Financing Act. It is the intent of the City to provide the minimum amount of TIF at the shortest term required for the project to proceed. The City reserves the right to approve or reject projects on a case-by-case basis, taking into consideration established policies, project criteria, and demand on city services in relation to the potential benefits from the project. Meeting policy criteria does not guarantee the award of TIF to the project. Approval or denial of one project is not intended to set precedent for approval or denial of another project.

This policy will be effective upon adoption by the City Commission, and it is the intent of the City Commission that this policy

2. Objectives of Tax Increment Financing

As a matter of adopted policy, the City will consider using TIF to assist development projects to achieve one or more of the "City Objectives" listed in the evaluation criteria section of this policy.

3. Designated Redevelopment Areas

In order to maximize the ability of the City to meet its redevelopment goals, the City may designate redevelopment areas. In order to designate a redevelopment area, a plan for the redevelopment area will:

- Document existing conditions;
- Describe the plan for the future, and;
- Outline activities needed to implement the plan

Designation of the Redevelopment may occur in two ways.

- The designation may be at the request of a property owner and/or developer that has a proposed redevelopment plan.

- The designation may be initiated by the City Commission for an area where the City would like to see development, and then work with property owners within the TIF district to implement projects consistent with the development plan.

4. City of Fargo Policies for the Use of TIF

These policies are to provide guidance to developers who are considering making a request for TIF funding, and to guide City Commission decisions in the development of renewal plans and development agreements. When renewal plans are initiated by the City, not all of these policies are applicable to those plans.

Policy #1

When undertaking a redevelopment project on a defined parcel(s) of land, slum or blighted conditions on a portion of the property or properties should exist. A City Commission declaration of underdeveloped property for the purposes of using TIF assistance will outline activities needed to implement the redevelopment.

Policy #2

When undertaking a redevelopment or development project on an underdeveloped parcel(s) of land, a TIF exemption or TIF revenue note will be the preferred method of providing assistance directly to a developer. Exceptions to this rule will be considered by the City Commission and be based on reasons that can be documented by the developer and confirmed after review by the City's bond consultant.

Policy #3

When undertaking a redevelopment or development project using a TIF exemption or TIF revenue note, the length of the term of this note is limited to 15 years.

Policy #4

The length of a TIF may extend beyond 15 years when used for city infrastructure, public parking, or community development efforts, such as, affordable housing, replacement housing, public space, and public art.

Policy #5

To the extent required by state, federal, or local law or regulations, a relocation plan should be provided in the development or renewal plan. When undertaking a redevelopment project on underdeveloped parcel(s) of land, relocation payments to tenants of businesses or residential uses must be made. These relocation payments must follow state and federal guidelines, as applicable, for assistance.

Policy #6

Land acquisition or land write-down costs must meet the requirements outlined as follows:

- The eligible costs recouped to the developer shall be evaluated in a case-by-case basis, but the maximum should be the lesser of:
    - The total acquisition cost for the property, provided the acquisition cost is no more than 150% of the assessor's market value for the property. This 150% limit applies to the total of all properties acquired, not a property by property limit.
    - The difference between what was paid by the developer for the property less the assessor's market value for the land (as opposed to land and buildings).

Policy #7

With respect to non-blighted, or non-slum development or redevelopment, eligible costs, as stated in state law, are limited to the following:

A. The cost of acquiring, or the market value, of all or part of the industrial or commercial property;
B. Costs of demolition, removal, or alteration of buildings and improvements on the industrial or commercial property, including the cost of clearing and grading land;
C. Costs of installation, construction, or reconstruction of streets, utilities, parks, and other public works or improvements necessary for carrying out the development or renewal plan; and
D. All interest and redemption premiums paid on bonds, notes, or other obligations issued by the municipality to provide funds for the payment of eligible public costs of development.

Policy #8

TIF assistance to the developer should be limited to a percentage of up to 15% of hard capital costs of development including the costs of property acquisition, and public facilities. In other words, The TIF assistance will equal or be less than 15% of hard construction costs including the land acquisition costs, hard capital costs excluding the costs of professional fees, developer fees, furniture and fixtures, interest, profit, and other soft costs. In addition, the developer must provide at least 10% of total capital costs as developer's equity in the project.

The limit of 15% may be exceeded if the project will include a community development purpose, for example, accepting lower rates of return to provide affordable housing, or other public benefits. Examples:

- Direct investment in public or free publicly accessible private spaces.
- Direct and ongoing investment in public art.
- Development of affordable or replacement housing.
- City equity treated equally to other investor equity with City returns to be used by City for community development purpose, which should be used in the nearby neighborhoods.

Policy #9

If funds are used for a City lead project, a public-private partnership, or for public benefit, the total TIF costs may exceed the limits stated in policy #8, including but not limited to the following:

- If funds are going to pay for public parking, public infrastructure, or other public investments such as rehabilitation or provision of affordable or replacment housing in the nearby neighborhoods or areas, or other public improvement not directly related to the project.
- Affordable housing, ideally in conjunction with the use of 4% or 9% Low Income Housing Tax Credits

Policy #10 - ROI Analysis, Reasonable Assistance Requirement

When undertaking any TIF project that provides assistance to a developer, the due diligence procedures in determining the feasibility and level of public assistance must be reviewed by the City's financial consultant in conjunction with the City's staff. The financial consultant must use accepted public financing procedures in determining project feasibility and levels of public assistance. Particularly when public assistance includes substantial reimbursement to the developer costs of acquisition or land write-down amounts, review of the level of public assistance may include an estimate

of the return on investment anticipated by the project and analysis as to whether the expected return on investment, including the public assistance, is within reason.

Policy #11 - Projection of Future Increments

For purposes of projecting future increments to be generated, an assumed maximum increase in valuation will be limited to two percent (2%) per annum. The exact assumptions made for projections is subject to approval by the City on a case-by-case basis.

Policy #12

When undertaking any TIF project within the City of Fargo, a non-refundable administrative fee set by schedule, must be paid by the developer after final approval of the City Commission and prior to or at the closing of the transaction. These fees are to reimburse the City for costs expended by staff and consultants to determine the feasibility, level of public assistance, and the preliminary costs of project development by the City. Other City costs such as engineering, bond carrying costs, and annual administration will be in addition to the administrative fee if warranted. To the extent that TIF assistance, including administrative fees, exceeds $2 million the administrative fee on said excess may be negotiated to a sum of less than 5%. A non-refundable deposit, set by schedule, shall be paid to the City along with an initial application for a TIF project. The City may require additional sums to be deposited from time to time, to defray such costs initially borne by the City. Such sums may be recouped by the developer as eligible costs as may be agreed between the City and the developer and as allowed by the urban renewal law (N.D.C.C. Chapter 40-58). The non-refundable deposit and any other additional sums paid to the City will be offset against and credited towards the administrative fee.

Policy #13

Applications for TIF assistance are to be submitted to the Department of Planning and Development. The application must include a description of the project and an estimate of the level of assistance needed to proceed with the project. A checklist and application will be available from the Department of Planning and Development.

Policy #14

The redevelopment should be compatible with long-term City redevelopment plans, and create a high quality redevelopment that will have a positive impact on the tax base and the surrounding area. The developer's agreement should include design

standards to ensure that the development will be compatible with the long-term plans for the area.

Policy #15

The maximum interest rates allowed to be recouped as eligible costs will be set by schedule. The City Finance Director in consultation with the City's financial consultant will recommend the actual rate.

Policy #16 – Good standing

Applicants for TIF assistance must be in good standing with the City. Good standing means current in property taxes, utility fees, city accounts, and no significant history of unresolved code violations

Policy #17 – Post Project Review

Developers' agreements will include terms that require documentation of TIF eligible costs, allow for an audit at the discretion of the City, and require cooperation with the city staff or auditors.

On large scale projects, the City may require a review of the financial performance of the project in the future, and if the project has a significantly higher than expected return on investment, the amount of the TIF assistance may be reduced.

Policy #18

Renewal Plans may include terms that allow for the city to use a portion of the TIF revenue for the preservation or replacement lower density housing in neighborhoods adjacent to higher density housing projects. The housing plan would be outlined in the Renewal Plan.

Application & Review Process for Developer Request for TIF Assistance

1. Applicant submits letter requesting TIF support for a project. The letter shall describe the project and shall be submitted to the City Commission for preliminary review and direction authorizing staff to move forward with the application process. City Commission approval is required to proceed to application review and plan development.
2. Applicant submits the completed application along with all application fees.

3. City Staff reviews the application and completes the Application Review Worksheet. The application and supporting documentation will be submitted to the City's financial consultant for due diligence consideration. Allow at least three (3) weeks for due diligence review and consideration [upon submittal of a complete and approved application].
    a. As part of the application review, City staff are authorized to inquire as to the character, reputation, fitness of the applicant to engage in the project and to bear the responsibilities entailed therein, and any other pertinent information. Such inquiries may include background checks on the applicant and principles of the applicant as the case may be.
    b. With respect to certain proprietary, commercial, and financial information that is submitted as part of the application, and review process, said information may be exempt from the North Dakota Open Records Law, Chapter 44-04, N.D.C.C., and to the extent that N.D.C.C. 44-04-18.4 allows, it is the City's intention to maintain confidentiality of such information when requested by the applicant.
    c. In advance of submission to the City of such confidential records or information, the City and Applicant will make appropriate arrangements for the handling of such information and records to protect the confidentiality thereof.
4. The results of the financial review will be reviewed by the Finance Department and the Finance Committee. The Finance Committee may recommend a specific level of assistance based on the review of the financial advisor.
5. Results of the reviews are submitted to the Renaissance Zone and/or the Tax Exempt Review Committee, for recommendation.
6. The renewal plan or development plan along with all necessary notices, resolutions, and certificates are prepared by City staff and/or consultants.
7. Notices mailed and published as required.
8. Public hearing(s) on the proposed project are held.
9. The City Commission grants final approval or denial of the plans and development agreements.

Application & Review Process for City Initiated Renewal Plans and TIF Districts

1. Renewal Plans and TIF Districts may be proposed by any City Commissioner, the Planning Commission, the City Administration, or the Planning Department. The proposal shall include a boundary, a description of existing conditions, and general plan for development.
2. City Commission directs the preparation of the renewal plan.
3. City Staff prepares a plan for future development.
4. The renewal plan or development plan along with all necessary notices, resolutions, and certificates are prepared by City staff and/or consultants.
5. Notices mailed and published as required.
6. Public hearing(s) on the proposed project are held.
7. The City Commission grants final approval or denial of the plans and tax increment financing district.

5. Evaluation Criteria for Assistance to Developers

Evaluation Criteria

The City of Fargo has established multiple objectives that should be met to qualify for Tax Increment Financing. Since there are different types of developments, the objectives for each of the development types is different. The three types of projects anticipated are:

1. Housing
2. Commercial or Industrial
3. Downtown or Mixed Use

Housing projects should meet at least 5 of the 7 objectives listed below.

- The housing development is served by existing infrastructure of the development or will upgrade the infrastrure to meet the needs of the development.
- The housing is compatible with the adjacent area or the future land use in the area.
- Sidewalks and bike trails connect to the housing development. A transit stop is with within 4 blocks of the development.
- The project has a high quality design, exceeding the requirements of the Land Development Code.
- The project includes affordable housing, workforce housing, or includes a plan to replace some of the housing eliminated by the development
- The housing project eliminates blighted conditions or substandard buildings.
- The project will create significant growth in the tax base on the site.

Commercial projects should meet at least 5 of the 8 objectives listed below.

- The development is served by existing infrastructure of the development or will upgrade the infrastrure to meet the needs of the development.
- Sidewalks and bike trails connect to the development. A transit stop is with within 4 blocks of the development.
- The commercial/industrial development is expected to contain some primary sector business or jobs.
- The development will include some public spaces or public art.
- The project cleans up brownfield conditions.
- The project eliminates blighted conditions or substandard buildings.
- The project will create significant growth in the tax base on the site.
- The project is expected to encourage additional development on adjacent sites.

Downtown or Mixed Use (Mixed use is commercial/housing in the same development.) Projects should meet at least 7 of the 11 objectives listed below.

- The development is served by existing infrastructure of the development or will upgrade the infrastructure to meet the needs of the development.
- The project is compatible with the adjacent area or the future land use in the area.
- Sidewalks and bike trails connect to the development. A transit stop is with within 4 blocks of the development
- There is an adequate parking and access plan, preferably with shared parking by the different land uses.
- The development is expected to contain some primary sector business or jobs.
- The development will include some public spaces or public art.
- The project cleans up brownfield conditions.
- The project eliminates blighted conditions or substandard buildings, or replaces surface parking.
- The project will create significant growth in the tax base on the site.
- The project is expected to encourage additional development on adjacent sites.
- The project contains businesses that will provide needed services or goods used by adjacent land uses.