

PROPERTY TAX INCENTIVE APPLICATION FOR

DFI BJ, LLC

(formerly DFI Kesler, LLC Project)

SUGGESTED MOTION:

Move to participate in the request for a payment in lieu of taxes (PILOT) incentive for a mixed-use project submitted by DFI BJ, LLC for a 10-year period.

**OR**


SUGGESTED MOTION:

Move to not participate at this time in the request for a payment in lieu of taxes (PILOT) incentive for a mixed-use project submitted by DFI BJ, LLC for a 10-year period, and to negotiate the terms of the property tax incentive with the city as described in N.D.C.C. Chapter 40-05-24.



## MEMORANDUM

**TO: CASS COUNTY COMMISSION**

**FROM: JIM GILMOUR, STRATEGIC PLANNING DIRECTOR** 

**DATE: JULY 16, 2019**

**SUBJECT: KESLER PILOT APPLICATION**

This memo is to provide you with the information on the Public-Private Partnership for the redevelopment of the surface parking lots in downtown Fargo. This specifically relates to the PILOT application for the Kesler project.

### Parking Studies in 2014-2015

The City of Fargo worked to locate sites for parking ramps in downtown Fargo that could include mixed-use developments. Two locations were identified to develop mixed-use parking facilities in the near future. One is now the site of Roberts Commons, and the other location is the proposed site of the Mercantile parking ramp and development.

### Renewal Plan

In 2015, the Fargo City Commission adopted a Renewal Plan and created a TIF District with a boundary that included two city owned surface parking lots on 2<sup>nd</sup> Avenue and privately owned parking lots north of the city owned lot. The plan was to build a parking facility for about 400 parking spaces and \$30 million in private sector development. A Tax Increment Financing District was created to pay for a portion of the parking ramp.

### Public Private Partnership

In 2016, the Fargo City Commission approved a Public-Private-Partnership with Kilbourne Group to build a 400+ car parking garage for the City and private development attached to that parking garage. The partnership agreement sold the city parking lot south of 2<sup>nd</sup> Avenue to the Kilbourne Group, and required development on that property. The proposed Kesler project will be on both the former city parking lot and the private parking lots on 1<sup>st</sup> Avenue South.

The partnership agreement limited property tax incentives on the former city properties to only the 5-year Renaissance Zone program.

Kesler RZ/PILOT Application

The initial PILOT application proposed a 5-year Renaissance Zone property tax exemption, followed by a \$100,000 per year TIF/PILOT payment. This was difficult to achieve under state law, so the application was re-submitted.

The new applications are for the 5-year Renaissance Zone property tax incentive on the entire project, but the PILOT application is now just for the south portion of the building. The south portion of the building is not subject to the restrictions of the Public-Private-Partnership for the previously owned city property.

This change reduced the amount of the property tax incentive, so the return on the investment will be less than what was evaluated in the “but for” report. See below for the property taxes to be paid by the developer with this new proposal. This is \$36,669 more per year in property tax incentives than the intimal request.

The PILOT policy is to pay 10% of the property taxes starting in year six. In this case with two properties, being the north and south portions of the building, the total property taxes paid by the developer will be over 50% after year five.

<u>Year</u>	<u>South Building</u>	<u>South Land</u>	<u>North Building</u>	<u>North Land</u>	<u>Developer Tax</u>
2022	RZ	\$ 2,414.00	RZ	\$ 3,387.00	\$ 5,801.00
2023	RZ	\$ 2,414.00	RZ	\$ 3,387.00	\$ 5,801.00
2024	RZ	\$ 2,414.00	RZ	\$ 3,387.00	\$ 5,801.00
2025	RZ	\$ 2,414.00	RZ	\$ 3,387.00	\$ 5,801.00
2026	RZ	\$ 2,414.00	RZ	\$ 3,387.00	\$ 5,801.00
2027	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2028	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2029	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2030	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2031	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2032	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2033	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2034	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2035	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2036	\$ 404.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 136,669.00
2037	\$ 115,084.00	\$ 2,414.00	\$ 130,464.00	\$ 3,387.00	\$ 251,349.00

Property taxes for the north building will go into the TIF fund until parking bonds are repaid in 2035 and then to the taxing jurisdictions starting in 2036.

### Renewal Plan Results

Implementation of the Renewal Plan has created a 454 car public parking garage that has or will facilitate the construction of three private buildings with main floor commercial space and 250 housing units. See the values of the properties below.

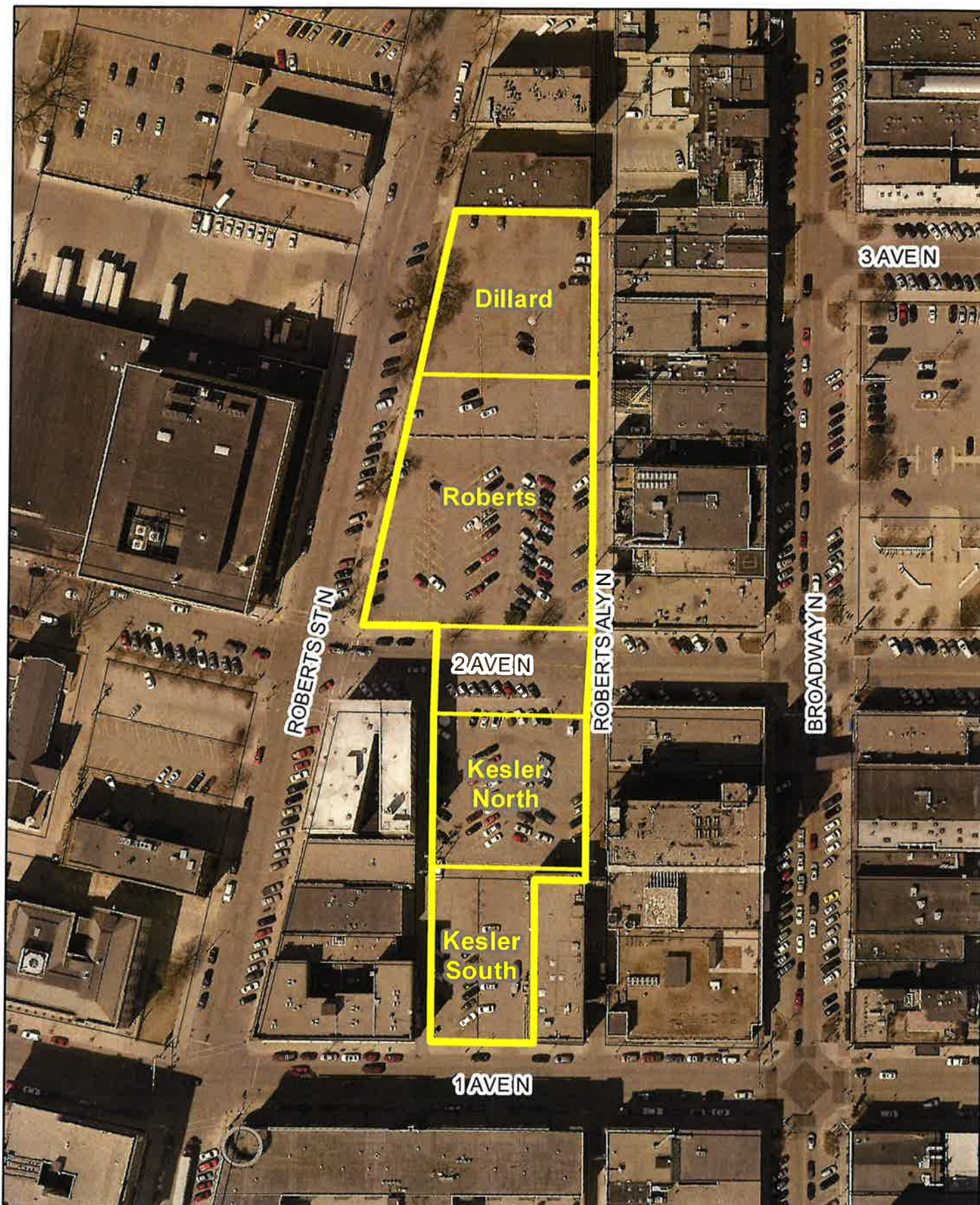
<u>Property</u>	<u>Building Value</u>
Roberts Commons	\$ 10,999,000
Dillard Building	\$ 16,011,000
Kesler North	\$ 9,324,650
Kesler South	\$ 7,975,350
TOTAL	\$ 44,310,000

### Future Property Tax Revenue

For the past 25+ years, local governments have received little property taxes from these deteriorating surface parking lots. The surface lots owned by the city paid no property taxes. The privately owned parking lots only paid property taxes on the value of the land the minor value of the crumbling asphalt.

With the completion of the Kesler Building, beginning in 17 years local governments will receive over \$600,000 a year of new property taxes based on today's property values and mill levy rates. See the chart below.

<u>Local Government</u>	<u>New Property Taxes</u>
Fargo Schools	\$ 324,401
City of Fargo	\$ 107,341
Fargo Parks	\$ 58,574
Cass County	\$ 101,027
Vector/Soil/Water	\$ 11,871
	\$ 603,214



Map Created: 7/15/2019



# Application For Property Tax Incentives For New or Expanding Businesses

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

Project Operator's Application To Fargo  
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>DFI BJ LLC</u>	
2.	Address of project	<u>621 1 AVE N - 617 1 AVE N</u>	
	City	<u>Fargo</u> County <u>Cass</u>	
3.	Mailing address of project operator	<u>210 Broadway Suite 300</u>	
	City	<u>Fargo</u> State <u>ND</u> Zip <u>58102</u>	
4.	Type of ownership of project		
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Subchapter S corporation	<input type="checkbox"/> Individual proprietorship
	<input type="checkbox"/> Corporation	<input type="checkbox"/> Cooperative	<input checked="" type="checkbox"/> Limited liability company
5.	Federal Identification No. or Social Security No.	<u>81-3520268</u>	
6.	North Dakota Sales and Use Tax Permit No.	_____	
7.	If a corporation, specify the state and date of incorporation	_____	
8.	Name and title of individual to contact	<u>Mike Allmendinger</u>	
	Mailing address	<u>210 Broadway Suite 300</u>	
	City, State, Zip	<u>Fargo, ND 58102</u> Phone No. <u>701.237.2279</u>	

## Project Operator's Application For Tax Incentives

9.	Indicate the tax incentives applied for and terms. Be specific.	
	<input type="checkbox"/> <b>Property Tax Exemption</b>	<input checked="" type="checkbox"/> <b>Payments In Lieu of Taxes</b>
	_____ Number of years	2027 _____ Beginning year <u>2036</u> Ending year
	_____ Percent of exemption	<u>X</u> 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 checked="" type="checkbox"/> New business project	<input type="checkbox"/> Expansion of a existing business project

**Description of Project Property**

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    10/1/2019

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

A six-story mixed-use project with ground floor retail five floors of market-rate apartments and underground parking. This project will be built on three different parkings lots, (617/621 1st Ave N & 624 2nd Ave N).

\*\*PILOT application would only apply to the 617/621 1st Ave N parcels.\*\*

c. Projected number of construction employees during the project construction    20

14. Approximate date of commencement of this project's operations    April 2021

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

a. Land ..... \$ 176,000

b. Existing buildings and structures for which an exemption is claimed..... \$ 0

c. Newly constructed buildings and structures when completed ..... \$ 7,975,350

d. Total ..... \$ 8,151,350

e. Machinery and equipment ..... \$ 0

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 ..... \$ 0

c. Newly constructed buildings and structures when completed..... \$ 7,975,350

d. Total taxable valuation of property eligible for exemption (Add lines b and c)..... \$ 7,975,350

e. Enter the consolidated mill rate for the appropriate taxing district ..... 288.60

f. Annual amount of the tax exemption (Line d multiplied by line e) ..... \$ 117,623.00

**Description of Project Business**

**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).

Leasing of residential apartments and commercial space

19. Indicate the type of machinery and equipment that will be installed

n/a

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.

Year (12 mo. periods)	New/Expansion Project only Year 1	New/Expansion Project only Year 2	New/Expansion Project only Year 3	New/Expansion Project only Year 4	New/Expansion Project only Year 5
Annual revenue	<u>1,398,100</u>	<u>1,991,300</u>	<u>2,031,100</u>	<u>2,071,700</u>	<u>2,113,114</u>
Annual expense	<u>471,600</u>	<u>481,000</u>	<u>490,600</u>	<u>500,400</u>	<u>510,408</u>
Net income	<u>926,500</u>	<u>1,510,300</u>	<u>1,540,500</u>	<u>1,571,300</u>	<u>1,602,706</u>

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

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



**Previous Business Activity**

- 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).

RZ: DFI Loudon 2015; DFI St Marks 2015; DFI 1213 2016; DFI BE (123 Broadway) 2016; DFI Roberts 2017; ; DFI \_\_\_\_\_  
BA (113 BW) 2020; DFI BC (119 BW) 2020  
DFI RZ/PILOT: DFI Woodrow 2016; DFI Black 2020; Block 9 Partners 2021 \_\_\_\_\_

**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

~~Other mixed use projects located in Fargo~~

Percentage of Gross Revenue Received Where Underlying Business Has ANY Local Competition 100%

**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, Michael Allmendinger, 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.

President

7-9-19

Signature

Title

Date

**KESLER PROJECT - SOUTH PARCEL**

Project	DFI BJ LLC		Units	Parking
Project Value	\$7,975,350		41	30
Land Value	\$176,000		<b>Commercial</b>	
Mills	0.2886		5,620	
	Land Taxes	New Taxes	Incentive	Proposed Schedule
Year 1	\$2,414	\$0	PILOT	\$2,908
Year 2	\$2,414	\$0	PILOT	\$2,908
Year 3	\$2,414	\$0	PILOT	\$2,908
Year 4	\$2,414	\$0	PILOT	\$2,908
Year 5	\$2,414	\$0	PILOT	\$2,908
Year 6	\$2,414	\$0	PILOT	\$2,908
Year 7	\$2,414	\$0	PILOT	\$2,908
Year 8	\$2,414	\$0	PILOT	\$2,908
Year 9	\$2,414	\$0	PILOT	\$2,908
Year 10	\$2,414	\$0	PILOT	\$2,908

**PRIVACY ACT NOTIFICATION**

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

## Notice To Competitors Of Hearing On Application For Property Tax Incentives

Notice is hereby given that the \_\_\_\_\_  
(City or county governing body)

of \_\_\_\_\_, North Dakota, will meet at \_\_\_\_\_  
(City or county) (Time)

on \_\_\_\_\_ at \_\_\_\_\_ to consider the application of  
(Date) (Location)

DFI BJ LLC - 210 Broadway Suite 300, Fargo, ND 58102

\_\_\_\_\_  
(Project operator name and address)

for property tax relief on the project which the applicant will use in the operation of

Real Estate Development  
\_\_\_\_\_  
(Type of business)

at 621/617 1 AVE N  
\_\_\_\_\_  
(Address)

see attached  
\_\_\_\_\_  
(Legal description)

Any competitor of that applicant may appear and be heard by the \_\_\_\_\_  
(City or county governing body)

at the time and place designated herein. A competitor may provide written comments to the governing body before the scheduled hearing.

This notice is given by the above-named applicant pursuant to the provisions of North Dakota Century Code § 40-57.1-03

Parcel #: 01-2381-00420-000

Address: 621 1 AVE N

Lot: T Block: 2 ROBERTS - HAGAMANS SUB LOTS T & U BLK 2 EXC E 8''' OF S 100' OF LOT U TOGETHER WITH A STRIP OF LAND 3' WIDE IMMEDIATELY ADJ & RUNNING A LG ENTIRE W SIDE LOT T & STRIP OF LAND 10' WIDE IM MEDIATELY ADJ & RUNNING ACCROSS ENTIRE N END LOTS T & U

Parcel #: 01-2381-00330-000

Address: 617 1 AVE N

Lot: 10 Block: 2 ROBERTS W50' LOTS 10-12 BLK 2 A ND ROBERTS - HAGAMANS SUB E 8" OF S 100' LOT U BLK 2

**BUSINESS INCENTIVE AGREEMENT**  
 NORTH DAKOTA DEPARTMENT OF COMMERCE  
 SFN 59686 (11/2017)

(For office use only) Agreement Number
Grantor Reference Number

The RECIPIENT specified below has been approved to receive a business incentive from the state of North Dakota. Therefore, in fulfillment of the requirements of North Dakota Century Code § 54-60.1-03, the grantor of the business incentive (**GRANTOR**) and the entity to receive the business incentive (**RECIPIENT**) must enter into a **Business Incentive Agreement**. This Business Incentive Agreement provides project data and specifies the goals the RECIPIENT has agreed to meet in order to receive the state business incentive.

Should the value of this incentive be less than \$25,000, and should the RECIPIENT receive no additional incentives to bring the total to \$25,000 or more within twelve months, the reporting requirements outlined in North Dakota Century Code § 54-60.1-05 and in this agreement, will not go into effect.

**Grantor**

Name of GRANTOR/GRANT ADMINISTRATOR	On Behalf Of		
Address	City	State	ZIP Code

**Recipient**

Name of RECIPIENT Business DFI BJ LLC	Also known as		
Mailing Address 210 Broadway Suite 300	City Fargo	State ND	ZIP Code 58102
Street Address 210 Broadway Suite 300	City Fargo	State ND	ZIP Code 58102
Location of Project (street address, city, county) 621/617 1 AVE N			
Business Classification of RECIPIENT (3 digit NAICS Code) 531			
Parent Company of RECIPIENT (if any) Downtown Fargo Real Estate Fund I,LLC			
Street Address 210 Broadway - Suite 300	City Fargo	State ND	ZIP Code 58102

**Recipient Contact Information**

Main Contact Person Mike Allmendinger	Email Address mike@kilbournegroup.com
Title President	Telephone Number 701.237.2279

**Location of Recipient PRIOR to receiving this business incentive (if relocating)**

Street Address n/a	City	State	ZIP Code
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**Business Owners or Shareholders**

List the names and addresses of all individuals or shareholders owning twenty percent (20%) or more of this business.

Owner or Shareholder	Mailing Address	City	State	ZIP Code

**Project Information**

Benefit Date 01/01/21		Incentive Value \$ 1,126,703.00
Project Description A six-story mixed-use project with ground floor retail five floors of market-rate apartments and underground parking. This project will be built on three different parking lots, (617/621 1st Ave N & 624 2nd Ave N) spanning between 1st and 2nd Ave N. Project Metrics: +/- 140,000 SF; 13,000 SF commercial; 95 units; 88 parking stalls. **PILOT application would only apply to the 617/621 1st Ave N parcels.**		
Incentive Description PILOT		
Is this incentive tax increment financing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, describe the type of district	Business Investment Value

**Incentive Type (check one only)**

<input type="checkbox"/> Contribution of property or infrastructure	<input type="checkbox"/> Preferential use of government facility
<input type="checkbox"/> Direct cash transfer, loan, or equity investment	<input type="checkbox"/> Guarantee of payment under loan, lease, or other obligation
<input checked="" type="checkbox"/> Reduction or deferral of tax or fee	<input type="checkbox"/> Interest buy-down

**Public Purpose (check one only)**

<input type="checkbox"/> Assisting community Development	<input type="checkbox"/> Indirectly creating employment opportunities through increased economic activity
<input checked="" type="checkbox"/> Increasing tax base	<input type="checkbox"/> Job retention (only in cases where job loss is specific and demonstrable)
<input type="checkbox"/> Directly creating employment opportunities	

**Current Employment, Wages, Benefits and Compensation**

Is this a new business or a business with no full-time employees? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, please enter 0 for the current number of jobs, average hourly wage, and average hourly benefits below. If no, please enter 0 for the current number of jobs, average hourly wage, and average hourly benefits below.			
Current number of Full Time Equivalent Employees (FTE's) <sup>1</sup>	Average Hourly Wage <sup>2</sup>	Average Hourly Benefits <sup>3</sup>	Average Hourly Compensation (Wage plus Benefits) <sup>4</sup>  0.00
<input type="checkbox"/> Seasonal, explain:			

**Goal Information**

In exchange for the incentive provided by the GRANTOR, the RECIPIENT agrees to, within 2 years (check one only) <input type="checkbox"/> Create Jobs <input type="checkbox"/> Retain Jobs <input checked="" type="checkbox"/> Neither create nor retain jobs <sup>5</sup>			
Current number of Full Time Equivalent Employees (FTE's) <sup>1</sup>	Average Hourly Wage <sup>2</sup>	Average Hourly Benefits <sup>3</sup>	Average Hourly Compensation (Wage plus Benefits) <sup>4</sup>  0.00

<sup>1</sup> Full time equivalent employees (FTE's) work 32 hours per week or greater. The exception is when a single position is filled by two people. In this instance each person needs to work 20 hours per week or greater to be considered an FTE. Please round job numbers to the nearest 0.5 FTE.

<sup>2</sup>Wage includes wages, salary, bonuses and commissions.

<sup>3</sup> Benefits include health, disability, life and retirement benefits or insurance premiums paid by the employer; an employee's share of payroll taxes paid by the employer; and other fringe benefits such as housing allowance and transportation expense.

<sup>4</sup> Wage plus benefits.

<sup>5</sup>If 'Neither create nor retain jobs' is checked, please enter '0' for number of jobs, wage and benefits goals. All RECIPIENTS must file recipient reports as described on page 3 of this document, including those with no job, wage or benefits goals.

In addition to meeting the goals outlined in this document, the RECIPIENT agrees to the following terms as specified by N.D.C.C. §54-60.1:

1. The RECIPIENT shall continue operation in the jurisdiction in which the business incentive is used for five years or more after the benefit date.
2. RECIPIENT reports requesting current job, wage and benefit information will be mailed to the RECIPIENT by the GRANTOR. The RECIPIENT shall complete, sign and return this annual recipient report to the GRANTOR within 60 days of the annual anniversary of the benefit date for a period of two years or until the goals specified in the Business Incentive Agreement have been met, whichever is later.

If the recipient report is not received within those 60 days, the GRANTOR shall mail the RECIPIENT a warning letter. The RECIPIENT then has 14 days from the postmarked date of that warning letter to file a report. If the recipient report is still not received, the RECIPIENT may be charged one hundred dollars (\$100) from the GRANTOR for each subsequent day until the report is received. The maximum penalty under this section may not exceed one thousand dollars (\$1,000).

3. If, after 2 years, the job and compensation goals listed in the Business Incentive Agreement are not met, the RECIPIENT shall continue to provide recipient reports to the grantor until the incentive is repaid to the grantor. At a minimum, a recipient that fails to meet business incentive agreement goals shall pay back the value of the incentive to the GRANTOR prorated to reflect any partial fulfillment of the job and compensation goals. There is an exception to this financial obligation for any unmet goals that result from an act of God or terrorism.
4. The Business Incentive Agreement shall only be modified or extended by the GRANTOR pursuant to N.D.C.C. §54-60.1-04.
5. If the terms of the Business Incentive Agreement are not met, RECIPIENT, including all individuals or shareholders owning twenty percent (20%) or more of the business, will not be eligible to receive a business incentive from any GRANTOR for a period of five years from the date of failure or until RECIPIENT satisfies its repayment obligation.

By signing this document, RECIPIENT agrees to the terms noted herein, verifies that it has not failed to meet the terms of any business incentive agreement in the last five years and confirms that it has disclosed, in Attachment "A" of this agreement, all additional financial assistance received from state or political subdivision GRANTORS for this project.

GRANTOR

Title	Authorized Signature	Date

RECIPIENT

Title	Authorized Signature	Date
President - Mike Allmendinger		7/9/19

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.



**ATTACHMENT "A"**

RECIPIENT verifies it has received additional financial assistance from state or political subdivision GRANTORS from the following entities for this project since its inception. A listing of incentives from past projects (i.e. past expansions) is not required.

GRANTOR City of Fargo		On Behalf Of
Benefit/Pending Benefit Date 01/01/21	Value of Assistance \$563,352	Type of Incentive Renaissance Zone
Description of Assistance Renaissance Zone		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

GRANTOR		On Behalf Of
Benefit/Pending Benefit Date	Value of Assistance	Type of Incentive
Description of Assistance		

DFI Kesler	
Parcel Number	01-2381-00330-000
	01-2381-00420-000
Address	617/621 1 Ave. N.
Date Application Received	6/4/2019 / 6/10/2019
1st Publication Date	6/17/2019
2nd Publication Date	6/24/2019
TRC Meeting Date	6/25/2019
Commission Hearing Date	7/15/2019
Notice Delivery To School/County	6/13/2019
School/County 30-Day Response	7/13/2019
Exemption Type	PILOT
Estimated Improvements Value	\$7,975,350
Building Value to Remain Taxable	\$28,000
Current Land Value	\$176,000
County Share of Levy (%)	17.3%
Anticipated Tax Growth	0.0%
Current Mill Levy	288.6
Number of Years Granted	10
Discount Rate (for Present Value)	4.50%
Total Gross Estimated Benefit	\$1,146,803
Present Value of Benefit	\$750,700

	% Bd Ex	PILOT Pymt	Full Bldg Tax	Benefit	PV of Benefit	PILOT & Land Tax
1	100%	\$404	\$115,084	\$114,680	\$109,700	\$2,944
2	100%	\$404	\$115,084	\$114,680	\$105,000	\$2,944
3	100%	\$404	\$115,084	\$114,680	\$100,500	\$2,944
4	100%	\$404	\$115,084	\$114,680	\$96,200	\$2,944
5	100%	\$404	\$115,084	\$114,680	\$92,000	\$2,944
6	100%	\$404	\$115,084	\$114,680	\$88,100	\$2,944
7	100%	\$404	\$115,084	\$114,680	\$84,300	\$2,944
8	100%	\$404	\$115,084	\$114,680	\$80,600	\$2,944
9	100%	\$404	\$115,084	\$114,680	\$77,200	\$2,944
10	100%	\$404	\$115,084	\$114,680	\$73,800	\$2,944
11	0%	\$0	\$115,084	\$0	\$0	\$0
12	0%	\$0	\$115,084	\$0	\$0	\$0
13	0%	\$0	\$115,084	\$0	\$0	\$0
14	0%	\$0	\$115,084	\$0	\$0	\$0
15	0%	\$0	\$115,084	\$0	\$0	\$0
16	0%	\$0	\$115,084	\$0	\$0	\$0
17	0%	\$0	\$115,084	\$0	\$0	\$0
18	0%	\$0	\$115,084	\$0	\$0	\$0
19	0%	\$0	\$115,084	\$0	\$0	\$0
20	0%	\$0	\$115,084	\$0	\$0	\$0
TOTALS		\$4,040	\$2,301,686	\$1,146,803	\$907,400	
Building Tax To Remain		\$404	Current Land Tax	\$2,540		

County Share PLT	County Addl PILOT	Co Share Impr Tax	Full Impr Net Tax	Benefit	PILOT & Tax	% Bd Ex
\$70	\$19,829	\$19,898	\$115,108	\$94,875	\$22,772	82%
\$70	\$19,829	\$19,898	\$115,108	\$94,875	\$22,772	82%
\$70	\$19,829	\$19,898	\$115,108	\$94,875	\$22,772	82%
\$70	\$19,829	\$19,898	\$115,108	\$94,875	\$22,772	82%
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\$70	\$19,829	\$19,898	\$115,108	\$94,875	\$22,772	82%
\$70	\$19,829	\$19,898	\$115,108	\$94,875	\$22,772	82%
\$70	\$19,829	\$19,898	\$115,108	\$94,875	\$22,772	82%
If County Completely Opted Out						

NOT STARTED

CALCULATION OF ADDITIONAL TAX DUE TO COUNTY							
Land Value	Improvent Value	Year	Mill Levy	CO Levy	%	Full Impr Net Tax	Co Share Impr Tax
\$28,000	\$7,975,300	2021	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2022	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2023	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2024	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2025	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2026	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2027	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2028	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2029	288.66	49.90	17.3%	\$115,108	\$19,898
\$28,000	\$7,975,300	2030	288.66	49.90	17.3%	\$115,108	\$19,898

# City of Fargo, North Dakota

Payment in Lieu of Taxes Program

“But-For” Report

624 2<sup>nd</sup> Avenue North

617/621 1<sup>st</sup> Avenue North

Downtown District

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June 4, 2019



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## Purpose

The purpose of this report is to establish and determine the allowable value of the payment in lieu of taxes (PILOT) tax exemption for DFI Kesler, LLC (the “Developer”) (Kilbourne Group).

PFM first reviewed the application/proforma to ensure that appropriate assumptions regarding property value, rent, vacancy, and expenses were used by the Developer. Based on those assumptions, PFM projected a 15-year cash flow, calculating an internal rate of return. The following report details PFM’s analysis and conclusions concerning the viability of the proposed project without the subsidy. The proposed project will be an investment of the Developer so PFM also calculated an internal rate of return for the project.



## Project

The project being proposed by DFI Kesler, LLC includes constructing 95 market rate apartment units, retail space, and structured parking at 624 2<sup>nd</sup> Ave N and 617/621 1<sup>st</sup> Ave N. The apartments will range from studio units at approximately 575 square feet to three bedroom units at approximately 1,340 square feet. There will also be structured parking available, as well as retail space. As noted in the previous section, the proposed project is to be an investment property for the Developer.

The Developer has stated that the construction will be completed by April 2021 with occupancy immediately following. The Developer has requested PILOT financing assistance in an amount in excess of \$2.23 million on a present value basis to complete the project. This amount is based on projections of the future tax payments less the projected PILOT payments. Both the estimated tax payments and estimated PILOT payments assume a property value increase of 1.70% per year. This amount assumes five years of 100% exemption, followed by 10 years of 64% exemption.



## Project Financing

The Developer is investing 26% equity, or \$5,570,985, and will be privately financing \$15,750,936. The Developer is additionally requesting PILOT assistance through annual property tax savings. The private financing is estimated to be a 25-year loan at a 5.85% interest rate resulting in an annual principal and interest payment of \$1,243,785.



## Return Analysis

In calculating the internal rate of return, PFM first analyzed the Developer's assumptions including expected monthly rent, vacancy rate, and the operating expenses. The Developer is proposing a rent of \$970 per month for studio units, \$1,300 per month for one bedroom units, \$1,850 per month for two bedroom units, and \$2,100 per month for three bedroom units. The Developer provided estimates of annual operating expenses, as follows; General and Administrative - \$14,396, Marketing - \$71,981, Repairs/Maintenance - \$122,368, Utilities - \$187,151, Property Tax - \$279,835, Insurance - \$4,319, and Management Fee - \$71,384. The total expenses, assuming the Developer pays full real estate taxes, are approximately 38% of gross operating income. PFM used the given assumptions for Year 1 and, using a 2% inflationary factor for expenses and 1.70% for revenues, developed a 15-year cash flow. PFM assumed Year 1 vacancy rate would be 35% for 10 months of the year assuming an April 1 occupancy and 5% beyond Year 1.

The second step in determining the internal rate of return is to determine the earned incremental value of the property over the 15-year period. That value, along with the net operating income cash flows, was used to calculate the internal rate of return. PFM determined that without PILOT assistance the Developer would have about a 7.33% internal rate of return. The Developer would have about a 9.99% internal rate of return if it received the public assistance for the full 15 years. A reasonable rate of return for the proposed project is 10% - 15%.

Another measure of feasibility and project viability is the debt coverage ratio. PFM has projected a maximum debt coverage ratio of 1.29x without assistance in the first 15 years with a Year 4 coverage of 1.00x. If the City provided assistance to the project the maximum debt coverage is projected to be 1.36x with a Year 4 coverage of 1.23x. The minimum coverage of 0.69x occurs in Year 1 when the project is still assumed to be in the rent-up period. Debt coverage is important to developers when securing financing for their projects. Many times banks will require a minimum coverage in the range of 1.10x – 1.50x.

Using PFM's "without assistance" cash flow as the base scenario, PFM ran sensitivity analyses in order to determine if the project would be likely to occur without public assistance. For the first sensitivity analysis, PFM analyzed how much project funds would have to decrease in order to produce a reasonable internal rate of return. We also looked at how much the rental rates would have to fluctuate in order to achieve a reasonable internal rate of return. Lastly, we looked at a combination of the two scenarios. For the sensitivity analyses, we assumed a minimum debt coverage of 1.20x and a minimum internal rate of return of 10.00%.

### **Sensitivity Scenario 1 – Project Costs**

The project would have to be reduced by \$2,201,921 or 10.3% in order for the project to become viable without assistance. This reduces the amount to be financed from \$15,750,936 to \$14,124,332 and reduces the annual debt service payment from \$1,243,876 to \$1,115,421. It is somewhat unlikely that a reduction in project costs of this magnitude would occur at this stage in the process.

### **Sensitivity Scenario 2 – Rental Rates**

In order for the project to be viable without public assistance, the rental rate would have to increase by more than 14.6%. This increases annual revenue from \$2,868,887 to \$2,342,694 in Year 5. PFM believes this is a large increase to rents and is unlikely to occur.

### **Sensitivity Scenario 3 – Combination of Project Costs and Rental Rates**

The final scenario looks at both a reduction of project costs and an increase in rental rates. The analysis showed that project costs would have to be reduced by \$1,121,921 or 5.3% and rental rates would have to increase by 7.2%. Both of these options occurring is unlikely, but it is possible so it should be considered.





The above scenarios show the circumstances in which the project would become viable without public assistance. Based on the information provided PFM's analysis demonstrates that the project as currently anticipated is unlikely to occur "but-for" the public assistance.



## Conclusion

The Developer will bear all the risk involved with the project. The Developer is dependent on a number of factors before and after the project is completed, including project costs, occupancy of the units, the rental market, and monthly expenses. Both the internal rate of return without assistance and the debt service coverages are low. The base scenario without assistance along with the sensitivity analyses demonstrate that the project would likely not be feasible without assistance.

PFM determines that with public assistance, based on 5 years of 100% property tax exemption followed by 10 years of 36% exemption, the Developer's internal rate of return, based on the assumptions outlined in this report, would be 9.99%. Furthermore, the Year 4 debt coverage ratio increases from 1.00x to 1.23x when assistance is provided. Based upon the information provided, the project would not be feasible "but-for" public assistance as it is currently shown by the Developer.





**County  
Administrator**

Robert W. Wilson  
701-241-5770

wilsonro@casscountynd.gov

July 3, 2019

Mr. Ben Hushka, Assessor  
Fargo Assessment Department  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

Re: Cass County Participation in PILOT Incentive  
DFI Kesler, LLC

Dear Ben:

On July 1<sup>st</sup> the Cass County Commission received public input and considered participating in a 15-year Payment in Lieu of Taxes (PILOT) Incentive for DFI Kesler, LLC. After careful consideration and deliberation the Commission voted to not participate in the 15-year PILOT incentive and to negotiate with the city as described in NDCC 40-05-24.

The board understands this project is on hold, but voted on the request in order to meet the requirement to respond within the 30 days after the initial application was submitted.

Please contact me if you have questions or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. W. Wilson", written over a light blue horizontal line.

Robert W. Wilson  
Cass County Administrator

PO Box 2806  
211 Ninth Street South  
Fargo, North Dakota 58108

[www.casscountynd.gov](http://www.casscountynd.gov)

existing owners of apartments in Fargo who have asked for property value reductions because of vacancy rates and reduced cash flows, and he is concerned with the existing vacancy rates of apartment buildings. Mr. Allmendinger said as a developer he would like to see affordable housing, and he tried to build condos; however, he cannot build at that price point in downtown Fargo. On roll call vote, the motion failed with Mr. Peterson, Mr. Steen and Mrs. Scherling voting “No”; and Mr. Breitling and Mr. Bennett voting “Yes.”

***MOTION, passed***

Mr. Steen moved and Mr. Peterson seconded to not participate in the request for a payment in lieu of taxes (PILOT) incentive for a downtown apartment project submitted by Great Plains Antique Holdings, LLC for a fifteen-year period, and to negotiate the terms of the property tax incentive with the city as described in N.D.C.C. Chapter 40-05-24. On roll call vote, the motion carried with Mr. Steen, Mr. Peterson and Mrs. Scherling voting “Yes”; and Mr. Breitling and Mr. Bennett voting “No”.

**14. FARGO TAX INCENTIVE GREAT PLAINS 1001 HOLDINGS, LLC, County to not participate in fifteen-year PILOT and negotiate with Fargo**

The Fargo City Assessor forwarded information to the Cass County Commission regarding an application received from Great Plains 1001 Holdings, LLC, for a payment in lieu of taxes (PILOT) for a four-story mixed use downtown project located at located at 1011 Northern Pacific Avenue North in Fargo. The application is for a fifteen-year period with a 100% exemption on the value of the improvement for the first five years followed by two years of 90% exemption, and a 10% decrease each year for the remaining eight years. The project will include 160 apartment units including five townhomes, structured parking, a corner restaurant, and 230 parking stalls.

Mr. Gilmour said the Fargo Tax Exempt Review Committee approved the application. The project is for PILOT financing in an amount in excess of \$3.06 million on a present value basis for completion.

Mr. Allmendinger was present to discuss the project, which will be constructed on the former Nestor site and current Park Company property and will be built in two phases.

Mr. Bennett believes the property tax incentive projects discussed today are good investments for governments and will promote the vitality of downtown Fargo.

***MOTION, passed***

Mr. Peterson moved and Mr. Steen seconded to not participate in the request for a payment in lieu of taxes (PILOT) incentive for a downtown mixed-use project submitted by Great Plains 1001 Holdings, LLC for a fifteen-year period, and to negotiate the terms of the property tax incentive with the city as described in N.D.C.C. Chapter 40-05-24. On roll call vote, the motion carried with Mr. Peterson, Mr. Steen and Mrs. Scherling voting “Yes”; and Mr. Breitling and Mr. Bennett voting “No”.

Mr. Steen asked about the timing involved to negotiate with the city. Mr. Gilmour said the Fargo City Commission will consider the property tax incentives at their meeting on July 15<sup>th</sup>.

**15. FARGO TAX INCENTIVE DFI KESLER, LLC, Additional information needed; county to not participate and negotiate with Fargo**

The Fargo City Assessor forwarded information to the Cass County Commission regarding an application received from DFI Kesler, LLC, for a payment in lieu of taxes (PILOT) for a six-story mixed use downtown project located at located at 624 2<sup>nd</sup> Avenue North, 617 and 621 1<sup>st</sup> Avenue North in Fargo. The application is for a fifteen-year period with a 100% exemption on the value of the improvement for the first five years followed by ten years of 64% exemption. The project will include five floors with 95 market rate apartments, ground floor retail space, and structured parking.

Mr. Gilmour said the Fargo Tax Exempt Review Committee did not approve this project as the terms are still being negotiated. He said the city is not providing a recommendation today.

The county still needs to act on the request in some manner given the 30 days from when the application was submitted in which to respond to the city on this project.

***MOTION, passed***

**Mr. Peterson moved and Mr. Steen seconded to not participate in the request for a payment in lieu of taxes (PILOT) incentive for a downtown mixed-use project submitted by DFI Kesler, LLC for a fifteen-year period, and to negotiate the terms of the property tax incentive with the city as described in N.D.C.C. Chapter 40-05-24. On roll call vote, the motion carried with Mr. Peterson, Mr. Steen and Mrs. Scherling voting "Yes"; and Mr. Breitling and Mr. Bennett voting "No".**

**16. LIVERY SERVICE FOR COUNTY CORONER**

Robert Wilson, County Administrator, said there has been discussion over the past several months with Dr. John Baird, County Coroner, for the county to create a livery service for removal and transport of deceased persons from the scene of their deaths. Area funeral homes have provided this service and have passed the cost on to families of the deceased. The number of unattended deaths is on the rise and as a result, the number of calls to funeral homes to assist with removals has increased. A meeting was held with FM Ambulance to discuss whether they would be willing to act as a livery service for Cass County. The county would benefit because the ambulance service has staff and equipment available 24 hours a day.

Dr. Baird has written a letter to funeral directors regarding this proposal, which will have cost implications for Cass County.

Kriste Ross, Deputy County Coroner, said FM Ambulance is willing to provide the service at \$300 per removal with the funeral homes being asked to reimburse \$150 of the cost. Bodies will be removed from the scene by the ambulance service and transported to the Cass County morgue until the funeral home retrieves the decedent.

A contract with FM Ambulance is in the process of being drafted and will be submitted for commission consideration at a later date. Mr. Wilson said no action is needed today.

**17. VOUCHERS, Approved**

***MOTION, passed***

**Mr. Bennett moved and Mr. Peterson seconded to approve Voucher No. 314,603 through Voucher No. 314,783 and Electronic Payments 4848 through 5003 for a total of \$2,821,601.33. On roll call vote, the motion carried unanimously.**

**18. FARGO PROPERTY TAX INCENTIVE NEGOTIATIONS; STRATEGIC PLAN DRAFT; MEETING UPDATES, Committee reports**

Mr. Steen asked to discuss the process needed to work with the City of Fargo to negotiate the terms of the PILOT projects not approved today. There was discussion on the length of the PILOT that the board would be agreeable to provide during negotiations with the city.

***MOTION, passed***

**Mr. Breitling moved and Mr. Peterson seconded to authorize Robert Wilson and Rick Steen to negotiate with the City of Fargo on the tax incentive projects not approved today, and include in the letter that will be sent to Fargo that the county is willing to participate for a seven-year period as proposed on the two Great Plains PILOT requests. On roll call vote, the motion carried unanimously.**

Mr. Wilson received the rough draft of the strategic plan today from Jason Matthews of JM Strategies. He will forward it to the board for their review before final approval at a future meeting.