

FARGO TAX EXEMPT REVIEW COMMITTEE
Tuesday, December 22, 2020 – 1:00 p.m.
City Commission Chambers, Fargo City Hall

AGENDA

- 1. Approve Tax Exempt Review Committee Meeting Minutes of 10/27/20**
 - a. October 27, 2020 [Page 1-2]
- 2. New Industry Application by Midway Metals, LLC**
 - a. Application for 5 Year Exemption [Page 3-13]

TAX EXEMPT REVIEW COMMITTEE
Fargo, North Dakota

Regular Meeting**Tuesday, October 27, 2020**

The October meeting of the Tax Exempt Review Committee of the City of Fargo, North Dakota was held in the City Commission Room at City Hall at 1:00 p.m., Tuesday, October 27, 2020.

The committee members present or absent are:

Present: Dave Piepkorn, Mayor Tim Mahoney, Jessica Ebeling, Jim Buus, John Cosgriff, Kent Costin, Bruce Grubb, Jim Gilmour, Mike Splonskowski

Absent: Jackie Gapp, Levi Bachmeier, Erik Johnson, Joe Raso

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

A motion was made by Jim Buus to approve the minutes from September 22, 2020 and September 28, 2020. Jessica Ebeling seconded, motion carried.

Application for PILOT for EagleRidge Development

Jim Gilmour explained that this is an application for a 15 year PILOT from EagleRidge Development. We have never seen an application like this before and one has never been approved where it is more of a commercial development on the fringe of the city. However, when the policy was last updated the policy did provide that this type of application could potentially be eligible for up to a 100% exemption for years 1-10 and up to 75% exemption years 11-15. This project comes close, but may fall short of meeting 2 of the criteria required listed in the policy manual. Jim wanted input before it was put to the 'but-for' test. The policy states that new buildings will provide at least 40,000 square feet, equivalent in quality to Class A office with high quality exterior finish, it also states that it will provide small living units or elements of affordability. The EagleRidge building will have 32,000 square feet of commercial space, it will include apartments but the cost of the efficiency is expected to be \$995 a month, so not the most affordable in town. Jim stated the fundamental question is: Do you feel the application meets the conditions of the significant commercial project and should it be sent to the financial advisor for review to see if it meets the 'but-for' test? If the committee doesn't feel it meets the requirements, he would like a recommendation to not approve the application.

Jim Bullis, President/CEO of EagleRidge Development explained that this project is located behind the EagleRidge office park on Veteran's, this is the second phase of a three phase project that involves \$102 million in construction. They have worked with city planning to create a project that can be much denser for their benefit and hopefully the city's. Jim continued, EagleRidge owns The Cedars across the street, if you were to put a similar property on this piece of land it would generate \$27 million of taxable value, they think this property will be four times that. Building this way will also cut the special assessment costs from \$3.84 down to \$.92 a square foot. They are aware of the affordable portion of the project and they are fully prepared to talk about that.

Dave Piepkorn asked if they would be interested in getting some affordable housing projects included in this project.

Jim Bullis stated that they don't know if they are made for Section 8 housing but they think they can hit the same spirit of Section 8 housing limits through HUD vouchers and some other things that they can work with city staff in order to accomplish.

Dave Piepkorn stated he would have a hard time approving the application as is, but if they could include some low income housing that would change the character of the project in his perspective.

Jim Gilmour stated that the best thing would be for them to consider if a certain number of rents have to be low enough to qualify for HUD vouchers or if they have a certain number of units that would not require the HUD vouchers but would require the rents to be lower than proposed. Jim also stated that it would be better to come up with a revised plan before moving onto the 'but-for' review.

Mayor Tim Mahoney made a motion to have the developers continue to work with city staff to get the project up to a 'but-for' evaluation, if they think they get it to that point then push it forward to the 'but-for' test. Jessica Ebeling seconded, motion carried.

Application for TIF for EOLA ("But-For" Test)

Jim thought this would be a good time to tell the committee a little about this project. The developer is acquiring four of the softball diamonds at Anderson Field. They are projecting a development that would be worth up to \$150 million, the TIF request would be for money that would go towards a park, parking ramp, youth facility and some support for senior affordable housing.

Todd Berning with Epic Companies stated they are in the process of closing on the property. He said what you have in front of you is a starting point. They have committed to a 4 acre green space for public use. Their goal is to work with the park district and create as many amenities as they can. They are a HUD Developer and are on their third HUD Development. The Bank of North Dakota has also worked with them and is very interested in this new project. This will be a mixed use of commercial, apartments and condos.

Dave Leker, Executive Director for Fargo Park District, added that the adjacency to the complex and youth hockey along with the curling club and zoo could provide some nice attractions for the City of Fargo. It kind of puts everything in one spot. The Parks District is working on redesigning the existing baseball complex and is looking forward to working with Epic Companies on their development.

Todd stated that they envision some type of phased process with the TIF. The proposed parking ramp would be free to the public and be supported by the commercial and residential revenue streams. It would be right outside the back door of the Southwest Hockey Arena and would also help support parking for the curling club. Todd also stated this will be a collaboration and they will use different revenue streams with gaming, housing and grants. As far as the TIF goes they are flexible in the way it will be paid. Todd put 80/20 but he is not set on that, he stated it could be paid in chunks.

Dave Piepkorn adjourned the meeting at 1:33 pm.

Application For Property Tax Incentives For New or Expanding Businesses

N.D.C.C. Chapter 40-57.1

Project Operator's Application To Cass
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

1.	Name of project operator of new or expanding business	<u>Midway Metals</u>
2.	Address of project	<u>3344 39th St South</u>
	City	<u>Fargo</u> County <u>Cass</u>
3.	Mailing address of project operator	_____
	City	_____ State _____ Zip _____
4.	Type of ownership of project	
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Subchapter S corporation
	<input type="checkbox"/> Corporation	<input type="checkbox"/> Cooperative
		<input type="checkbox"/> Individual proprietorship
		<input type="checkbox"/> Limited liability company
5.	Federal Identification No. or Social Security No.	<u>[REDACTED]</u>
6.	North Dakota Sales and Use Tax Permit No.	_____
7.	If a corporation, specify the state and date of incorporation	<u>8/31/20</u>
8.	Name and title of individual to contact	_____
	Mailing address	_____
	City, State, Zip	_____ Phone No. _____

Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.	
<input type="checkbox"/> Property Tax Exemption <u>5</u> Number of years <u>100</u> Percent of exemption	<input type="checkbox"/> Payments In Lieu of Taxes Beginning year _____ Ending year _____ Amount of annual payments (attach schedule if payments will vary)
10. Which of the following would better describe the project for which this application is being made:	
<input type="checkbox"/> New business project	<input type="checkbox"/> Expansion of a existing business project

11. Legal description of project real property
See Attached

12. Will the project property be owned or leased by the project operator? ☐ Owned ☐ Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

☐ Yes ☐ No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility? ☐ New construction ☐ Existing facility

If existing facility, when was it constructed? _____

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application _____

b. Description of project to be constructed including size, type and quality of construction

c. Projected number of construction employees during the project construction _____

14. Approximate date of commencement of this project's operations _____

15. Estimated market value of the property used for this project:

a. Land.....\$ _____

b. Existing buildings and structures for which an exemption is claimed.....\$ _____

c. Newly constructed buildings and structures when completed\$ _____

d. Total.....\$ _____

e. Machinery and equipment\$ _____

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) 

b. Eligible existing buildings and structures.....\$ _____

c. Newly constructed buildings and structures when completed.....\$ _____

d. Total taxable valuation of property eligible for exemption (Add lines b and c).....\$ _____

e. Enter the consolidated mill rate for the appropriate taxing district\$ _____

f. Annual amount of the tax exemption (Line d multiplied by line e)\$ _____

Note: “project” means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.

17. Type of business to be engaged in: ☐ Ag processing ☐ Manufacturing ☐ Retailing
☐ Wholesaling ☐ Warehousing ☐ Services
18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).
19. Indicate the type of machinery and equipment that will be installed
20. For the project only, indicate the projected annual revenue, expense, and net income (before tax) from either the new business or the expansion itself for each year of the requested exemption.

	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only
Year (12 mo. periods)	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Annual revenue	_____	_____	_____	_____	_____
Annual expense	_____	_____	_____	_____	_____
Net income	_____	_____	_____	_____	_____

21. Projected number and salary of persons to be employed by the project for the first five years:

Current positions & positions added the initial year of project

# Current Positions		New Positions Under \$13.00	New Positions \$13.01-\$15.00	New Positions \$15.01-\$20.00	New Positions \$20.01-\$28.00	New Positions \$28.01-\$35.00	New Positions Over \$35.00

Year	(Before project)	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
No. of Employees	(1) _____	_____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____	_____
Estimated payroll	(1) _____	_____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____	_____

(1) - full time
(2) - part time

22. Is the project operator succeeding someone else in this or a similar business? ☐ Yes ☐ No
23. Has the project operator conducted this business at this or any other location either in or outside of the state?
☐ Yes ☐ No
24. Has the project operator or any officers of the project received any prior property tax incentives? ☐ Yes ☐ No
- If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).

Business Competition

25. Is any similar business being conducted by other operators in the municipality? ☐ Yes ☐ No
- If YES, give name and location of competing business or businesses
- Percentage of Gross Revenue Received Where Underlying Business Has ANY Local Competition %

Property Tax Liability Disclosure Statement

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it? ☐ Yes ☐ No
27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? ☐ Yes ☐ No
- If the answer to 26 or 27 is Yes, list and explain

Use Only When Reapplying

28. The project operator is reapplying for property tax incentives for the following reason(s):
- ☐ To present additional facts or circumstances which were not presented at the time of the original application
 - ☐ To request continuation of the present property tax incentives because the project has:
 - ☐ moved to a new location
 - ☐ had a change in project operation or additional capital investment of more than twenty percent
 - ☐ had a change in project operators
 - ☐ To request an additional annual exemption for the year of _____ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

Notice to Competitors of Hearing

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, _____, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

Eric Bachman

Signature

Title

Date

PRIVACY ACT NOTIFICATION

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In compliance with the Privacy Act of 1974, disclosure of a social security number or Federal Employer Identification Number (FEIN) on this form is required under N.D.C.C. §§ 40-57.1-03, 40-57.1-07, and 57-01-15, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the social security number or FEIN may delay or prevent the processing of this form.

Certification of Governing Body (To be completed by the Auditor of the City or County)

The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the _____ day of _____, 20____, granted the following:

☐ **Property Tax Exemption**

_____ Number of years

_____ Percent of exemption

☐ **Payments in lieu of taxes**

_____ Beginning year _____ Ending year

_____ Amount of annual payments (Attach schedule if payments will vary)

Auditor

December 11, 2020



Adella Bachman
Midway Metals LLC
663 N 132nd St
Omaha, NE 68154

Dear Adella:

Thank you for your application for primary-sector certification by the North Dakota Department of Commerce, Economic Development & Finance Division. We have reviewed your application and determined that ED&F can certify your company, **Midway Metals LLC**, as primary sector and a new wealth creator in the economy of North Dakota. This certification is valid for **four years** from today's date (expires 12/10/2024).

Most of North Dakota's economic development programs, tools and incentives are targeted toward primary-sector clients. You may be requested to provide a copy of this primary-sector certification letter when you apply for certain economic development incentive and funding programs.

This certification does not guarantee the receipt of any North Dakota business incentive. For example, there are additional qualification criteria for the Seed Capital Investment and Agricultural Business Investment personal income tax credits, and it is critical that investments **NOT** be made prior to the business receiving certification for these two credits. If you are pursuing certification for investment tax credits and need to know the criteria required for qualification, contact Joe Cicha (701) 328-7283.

This certification is not the application process for the North Dakota New Jobs Training Program administered by Job Service North Dakota. To apply for the North Dakota New Jobs Training Program, you must contact Job Service North Dakota for the required application forms. Application forms for other programs that require primary sector certification are available from the agency administering the program.

Also, companies and individuals pursuing the investment tax credit incentive are reminded there is a cap on available dollars. Please visit with the ND Office of the Tax Commissioner regarding the remaining balance for investment tax credits. The credits are available on a first-come-first-serve basis until the law-defined cap is met.

North Dakota appreciates your contribution to the citizens and economy of our state. If there is anything further we can do to assist your company, please contact us at 701-328-5300.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua Teigen", with a stylized flourish at the end.

Joshua Teigen, Director
Economic Development & Finance Division
North Dakota Department of Commerce

Exemption Evaluation Calculator 2020				96.5
Aldevron				Points
Project Type Code (Ctrl-C to view)			1	38.0
Current Number Of Employees			3	
Hourly Salary Without Benefits	# Jobs			
Under \$13.00				
\$13.01-\$15.00				
\$15.01-\$20.00				
\$20.01-\$28.00	2	Pts. For # Jobs->		20.0
\$28.01-\$35.00		Pts. For \$ Jobs->		6.0
Over \$35.00				
TOTAL # OF JOBS CREATED	2			
% GI w/ Local Competition (not downtown)			0%	25.0
Value of Proposed Buildings		\$ 365,000		7.5
Downtown Location (Y/N)		N		0.0
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)		5		
Building Age (if substantial renovation)		0		0.0
RECOMMENDATION IS TO			REVIEW	
Description		Manufacturing		
Estimated New Annual Payroll		\$99,840		
Estimated Annual Real Estate Tax		\$8,527		
Estimated PV of Exemption		\$36,919		
Payroll / PV of Exemption		2.7		
Property Value / # of Jobs		\$ 182,500		

Projection for 1 year term

Exemption Evaluation Calculator 2020			106.5
Aldevron			Points
Project Type Code (Ctrl-C to view)		1	38.0
Current Number Of Employees		3	
Hourly Salary Without Benefits	# Jobs		
Under \$13.00			
\$13.01-\$15.00			
\$15.01-\$20.00			
\$20.01-\$28.00	9	Pts. For # Jobs->	30.0
\$28.01-\$35.00		Pts. For \$ Jobs->	6.0
Over \$35.00			
TOTAL # OF JOBS CREATED	9		
% GI w/ Local Competition (not downtown)		0%	25.0
Value of Proposed Buildings		\$ 365,000	7.5
Downtown Location (Y/N)		N	0.0
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)		5	
Building Age (if substantial renovation)		0	0.0
RECOMMENDATION IS TO APPROVE			
Description		Manufacturing	
Estimated New Annual Payroll		\$449,280	
Estimated Annual Real Estate Tax		\$8,527	
Estimated PV of Exemption		\$36,919	
Payroll / PV of Exemption		12.2	
Property Value / # of Jobs		\$ 40,556	

Projection for 3 year term

Intent to Purchase Agreement

THIS AGREEMENT is made on the 16th of December 2020. The following parties intend to purchase, pursuant to the attached Real Estate Purchase Agreement, incorporated herein, the following real property located at **3344 39th St S, Fargo, ND 58104**. The real property is legally described as:

Lot

PT OF LT 4 BLK 1 RDO 2ND DESC AS FOLL: COMM FROM THE SW COR OF SD LT 4; THEN N 88° 40' 44" E FOR A DIST OF 350.35' TO THE PT OF BEG; THEN CONT N 88° 40' 44" E FOR A DIST OF 68.10'; THEN N 01° 02' 46" W FOR A DIST OF 167.78'; THEN S 88° 57' 14" W FOR A DIST OF 68.10'; THEN S 01° 02' 46" E FOR A DIST OF 168.10' BACK TO THE PT OF BEG. SD PARC CONTAINS 11,436 SF MORE OR LESS, TOGETHER W/ EASEMENTS & R/W OF SIGHT & RECORD.

Block

1

Supplemental Description

*11/20/07 SPL/FR 01-5310-00100-000 *REPLATTED LT 1 BLK1 RDO ADDN (9/9/2008, BX-1, P-14) *9/15/08 08-107 SPL/FR 01-5210-00051-000 & 01-5310-00101-000 *11/30/16 SPL/FR 01-8411-00040-000 SPL#2017-021 DOC#1489995 39TH STREET COMMERCIAL CONDOS UNIT 13

Addition Name

RDO 2nd

Buyer

Ann Bachman of Omaha, NE

Contact Phone: 402-616-3591

Email: ann.bachman@outlook.com

Purchase Price

Four Hundred Seventy-Five Thousand Dollars and Zero Cents (\$475,000.00). Within Three (3) days of *Purchase Agreement* being executed Buyer shall deliver to the closing agent an amount equal to \$5,000.00 ("Earnest Money").

Offer Terms

(I) Purchase is subject to approval of the real property for a property tax incentive from the Fargo City Commission (*roughly 6 week long process*).

(II) Purchase is subject to the buyer obtaining financing from a third party.

(III) This agreement can be assigned, at Buyer's discretion, to a North Dakota Limited Liability Company (LLC) that will be formed to hold title to the real property.

(IV) Signed *Purchase Agreement* by Seller and Buyer within the general structure of the attached. Buyer will provide his own Title Opinion and Title Insurance at their own cost.


Due Diligence

Subject to inspection by agent of Buyer to occur within timeframe of *Offer Terms (I)* and *(II)* being completed. *Purchase Agreement* drafted and executed as soon as practicable after the above conditions *(I)* and *(II)* have been met. Then, an additional 21 days to close, after receipt and approval of required third party reports (i.e. appraisal, title, etc).

Closing Date/Possession

As soon as practicable after *Offer Terms (I)*, *(II)*, *(IV)* and *(III)*, *if necessary*, are completed.

Seller: Sheyenne Valley Holdings LLC

DocuSigned by:

B5D79C4A90F8410...


12/16/2020

Date

Member

Title

Buyer: Ann Bachman

DocuSigned by:

E7AB4098E71B4B6...

12/16/2020

Date

Owner

Title

3344 39th St S, Fargo, ND 58104

Lot

PT OF LT 4 BLK 1 RDO 2ND DESC AS FOLL: COMM FROM THE SW COR OF SD LT 4; THEN N 88° 40' 44" E FOR A DIST OF 350.35' TO THE PT OF BEG; THEN CONT N 88° 40' 44" E FOR A DIST OF 68.10'; THEN N 01° 02' 46" W FOR A DIST OF 167.78'; THEN S 88° 57' 14" W FOR A DIST OF 68.10'; THEN S 01° 02' 46" E FOR A DIST OF 168.10' BACK TO THE PT OF BEG. SD PARC CONTAINS 11,436 SF MORE OR LESS, TOGETHER W/ EASEMENTS & R/W OF SIGHT & RECORD.

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Addition Name

RDO 2nd