FARGO TAX EXEMPT REVIEW COMMITTEE
Tuesday, November 27, 2018 – 1:00 p.m.
City Commission Chambers, Civic Center
AGENDA

1. **Approve Tax Exempt Review Committee meeting minutes of 10/23/2018 meeting**

    a) October 23, 2018 minutes [Page 1-4]

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

    a) *City of Fargo Tax Exempt Review Committee Policy & Guidelines* document with proposed PILOT, TIF, & Downtown Incentive Map Area revisions incorporated. [Page 5-35] (Jim Gilmour)

        - *City of Fargo Tax Exempt Review Committee Policy & Guidelines* document revisions – REDLINE VERSION [Page 36-70]

TAX EXEMPT REVIEW COMMITTEE
Fargo, North Dakota

Regular Meeting **Tuesday, October 23, 2018**

The October 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, October 23, 2018.
The committee members present or absent are:
Present: Robert Wilson, Jim Gilmour, Jim Buus, Kent Costin, Chuck Hoge, Dave Piepkorn, Mayor Tim Mahoney, Bruce Grubb, Jessica Ebeling, Mark Lemer, Ben Hushka, Erik Johnson
Absent: Jackie Gapp, Joseph Raso
Others Present: Chad Peterson, Austin Morris, Mike Allmendinger, Erin Anderson, Kati Wilcox

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

Bruce Grubb made a motion to approve the minutes from the September meeting held on September 25, 2018. Jim Buus seconded the motion, which carried.

Review and Approve Changes to PILOT & TIF Policies and Downtown Housing Incentive Area Map
Jim Gilmour began by reviewing comments received from the public regarding draft policies for the TIF and PILOT programs. A memo seeking comment was posted September 29, 2018. Mr. Gilmour felt some feedback provided would be beneficial to implement with the policy changes but wanted feedback from the committee on others.

TIF Policy Changes:

- Either sidewalks/bike paths *or* transit should be available
- Added "good design characteristics" as an objective. This brings the total number of objectives to nine, five of which must be met for application approval

Jim Buus opened discussion on the subjectivity of the phrase "good design characteristics." He asked if more clarification was necessary, and which person or entity would make that decision. Jim Gilmour explained the benefit of leaving some gray area in the language. Developers have an idea of what is expected and the committee still has flexibility to decide if the attributes fit the current needs of the area/project.

PILOT Policy Changes:

- Add the language "as required by a recorded Land Use Restrictive Covenant." Keep all other wording in the policy.

UMU PILOT Policy

- Add "to create attainable housing options, non-subsidized, for both sale and rent."
- Change Policy #5 to match the TIF policy regarding land write-down.

Jim Gilmour then reviewed the individual comments from Dan Madler from Beyond Shelter, Mike Allmendinger from Kilbourne Group, and Austin Morris from Enclave Development.

Dan Madler expressed concern over an approximate $5,000 for "but-for" testing, and the effect this additional fee has on low-income housing tax credit (LIHTC) projects. Commissioner Dave Piepkorn feels the city has a responsibility to provide low-income housing and therefore should waive the cost of the "but-for" test, as the fee was initially put in place for business or commercial entities. Jim Gilmour stated there are only about three LIHTC applications per year, which also tend to be less complicated to review so the city could cover those costs. Kent Costin suggested keeping a modest fee on applications from for-profit organizations to relieve some of the city's burden.
Mike Allmendinger asked for clarification on potential claw backs on "significant higher returns than projected." Jim Gilmour explained the language is purposefully lax to leave openings for case-by-case discussion on individual projects.
Austin Morris provided several comments and questions regarding the changes, including the length of time each would be in effect. After some discussion amongst several members, it was decided that no policy could be guaranteed beyond two years due to the changes in both the city commission members, the needs of the city, and state legislation. The individual agreements with developers will also trump any changes to the policy, which alleviates concern of sudden changes during projects.
Because most of Mr. Morris' comments were specific to his organization's needs, Commissioner Dave Piepkorn suggested Jim Gilmour meet individually to review input and answer questions. Jessica Ebeling pointed out how briefly the comments were discussed at the Tax Exempt Review level and suggested a follow up after Mr. Morris meets with Mr. Gilmour to ensure all his points were taken into consideration. Commissioner Piepkorn agreed. Any further discussion can be had one-on-one, and then discussed publicly at future meetings.

County Action on the Edge 2 PILOT Application
Jim Gilmour explained the city commission voted to approve the PILOT Application from Commonwealth Development; however, the county has not yet taken action. A motion to both approve and deny the application failed for a lack of second. Cass County is comfortable approving the PILOT for five years, but not 15. Erin Anderson from Commonwealth Development and Cass County Commissioner Chad Peterson were both present for discussion.
Commissioner Piepkorn began by stating this application is for low-income housing and needs to be treated differently than a business application.
Commissioner Chad Peterson stated an issue he has is the $776,000 developer fee, which he believes to be too high. This project has a good ending result in a low-income housing complex; however, it is not a charity and approving a request for a tax exemption is not necessary with a profit as high as what is projected. He believes a five-year exemption is appropriate due to the higher costs of redeveloping downtown versus starting new in green field areas, but is struggling to support incentives for a for-profit apartment complex with close to at-market rents.
Commissioner Piepkorn explained developers need these credits from local support to receive necessary financing, which is difficult to come by. Local leaders need to commit to making low-income and work-force housing a priority in this area or there will be none available.
Commissioner Peterson questioned if there was a better way to provide affordable housing. He believes revitalizing downtown has been a great success and suggested redevelopment projects begin moving further south past 13th Avenue, down University Drive South.
Commissioner Piepkorn explained the importance of continuing to do what has been successful. Downtown Fargo is the heart of the city – possibly even the state – and we need to work to keep it this way. People who work downtown should be able to afford to live downtown as well.

Mayor Tim Mahoney addressed Commissioner Peterson's concerns. He stated other projects currently in progress could bring an additional 3,000 to 5,000 people downtown for employment. While there may currently be a 12% vacancy rate, the most recent downtown study does show a need for more affordable housing in the near future. The income brackets for the Edge 2 would provide housing options for those working in service-oriented jobs, which are common downtown. Mayor Mahoney emphasized that the PILOT status itself is critical for the project to begin. Without approval, the project would not go forward. The Renaissance Zone alone has proven successful by decreasing the overall tax burden in the city and the county by 4%. If the city begins shutting down PILOTs and denying incentives, developers will take these projects elsewhere and we will lose that success. Mayor Mahoney encouraged Jim Gilmour to meet with Commissioner Peterson and discuss his objections.

Mr. Gilmour explained the federal rules require the project to stay low income for 15 years, with the state regulating an additional 15 years following, or 30 years total. There are risks involved with that large of a timespan so the development fee is built in as added financial protection. He offered to send the financials from the Edge 2 Flats to the city's financial advisor at PFM to review the overall rate of return with and without county participation. Commissioner Chad Peterson agreed the more information provided the better.

Mr. Peterson continued on to state that the argument over approving the PILOT application has become frivolous at this point because the actual amount of tax dollars is minimal in relation to the city and school board. However, it is principled argument and he believes it is time to focus attention, find successes, and achieve balance elsewhere. Commissioner Peterson also stated he feels he is an "outsider" as a county commissioner meddling in city business. Commissioner Dave Piepkorn urged the importance of all entities being on the same page and sending an appropriate message about low-income housing and housing for homeless persons in downtown Fargo as a group.

Kent Costin stated PFM is tasked with analyzing cash flow when completing "but for" tests, which means they would be calling attention to the $700,000 development fee if it appears unnecessarily high. Jim Gilmour agreed this is correct and the information can be sent to PFM if Commonwealth Development is willing to provide it.

Mr. Gilmour then inquired on the difference in property taxes if the project were developed by a non-profit, versus the for-profit that is Commonwealth. Ben Hushka calculated an estimated tax bill of $30,000 with full county participation, versus only $14,481, or about half, if the project was developed by a non-profit.

Erin Anderson from Commonwealth Development approached the group for comment. She explained the average rent for the building is $703, which averages at 53% area median income. The Affordable Tax Credit Housing guidelines considers this low income. The state also restricts profits at 10% and the $776,000 developer fee is about 7%. A non-profit entity could potentially pursue the same percentage in fees due to having the same risks and overhead involved in this project. In addition, without county participation and an $11,000 decrease per year in the amount of incentive, the project would need an additional $300,000 with their first mortgage to fund the project. This would also require Commonwealth Development to defer $484,260, or 62%, of the total development fee. Erin Anderson explained the committees within her organization would not move forward with this project with this low of a fee, nor would they be able to obtain approval from any investor or North Dakota Housing Finance Agency (NDHFA). Any deferred fee over 25% is considered an additional risk or liability.

Dave Piepkorn opened the floor to comments and questions. Mayor Mahoney urged a subgroup meet to review the application and the numbers in more detail, again focusing on the need for this type of housing be available in Fargo. Commissioner Chad Peterson explained all county commissioners would approve a five-year application. Robert Wilson agreed, quoting a prior discussion with Chairman Steen: “Five years, yes. Ten years, maybe. Fifteen years, no.”
At Jim Gilmour’s request, Erin Anderson explained the importance of maintain level expenses spread over 15 years as NDHFA does not allow for varying expenses. If the county commission votes to approve the PILOT for either 5 or 10 years, the total exemption given would still need to be averaged over the entire 15-year span.
Austin Morris from Enclave Development approached the podium to emphasize that the $776,000 development fee is not total profit. There are significant costs that are not recoverable with low-income housing projects, particularly with the staffing time necessary in lengthy approval process. Mr. Morris also explained the return on investment for LIHTC projects is not significant, and the development process is riskier and more challenging. This in combination with the actual profits being minimal is the reason why there are so few applications filed each year.

Commissioner Piepkorn thanked Austin Morris for his feedback and adjourned the meeting at 2:08p.m., Tuesday, October 23, 2018.

City of Fargo Tax Exempt Review Committee

Policy & Guidelines

December 2018

Tax Exempt Review Committee
225 Fourth Street North
Fargo, North Dakota 58102

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Mission Statement

The City of Fargo supports the mission of economic development through the use of available tax incentive programs offered to the private sector. The goal of this mission is to create high quality jobs by attracting new, and expanding existing, primary sector businesses; promote historic preservation and development of the downtown district; support affordable housing opportunities and; grow the city's tax base which, collectively, enhance the city's livability, vibrancy and quality of life. The responsibility to initiate, sustain and implement economic development shall be borne primarily by the private sector with the city supporting qualifying efforts with reasonable public and private cooperation.

Effective Date and Term

This policy is effective as of December 3, 2018 and shall remain in effect until the next review. The next review will follow the June 2020 City election.

Available Incentive Options Reviewed By Tax Exempt Review Committee

Remodeling Exemption (N.D.C.C. 57-02.2) [Page 8]
This provides for an exemption of buildings that have been improved by means of renovation, remodeling, alteration, or additions. It does not apply to the replacement of one building with another. The amount of valuation added to the original assessment due to the remodeling within the existing structure may be exempted for a period of 5 years on projects started on or after August 1, 1999; 3 years on projects started prior to that. This is available to all commercial properties and residential buildings that are at least 25 years old.

Residential New Construction Exemption (N.D.C.C. 57-02-08) [Page 9]
This has allowed for an exemption of up to $75,000 in value on newly constructed residential dwellings, duplexes, townhomes, and condominiums. New legislation in 2008 expanded this exemption to up to $150,000 with separate exemptions allowed to builders and first owners after the builder.

New or Expanding Business Exemption/PILOT (N.D.C.C. 40-57.1) [Page 10]
This allows for a 5 year exemption for buildings of certain new or expanding business projects. A 10 year exemption may be granted to projects producing or manufacturing a product from agricultural commodities. In addition to, or instead of a property tax exemption, projects may be granted an option to set up to 20 years of payments in lieu of taxes (PILOT). The amount of those payments would be determined through negotiations with the City and the project operator.

Tax Increment Financing (N.D.C.C. 40-58)
This allows for the encouragement of private enterprise to rehabilitate or redevelop urban renewal areas by means of tax increments. This may be provided by the issuance of bonds to be paid back by the private operator through the incremental difference in property taxes between the original value and rehabilitated property value. This may also be provided in the form of a tax exemption with an amount granted initially and the incremental exempted tax being applied to reduce that amount with interest.

Incentive Options Available Through The Planning & Development Department

Renaissance Zone Incentives (N.D.C.C. 40-63)
This allows for the encouragement of private investment to rehabilitate or redevelop downtown Fargo through the use of property tax, state income tax and historic preservation & renovation tax credit incentives. The Renaissance Zone Authority administers the Zone incentives.

Community Development Incentives
In an effort to develop a high quality downtown and neighborhoods by providing quality housing and a suitable living environment, a combination of the above programs will be utilized.

General Evaluation Objectives For Job Creation and Retention Projects

The City of Fargo will use the general review criteria below in evaluating the applications for assistance. These are broad areas of consideration which serve as part of the underlying City economic development policy. More specific detailed policies and guidelines may apply differently to each individual incentive option. Each incentive option will be administered according to the appropriate state law in conjunction with the specific policy or guideline adopted by the Fargo Board of City Commissioners.

Economic Impact to the City of Fargo
The economic impact to the City to be considered will be determined by increased construction activity and the purchase of local equipment, goods and services. Also, consideration will be given in terms of the size of the payroll and the value of the real property which ultimately serves to increase the tax base of the city.

Diversification and Growth of the Economic Base
The City is concerned about attracting and retaining companies that provide diversification from the existing industrial base in order to bring about a more stable economic environment in the city.

Number and Type of Jobs to be Created
The City of Fargo is interested in knowing the projection for job creation over the term of the assistance. Consideration will be given to the salary, benefits, and type of jobs to be created or anticipated jobs to be added in the future.

Local Competition
It is the intention of the City to not give an unfair advantage over other local existing companies through the use of these incentives.

Benefits To Accrue To The Project Operator
It is the intention of the City of Fargo that benefits granted accrue to the successful applicant, whether the applicant is the owner or tenant of a property, unless approval is otherwise specified.

Quality and Growth Potential of the Client
Consideration will be given to the company's reputation in other areas of the country in terms of the client's track record, credit history, stability, and overall industry standing. The City will also be interested in the company's past history of growth, potential for future growth, and the general outlook for growth of the industry as a whole.

Kinds of Businesses Targeted For Possible Incentives

- The City will typically assist primary sector businesses.
- Primary sector businesses are those in which at least 70% of the revenues generated by the end product or service they provide come from outside the Fargo trade area (150-mile radius). The end product may be completed by another firm (i.e. Cardinal Glass provides glass to Integrity Windows). This information will be provided by the business as part of the application process.
- The business must receive “Primary Sector” designation from the ND Department of Commerce and submit that information along with the incentive application.

General Evaluation Objectives For Job Creation and Retention Projects

- Targeted primary sector businesses are:
    1. Those engaged in manufacturing, remanufacturing or processing of a raw material or base product.
    2. Those providing packaging and distribution of end products.
    3. Service industries that are involved in data processing, data communications, telecommunications services, computer software development, technology support, research facilities, research and development of new technologies, or any form of information processing.

- The City is sensitive to concerns of providing assistance if jobs are simply being relocated within the Fargo Trade Area.

Kinds of Businesses Typically Not Eligible For Incentives

- Retail or any business selling directly to the consumer
- Health Care industry
- Education industry
    - Property that is occupied by a public, as opposed to private, school, academy, college or other institution of learning for the use of students in attendance upon such public educational institution would be eligible for incentives.
- Hospitality services (hotels, restaurants, taverns, etc.).
- Professionals (architects, attorneys, physicians, dentists, CPA's, real estate developers, investment advisors, advertising/public relations advisors)
- General office facilities.
- General warehousing facilities

Evaluation Point System To Be Used As A Guide

A point system will be utilized as a guide in evaluating primary sector projects for possible incentive programs. Although the point system will not be the final determining factor regarding eligibility for incentives, it will be used as a tool to quantify certain criteria.

General Evaluation Objectives For Job Creation and Retention Projects

A total of 100 points is required for recommended approval under the point system. Following is a breakdown of the criteria evaluated by the point system:

Project Type:

Points	Project Description
+38	Manufacturing
+25	Support Services
+13	Distribution
+25	Primary Sector Distribution
+38	Primary Sector Service Industry
+38	Technology Research
-63	Common Service Industry
-63	Warehousing
-63	Retail
-63	Lodging Industry

Jobs Created (Initial Year):

Points	Number of Jobs
+ 0	1-10
+15	11-50
+20	51-100
+25	101-250
+30	251+

Points	Hourly Salary w/o Benefits	
- 25	Under $13.00	
+ 0	$13.01 - $15.00	A weighted average
+25	$15.01 - $20.00	of points will be
+30	$20.01 - $28.00	used according to
+35	$28.01 - $35.00	the number of jobs
+50	Over $35.00	created in each range.

Local Competition:

Points	% of Gross Income With Any Local Competition
+25	0% - 10%
+15	11% - 30%
+0	31% - 50%
-25	Over 50%

General Evaluation Objectives For Job Creation and Retention Projects

Value of Proposed Buildings:

Points	Proposed Building Value
+ 0	Up to $80,000
+ 5	$80,001 - $100,000
+ 7.5	$100,001 - $500,000
+ 10	$500,001 - $1,000,000
+12.5	$1,000,001 - $5,000,000
+ 15	$5,000,001 - $10,000,000
+ 20	$10,000,000 - $15,000,000
+ 30	Over $15,000,000

Startup Firms:

Points	Startup
+15	New “startup” projects

Timing Of Filing Application:

Points	Application Filing
-100	If filed after start of construction on a new building
-100	If filed after occupancy on an existing building

General Evaluation Objectives For Job Creation and Retention Projects

Below is an example using the point system on a sample project:

Exemption Evaluation Calculator			**117.9**
SAMPLE			**Points**
Project Type Code (Ctrl-C to view)		1	**38.0**
Current Number Of Employees		171	
Hourly Salary Without Benefits	**# Jobs**		
Under $13.00	0		
$13.01-$15.00	0		
$15.01-$20.00	25		
$20.01-$28.00	15	Pts. For # Jobs->	**20.0**
$28.01-$35.00	0	Pts. For $ Jobs->	**19.9**
Over $35.00	15		
TOTAL # OF JOBS CREATED	**55**		
% GI w/ Local Competition (not downtown)		75%	**-25.0**
Value of Proposed Buildings		$ 5,004,300	**15.0**
Downtown Location (Y/N)		Y	**25.0**
Exemption Needed (Y/N)		N	
Startup Firm (Y/N)		N	**0.0**
Has Const Started or Has Bldg Been Occupied If Existing (Y/N)		N	**0.0**
Number of Years (Exemption)		10	
Building Age (if substantial renovation)		0	**0.0**
RECOMMENDATION IS TO		**APPROVE**	
Description		Manufacturing	
Estimated New Annual Payroll		$2,782,000	
Estimated Annual Real Estate Tax		$116,913	
Estimated PV of Exemption		$902,771	
Payroll / PV of Exemption		3.1	
Property Value / # of Jobs		$ 90,987	

Remodeling Exemption Guidelines

This exemption provides an incentive to property owners to invest private capital in order to remodel and rehabilitate buildings and structures to prevent the properties from decay. It is at the discretion of the City whether or not to grant this exemption to properties.

This exemption encourages the investment of private capital to improve properties, subsequently encouraging the production of wealth, improving the volume of employment, enhancing living conditions, and preserving and increasing the property tax base.

The standard policy utilized by the City of Fargo in granting the exemption allowed for improvements to property, according to N.D.C.C. Chapter 57-02.2, will be as follows:

Residential & Apartment Property

3 year exemption for value added due to remodeling and additions to buildings 25 years old to 39 years old.

5 year exemption for value added due to remodeling and additions to buildings 40 years old and older.

Commercial Property

3 year exemption for value added due to remodeling only for all properties outside of the Central Business District and for buildings under 25 years old within the Central Business District*.

5 year exemption for value added due to remodeling and additions to buildings 25 years old and older within the Central Business District.

**Central Business District boundaries are defined in the "Downtown Area Plan".*

TYPE	YRS EMEMPT	BLDG AGE	ELIGIBLE IMPROVEMENT	MISC
Residential & Apartments	3	25-39 Yrs	Remodel & Additions	
Residential & Apartments	5	40 Yrs & Up	Remodel & Additions	
Commercial	3	All	Remodel Only	Outside Central Bus. District
Commercial	3	Thru 24 Yrs	Remodel Only	In Central Business District
Commercial	5	25 Yrs & Up	Remodel & Additions	In Central Business District

- No exemption, under this policy, will be granted for assessment value replaced after a reduction in appraised value has been made by the Assessment Department for value lost due to fire, flood, tornado, or other natural disaster.

2 Year Residential New Construction Exemption Guidelines

The governing body of the city must approve the exemption by resolution and may amend or rescind that resolution at any time. The City may also limit or impose conditions on this exemption, including the time period for which it is allowed.

This exemption promotes the construction of dwelling units thereby encouraging the volume of employment, enhancing living conditions and increasing the tax base. However, the limited availability of the exemption to the majority of the local population warrants close review of the need for it to encourage that activity.

The City of Fargo will pass a resolution allowing for this exemption and the terms and conditions of the incentive. The City will periodically review the option of adopting a new resolution expanding or limiting the terms of this exemption as economic conditions or state statute may change.

New Single Family Residence Owned By Builder & Unoccupied
Up to five properties per builder per year may be exempt up to $150,000 of building value if the homes are unoccupied and owned by the builder. The maximum term of exemption is for the taxable year construction began and one following taxable year.

New Single Family Residence Owned By First Owner After The Builder
The first owner after the builder may receive an exemption on up to $150,000 of building value for new single-family, condominium and townhouse residences. The maximum term of the exemption is for the two taxable years after the taxable year construction is completed and the residence is occupied for the first time by the owner.

New or Expanding Industry Exemption / Payment In Lieu Of Tax Policy and Guidelines

Businesses, whether commercial, industrial, or service are eligible for this exemption or PILOT if they meet the State requirements and the following guidelines:

A $250.00 non-refundable fee for public notices and processing of applications must be paid before any notices are published.

A new business to the community must not gain unfair advantage with existing competitors through the use of the exemption.

An existing business is eligible if expansion of the business includes new jobs, a dramatic increase in sales (projected or verified) and/or diversion into another line of product sales or production.

Warehousing and retail projects would not receive exemptions unless the owner could prove need or provide other information to justify granting the exemption.

An option to establish up to 20 years of payments in lieu of property taxes may be available to qualifying projects and will be evaluated on a case by case basis.

PILOT payment schedules will be granted based on a percentage of building exemption for each defined yearly term. The actual annual payment amounts will be determined based upon the Assessor's initial completed property appraised value and the prevailing, most recently certified mill levy.

Standard Exemption For Primary Sector Businesses

The standard exemption for primary sector projects meeting the general objective of targeted businesses for this incentive that meet the criteria in the evaluation point system for jobs created and project size: Years 1 through 5 - 100% exemption on the improvement value.

For an expansion of an existing business, the eligible exemption will apply to the increased value of the improvements added for the expansion.

New Apartment Buildings Within *Downtown Area Plan*

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

Lower Income Apartments: Years 1 through 20 – The percentage of exemption may be up to 100% of the improvement value 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 rent as required by the Department of Housing and Urban Development, the Low Income Housing Tax Credit Program, the ND Housing Finance Agency, or a recorded land use restrictive covenant agreement.

New or Expanding Industry Exemption / Payment In Lieu Of Tax Policy and Guidelines

Significant Commercial Construction/Renovation

Private development of non-housing or mixed use projects with both housing and commercial use consisting of major building renovations or substantial new construction are eligible for a maximum of the following:

Years 1 through 10 – 100% of the improvement value
Years 11 through 15 – 75% of the improvement value

Projects will include a "but for" review to determine if the incentive is necessary to make the project financially feasible. They will be evaluated to determine if the project will bring added commerce activity to benefit other businesses. Analysis will also be done to determine if the incentive will provide an unfair advantage over existing businesses. Total investment must be in excess of $8,000,000.

Project must comply with at least one of the following:

- Significant new building construction of at least 40,000 square feet, equivalent in quality to Class A office with high quality exterior finish.
- Building is over 50 years old and complies with historic preservation standards.
- Renovation is greater than 50% of the current value of the building.
- Project complies with historic preservation standards
- Provides small living units or element of affordability.

Manufacturing or Processing a Product From An Agricultural Commodity

Years 1 through 10 – 100% of the improvement value

Additional Policy and Procedure Guidelines

Projects receiving incentives may be subject to periodic audits of employee counts with provisions for revisions to the terms of the incentive based on audit results

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

For the purposes of this policy, 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 beyond the requirements and limitations set forth by State Law. This policy will 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 under North Dakota Statute N.D.C.C. 40-57.1 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.

I. 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 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 create attainable housing options.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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

II. POLICIES FOR THE USE OF PILOT - University Area

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, 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 (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.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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

1. 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 #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.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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. 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.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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.

III. PROJECT QUALIFICATIONS

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

1. 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.

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

3. 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.

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

IV.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 ad visor 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.]

Tax Increment Financing Policy

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.

Tax Increment Financing Policy

- 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

Tax Increment Financing Policy

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:

2. 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

Tax Increment Financing Policy

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 10% 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:

3. Direct investment in public or free publicly accessible private spaces.
4. Direct and ongoing investment in public art.
5. Development of affordable or replacement housing.
6. 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.

Tax Increment Financing Policy

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.

Tax Increment Financing Policy

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.

Tax Increment Financing Policy

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.

Tax Increment Financing Policy

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.

Evaluation Criteria for Assistance to Developers

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 infrastructure to meet the needs of the development.
- The housing is compatible with the adjacent area or the future land use in the area.
- Sidewalks bike trails, or a transit stop within 4 blocks of the housing 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.

Tax Increment Financing Policy

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 infrastructure to meet the needs of the development.
- Sidewalks bike trails, or a transit stop within 4 blocks of the housing 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.
- The project has a high quality design.

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 bike trails, or a transit stop within 4 blocks of the housing 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.

City of Fargo Tax Exempt Review Committee

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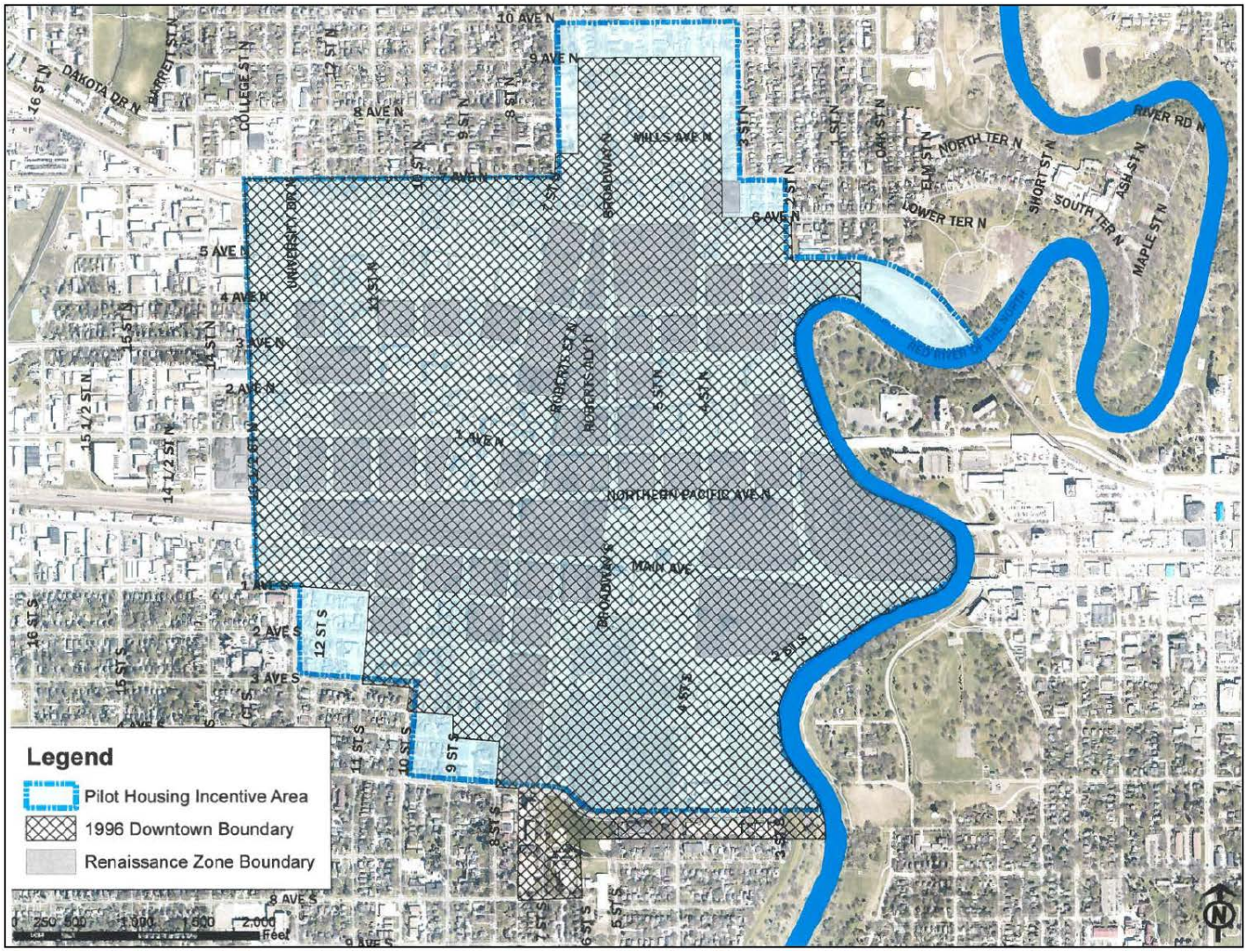
Downtown Housing Incentive Area Map



City of Fargo Tax Exempt Review Committee

Policy & Guidelines

~~February 2017~~December 2018

Tax Exempt Review Committee
~~200~~ 225 ~~Third~~ Fourth Street North
Fargo, North Dakota 58102

Table of Contents

Mission Statement

The City of Fargo supports the mission of economic development through the use of available tax incentive programs offered to the private sector. The goal of this mission is to create high quality jobs by attracting new, and expanding existing, primary sector businesses; promote historic preservation and development of the downtown district; support affordable housing opportunities and; grow the city's tax base which, collectively, enhance the city's livability, vibrancy and quality of life. The responsibility to initiate, sustain and implement economic development shall be borne primarily by the private sector with the city supporting qualifying efforts with reasonable public and private cooperation.

Effective Date and Term

This policy is effective as of December 3, 2018 and shall remain in effect until the next review. The next review will follow the June 2020 City election.

Available Incentive Options Reviewed By Tax Exempt Review Committee

Remodeling Exemption (N.D.C.C. 57-02.2) [Page 8]
This provides for an exemption of buildings that have been improved by means of renovation, remodeling, alteration, or additions. It does not apply to the replacement of one building with another. The amount of valuation added to the original assessment due to the remodeling within the existing structure may be exempted for a period of 5 years on projects started on or after August 1, 1999; 3 years on projects started prior to that. This is available to all commercial properties and residential buildings that are at least 25 years old.

Residential New Construction Exemption (N.D.C.C. 57-02-08) [Page 9]
This has allowed for an exemption of up to $75,000 in value on newly constructed residential dwellings, duplexes, townhomes, and condominiums. New legislation in 2008 expanded this exemption to up to $150,000 with separate exemptions allowed to builders and first owners after the builder.

New or Expanding Business Exemption/PILOT (N.D.C.C. 40-57.1) [Page 10]
This allows for a 5 year exemption for buildings of certain new or expanding business projects. A 10 year exemption may be granted to projects producing or manufacturing a product from agricultural commodities. In addition to, or instead of a property tax exemption, projects may be granted an option to set up to 20 years of payments in lieu of taxes (PILOT). The amount of those payments would be determined through negotiations with the City and the project operator.

~~***Incentive Options Available Through The Planning & Development Department***~~

Tax Increment Financing (N.D.C.C. 40-58)
This allows for the encouragement of private enterprise to rehabilitate or redevelop urban renewal areas by means of tax increments. This may be provided by the issuance of bonds to be paid back by the private operator through the incremental difference in property taxes between the original value and rehabilitated property value. This may also be provided in the form of a tax exemption with an amount granted initially and the incremental exempted tax being applied to reduce that amount with interest. ~~The City Finance Committee evaluates and makes recommendations under this program.~~

Incentive Options Available Through The Planning & Development Department

Renaissance Zone Incentives (N.D.C.C. 40-63)
This allows for the encouragement of private investment to rehabilitate or redevelop downtown Fargo through the use of property tax, state income tax and historic preservation & renovation tax credit incentives. The Renaissance Zone Authority administers the Zone incentives.

Community Development Incentives
In an effort to develop a high quality downtown and neighborhoods by providing quality housing and a suitable living environment, a combination of the above programs will be utilized.

General Evaluation Objectives For Job Creation and Retention Projects

The City of Fargo will use ~~as a guide~~ the general review criteria below in evaluating the applications for assistance. These are broad areas of consideration which serve as part of the underlying City economic development policy. More specific detailed policies and guidelines may apply differently to each individual incentive option. Each incentive option will be administered according to the appropriate state law in conjunction with the specific policy or guideline adopted by the Fargo Board of City Commissioners.

Economic Impact to the City of Fargo
The economic impact to the City to be considered will be determined by increased construction activity and the purchase of local equipment, goods and services. Also, consideration will be given in terms of the size of the payroll and the value of the real property which ultimately serves to increase the tax base of the city.

Diversification and Growth of the Economic Base
The City is concerned about attracting and retaining companies that provide diversification from the existing industrial base in order to bring about a more stable economic environment in the city.

Number and Type of Jobs to be Created
The City of Fargo is interested in knowing the projection for job creation over the term of the assistance. Consideration will be given to the salary, benefits, and type of jobs to be created or anticipated jobs to be added in the future.

Local Competition
It is the intention of the City to not give an unfair advantage over other local existing companies through the use of these incentives.

Benefits To Accrue To The Project Operator
It is the intention of the City of Fargo that benefits granted accrue to the successful applicant, whether the applicant is the owner or tenant of a property, unless approval is otherwise specified.

Quality and Growth Potential of the Client
Consideration will be given to the company's reputation in other areas of the country in terms of the client's track record, credit history, stability, and overall industry standing. The City will also be interested in the company's past history of growth, potential for future growth, and the general outlook for growth of the industry as a whole.

Kinds of Businesses Targeted For Possible Incentives

- The City will typically assist primary sector businesses.
- Primary sector businesses are those in which at least 70% of the revenues generated by the end product or service they provide come from outside the Fargo trade area (150-mile radius). The end product may be completed by another firm (i.e. Cardinal Glass provides glass to Integrity Windows). This information will be provided by the business as part of the application process.
- The business must receive “Primary Sector” designation from the ND Department of Commerce and submit that information along with the incentive application.

General Evaluation Objectives For Job Creation and Retention Projects

- Targeted primary sector businesses are:
    1. Those engaged in manufacturing, remanufacturing or processing of a raw material or base product.
    2. Those providing packaging and distribution of end products.
    3. Service industries that are involved in data processing, data communications, telecommunications services, computer software development, technology support, research facilities, research and development of new technologies, or any form of information processing.

- The City is sensitive to concerns of providing assistance if jobs are simply being relocated within the Fargo Trade Area.

Kinds of Businesses Typically Not Eligible For Incentives

- Retail or any business selling directly to the consumer
- Health Care industry
- Education industry
    - Property that is occupied by a public, as opposed to private, school, academy, college or other institution of learning for the use of students in attendance upon such public educational institution would be eligible for incentives.
- Hospitality services (hotels, restaurants, taverns, etc.).
- Professionals (architects, attorneys, physicians, dentists, CPA's, real estate developers, investment advisors, advertising/public relations advisors)
- General office facilities.
- General warehousing facilities

Evaluation Point System To Be Used As A Guide

A point system will be utilized as a guide in evaluating primary sector projects for possible incentive programs. Although the point system will not be the final determining factor regarding eligibility for incentives, it will be used as a tool to quantify certain criteria.

~~Non-housing, commercial projects in the downtown will be analyzed on the basis of financial feasibility of the need for an incentive, the impact on existing downtown businesses, and the significance of investment in the project.~~

General Evaluation Objectives For Job Creation and Retention Projects

A total of 100 points is required for recommended approval under the point system. Following is a breakdown of the criteria evaluated by the point system:

Project Type:

Points	Project Description
+38	Manufacturing
+25	Support Services
+13	Distribution
+25	Primary Sector Distribution
+38	Primary Sector Service Industry
+38	Technology Research
-63	Common Service Industry
-63	Warehousing
-63	Retail
-63	Lodging Industry

Jobs Created (Initial Year):

Points	Number of Jobs
+ 0	1-10
+15	11-50
+20	51-100
+25	101-250
+30	251+

Points	Hourly Salary w/o Benefits	
- 25	Under $13.00	
+ 0	$13.01 - $15.00	A weighted average
+25	$15.01 - $20.00	of points will be
+30	$20.01 - $28.00	used according to
+35	$28.01 - $35.00	the number of jobs
+50	Over $35.00	created in each range.

Local Competition:

Points	% of Gross Income With Any Local Competition
+25	0% - 10%
+15	11% - 30%
+0	31% - 50%
-25	Over 50%

General Evaluation Objectives For Job Creation and Retention Projects

Value of Proposed Buildings:

Points	Proposed Building Value
+ 0	Up to $80,000
+ 5	$80,001 - $100,000
+ 7.5	$100,001 - $500,000
+ 10	$500,001 - $1,000,000
+12.5	$1,000,001 - $5,000,000
+ 15	$5,000,001 - $10,000,000
+ 20	$10,000,000 - $15,000,000
+ 30	Over $15,000,000

Startup Firms:

Points	Startup
+15	New “startup” projects

Timing Of Filing Application:

Points	Application Filing
-100	If filed after start of construction on a new building
-100	If filed after occupancy on an existing building

General Evaluation Objectives For Job Creation and Retention Projects

Below is an example using the point system on a sample project:

Exemption Evaluation Calculator			**117.9**
SAMPLE			**Points**
Project Type Code (Ctrl-C to view)		1	**38.0**
Current Number Of Employees		171	
Hourly Salary Without Benefits	**# Jobs**		
Under $13.00	0		
$13.01-$15.00	0		
$15.01-$20.00	25		
$20.01-$28.00	15	Pts. For # Jobs->	**20.0**
$28.01-$35.00	0	Pts. For $ Jobs->	**19.9**
Over $35.00	15		
TOTAL # OF JOBS CREATED	**55**		
% GI w/ Local Competition (not downtown)		75%	**-25.0**
Value of Proposed Buildings		$ 5,004,300	**15.0**
Downtown Location (Y/N)		Y	**25.0**
Exemption Needed (Y/N)		N	
Startup Firm (Y/N)		N	**0.0**
Has Const Started or Has Bldg Been Occupied If Existing (Y/N)		N	**0.0**
Number of Years (Exemption)		10	
Building Age (if substantial renovation)		0	**0.0**
RECOMMENDATION IS TO		**APPROVE**	
Description		Manufacturing	
Estimated New Annual Payroll		$2,782,000	
Estimated Annual Real Estate Tax		$116,913	
Estimated PV of Exemption		$902,771	
Payroll / PV of Exemption		3.1	
Property Value / # of Jobs		$ 90,987	

Remodeling Exemption Guidelines

This exemption provides an incentive to property owners to invest private capital in order to remodel and rehabilitate buildings and structures to prevent the properties from decay. It is at the discretion of the City whether or not to grant this exemption to properties.

This exemption encourages the investment of private capital to improve properties, subsequently encouraging the production of wealth, improving the volume of employment, enhancing living conditions, and preserving and increasing the property tax base.

The standard policy utilized by the City of Fargo in granting the exemption allowed for improvements to property, according to N.D.C.C. Chapter 57-02.2, will be as follows:

Residential & Apartment Property

3 year exemption for value added due to remodeling and additions to buildings 25 years old to 39 years old.

5 year exemption for value added due to remodeling and additions to buildings 40 years old and older.

Commercial Property

3 year exemption for value added due to remodeling only for all properties outside of the Central Business District and for buildings under 25 years old within the Central Business District*.

5 year exemption for value added due to remodeling and additions to buildings 25 years old and older within the Central Business District.

**Central Business District boundaries are defined in the "Downtown Area Plan".*

TYPE	YRS EMEMPT	BLDG AGE	ELIGIBLE IMPROVEMENT	MISC
Residential & Apartments	3	25-39 Yrs	Remodel & Additions	
Residential & Apartments	5	40 Yrs & Up	Remodel & Additions	
Commercial	3	All	Remodel Only	Outside Central Bus. District
Commercial	3	Thru 24 Yrs	Remodel Only	In Central Business District
Commercial	5	25 Yrs & Up	Remodel & Additions	In Central Business District

- No exemption, under this policy, will be granted for assessment value replaced after a reduction in appraised value has been made by the Assessment Department for value lost due to fire, flood, tornado, or other natural disaster.

2 Year Residential New Construction Exemption Guidelines

The governing body of the city must approve the exemption by resolution and may amend or rescind that resolution at any time. The City may also limit or impose conditions on this exemption, including the time period for which it is allowed.

This exemption promotes the construction of dwelling units thereby encouraging the volume of employment, enhancing living conditions and increasing the tax base. However, the limited availability of the exemption to the majority of the local population warrants close review of the need for it to encourage that activity.

The City of Fargo will pass a resolution allowing for this exemption and the terms and conditions of the incentive. The City will periodically review the option of adopting a new resolution expanding or limiting the terms of this exemption as economic conditions or state statute may change.

New Single Family Residence Owned By Builder & Unoccupied
Up to five properties per builder per year may be exempt up to $150,000 of building value if the homes are unoccupied and owned by the builder. The maximum term of exemption is for the taxable year construction began and one following taxable year.

New Single Family Residence Owned By First Owner After The Builder
The first owner after the builder may receive an exemption on up to $150,000 of building value for new single-family, condominium and townhouse residences. The maximum term of the exemption is for the two taxable years after the taxable year construction is completed and the residence is occupied for the first time by the owner.

New or Expanding Industry Exemption / Payment In Lieu Of Tax Policy and Guidelines

Businesses, whether commercial, industrial, or service are eligible for this exemption or PILOT if they meet the State requirements and the following guidelines:

A $250.00 non-refundable fee for public notices and processing of applications must be paid before any notices are published.

A new business to the community must not gain unfair advantage with existing competitors through the use of the exemption.

An existing business is eligible if expansion of the business includes new jobs, a dramatic increase in sales (projected or verified) and/or diversion into another line of product sales or production.

Warehousing and retail projects would not receive exemptions unless the owner could prove need or provide other information to justify granting the exemption.

~~An exemption which has been granted will be considered lapsed and invalid if construction has not begun in 1 year and/or completed in 2 years. Notice will be sent to the project operator 90 days prior to the exemption lapsing.~~

~~*Payment In Lieu of Taxes (PILOT) Option*~~

An option to establish up to 20 years of payments in lieu of property taxes ~~or a property tax exemption~~ may be available to qualifying projects and will be evaluated on a case by case basis. ~~In addition to the general guidelines stated above, the PILOT incentive will include the following considerations and criteria:~~

PILOT payment schedules will be granted based on a percentage of building exemption for each defined yearly term. The actual annual payment amounts will be determined based upon the Assessor's initial completed property appraised value and the prevailing, most recently certified mill levy~~:~~.

Standard Exemption For Primary Sector Businesses

~~Exemption Years~~	~~% of Building Exempt~~
~~1-5~~	~~100%~~

The standard exemption for primary sector projects meeting the general objective of targeted businesses for this incentive that meet the criteria in the evaluation point system for jobs created and project size: Years 1 through 5 - 100% exemption on the improvement value.

For an expansion of an existing business, the eligible exemption will apply to the increased value of the improvements added for the expansion.

New Apartment Buildings Within *Downtown Area Plan*

~~PILOT Years~~	~~% of Building Exempt Equivalent~~
~~1-5~~	~~100%~~
~~6-10~~	~~75%~~

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
Lower Income Apartments: Years 1 through 20 – The percentage of exemption may be up to 100% of the improvement value 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 rent as required by the Department of Housing and Urban Development, the Low Income Housing Tax Credit Program, the ND Housing Finance Agency, or a recorded land use restrictive covenant agreement.

New or Expanding Industry Exemption / Payment In Lieu Of Tax -Policy and Guidelines

Significant Commercial Construction/Renovation
Private development of non-housing or mixed use projects with both housing and commercial use consisting of major building renovations or substantial new construction are eligible for a maximum of the following:

Years 1 through 10 – 100% of the improvement value
Years 11 through 15 – 75% of the improvement value

~~PILOT Years~~	~~% of Building Exempt Equivalent~~
~~1-10~~	~~100%~~
~~11-15~~	~~75%~~

Projects will include a “but for” review to determine if the incentive is necessary to make the project financially feasible. They will be evaluated to determine if the project will bring added commerce activity to benefit other businesses. Analysis will also be done to determine if the incentive will provide an unfair advantage over existing businesses. Total investment must be in excess of $8,000,000.

Project must comply with at least one of the following:

- Significant new building construction of at least 40,000 square feet, equivalent in quality to Class A office with high quality exterior finish.
- Building is over 50 years old and complies with historic preservation standards.
- Renovation is greater than 50% of the current value of the building.
- Project complies with historic preservation standards
- Provides small living units or element of affordability.

~~**Significant Commercial Construction/Renovation Outside Downtown**~~

~~Private development outside of downtown consisting of significant investment in tax base, large increase in jobs added, or providing support services to other local businesses may be eligible for incentives beyond the standard 5 years @ 100% exemption of building value.~~

Manufacturing or Processing a Product From An Agricultural Commodity

Years 1 through 10 – 100% of the improvement value

~~PILOT Years~~	~~% of Building Exempt Equivalent~~
~~1-10~~	~~100%~~

~~**Low Income Housing**~~

~~Qualifying projects under the federal Low Income Housing Tax Credit (LIHTC) program will be considered for a 15 year PILOT according to the following:~~

- ~~City of Fargo must approve the LIHTC participation.~~
- ~~PILOT payment schedule will be established based on a value of the project determined by using a gross rent multiplier (GRM) of 5.5–6.5 times the gross rents received from the project imposed by the low income credit program in the initial year.~~
- ~~An annual inflation factor of 2% will be applied to the PILOT payment schedule.~~

~~Projects with an ownership interest by a political subdivision or qualified non-profit entity as defined in section 42 of the Internal Revenue Code, will be considered for a 15 year PILOT according to the following:~~

- ~~Project must have begun after December 31, 2012.~~
- ~~If a for-profit entity has an ownership interest, the agreement must provide first right of refusal to the non-profit entity, at no financial gain, in the transfer of the ownership interest in the property.~~
- ~~PILOT payment schedule will be established based on the land tax, pro-forma estimate of effective gross rents, and utility expenses.~~
  - ~~Year 1-3 PILOT payment = $0~~
  - ~~Year 4 PILOT payment = 5% times pro-forma Year 1 Effective Gross Rent minus Utility Expense minus (Year 1) Land Tax~~
  - ~~Year 5-15 PILOT increases 2% per year over Year 4 PILOT~~

~~New or Expanding Industry Exemption Policy and Guidelines~~

~~**Significant Commercial Construction/Renovation Outside Downtown**~~

~~Private development outside of downtown consisting of significant investment in tax base, large increase in jobs added, or providing support services to other local businesses may be eligible for incentives beyond the standard 5 years @ 100% exemption of building value.~~

Additional Policy and Procedure Guidelines

- Projects receiving incentives may be subject to periodic audits of employee counts with provisions for revisions to the terms of the incentive based on audit results ~~Maximum number of years at 100% exemption equivalent will be 10 years.~~

- ~~Maximum number of years for PILOT & exemptions will be 15 years.~~
- ~~A development agreement will be prepared to require a financial review at 5 years and 10 years to evaluate the continued need for assistance.~~
- ~~Projects receiving incentives will be subject to periodic audits of employee counts with provisions for revisions to the terms of the incentive based on audit results.~~

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

For the purposes of this policy, 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 beyond the requirements and limitations set forth by State Law. This policy will 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 under North Dakota Statute N.D.C.C. 40-57.1 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.

I. 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 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 create attainable housing options.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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

II. POLICIES FOR THE USE OF PILOT - University Area

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, 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 (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.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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

1. 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 #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.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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. 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.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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.

III. PROJECT QUALIFICATIONS

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

1. 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.

2. 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.

3. 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.

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

IV.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 ad visor 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.]

Tax Increment Financing Policy

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.

Tax Increment Financing Policy

- 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:

2. 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

Tax Increment Financing Policy

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 10% 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:

3. Direct investment in public or free publicly accessible private spaces.
4. Direct and ongoing investment in public art.
5. Development of affordable or replacement housing.
6. 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.

Tax Increment Financing Policy

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.

Tax Increment Financing Policy

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.

Tax Increment Financing Policy

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.

Tax Increment Financing Policy

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.

Evaluation Criteria for Assistance to Developers

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 infrastructure to meet the needs of the development.
- The housing is compatible with the adjacent area or the future land use in the area.
- Sidewalks bike trails, or a transit stop within 4 blocks of the housing 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.

Tax Increment Financing Policy

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 infrastructure to meet the needs of the development.
- Sidewalks bike trails, or a transit stop within 4 blocks of the housing 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.
- The project has a high quality design.

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 bike trails, or a transit stop within 4 blocks of the housing 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.

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.

City of Fargo Tax Exempt Review Committee

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~~Map of~~ Downtown Housing Incentive Area ~~Plan~~Map