FARGO CITY COMMISSION AGENDA
Monday, January 28, 2019 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at www.FargoND.gov/streaming. They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at www.FargoND.gov/citycommission.

A. Pledge of Allegiance.

B. Roll Call.

C. Approve Order of Agenda.

D. Minutes (Regular Meeting, January 14, 2019).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. 2nd reading and final adopting of the following Ordinances; 1st reading 1/14/19:
   a. Amending Section 2-0203 and Enacting Section 2-0205 of Article 2-02 of Chapter 2 of the Fargo Municipal Code Relating to Elections.
   b. Amending Article 24-04 of Chapter 24 of the Fargo Municipal Code Relating to Wireless Telecommunications.

2. Applications for property tax exemptions for improvements made to buildings:
   a. Gary J. and Amie C. Haugo, 808 8th Street South (5 year).
   b. Brian J. and Edith A. Lee, 2201 North Flickertail Drive South (5 year).
   c. Zachary P. and Trisha J. Johnson, 1701 14th Street South (5 year).
   d. Brent and Dawn Barth, 1621 7th Avenue South (5 year).
   e. Martin P. and Mona L. Heggedal, 138 Prairiewood Drive South (3 year).
   f. Reuben D. and Beth M. Viland, 182 Prairiewood Drive South (3 year).
   g. Brooke E. Austin, 1625 3rd Street North (5 year).
   h. Maury C. and Sharon T. Morgan, 2101 8th Street North (5 year).
   i. Andrew J. Myer, 1617 8th Street South (5 year).
   j. Joshua D. and Rebekah K. Nelson, 1802 18th Street South (5 year).
   k. Andrew P. and Billiejo A. Shae, 1813 8th Street South (5 year).

3. Applications for Games of Chance:
   a. BIO Girls for a raffle on 4/5/19.
   b. St. John Paul II Catholic Schools for a raffle on 4/27/19.
   c. Muskies Inc. F-M Chapter for a raffle on 2/7/19.
   d. Nativity Elementary for a raffle board on 2/1/19.
   e. Boosters of ND Elite Dancers "bonded" for a raffle on 2/17/19.

4. Pledged securities as of 12/31/18.

5. Purchase Agreement with BDN Properties, LLP for properties located at 665 and 683 Royal Oaks Drive North

6. Grant Award and Acceptance from the Edward Byrne Memorial Justice Assistance Grant (JAG) Program in the amount of $7,150.00 and designate the Rape and Abuse Crisis Center as a pass-through grant recipient (CFDA #16.738).

7. Agreement for Services with Gia Rassier.

8. Agreement for Services with Annie Wood.

9. Notice of Grant Award from the ND Department of Health for HIV Prevention Activities/Syringe Services Program Grant and Purchase of Service Agreement from the ND Department of Health for HIV Prevention Activities for HIV/HCV Counseling, Testing and Referral (CFDA #93.940).

10. Purchase of Service Agreement from the ND Department of Health for targeted testing for TB Infection and Treatment (CFDA #93.116).

11. Agreement for Services with Erica Frank.

12. Agreement for Services with Janice Tweet.

13. Acceptance of the FY 2018 State Homeland Security Grant Program award in the amount of $75,363.00

14. Memorandum of Understanding Regarding Ed Clapp Elementary and Dr. James Carlson Library.

15. Bid award for fuel purchase in the 3rd and 4th Quarters of 2019 (RFV19007).

16. Cancellation of the Sales Agreement with Butler Machinery for the purchase of one crawler dozer (RFP18310) and re-issue a new RFP.

17. Bid award for one motorgrader with wing (RFP18302).

18. Contract Amendment No. 2 with Houston Engineering in the amount of $14,952.00 for Project No. MS-14-20.

19. Contract Amendment No. 1 with Flint Group in the amount of $6,892.50 for Project No. MS-18-F0.

20. Agreement for Engineering Services with Houston Engineering, Inc. in the amount of $213,168.00 for Project No. BN-19-A3.

21. Bid award for marketing services at Transit (RFP19005).

22. Receive and file the MATBUS Transit Facility Study.

23. Bills.

24. Negative Final Balancing Change Order No. 2 in the amount of -$38,396.98 for Improvement District No. PR-18-F1.

25. Change Order No. 1 for an increase of $9,522.64 and time extension to 6/18/19 for Improvement District No. UN-18-B1.

26. Change Order No. 8 for an increase of $8,580.00 and time extension to 5/15/19 for Improvement District No. BN-17-B1.

27. Contract Amendment No. 2 with KLG in the amount of $176,644.63 for Improvement District No. BN-17-A3.

28. Cost Participation and Maintenance Agreement with the NDDOT for reconstruction of Main Avenue (Improvement District No. BR-18-A1).

29. Service Agreement with Minnkota Power Cooperative, Inc. for utility relocation and payment in the amount of $81,000.00 (Improvement District No. BN-19-A2).

30. Bid award for Improvement District No. BN-19-A2.

31. Create Improvement District Nos. BR-18-A and PN-18-C.

REGULAR AGENDA:

32. Request from Lakemode Liquors.

33. Public Hearings - 5:15 pm:
    a. Transfer of a Class "H" Alcoholic beverage License from Pizza Boy Fargo, LLC d/b/a Uncle Maddio's Pizza Joint to Pipa's Pizza LLC d/b/a Uncle Maddio's Pizza at 1690 45th Street South, Suite 2.

    b. Golden Valley Second Addition (6737 25th Street South); approval recommended by the Planning Commission on 7/3/18:
        1. Zoning change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay.
        2. 1st reading of rezoning Ordinance.
        3. Plat of Golden Valley Second Addition.

34. Recommendation from the Tax Exempt Review Committee to approve the City of Fargo Tax Exempt Review Committee Policy and Guidelines.

35. Legislative update.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo website at www.FargoND.gov/citycommission.

THE CITY OF
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MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Lakemode Liquor waiver request

DATE: January 24, 2019

Jodi Plecity, owner Lakemode Liquor holding a B-Limited liquor license, appeared before the Liquor Control Board on January 16, 2019 to explain her situation. She agreed to sell her business to Hornbachers, through a series of delays that transaction did not get consummated before Coburns purchased Hornbachers. Coburns owns two liquor license in Fargo, one a B the other a B-Limited. By ordinance Coburns cannot own a second B-Limited liquor license.
The Liquor Board requested Attorney Morris review and determine if a waiver of the ordinance could be granted. Attorney Morris' review determined that if the business is sold the license comes back to the City and the purchaser would have first right to acquire the license from the City. She also determined the ordinance does not have a waiver provision, therefore, there is no way to ignore the ordinance, consequently, there is no way for Coburns to hold a second B-Limited liquor license.

Ms. Plecity is requesting a waiver of the ordinance or that the ordinance be modified to allow for a waiver provision. Her emailed request is attached.

Fargo Municipal Code 25-1506 #3 states "no person, partnership or other form of business entity may hold more than one "B-Limited" license nor may a "B-Limited" license be owned by any individual, partnership or other business entity in which a person holding more than a 5% ownership interest in the business entity also holds more than a 5% ownership interest in another business entity that holds a "B-Limited" license or an "A", "AB", "ABH" or "ABH-RZ" license."

This matter is being present to you at the request of the license holder to allow Coburns to hold more than one B-Limited license.

To whom it may concern in RE: to Lakemode Liquors buyout.

Circumstances beyond my control have led to the halt of my important business sale and the inability to move on with my life and work on my Non-Profit Organization. I am in a very unique situation and I am in need of some help and guidance. Here is the timeline of my buyout proceedings.

- January 2018, started negotiations with Hornbachers/Supervalu
- June 2018 agreement reached with major terms of contract
- August 2018 Hornbachers/Supervalu sold to UNFI halt of sale
- September 2018 UNFI approvals of purchase were received with purchase agreement
- October 2018 transfer of liquor license approved at Liquor Control and City Commission in Hornbacher's Inc. name
- November 2018 was to be close/Transfer of the store to Hornbacher's/UNFI
- November 2018 Hornbacher's Sale to Coburns is announced
- December 2018 Transfer of Name from Hornbacher's Inc to Coburns halts my sale

Hornbacher's/Coburns had constant build out crews in the store....equipment had been ordered, the new signage was bought and the build crew is all ready for take over. It was set to be November 28th, right after thanksgiving. I have also had to keep my buyer of my second location at bay through all of this as well. Due to the fact the liquor license transfer is public knowledge I felt at that time I needed to announce to my staff and the public what was going on. One week before the closeout was to happen, it blows out on media that Supervalu, which is now UNFI is selling all Hornbacher's locations to Coburn's. They assured me that everything is fine, all their legal sent Coburn's all the information about my buyout, they are very interested and still want to buy my location and that he would push me through to their contact first thing that Monday. I was constantly in talks with Steve Sprague about my situation and he was very understanding. We now had the liquor license in Hornbacher's Inc and we had to get that changed to something else because Hornbacher's Inc. is no more since Coburn's purchased them December 14th. Had the buyout been finalized or not, everyone (except me) would still be sitting in this same situation with getting the name changed. Coburn's already has a B-limited license, and my license is a B-limited license. The ordinance states you can't have the same entity own more than one of those types of licenses. What would you have done, required a business to close because the license could not have been transferred to Coburn's? This is an existing business and not the creation of a new license or location. It will simply be changing names and allowing me to move on with my life. I have attempted and contacted different potential buyers in the community with no luck unfortunately. I have also been in contact with different managers and owners of various off-sales in the community and they have been very supportive of me in my situation. I am here today to ask you for a waiver and allow Coburn's to be named on my license so I can continue to follow through with the sale of my business. This is an extremely rare situation that has been all over the news and unfortunately I am stuck right in the middle and forced to try to clean up the mess. This has really affected me personally and I need this to be over with. I have been waiting because the plan was to sell my business and start my Non-profit organization. I cannot mentally wait any longer, I am in the process of starting my non-profit. I am partnering with friends of mine...one is a Chiropractor/Functional Medicine Doctor. We want to help individuals that have been through tragic, or violent circumstances and we want to help guide them back to health. We want to bring a better, heathier community to the Fargo area. We are hoping to have a location where we can house specific doctors and a rehabilitation and strength center, as well as teach self-care and nutrition. Some examples of the people I want to offer these services to are; the

YWCA shelter, the Homeless Lifecenter of Fargo, Area churches that need it, people that financially can't afford to take care of themselves and anyone else that might come to my path. There is so much suffering and depression in this world. I myself was one of those people and I know what it is like to be in physical and emotional pain every day of your life. I had ONE person reach out and offer their hand to me and it completely changed my life! They showed me how to take care of myself, how to remove toxic people from my life, strive to be a better person, mourn the losses of my children, and to just find my purpose in my life. This is my purpose in my life. To help others like I was helped. I want to give LIFE to those who are suffering and just need a guiding hand. I can't do this when I own and run Liquor Stores. If I cannot resolve this simple license name issue, I do not know how much longer I can keep my businesses open in this community because it is affecting my mental state and I have fought so hard to be a giver of life the last few years. I am here to ask the commission to allow a Waiver or amend the ordinances to allow a Waiver so the entity can be placed in Coburn's name so my sale can finalize. Thank you for taking the time to listen to me.

Sincerely,

Jodi Plecity

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MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Application – Uncle Maddio's Pizza

DATE: January 22, 2019

The following application for a liquor license was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class:	H On-Sale Beer only, requires 50% food, transfer
Business Name:	Uncle Maddio's Pizza
Location:	1690 45th Street South, Suite 2
Applicants:	Jason Harmon

Being no significant concerns, the Liquor Control Board voted to approve the transfer of the license. The complete application is available for review in the Auditor's Office.

Recommended Motion:
Move to approve the transfer of a Class H alcoholic beverage license to Uncle Maddio's Pizza.

MEMORANDUM

TO: Chief David Todd

FROM: Sergeant Matt Christensen

DATE: January 7th, 2019

SUBJECT: Application for transfer of a Class "H" Alcoholic Beverage License from Pizza Boy Fargo, LLC d/b/a Uncle Maddio's Pizza Joint, to Pipa's Pizza, LLC d/b/a Uncle Maddio's Pizza, to be located at 1690 45th Street South, Suite 2, Fargo, ND.

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation I questioned the applicant's criminal background, credit history, past residence history as well as any interaction they have had with law enforcement in any state.

The following information was discovered through this investigation:

<u>Jason Harmon – Owner</u>

Criminal History- No areas of concern

Credit History- No areas of concern

<u>Investigation Notes</u>

This application is for a transfer of a current license to new ownership. Uncle Maddio's will be operated under the same business model of the previous owners and will continue to be a fast, casual pizza place that serves to all age groups. Their products are fresh and pizzas are individual and customized to each person. The liquor license will be an H license allowing the sale of beer in an "on-sale" only capacity with no bar. Uncle Maddio's typically serves a minimal amount of alcohol on an annual basis, but would like to continue to offer the option of beer to its customers. In a search of Police Records there does not appear to be any negative contacts from Law Enforcement at this location or any contacts related to issues with alcohol consumption or over serving.

Business Location

Uncle Maddio's Pizza will continue to be located at 1690 45^{th} Street South, Suite #2. Other businesses in the area with an alcoholic beverage license include; Chipotle Mexican Grill, Porter Creek Hardwood Grill, Happy Harry's Bottle Shop, Best Western Plus Kelly Inn & Suites, Samurai Japanese Cuisine, Wild Bill's Sports Saloon, Johnny Carino's, and Fargo Brewing Co. Ale House.

Conclusion

I believe I have discovered all information related to the listed applicant(s) and all information related to the issuance of the requested liquor license. I have provided this completed background investigation to Fargo Police Chief David Todd for his review and recommendation.

33b1

City of Fargo Staff Report			
Title:	Golden Valley Second Addition	**Date:** **Updated:**	6/28/2018 1/23/2019
Location:	6737 25th Street South	**Staff Contact:**	Donald Kress, planning coordinator
Legal Description:	Portion of the northeast quarter of Section 11, Township 138 North, Range 49 West		
Owner(s)/Applicant:	Ryland Development Corporation / Jon Youness	**Engineer:**	Mead & Hunt
Entitlements Requested:	**Major Subdivision** (Plat of **Golden Valley Second Addition** part of the northeast quarter of Section 11, Township 138 North, Range 49 West to the City of Fargo, Cass County, North Dakota) and **Zoning Change** (from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional, with a C-O, Conditional Overlay to restrict land uses on the P/I zoned lot as noted below)		
Status:	City Commission Public Hearing: January 28, 2019		

Existing		**Proposed**
Land Use: Undeveloped		**Land Use:** Residential
Zoning: AG, Agricultural		**Zoning:** SR-4, Single-Dwelling Residential; P/I, Public and Institutional
Uses Allowed: AG – Agricultural allows detached houses, parks and open space, safety services, basic utilities, and crop production		**Uses Allowed:** SR-4 - Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities; P/I Allows ~~colleges, community service, daycare centers of unlimited size~~, detention facilities, ~~health care facilities~~, parks and open space, ~~religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events;~~ **with a C-O, conditional overlay to restrict uses as shown**
Maximum Density Allowed: AG allows a maximum of 1 dwelling unit per 10 acres		**Maximum Density Allowed:** SR-4 allows a maximum 12.1 units per acre; P/I zone has no density or lot coverage standards

Proposal:

The applicant requests two entitlements:

1. A major subdivision, entitled **Golden Valley Second Addition,** which is a plat of a portion of the northeast quarter of Section 11, Township 138 North, Range 49 West

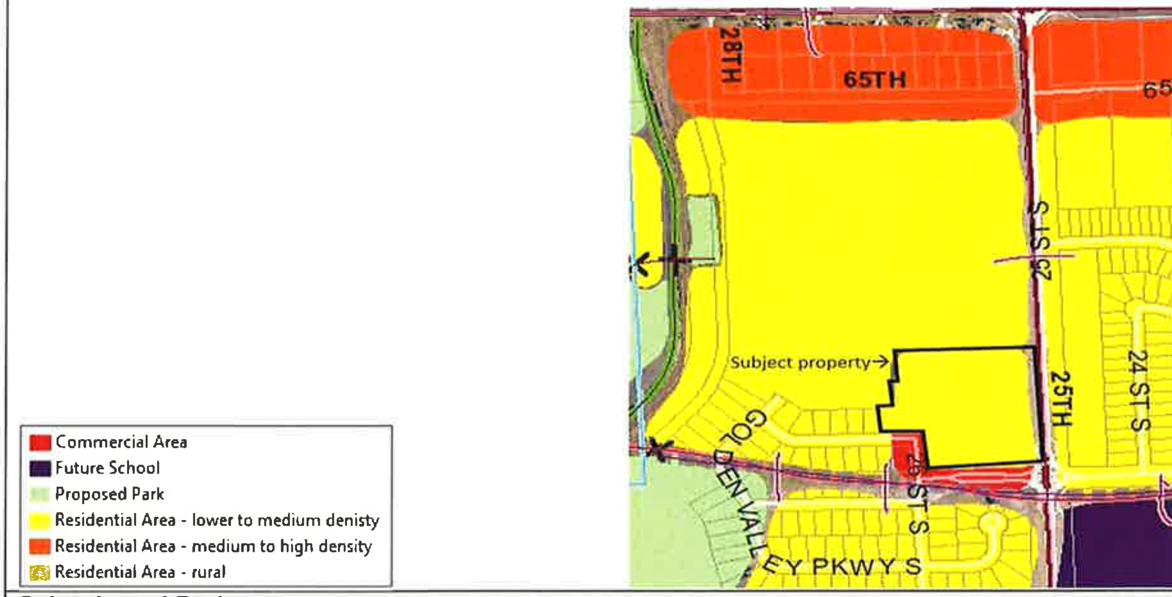
2. A zoning change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, conditional overlay to restrict uses to "park and open space" and "detention facilities" on the P/I zoned lot.

Surrounding Land Uses and Zoning Districts:

- North: SR-1: Single-Dwelling Residential; single family residences and undeveloped lots
- East: SR-4: Single-Dwelling Residential; MR-3: Multi-Dwelling Residential; P/I: Parks/Institutional
- South: SR-1: Single-Dwelling Residential; single family residences and undeveloped lots
- West: P/I: Parks/Institutional; AG: Agricultural; undeveloped(continued on next page)

Area Plans:

The subject property is located within the 2007 Future Land Use Plan. This plan, amended in 2016 on this property, designates the subject proeprty as "Residential Area—Lower to Medium Density." This land use designation includes the SR-4 zoning. The P/I zoning for HOA-owned lots is appropriate in this land use designation.



Schools and Parks:

Schools: The subject property is located within the Fargo School District, specifically within the Bennett Elementary, Discovery Middle and Davies High schools.

Parks: Davies Athletic Complex (1880 70th Avenue S) is located approximately 0.28 miles east of the subject property and offers baseball/softball amenities. Davies Recreational Pool (7150 25th Street S) is located on the opposite corner of the southeast corner of the subject property and offers concessions, restrooms, and swimming pool amenities. Legacy Park (7150 25th Street S) is located approximately 0.13 miles north of the subject property and offers concessions, restrooms, and swimming pool amenities.

Pedestrian / Bicycle: On the south and east of the property, there are off road bike facilities that run along 70th Avenue South and 25th Street South respectively.

Staff Analysis:

The subject property is located at 6737 25th Street South, and is bounded by 25th Street South (east), 70th Avenue South/Golden Lane (south) and a city levee and County Drain Number 53 (west).

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

PLAT AND ZONING CHANGE

The plat will create 33 single family lots and homeowners association (HOA)-owned park lot, zoned as follow

BLOCK	LOTS	ZONING	LAND USE
1	1-8	SR-4	Detached single family
2	1-10	SR-4	Detached single family
3	1-11	SR-4	Detached single family
4	1-4	SR-4	Detached single family
4	5	P/I with conditional overlay	HOA-owned park

The single-family lots range in size from approximately 5,220 square feet to 18,010 square feet, with most lots in the 5,200 to 8,500 square foot range. All meet the minimum required lot area of the SR-4 zone.

The conditional overlay (C-O) is included with the zone change to P/I to restrict the uses on this lot to "park and open space" and "detention facilities." The P/I zone allows a wide variety of land uses, many of which would not be appropriate in a residential area like this one. Thus, the C-O insures that only the necessary and appropriate land uses are available for the HOA park lot.

HOMEOWNERS' ASSOCIATION (HOA)-OWNED LOT: Staff is working with the applicant to create documentation that will clearly define the HOA's obligations to pay taxes on and maintain the HOA-owned lot, and to provide the City a course of action to continue to collect taxes and maintain these lots should the HOA fail to do so. The HOA will also maintain the landscape easements depicted on the plat along 25th Street South, Golden Lane, 26th Street South, and 70th Avenue South.

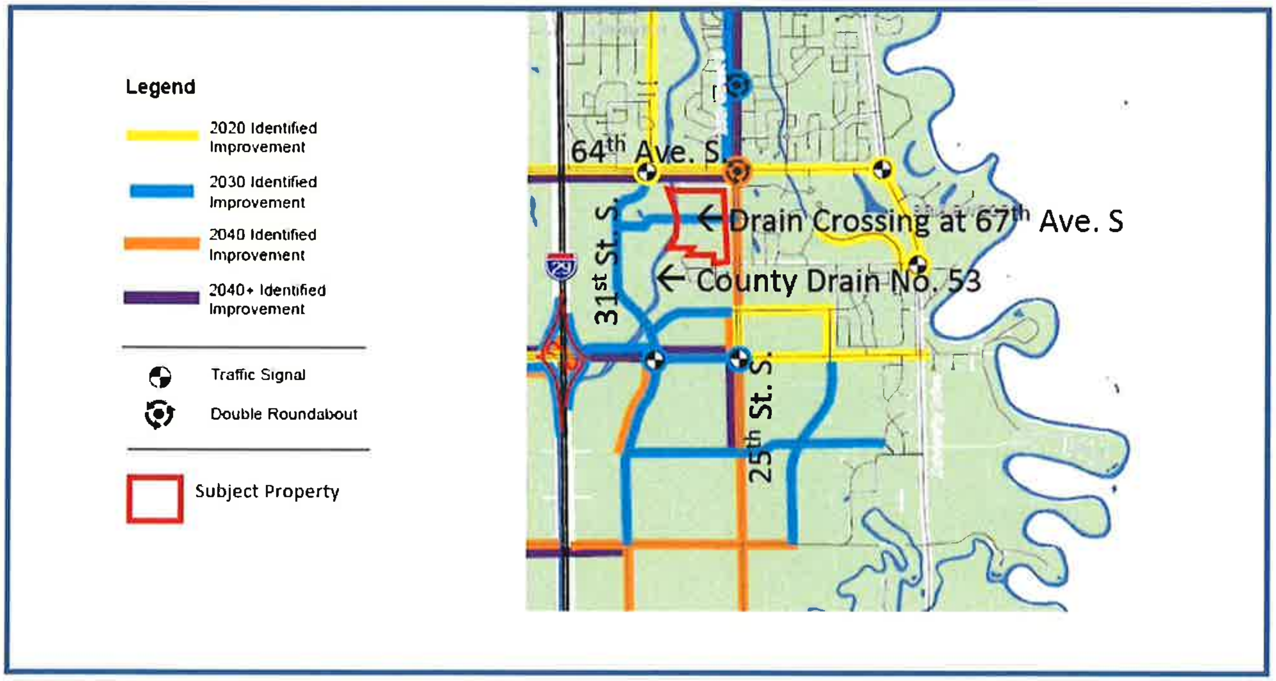
ACCESS: The project site takes access from 25th Street South to the east; Golden Lane, Golden Valley Parkway, and 70th Avenue South to the south; and the future 65th Avenue South to the north. Block 2 is designed to have a private alley, as depicted on the plat, providing access to the residential garages.

PUBLIC WATER and SEWER: Public water and sewer will be provided in the dedicated public streets.

STORMWATER: This subdivision will be served by an existing regional detention basin to the south for up to 65 percent impervious surface on the project site. If the site has greater than 65 percent, impervious surface, additional detention and water quality measures may be required.

MASTER PLAN: The applicant has provided a master plan (attached) showing how he intends to lay out the remaining area of the larger property. Staff is working with the applicant on certain revisions to this plan regarding proposed development and street layout on the west side of this area along Drain 53. Note that this master plan is not an entitlement that is being approved with this project.

FUTURE ROAD CONNECTIVITY
Road connectivity in this area is designated in the Southwest Metro Transportation Plan, adopted by the Metropolitan Council of Governments (MetroCOG). An excerpt from this plan, shown below, depicts a street crossing of County Drain No. 53 at 67th Avenue South. The area of the applicant's master plan for this area is outlined in red. Note that this drain crossing is not part of this plat. The crossing will have to be developed when the area along future 67th Avenue South is platted.



The street crossing of County Drain No. 53 was earlier depicted on the 2007 Growth Plan at 70th Avenue South. This crossing was not provided on the plat of the Golden Valley 1st Addition, which includes 70th Avenue South. At the time of the Golden Valley 1st Addition approval, the city requested as part of the Golden Valley master plan that a crossing instead be accommodated between 64th Avenue and 70th Avenue. An amendment to the 2007 Growth Plan that was approved by the City Commission on June 24, 2013, allowed a street crossing of County Drain No. 53 at 70th Avenue South to be moved to a location in the southern 1/3 of Section 11, as the platting of Golden Valley 1st Addition had effectively eliminated the feasibility of a drain crossing at 70th Avenue South. As noted above, the Southwest Metro plan designated this crossing further north at 67th Avenue South.
This location was selected for the crossing as 67th Avenue South connects to the east to University Drive and is intended to connect to the west to 31st Street South, a north-south collector that will serve this portion of the city. Connectivity in this area would be enhanced by the 67th Avenue crossing of County Drain 53, as 67th would connect this area from University Drive to at least the future 31st Street. Despite the intensity of residential development in the area south of Interstate 94 and east of Interstate 29, there are only five east-west avenues connecting University Drive and I-29 (or its frontage road) in the five miles south of I-94 to 76th Avenue South: 32nd Avenue, 36th Avenue, 40th Avenue, 52nd Avenue, 64th Avenue. This crossing, providing additional east-west routes, also takes some of the traffic load off of the arterial streets, making those streets less congested as well as prolonging the intervals between major resurfacing and repair of these streets. From a Fire Department perspective, the drain crossing at 67th Avenue South is important for providing access through this and future neighborhoods in the area. Future plans indicate a fire station will be located on or near 64th Avenue South near this neighborhood.

Connectivity through the neighborhood translates into reduced response time and larger coverage areas for fire stations.

The developer is not required to build the actual drain crossing, but only to dedicate right of way for this crossing. The drain crossing would not be constructed until the area west of County Drain 53 develops. The infrastructure funding policy at the time of construction will be used to determine the appropriate assessment of a drain crossing. The Developer is concerned with the cost of a Drain crossing and the small benefitting area. The City recognizes this and will work with the Developer.

Zoning

Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
   Staff is unaware of any error in the zoning map as it relates to this property. The property was zoned AG: Agricultural at the time it was annexed. At that time, no development was proposed. Now that development is proposed, the applicant requests a zoning change to SR-4: Single Dwelling Residential and P/I, Public and Institutional with a conditional overlay to restrict land uses on the P/I zoned lot to those appropriate for this location in a single-family neighborhood. **(Criteria Satisfied)**

2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**
   City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing, developed public rights-of-way which provide access and public utilities to serve the development.
   (Criteria satisfied)

3. **Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?**
   Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received one phone inquiry about the project and met with the neighboring property owner to the south. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity.**(Criteria satisfied)**

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
   The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Growth Plan.

   This property is designated "lower to medium density residential" on the 2007 Growth Plan. The 2007 Growth Plan states that the "low to medium density" residential designation includes the SR-0 to SR-5 zones. Thus, the SR-4 zone is consistent with the "lower to medium density residential" designation from the 2007 Growth Plan. The P/I zone is the appropriate designation for HOA-owned lots that are not intended for residential development. The conditional overlay restricts land uses on the P/I zoned lot to those appropriate for this location in a single-family neighborhood Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City, contingent on Commission approval of the proposed Growth Plan Amendment. **(Criteria satisfied)**

Major Subdivision

The LDC stipulates that the following criteria is met before a major subdivision plat can be approved

1. **Section 20-0907. of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
   The requested zoning for the residential development on this property is SR-4: Single-Dwelling Residential. The SR-4 zoning will accommodate the proposed single-family development. The SR-4 zoning designations is consistent with the "lower to medium density" designation for this property in the 2007 Growth Plan as noted in the zoning change findings above. The P/I zone is the appropriate designation for HOA-owned lot that is not intended for residential development. The conditional overlay restricts land uses on the P/I zoned lot to those appropriate for this location in a single-family neighborhood In accordance

with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one call of inquiry and met with the neighboring property owner to the south.
(Criteria Satisfied)

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
The property is proposed to be zoned SR-4: Single-Dwelling Residential and P/I, Public and Institutional. As noted in the zone change findings above, these zones are consistent with the 2007 Growth Plan designation of "lower to medium density residential." The P/I zone is the appropriate designation for HOA-owned lots that is not intended for residential development. The conditional overlay restricts land uses on the P/I zoned lot to those appropriate for this location in a single-family neighborhood The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments.
(Criteria Satisfied)

3. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC). Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles
(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on the first reading, and move to approve the proposed 1) Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay to restrict land uses as noted in this report, and 2) a plat of the **Golden Valley Second Addition**, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Planning Commission Recommendation: July 3, 2018

On July 3, 2018, by a vote of 8-0 with two Commissioners absent, the Planning Commission voted to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed 1) Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay to restrict land uses as noted in this report, and 2) a plat of the **Golden Valley Second Addition**, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.

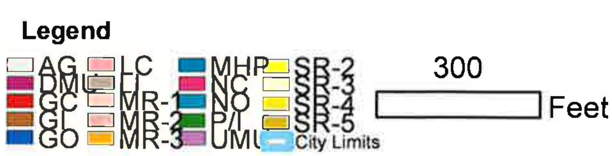
Attachments:

1. Zoning map
2. Location map
3. Preliminary plat
4. Conceptual master plan
5. Amenities plan

Plat (Major) and Zone Change (AG to SR-4 and P/I w/ C-O)

Golden Valley 2nd Addition

6737 25th Street South

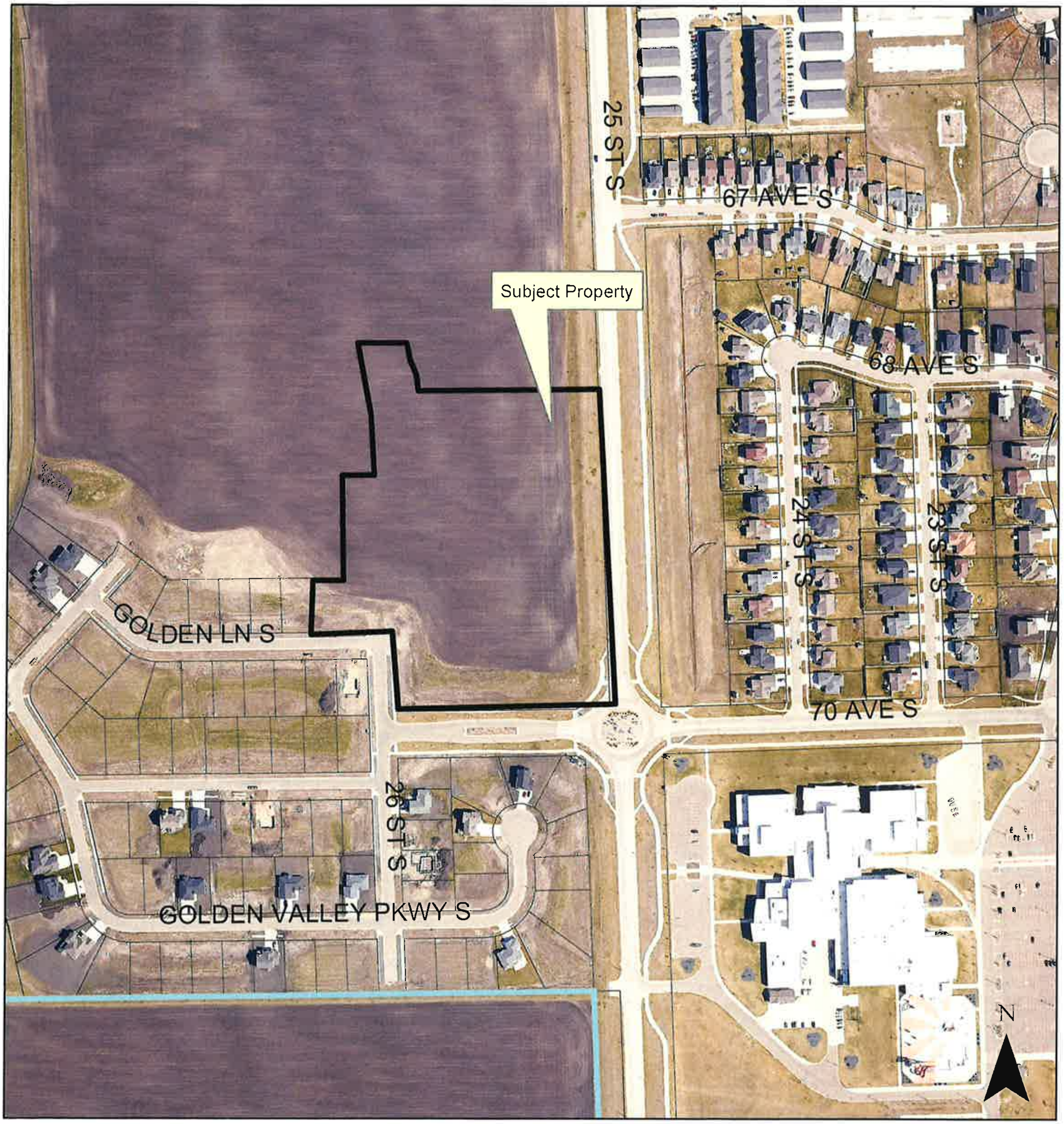


Fargo Planning Commission
July 3, 2018

Plat (Major) and Zone Change (AG to SR-4 and P/I w/ C-O)

Golden Valley 2nd Addition

6737 25th Street South



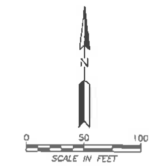
THE CITY OF Fargo FAR MORE

300 Feet

Fargo Planning Commission
July 3, 2018

GOLDEN VALLEY SECOND ADDITION

TO THE CITY OF FARGO
A PART OF THE N.E. 1/4 OF SEC. 11 T.138N R.49W
CASS COUNTY, NORTH DAKOTA
A MAJOR SUBDIVISION



BEARINGS ARE BASED ON THE CITY OF FARGO COORDINATE SYSTEM.

LEGEND

- ○ SET 5/8"x18" REBAR W/ YELLOW PLASTIC CAP #LS-27292
- ● FOUND IRON MONUMENT
- PLAT BOUNDARY
- PLAT BLOCK LINES
- LOT LINE
- (5,000) LOT AREAS IN SQ. FT.
- NEW EASEMENT
- RIGHT-OF-WAY LINE
- EXISTING LOT LINE
- EXISTING EASEMENT
- SPECIAL FLOOD HAZARD AREA
- NEGATIVE ACCESS EASEMENT (SEE NOTE BELOW)

NOTES:

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
2. UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.
3. NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF GOLDEN VALLEY SECOND ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OR PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OR ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.
4. FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 38017C0787G DATED JANUARY 16, 2015 INDICATES THAT AREAS OF THIS PLAT ARE INCLUDED IN SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD, ZONE AE.
5. BASE FLOOD ELEVATION FOR ZONE AE 1% ANNUAL CHANCE FLOOD IS 908.2 IN NAVD 88.

BENCHMARK:
TOP NUT OF HYDRANT ±687' SOUTH OF THE INTERSECTION OF 70TH AVE SOUTH AND 25TH STREET SOUTH ON THE WEST SIDE OF 25TH STREET SOUTH.

ELEVATION = 913.10

Mead Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
460800-152041.01
SHEET 2 OF 2

GOLDEN VALLEY SECOND ADDITION

TO THE CITY OF FARGO
A PART OF THE N.E. 1/4 OF SEC. 11 T.138N R.49W
CASS COUNTY, NORTH DAKOTA
A MAJOR SUBDIVISION

PLAT BOUNDARY DESCRIPTION

Joshua J. Nelson, being duly sworn, deposes and says that he is the Registered Land Surveyor who prepared and made the attached plat of "GOLDEN VALLEY SECOND ADDITION" to the City of Fargo, a part of the Northeast Quarter in Section 11, Township 138 North, Range 49 West, Cass County, North Dakota; that said plat is a true and correct representation of the boundary survey; that all distances are correctly shown on said plat; that monuments have been placed in the ground as indicated for the guidance of future surveys and that said addition is described as follows, to wit;

A plat of part of the Northeast Quarter of Section 11, Township 138 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at the point on the east line of the Northeast Quarter of said Section 11, at the northeast corner of GOLDEN VALLEY ADDITION, according to the recorded plat thereof, said County; thence on an assumed bearing of South 89 degrees 05 minutes 56 seconds West along the north line of said GOLDEN VALLEY ADDITION, a distance of 100.03 feet; thence South 55 degrees 40 minutes 24 seconds West along the north line of said last described plat, a distance of 22.11 feet; thence South 89 degrees 05 minutes 56 seconds West along the north line of said last described plat, a distance of 466.25 feet; thence North 02 degrees 16 minutes 07 seconds West along the east line of said last described plat, a distance of 205.52 feet; thence South 89 degrees 11 minutes 11 seconds West along the north line of said last described plat, a distance of 206.02 feet; thence North 02 degrees 16 minutes 07 seconds West along the east line of said last described plat, a distance of 140.00 feet to the northeast corner of Lot 6, Block 5 of said GOLDEN VALLEY ADDITION; thence North 89 degrees 11 minutes 11 seconds East 49.97 feet; thence North 02 degrees 16 minutes 07 seconds West 98.00 feet; thence North 87 degrees 43 minutes 53 seconds East 90.00 feet; thence North 02 degrees 16 minutes 07 seconds West 92.72 feet; thence northerly along a tangential curve, concave to the west, having a radius of 100.00 feet and a central angle of 30 degrees 27 minutes 12 seconds, 53.15 feet to a point of reverse curve; thence northerly along a 162.00 foot radius curve concave to the east, central angle of 30 degrees 27 minutes 12 seconds, 86.10 feet; thence North 87 degrees 43 minutes 53 seconds East 62.00 feet; thence southerly 34.13 feet along a curve concave to the east, not tangent with the last described line, said curve has a radius of 100.00 feet, a central angle of 19 degrees 33 minutes 19 seconds, the chord of said curve bears South 12 degrees 02 minutes 46 seconds East; thence North 87 degrees 43 minutes 53 seconds East 619.23 feet to the east line of said section; thence South 02 degrees 16 minutes 07 seconds East along the east line of said section a distance of 641.30 to the point of beginning.

Said tract contains 10.04 acres, more or less.

Subject to Easements, Restrictions, Reservations and Rights of Record.

REGISTERED PROFESSIONAL LAND SURVEYOR
JOSHUA J. NELSON
LS-27292
NORTH DAKOTA

Joshua J. Nelson, PLS
Professional Land Surveyor
Registration No. LS-27292

State of North Dakota)
) SS
County of Cass)

On this 30th day of October 2018, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public, Cass County, North Dakota

KIMBERLY A HOLM
Notary Public
State of North Dakota
My Commission Expires July 31, 2020

My commission expires: July 31, 2020

DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS, That the Ryland Development Corporation, a North Dakota corporation, and Stan Ryland and Patricia Ryland as vendors, and 76th Street Holdings, LLC, a North Dakota limited liability company, as vendee, and First International Bank and Trust, as Mortgage, being owners of the above described property, have caused the same to be surveyed and platted as "GOLDEN VALLEY SECOND ADDITION" to the City of Fargo, a part of the Northeast Quarter in Section 11, Township 138 North, Range 49 West, Cass County, North Dakota; that we have caused it to be platted into lots and blocks as shown by said plat and certification of Joshua J. Nelson, Registered Land Surveyor, and that the description as shown in the certificate of the Registered Land Surveyor is correct. We hereby dedicate all Streets, Lanes, Drives, Ingress/Egress, and Utility Easements shown on said plat to the Public.

OWNER/VENDOR:
Ryland Development Corporation, Contract Vendor
By: Stanley L. Ryland, President

State of North Dakota)
) SS
County of Cass)

On this 8th day of November 2018, appeared before me, Stanley L. Ryland, President, Ryland Development Corporation, a North Dakota corporation, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public, Cass County, North Dakota

TERESA KUZNIA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2022

My commission expires: ______

OWNER/VENDOR:
Stanley L. Ryland, Contract Vendor

OWNER/VENDOR:
Patricia J. Ryland, Contract Vendor

State of North Dakota)
) SS
County of Cass)

On this 8th day of November 2018, appeared before me, Stanley L. Ryland and Patricia J. Ryland, Husband and Wife, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public, Cass County, North Dakota

TERESA KUZNIA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2022

My commission expires: ______

CONTRACT VENDEE:
76th Street Holdings, LLC, Contract Vendee
By: James R. Bullis, President

State of North Dakota)
) SS
County of Cass)

On this 20th day of November 2018, appeared before me, James R. Bullis, President, 76th Street Holdings, LLC, a North Dakota limited liability company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public, Cass County, North Dakota

TERESA KUZNIA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2022

My commission expires: ______

MORTGAGE HOLDER:
First International Bank and Trust, Mortgagee
By: Matt Mueller, President

State of North Dakota)
) SS
County of Cass)

On this 20 day of November 2018, appeared before me, Matt Mueller, President, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed in the name of First International Bank and Trust.

Notary Public, Cass County, North Dakota

KARINA L. [illegible]
Notary Public
State of North Dakota
My Commission Expires July 11, 2021

My commission expires: ______

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this ______ day of ______ 2018.

Shara Fischer
Planning Commission Chair

State of North Dakota)
) SS
County of Cass)

On this ______ day of ______ 2018, before me, a notary public in and for said county, personally appeared Shara Fischer, Planning Commission Chair, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: ______

FARGO CITY COMMISSION APPROVAL

Approved by the Board of Commissioners and ordered filed this ______ day of ______ 2018.

Timothy J. Mahoney
Mayor

Attest: ______
Steven Sprague, City Auditor

State of North Dakota)
) SS
County of Cass)

On this ______ day of ______ 2018, before me, a notary public in and for said county, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: ______

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by the City Engineer this ______ day of ______ 2018.

Brenda E. Derrig, P.E.
City Engineer

State of North Dakota)
) SS
County of Cass)

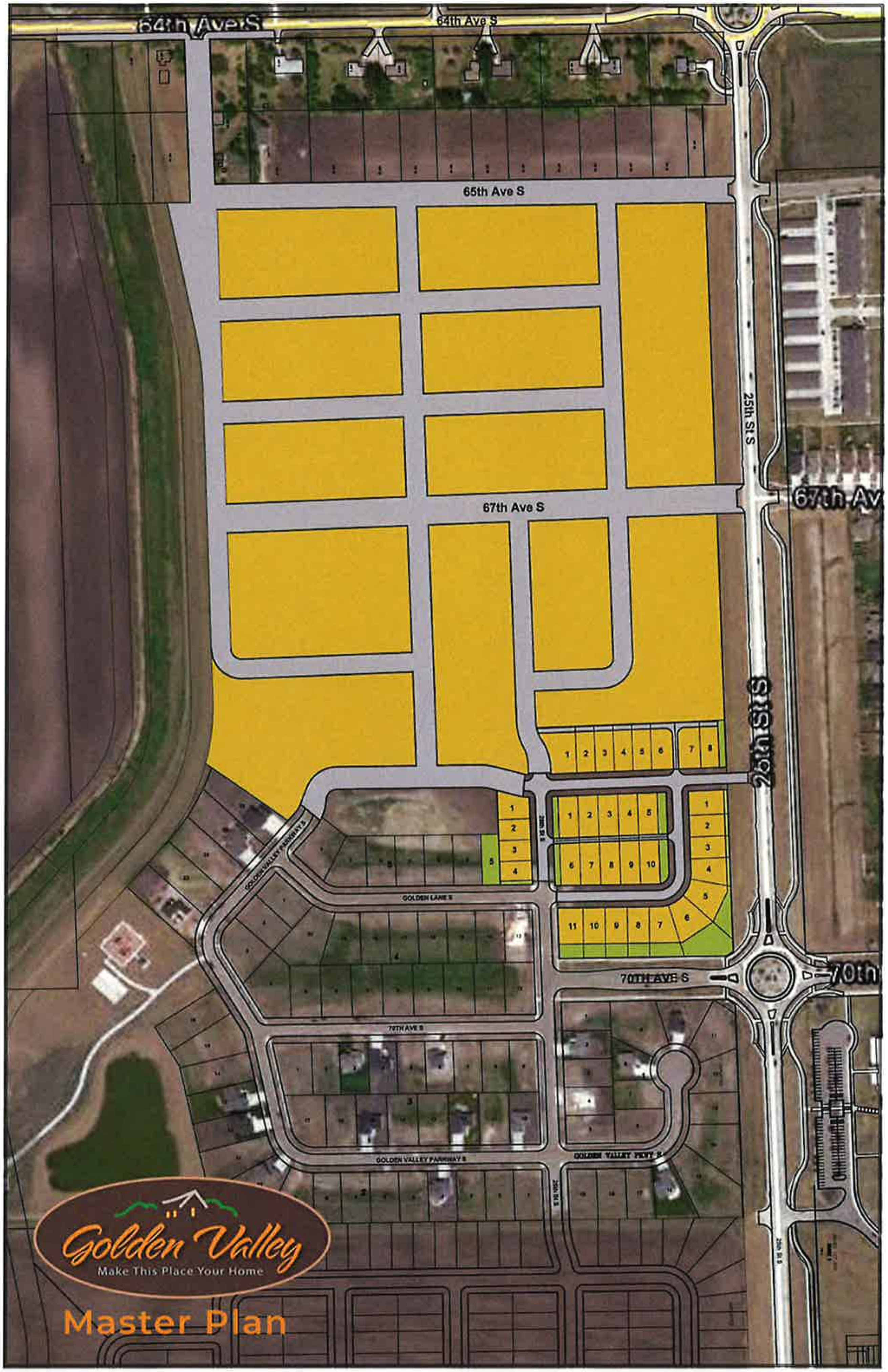
On this ______ day of ______ 2018, before me, a notary public in and for said county, personally appeared Brenda E. Derrig, City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: ______

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
460800-182041.01
SHEET 1 OF 2



64th Ave S
64th Ave S
65th Ave S
67th Ave S
25th St S
67th Ave
26th St S
Golden Lane S
70TH AVE S
70th
70th Ave S
Golden Valley Parkway S
Golden Valley Pkwy S
Golden Valley
Make This Place Your Home
Master Plan

Site Amenities and
Project Plan
Golden Valley Second Addition
January 9, 2019

Location: The subject property is legally referenced Golden Valley Second Addition to the City of Fargo, Cass County, North Dakota. The property comprises approximately 10.0 acres.

Details: The Golden Valley Addition plat creates 34 lots on four (4) blocks. Site includes 1 HOA lot and 33 single family lots.

Right of Way (ROW): The project accommodates right of way dedications for public roadways and utilities, with specific details outlined below:

> 25th Street (Boulevards) from 70th Avenue South to southern project limits: Snow removal on 25th Street S sidewalks (west-side) will be performed by the City of Fargo and all boulevard turf shall be maintained by the Golden Valley Home Owners Association. The Golden Valley HOA shall also be responsible for maintaining plantings within the ROW.
>
> Platted portions of 26th Street South, 69th Avenue South, and Golden Lane: These roadway segments have been designated as *local* roadways pursuant to Land Development Code (LDC) Section 20.0702.
>
> - ROW for these roadway segments shall be 62 feet;
> - Street widths shall be 28 feet with parking allowed on one side;
> - Street lighting shall be determined by the City Engineering Department and installed per city standards;
> - 4.5 foot sidewalks shall be incorporated into the boulevards as required by LDC Section 20.0611-1. Restrictive covenants will require that sidewalks be completed by the property owner as soon as practical and at minimum within twelve (12) months upon receipt of a certificate of occupancy.
>
> Other:
>
> - Developer shall be responsible for coordinating the placement of a group mailbox(s), parking signage (as applicable) and street light locations with the City of Fargo Engineering Department. These details shall be determined and agreed upon prior to construction of any public improvements. Consideration to maintenance and snow removal for the proposed group mailbox shall be outlined within restrictive covenants for the project.

Storm Water Management: All storm water quantity issues have been addressed through conveyances to the city and quality will be met within existing on-site development detention facilities.

Water Supply: Potable water shall be provided by Cass Rural Water District.

Engineering and Construction Improvements: The owner/developer shall rely upon and collaborate with City Engineering for construction of all public improvements, inclusive of storm water facilities, boulevards and median landscaping, as applicable.

Funding of Improvements: The following shall apply respective to assessed public improvements:

- Public improvements shall be assessed to the benefitting properties, pursuant to city policy;
- Sidewalks and Tree Planting: Restrictive covenants will require that sidewalks and boulevard trees, with the exception of sidewalk improvements on 70th Avenue S, shall be completed by the property owner as soon as practical and at minimum within twelve (12) months upon receipt of a certificate of occupancy. The developer's covenants shall state that these items are part of building construction and shall be completed in conjunction with final grading.

Property Owners Association: Restrictive covenants shall provide for maintenance of the private alley, perimeter landscaping, HOA lot landscaping, group mailbox(s) [ie. snow removal], signage, any fencing installed by developer and any other non-public improvements or appurtenances not commonly associated with individual lot maintenance responsibilities, as applicable. Lot 5 Block 4 Golden Valley 2nd Addition will be a private park owned and maintained by the Property Owner Association.

Park Dedication: All park dedication requirements for this site have been met under previous platting.

Storm Water Management: Regional storm water detention and water quality has been provided through a City owner detention pond located on Lot 17 Block 2 Golden Valley Addition.

Flood Protection: No portions of Golden Valley 2nd Addition fall within the existing FEMA Floodplain. Portions of Golden Valley 2nd Addition fall within the 41' Water Surface Elevation Inundation Area. It is acknowledged by the developer that construction of structures shall comply with City of Fargo Flood Proofing Requirement when applicable.

Golden Valley 2nd Addition Amenity Plan is hereby approved:

Jim Bullis, President, 76th Street Investments LLC — date

Brenda Derrig, City Engineer — date

3362

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. ________

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN GOLDEN VALLEY SECOND ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in the proposed Golden Valley Second Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on July 3, 2018; and,

WHEREAS, the rezoning changes were approved by the City Commission on January 28, 2019,

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. The following described property:

Lots One (1) through Eight (8), Block One (1); Lots One (1) through Ten (10), Block Two (2); Lots One (1) through Eleven (11), Block Three (3) and Lots One (1) through Four (4), Block Four (4) of Golden Valley Second Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "SR-4", Single-Dwelling, Residential, District;

Section 2. The following described property:

Lot Five (5), Block Four (4) of Golden Valley Second Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "P/I", Public and Institutional , District; with a "C-O", Conditional Overlay as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. __________

- Restrict uses to:

    Park and Open Space and Detention Facilities

Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

Section 4. This ordinance shall be in full force and effect from and after its passage and approval.

____
Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

THE CITY OF Fargo FAR MORE

34

MEMORANDUM

TO: **BOARD OF CITY COMMISSIONERS**

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

DATE: **JANUARY 24, 2019**

SUBJECT: **TAX EXEMPT POLICY AND GUIDELINES**

The Tax Exempt Review Committee is recommending approval of the attached Policy and Guidelines for tax exemptions and tax increment financing. This policy now includes policy for tax increment financing and the University Mixed Use tax exemptions that had been separate policies.

The Tax Increment Financing Policy is substantially different from the previous policy. It now applies to the entire city, including Downtown, establishes review criteria for the different types of tax increment districts and moves the review process to the Tax Exempt Review Committee.

There are also important changes to policy on PILOT incentives for housing. A financial review requirement was added to the process, and the policy allows for longer-term exemptions if they are needed to make a project feasible.

The changes to the tax exemption policies for University Mixed Use housing projects are not major. Changes to the policy on tax exemptions for primary sector businesses are few as that policy was revised in 2017.

The Committee solicited comments from the public multiple times during the review. There were quite a few comments from developers and a few from the public. The City's financial advisors also made suggestions that included format and policy changes.

A summary of the changes, the new policy and a "redline" showing the policy changes is attached.

RECOMMENDED MOTION: Approve the City of Fargo Tax Exempt Review Committees Policy and Guidelines.

City of Fargo Tax Exempt Review Committee

Policy & Guidelines

January 2019

Tax Exempt Review Committee
225 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 January 28, 2019 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.

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

Except in cases of assistance for housing, a business incentive agreement must accompany an application for incentives that are valued at $25,000 or more in any given year. The agreement describes the type and value of the incentive as well as stated goals to be met. Periodic reporting will required of the recipient to monitor the stated goals.

Reporting will no longer be required once the goal has been met.

The stated goal may be extended for up to two years if it is determined circumstances made achievement impossible. If, after extending two years and it is determined a decrease in goals is justified, the goals may be decreased after a public hearing.

If not extended or reduced and the goal has not been met, the recipient must pay back the amount of incentive granted, prorated to reflect partial fulfillment.

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 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.

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.]

4. Results of the Worksheet and financial review are submitted to the Tax Exempt Review Committee for its recommendation to the City Commission for their approval.

5. Notices are published as required.

6. Public hearing(s) are held on the proposed project as may be required by law.

7. The City Commission approves or denies approval of the proposal.

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.

2. Objectives of Tax Increment Financing

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

3. Designated Redevelopment Areas

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

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

Designation of the Redevelopment may occur in two ways.

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

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

4. City of Fargo Policies for the Use of TIF

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

Policy #1

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

Policy #2

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

Policy #3

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

Policy #4

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

Policy #5

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

Policy #6

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

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:
    a. 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.
    b. The difference between what was paid by the developer for the property less the assessor's market value for the land (as opposed to land and buildings).

Policy #7

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

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

Policy #8

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

The limit of 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:

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

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.
5. Results of the reviews are submitted to the Renaissance Zone and/or the Tax Exempt Review Committee, for recommendation.
6. The renewal plan or development plan along with all necessary notices, resolutions, and certificates are prepared by City staff and/or consultants.
7. Notices mailed and published as required.
8. Public hearing(s) on the proposed project are held.
9. The City Commission grants final approval or denial of the plans and development agreements.

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

1. Renewal Plans and TIF Districts may be proposed by any City Commissioner, the Planning Commission, the City Administration, or the Planning Department. The proposal shall include a boundary, a description of existing conditions, and general plan for development.
2. City Commission directs the preparation of the renewal plan.
3. City Staff prepares a plan for future development.

4. The renewal plan or development plan along with all necessary notices, resolutions, and certificates are prepared by City staff and/or consultants.
5. Notices mailed and published as required.
6. Public hearing(s) on the proposed project are held.
7. The City Commission grants final approval or denial of the plans and tax increment financing district.

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.

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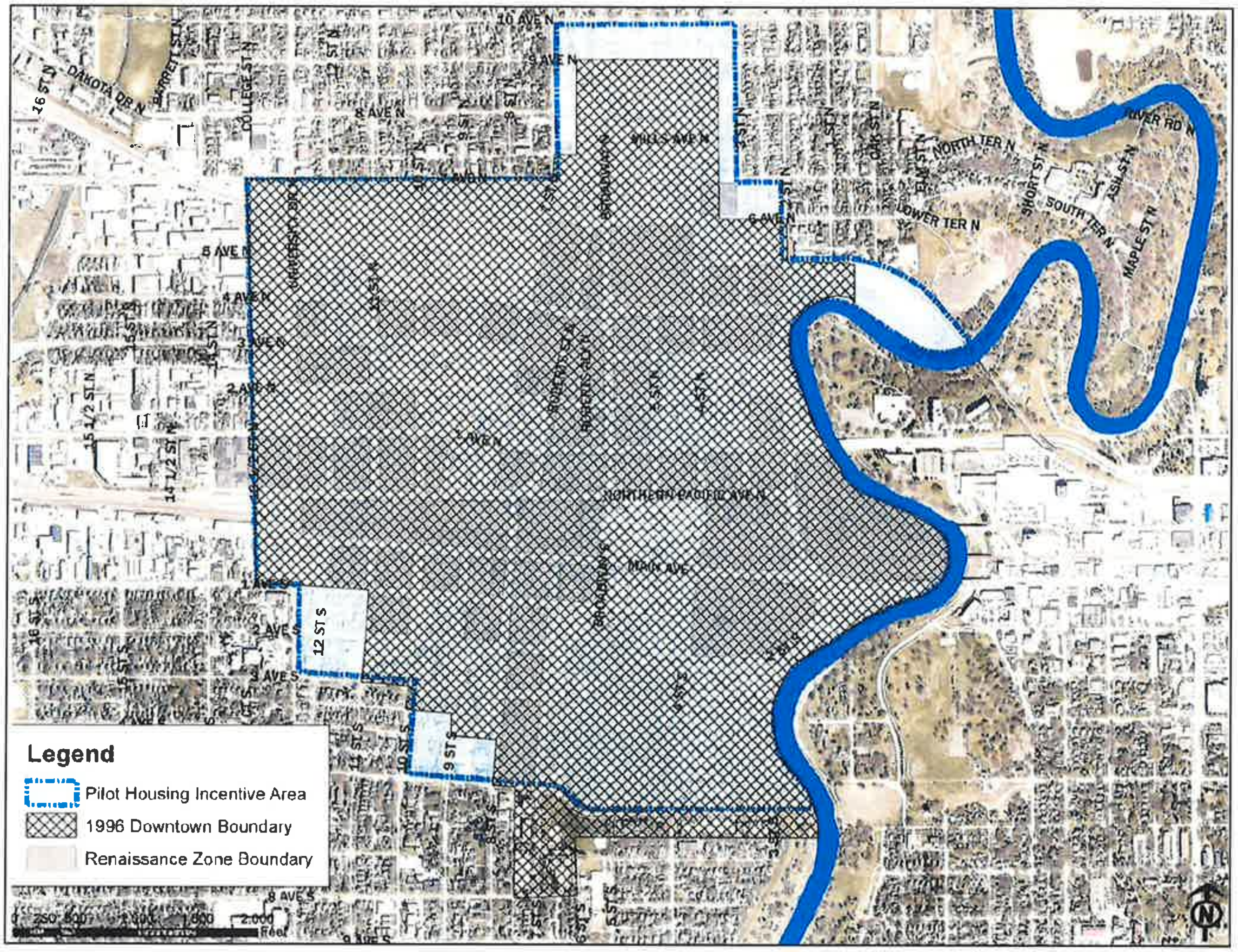
Downtown Housing Incentive Area Map



~~I.POLICY PURPOSE~~1. Policy Purpose

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

The purpose of this policy is to establish the City of Fargo's (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 ~~tax increment financing~~TIF in Fargo is to encourage desirable development or redevelopment that would not otherwise occur but for the assistance provided through TIE

The City of Fargo is granted the power to utilize TIF by the Tax Increment Financing Act~~, as amended~~. 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.

~~II. OBJECTIVES OF TAX INCREMENT FINANCING~~2. Objectives of Tax Increment Financing

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

- ~~To create opportunities for affordable housing.~~
- ~~To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off' development.~~
- ~~To facilitate the development process and to achieve development on sites which would not be developed without TIF assistance.~~
- ~~To remove blight and/or encourage redevelopment of commercial and industrial areas in the City that result in high quality redevelopment and private reinvestment.~~
- ~~To offset increased costs of redevelopment (i.e. contaminated site clean up) over and above the costs normally incurred in development.~~
- ~~To contribute to the implementation of other public policies, as adopted by the City from time to time, such as the promotion of quality~~

~~urban or architectural design, energy conservation, and decreasing capital and/or operating costs of local government.~~

- ~~To assist development of underdeveloped commercial or industrial property that has been unoccupied for a significant period of time.~~

3. Designated Redevelopment Areas

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

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

Designation of the Redevelopment may occur in two ways.

- The designation may be at the request of a property owner and/or developer that has a proposed redevelopment plan.
- The designation may be initiated by the City Commission for an area where the City would like to see development, and then work with property owners within the TIF district to implement projects consistent with the development plan.

~~III.POLICIES FOR THE USE OF TIF~~4. City of Fargo Policies for 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

~~In areas of the City other than downtown, w~~When undertaking a redevelopment project ~~(as contrasted from underdeveloped commercial or industrial property)~~ on a defined parcel(s) of land, slum or blighted conditions on a portion of the property or properties ~~must~~ should exist. A City Commission declaration of underdeveloped property for the purposes of using TIF assistance ~~must also recognize that a slum and/or blighted condition also~~

~~exists in order for the city to participate in redevelopment efforts~~will outline activities needed to implement redevelopment.

Policy~~#2~~ #2

~~In areas of the City other than downtown, when~~When undertaking a redevelopment or development project on an under-developed parcel(s) of land, a TIF exemption or a TIF revenue note will be the preferred method of ~~financing~~providing assistance directly to a developer. Exceptions to this rule ~~must be accepted~~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 financing method will be limited to 15 years~~ or less as stated in NDCC 40-58. The only exception to this policy will be if this exemption is integrated with other public exemptions (Renaissance Zone exemption) or when tax increment is utilized to pay special assessments, in which case the repayment period for such special improvement districts is likely to exceed 15 years~~.

Policy #4

The length of a TF 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 #~~4~~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 an under-developed parcel(s) of land, relocation payments to tenants of businesses or residential uses must be made. These relocation payments ~~should~~ must follow state/federal guidelines, as applicable, for assistance~~ (E.g. NDCC Ch. 54-01.1 and USC~~).

Policy #~~5~~6

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:
    a. 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.
    b. 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).

~~When undertaking any TIF project within the City of Fargo the cost of land acquisition or land write-down that is part of public assistance requested for a project cannot exceed 50% of the total amount of the public assistance provided~~

~~by the city. The eligible costs recouped to the developer shall be evaluated in a case by case basis, but the maximum should be limited to the lesser of:~~

~~(a) the total acquisition cost for the property, provided that the acquisition cost is no more than 150% of the assessor's market value for the property;~~

~~(b) 50% of the total public assistance; and,~~

~~(c) 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).~~

~~With respect to non-blighted/non-slum development or redevelopment, eligible costs, as stated in the urban renewal law (N.D.C.C. §40-58-20.1) are limited to the following:~~

~~a. The cost of acquiring, or the market value, of all or a 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 #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 #~~6~~8

TIF assistance to the developer should be limited to a percentage 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, ~~plus~~ including the land acquisition costs, hard capital costs ~~and~~ excluding the costs of professional fees, developer fees, furniture and fixtures, interest, profit, and other soft costs. In addition, ~~Developer~~ the developer must provide at least 10% of total capital costs as ~~Developer's~~ 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:

1. Direct investment in public or free publicly accessible private spaces.

2. Direct and ongoing investment in public art.
3. Development of affordable or replacement housing.
4. 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 #~~7~~10 – ROI Analysis, Reasonable Assistance Requirement

When undertaking any TIF project ~~within the City of Fargo~~the 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 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 #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~~, which any such increase and its term~~. The exact assumptions made for projections is subject to approval by the City on a case-by-case basis .

Policy #~~8~~12

When undertaking any TIF project within the City of Fargo a non-refundable administrative fee ~~equal to 5% of the total cost of the public assistance~~set by schedule, must be paid by the developer after final approval by 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 ~~special assessment~~ administration will be in addition to this administrative fee if warranted. To the extent that TIF assistance, including administrative fees, 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, ~~of $5,000~~set by schedule shall be paid to the City along with an initial application for a TIF 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. Such sums may be recouped by the developer as eligible costs as may be agreed between the City and developer and as allowed by the urban renewal law (N.D.C.C. Chapter 40-58). The ~~$5,000~~non-refundable deposit and any other additional sums paid to the City will be offset against and accredited toward ~~5%~~the administrative fee.

Policy #~~9~~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 ~~form are attached.]~~will be available from the Department of Planning and Development. ~~The application will be reviewed by the City Commission (or Community Development Committee as to the development features and Finance committee as to financial features) to determine if city staff, city financial advisors, and city attorney should proceed with a development plan, review of the project pro-forma, and draft of a developer's agreement.~~

Policy**#10** #14

The redevelopment 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 ~~developers'~~ developer's agreement should include design standard to ~~insure~~ ensure that the development will be compatible with the long term plans for the area.

Policy**#11** #15

~~Interest rates allowed to be recouped as eligible costs under N.D.C.C. §40-58-20 and -20.1 shall be one percent (1 0/0) 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 may be needed.~~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.

~~IV. PROJECT QUALIFICATIONS~~

~~All TIF projects considered by the City of Fargo must meet each of the following requirements:~~

~~a. To be eligible for TIF, a project shall result in a minimum increase of $25,000 per year in property taxes, or, if not, the developer shall establish that other goals and objectives of the project warrant approval.~~

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

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

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

e.~~The project shall serve at least two of the following public purposes:~~

- ~~Increase of tax base.~~
- ~~Enhancement or diversification of the city's economic base.~~
- ~~Industrial development that will spur additional private investment in the area.~~
- ~~Removal of blight or the rehabilitation of a high profile or priority site.~~

~~v. APPLICATION PROCESS~~5. Application & Review Process for Developer Request for TIF Assistance

1. ~~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 the 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. ~~(See Policy #7 - $5,000 non-refundable deposit.)~~

3. City staff reviews the application and completes the Application Review Worksheet. The application and supporting documentation will be submitted to the City's financial advisor for due diligence consideration.

~~3.~~ Allow aAt least three (3) weeks ~~should be allowed~~ for due diligence review and consideration [upon submittal of a complete and approved application.]

a. As part of the application review, ~~the Director of Planning and Development shall be~~ 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 ~~inquiry~~ 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.

~~b. Section 44-04-18.4, N.D.C.C., provides:~~

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

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

~~2. "Trade secret" includes:~~

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

~~b. A discovery or innovation which is subject to a patent or a copyright, and any formula, pattern, compilation, program, device, method, technique, or process supplied to or prepared by any public entity which is the subject of efforts by the supplying or preparing entity, person, business, or industry to maintain its secrecy and that may derive~~

~~independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, any person who might obtain economic value from its disclosure or use.~~

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

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

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

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

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

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

c. In advance of the submission to the City of such confidential records or information, the City and Applicant will make appropriate arrangements for the handling of such information and records to protect the confidentiality thereof. ~~4.~~

4. Results of the financial review will be reviewed by the Finance Department.

5. ~~Results of the Worksheet are submitted to the appropriate Finance Committee for its recommendation and City Commission for preliminary approval of the proposal.~~Results of the reviews are submitted to the Renaissance Zone and/or the Tax Exempt Review Committee, for recommendation.

~~4.~~6. ~~If preliminary approval is granted, the~~The renewal plan or development plan~~, as the case may be,~~ along with all necessary notices, resolutions and certificates are prepared by City staff and/or consultants.

~~5.~~7. Notices are mailed and published as required.

~~6.~~8. Public hearing(s) on the proposed project, as may be required by law, are held.

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

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

1. Renewal Plans and TIF Districts may be proposed by any City Commissioner, the Planning Commission, the City Administration, or the Planning Department. The proposal shall include a boundary, a description of existing conditions, and general plan for development.
2. City Commission directs the preparation of the renewal plan.
3. City Staff prepares a plan for future development.
4. The renewal plan or development plan along with all necessary notices, resolutions, and certificates are prepared by City staff and/or consultants.
5. Notices mailed and published are 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.

7. 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:

a. Housing
b. Commercial or Industrial
c. Downtown or Mixed Use

a. 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.

b. 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.

c. 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.
- ~~7.~~ The project contains businesses that will provide needed services or goods used by adjacent land uses.

~~I. POLICY PURPOSE~~ *University Mixed Use Payment In Lieu of Tax Policy and Guidelines*

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

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

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

I~~I~~. OBJECTIVES OF PILOT ~~program in the University Mixed Use Zone~~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 develops enough to achieve development on sites which would not otherwise be developed without PILOT assistance.

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

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

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

II~~I~~. POLICIES FOR THE USE OF ~~TIF~~ 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 or local law or regulations, a relocation plan should be provided by the developer. Relocation payments to tenants of businesses or residential uses must be made. These relocation payments should follow state/federal guidelines, as applicable, for assistance (E.g. NDCC Ch. 54-01.1 and USC).

Policy #4

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

1. The costs of land acquisition, subject to the limits outlined in Policy #5.
2. Relocation of existing tenants.
3. The costs of demolition, including the removal of building foundations, parking lots, and the removal and replacement of unsuitable soil.
4. Public Improvements that are in the public right-of-way such as sidewalks, driveway approaches, lighting, and connections to the water, sanitary sewer, and storm water systems.
5. On site storm water retention including the cost of excavation, underground storm water lines, or underground storage facilities. It does not include water collection systems such as parking lots, sidewalks, or curb/gutters.
6. Architectural and engineering costs are limited to those necessary services to implement other activities allowed by this policy. Developer fees and legal costs are not permitted.
7. The required city fees and the estimated costs of interest from the time the costs are paid by the developer and the next February 15 date ~~after~~ when property tax statements are ~~mailed~~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:

   a. The total acquisition cost for the property, provided the acquisition cost no more than 150% of the assessor's market value for the property. This 150% limit applies to the total of all property acquired, not a property by property limit.

   b. 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).

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

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

~~2. The cost of land acquisition allowed for by the PILOT program must be less than the total of other (non-property acquisitions costs) allowed in Policy #4.~~

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

Policy #6

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

Policy #7

PILOT assistance for UMU projects should not be viewed by the developer as an entitlement. When undertaking any PILOT project the due diligence procedures in determining the feasibility and level of public assistance must be reviewed by the City's financial consultant in conjunction with 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 of costs of acquisition or land write-down amounts, review of the level of public assistance may include an estimate of the return on investment anticipated by the project and analysis as to whether the expected return on investment, including the public assistance, is within reason.

Policy #8

When undertaking a PILOT project a non-refundable administrative fee equal to 5% of the total value of the estimated tax exemption must be paid by the developer~~ after final approval by the City Commission and prior to the final approval of the development agreement~~. These fees are to reimburse the City for costs expended by staff and consultants to determine the feasibility, level of public assistance and the preliminary costs of project development by the City.

Other City costs such as engineering, bond carrying costs, and annual special assessment administration will be in addition to this administrative fee if warranted. To the extent that PILOT assistance exceeds $2 million or more, the administrative fee on said excess may be negotiated to a sum less than 5%, as may be appropriate. A non-refundable deposit~~ of $5,000~~, 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 ~~$5,000~~ deposit and any other additional sums paid to the City may be offset against and accredited toward 5% administrative fee.

Policy #9

Applications for PILOT Assistance are to be submitted to the Department of Planning and Development and the City Assessor. The application must include a description of the project and an estimate of the level of assistance needed to proceed with the project. ~~[A checklist and application form are attached.]~~ The application will be reviewed by the appropriate Committee and the City Commission to determine if ~~c~~City staff, ~~c~~City financial advisors, and ~~c~~City ~~a~~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 developers' agreement should include design standard to insure 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 may be needed.

Policy #12

The development should comply with City plans and policies that encourage the development of affordable housing and workforce housing. Rents should no substantially exceed, by more than 50%, fair market rents in Fargo.

III~~IV~~. PROJECT QUALIFICATIONS

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

~~a~~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.

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

~~c~~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 developer must be no more than a percentage that provides a reasonable rate of return of a particular project.

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

~~V~~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 - ~~$5,000~~ non-refundable deposit.)

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

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

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

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

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

~~2. "Trade secret" includes:~~

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

~~b. A discovery or innovation which is subject to a patent or a copyright, and any formula, pattern, compilation, program, device, method, technique, or process supplied to or prepared by any public entity which is the subject of efforts by the supplying or preparing entity, person, business, or industry to maintain its secrecy and that may derive~~

~~independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, any person who might obtain economic value from its disclosure or use.~~

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

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

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

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

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

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

~~In advance of the submission to the City of such confidential records or information, the City and Applicant will make appropriate arrangements for the handling of such information and records to protect the confidentiality thereof. 4. Results of the Worksheet are submitted to the appropriate Finance Committee for its recommendation and City Commission for preliminary approval of the proposal.~~

4. Results of the Worksheet and financial review are submitted to the Tax Exempt Review Committee for its recommendation to the City Commission for their approval.

~~5. If preliminary approval is granted, the renewal plan or development plan, as the case may be, along with all necessary notices, resolutions and certificates are prepared by City staff and/or consultants.~~

~~6~~5. Notices are published as required.

~~7~~6. Public hearing(s) on the proposed project, as may be required by law, are held.

~~8~~7. The City Commission grants final approval or denial of the proposal.

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.

<u>Economic Impact to the City of Fargo</u>
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.

<u>Diversification and Growth of the Economic Base</u>
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.

<u>Number and Type of Jobs to be Created</u>
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.

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

<u>Benefits To Accrue To The Project Operator</u>
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.

<u>Quality and Growth Potential of the Client</u>
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.

<u>Kinds of Businesses Targeted For Possible Incentives</u>
- 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
+25	$15.01 - $20.00
+30	$20.01 - $28.00
+35	$28.01 - $35.00
+50	Over $35.00

A weighted average of points will be used according to the number of jobs 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

- Except in cases of assistance for housing~~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~~, a business incentive agreement must accompany an application for incentives that are valued at $25,000 or more in any given year. The agreement describes the type and value of the incentive as well as stated goals to be met. Annual reporting is done by the recipient until stated goals have been met. ~~.~~

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.

University Mixed Use Payment In Lieu Of Tax Policy and Guidelines

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

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.
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