

## Equalization Department

Box 2806  
211 Ninth Street South  
Fargo, ND 58103

Telephone: 701-241-5616  
Fax: 701-241-5729  
[assessor@casscountynd.gov](mailto:assessor@casscountynd.gov)

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### MEMO

To: Cass County Commission

From: Paul Fracassi, Director of Equalization

Date: December 26<sup>th</sup>, 2019

Subject: Korber Medipak Systems – Application for Property Tax Exemption

RECEIVED  
CASS COUNTY COMMISSION

DEC 30 2019

Dear Commissioners,

Today's agenda includes a request for a five-year property tax exemption at 100% of the improvement value for each of the five years. This request is known as a New Business Exemption and is only eligible when applied *prior* to commencement. When an application is received *after commencement*, the only available tax incentive is through a PILOT or Payment in Lieu of Taxes. I have spoke with the applicant and they are aware that the exemption is no longer an option.

I've included a payment schedule which mimics historic incentives approved under the county policy to serve as a starting point for any negotiations. Since the applicant is only asking for five years, please only observe the portion highlighted in green.

The updated 2018 County Tax Incentive Policy requires that a point system is utilized as a guide in evaluation primary sector projects. The policy recommends 100 points before approval. Korber Medipak received 21.3 points after a 100-point reduction for filing after construction.

The recommendation is for denial based on the point system, however, the point system is only used as a tool to quantify certain criteria and is not the final determining factor regarding eligibility for incentives.

Sincerely,

*Paul Fracassi*

Paul Fracassi  
Director of Equalization

<b>Korber Medipak Systems NA Inc.</b>	
<b>Parcel Number</b>	64-0000-03060-001
<b>Address</b>	3301 124th Ave S
<b>Date Application Received</b>	10/14/2019
<b>1st Publication Date</b>	12/2/2019
<b>2nd Publication Date</b>	12/9/2019
<b>Commission Hearing Date</b>	1/6/2020
<b>Exemption Type</b>	PILOT
<b>Estimated Improvements Value</b>	\$3,180,000
<b>Anticipated Tax Growth</b>	2.0%
<b>Current Mill Levy</b>	239.95
<b>Number of Years Granted</b>	7
<b>Total Gross Estimated Benefit</b>	\$233,474

*Project fits Category B of County PILOT Plan*

	%	Payment	Pot. Taxes Due	Benefit	
<b>2020</b>	100%	\$0	\$38,152	\$38,152	1
<b>2021</b>	90%	\$3,892	\$38,915	\$35,024	2
<b>2022</b>	90%	\$3,969	\$39,693	\$35,724	3
<b>2023</b>	90%	\$4,049	\$40,487	\$36,439	4
<b>2024</b>	90%	\$4,130	\$41,297	\$37,167	5
<b>2025</b>	70%	\$12,637	\$42,123	\$29,486	6
<b>2026</b>	50%	\$21,483	\$42,965	\$21,483	7
<b>2027</b>	0%	\$43,825	\$43,825	\$0	8
<b>TOTALS</b>		\$93,984	\$327,458	\$233,474	

\* Application asked for 5 years of exemption

SUBJECT: TAX INCENTIVE POLICY

ADOPTED DATE: JANUARY 2, 2018

PAGE 3 OF 5

<b>New Business Incentive Calculator</b>				<b>21.3</b>
Korber Medipak Systems				Points
Project Type Code (Ctrl.C to view)			1	38.0
Current Number Of Employees			108	
Hourly Salary Without Benefits	# Jobs			
Under \$13.00	0			
\$13.01-\$15.00	0			
\$15.01-\$20.00	3			
\$20.01-\$28.00	23	Pts. For # Jobs->	15.0	
\$28.01-\$35.00	4	Pts. For \$ Jobs->	30.8	
Over \$35.00	1			
<b>TOTAL # OF JOBS CREATED</b>			<b>31</b>	
% Gl w/ Local Competition			0%	25.0
Value of Proposed Buildings			\$ 3,180,000	12.5
Exemption Needed (Y/N)			N	
Startup Firm (Y/N)			N	0.0
Has Const Started or Has Bldg Been Occupied If Existing (Y/N)			Y	-100.0
Number of Years (Exemption)			5	
Building Age (if substantial renovation)			0	0.0
<b>RECOMMENDATION IS TO DENY</b>				

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.

A total of 100 points is required for recommended approval under the point system. The 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+

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SUBJECT: TAX INCENTIVE POLICY

ADOPTED DATE: JANUARY 2, 2018

PAGE 4 OF 5

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**Points Hourly Salary w/o Benefits**

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

**Local Competition:**

**Points % of Gross Income with Any Local Competition**

+25 0% - 10%
+15 11% - 30%
+0 31% - 50%
-25 Over 50%

**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



April 9, 2018

Traci Jacobson  
Korber Medipak Systems NA Inc  
969 34th Street N  
Fargo ND 58102

Dear Traci:

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, **Korber Medipak Systems NA Inc**, 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 4/9/2022).

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 Leigh Ann Huchter at (701) 328-5336.

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 that reads "John F. Schneider".

John F. Schneider  
Director, ED&F Division

**NOTICE TO COMPETITORS OF HEARING  
ON APPLICATION FOR PROPERTY TAX INCENTIVES**

Notice is hereby given that the County Commission of Cass County, North Dakota will meet at 3:30 p.m. on Monday, January 6, 2020, in the Commission Room, Cass County Courthouse, 211 9<sup>th</sup> Street South, Fargo, North Dakota, to consider the application of Korber Medipak Systems NA, Inc., for property tax relief on a project which the applicant will expand the business for its machining department and additional office space for future growth located in Auditor's Lot 1 of the S ½ of the SE ¼ of Section 35, Township 138N, Range 49W of Fifth Principal Meridian in Cass County.

Any competitor of that applicant may appear and be heard by the Cass County Commission 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 Section 40-57.1-03.

PUBLISH: December 2 and December 9, 2019  
(Legal Advertising)

Client:

**CASS COUNTY AUDITOR**

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Page 1 of 1

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(December 2 & 9, 2019) 2810433

**Application For Property Tax Incentives For  
New or Expanding Businesses**

RECEIVED  
CASS COUNTY COMMISSION

**NOV 26 2019**

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

Project Operator's Application To Cass County  
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>Korber Medipak Systems NA Inc.</u>
2.	Address of project	<u>3301 124th Ave South</u>
	City	<u>Horace</u>
	County	<u>ND</u>
3.	Mailing address of project operator	<u>969 34th Street North</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 checked="" 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>54-1726108</u>
6.	North Dakota Sales and Use Tax Permit No.	<u>329099 00</u>
7.	If a corporation, specify the state and date of incorporation	<u>Delaware, March 31st 1994</u>
8.	Name and title of individual to contact	<u>Traci Jacobson, Controller</u>
	Mailing address	<u>969 34th Street North</u>
	City, State, Zip	<u>Fargo, ND, 58102</u>
	Phone No.	<u>701 367 9639</u>

**Project Operator's Application For Tax Incentives**

9.	Indicate the tax incentives applied for and terms. Be specific.	
	<input checked="" type="checkbox"/> <b>Property Tax Exemption</b>	<input type="checkbox"/> <b>Payments In Lieu of Taxes</b>
	<u>5</u> Number of years	<u>          </u> Beginning year <u>          </u> Ending year
	<u>100</u> Percent of exemption	<u>          </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 type="checkbox"/> New business project	<input checked="" type="checkbox"/> Expansion of an existing business project



**Description of Project Property**

11. Legal description of project real property

Auditor's Lot No. 1 of the S 1/2 SE 1/4 of Section 35, in Township 138N, Range 49W of Fifth Principal Meridian situated in the County of Cass and the State of North Dakota

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 08/15/2019

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

The property will include roughly 25000 SQF of Industrial Space, 13000 SQF of Office space and a wide parking lot. ~~The building will be used for KMNSA's Machining department. 10+ CNC and other production equipment are being moved to the new facility and the free space at current location will be used to increase Assembly dept.~~ The building will allow for additional pod buildings for future growth of the company.

c. Projected number of construction employees during the project construction \_\_\_\_\_

14. Approximate date of commencement of this project's operations 12/15/2019

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

a. Land..... \$ 80,000


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

c. Newly constructed buildings and structures when completed ..... \$ 3,180,000

d. Total..... \$ 3,260,000

e. Machinery and equipment ..... \$ 1,600,000

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) ..... \$ \_\_\_\_\_

**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).

Korber Medipak Systems provides engineering, manufacturing and field service work for its' customers (manufacturers and contract packagers) in the medical device and pharmaceutical industries. KMSNA designs automated material handling and packaging machinery and customizes it to meet the customer's specifications. The design parts are machined out via CNC machining centers and assembled along with purchased components. Due to strong demand and growth the company expands by moving the machining center to the new location which is increasing the production footprint by 50% vs. today's situation.

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

CNC Machining Centers, Kardex Verical Storage systems, Waterjet Metal Cutting Machine, Forklift, Air compressors

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	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only
	Year 1	Year 2	Year 3	Year 4	Year 5
Annual revenue	<u>5,200,000</u>	<u>8,500,000</u>	<u>11,500,000</u>	<u>11,900,000</u>	<u>12,400,000</u>
Annual expense	<u>-4,800,000</u>	<u>-7,800,000</u>	<u>-10,300,000</u>	<u>-10,600,000</u>	<u>-10,900,000</u>
Net income	<u>400,000</u>	<u>700,000</u>	<u>1,200,000</u>	<u>1,300,000</u>	<u>1,500,000</u>

21. Projected annual average number of persons to be employed by the project itself at the project location for each year for the first five years and the estimated annual payroll.

Year	Company-wide (before project)	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only
		Year 1	Year 2	Year 3	Year 4	Year 5
No. of Employees	(1) <u>98</u>	<u>126</u>	<u>141</u>	<u>150</u>	<u>151</u>	<u>152</u>
	(2) <u>10</u>	<u>13</u>	<u>13</u>	<u>13</u>	<u>13</u>	<u>13</u>
Estimated payroll	(1) <u>9,000k</u>	<u>10,650</u>	<u>12,150k</u>	<u>13,200k</u>	<u>13,550k</u>	<u>13,900k</u>
	(2) <u>250k</u>	<u>325k</u>	<u>325k</u>	<u>325k</u>	<u>325k</u>	<u>325k</u>

(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).  
5 year property tax exemptions at 969 34th Street N 2002-2006, 2011-2015, 2018-2022

**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  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**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, Gabriele Graf, 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.

_____	CFO	10/14/2019
Signature	Title	Date

**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



# NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

## GUIDELINE - PROPERTY TAX: INCENTIVES FOR NEW OR EXPANDING BUSINESSES

DECEMBER 2017

North Dakota Century Code ch. 40-57.1 provides incentives in the form of property tax exemptions, payments in lieu of taxes, or a combination of both to a qualifying business. The incentives are granted at the discretion of the city or county in which the property is located.

Before a municipality may grant a property tax exemption under N.D.C.C. § 40-57.1-03, the project must be certified as a primary sector business by the Commerce Department.

A city or county with fewer than 40,000 population may grant an exemption to a project operating in the retail sector if the governing body has obtained approval from a majority of the qualified electors voting on the question at a city or county election held in conjunction with a statewide general election and if that governing body has established by resolution or ordinance the criteria that will be applied by the governing body to determine whether it is appropriate to grant an exemption for a project operating in the retail sector. Minimum criteria are specified in N.D.C.C. § 40-57.1-03(1). A city or county may not supersede or expand the provisions of this section under home rule authority.

- \* Before a city grants a property tax incentive on a parcel that is anticipated to receive a property tax incentive for more than five years, the governing body of the city is required to send a letter, by certified mail, to the chairman of each county commission and the president of each school district affected by the tax incentive. The letter must provide terms of the proposed property tax incentive.
- \* Within 30 days of receipt of the notice, each affected county and school district must notify the city, in writing, whether it elects to participate in granting the tax incentive on the county or school district portion of the property tax. If no letter is received, the city must treat each county or school district as participating in the property tax incentive.

### DEFINITIONS

1. Commencement of construction means the building or erecting of any improvements other than site preparation or excavation.
2. Commencement of project operation means "the date the plant actually goes into its planned operations. To use the example..., if a manufacturing plant actually begins manufacturing of its products in December, 1970, that would be the date of commencement of project operations. The Act does not purport to authorize granting of tax exemptions for the time of construction of plants." 1969 N.D. Op. Att'y Gen. 415.
3. Local Development Corporation means a profit or nonprofit corporation incorporated in this state for the purpose of furthering the economic development of a specified community or area.

4. Municipality means a city or a county.
5. Primary sector means a business that adds value to a product, process, or service that results in the creation of new wealth. New wealth means revenues to a North Dakota business generated by sales of products or services to customers outside North Dakota, or revenues to a North Dakota business from sales in North Dakota, if the product or service was previously unavailable or of limited availability.
6. Project means any new revenue-producing business or an expansion to an existing business.
7. Project operator means the individual, partnership, limited liability company (LLC), corporation, or association that owns or operates the project.
8. Statewide general election, as provided in N.D.C.C. § 16.1-13-01, means the general election held on the first Tuesday after the first Monday in November of each even-numbered year.
9. Structure means any property where a business is conducted. The structure might be an entire building, if occupied by one business, or individual quarters within a larger building.

## WHAT QUALIFIES

10. New and existing buildings, structures, and improvements owned or leased by a qualifying project may receive property tax incentives.
11. New buildings, structures, and improvements constructed and owned by a local development corporation may receive a partial or complete exemption from ad valorem taxation while unoccupied. Once occupied, the exemption continues until the next assessment date following the first occupancy. A qualifying project that locates in a building owned by a local development corporation qualifies for the property tax incentives, provided application is made and granted prior to occupancy.

## ALLOWABLE INCENTIVES

12. A qualifying project may receive a complete or partial exemption from ad valorem taxation on structures used in or necessary to the operation of a project for up to five years following the commencement of project operations.
13. The exemption period begins with the assessment date immediately following the date of commencement of project operations.
14. Projects that produce or manufacture a product from agricultural commodities may receive a complete or partial property tax exemption on structures for up to ten years.
15. A project located in a structure leased from a governmental entity and which received a five-year property tax exemption qualifies for additional exemptions for up to five years. For the additional exemptions, the municipality grants the exemption one year at a time upon annual application.
16. Payments in lieu of taxes may be used in place of, or in combination with, property tax exemptions for qualifying projects. The municipality and project operator negotiate the amount of annual payments, when the payments begin, and the ending date, which may be no later than twenty years from the date project operations began.

17. Payments in lieu of taxes are apportioned in the same manner as the general real estate taxes unless a taxing district enters into a written agreement for an alternate method. Any agreement entered into between the municipality and other taxing districts for an alternate method of apportioning the payments in lieu of taxes may not affect the apportionment to any taxing district that is not a party to the agreement.
18. The tax incentives are valid as long as the property is used for the purposes stated in the application. If there is a change in use or project operator, a new application for the incentives must be filed with and approved by the municipality to receive the remainder of the incentives.

## LIMITATIONS

19. A project is not eligible for the property tax incentives if the project received a tax exemption under tax increment financing.
20. The tax exemption and the payments in lieu of taxes are limited to the new or existing buildings or structures used in the qualifying project.
21. Tax incentives may not be granted for land.
22. Payments in lieu of taxes are not eligible for the 5% discount for early payment.

## PROCEDURES

23. The project operator applies to the governing body of the municipality where the potential project is to be located. If the project will be within city limits, the project operator applies to the city governing body. If the project is outside city limits, application is made to the county commission.
24. The municipality forwards the application to the Department of Commerce, Division of Economic Development and Finance, P.O. Box 2057, Bismarck, ND 58502-2057, for its review and recommendation as to the eligibility of the project as a primary sector business.
25. Application for the property tax exemption must be made *and* granted prior to the commencement of construction if the project locates in a new structure. If the project locates in an existing structure, application must be made *and* granted before the structure is occupied.

For qualifying projects, applications for payments in lieu of property taxes may be made after construction or occupancy of the structure.

A representative appointed by the board of each affected school district and of each affected township is included as a non-voting member during the negotiation and deliberation of granting tax incentives.

26. The project operator publishes two notices to competitors of hearing on the application. The notices are published in the official newspaper of the city or county at least one week apart. The last notice must be published at least 15 days, but not more than 30 days, before the city or county considers the application. For example, notices published one week apart on May 1 and May 8 would be appropriate for a hearing scheduled any time between May 23 and June 7. An affidavit of publication is presented to the governing body prior to the hearing as proof of publication. Publication of notices is not required if the municipality determines that project competitors do not exist in the municipality.
27. The city or county holds a public hearing on the application and takes testimony both in favor of and in opposition to the granting of the tax incentives.

28. After the public hearing, the governing body determines the best interests of the municipality and approves or denies, in whole or in part, the application for tax incentives.
29. The municipality certifies the tax incentives granted by submitting a copy of the project operator's application with the attachments to the State Tax Commissioner and county director of tax equalization. The county director of tax equalization advises the local assessor when the property is taxable or exempt.
30. Political subdivision grantors shall maintain records of business incentives provided to recipients. They shall prepare an annual political subdivision grantor report to the Department of Commerce before April 1 each year that includes:
  - The name of the business receiving business incentives during that year;
  - The number of jobs expected to be created or retained by each business as a result of the business incentives;
  - The average compensation expected to be provided by the employer for the jobs expected to be created or retained as a result of the business incentives, including identification of the average benefits and average earnings to be provided by the employer for these jobs; and
  - The total dollar value of all business incentives provided by the political subdivision during that year.

## ADDITIONAL CONDITIONS

North Dakota Century Code § 40-57.1-03 provides that the governing body of a municipality, before the beginning of a taxable year for which a property tax exemption or the option to make payments in lieu of taxes has previously been approved by the governing body, may revoke or reduce an exemption, or revoke or increase payments in lieu of taxes for that taxable year for reasons specified in a negotiated agreement or if the governing body finds that:

- a. Information provided by the project operator has proven to be inaccurate or untrue;
- b. Use of the property by the project operator does not comply with the reasonable expectations of the governing body at the time the property tax exemption or the option to make payments in lieu of taxes was approved;
- c. The property has been improved to a substantially greater extent than the governing body reasonably anticipated at the time the property tax exemption or the option to make payments in lieu of taxes was approved; or
- d. There has been a change of ownership of the property since the property tax exemption or the option to make payments in lieu of taxes was approved.

\* Indicates significant change since last revised.



**South Campus Project and 5-Years-Perspective**

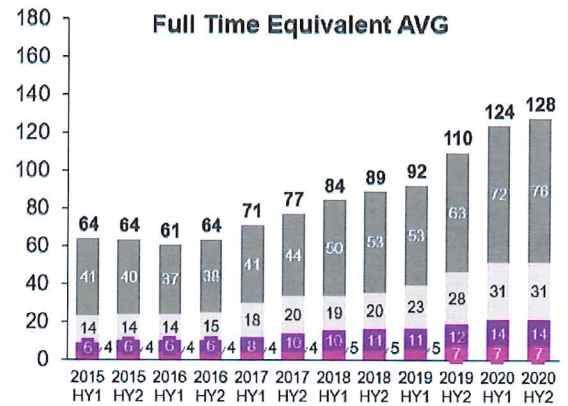
In 2017 Korber AG, headquartered in Hamburg, Germany, acquired Fargo Automation Inc. under their Business Area Pharma Systems and its subsidiary, Korber Medipak Systems NA Inc. (KMSNA). The international business exposure has brought numerous associates from around the world to Fargo, having a positive economic impact regarding the local airport, hotels, food and entertainment. We not only have seen an increase in North America sales from outside the state of ND, but by large a much bigger increase in International sales.

In early 2019 KMSNA has received the biggest single order in its history. It consists of 4 packaging lines to be delivered over the course of 2 years. In sum the order makes up for nearly one year worth of production output. Combined with an overall very pleasant order intake situation following the acquisition of Fargo Automation by Korber Medipak Systems this led to the immediate need for an expansion of production space. Due to the tight timeline it was decided to move forward fast with an earlier drafted project to setup a modern plant on 124<sup>th</sup> Street South – the “South Campus”. Given the short timelines it was decided to focus on building the space urgently needed to satisfy our customers’ needs. Therefore construction of only the first of up to 8 “pods” of the new building was started in spring 2019. The machining department will be moved into the new building. Doing so it gains roughly 20% more footprint and the freed up shop floor space in the current building can be assigned to assembly which therefore will roughly double its footprint.

This new facility, regarding which we are applying for a property tax exemption, represents the first step of our mid-term growth strategy in Fargo. We assume that we will grow out the additional space as early as in 2022 and therefore assume the next expansion to take place latest in that year. The growth numbers disclosed on the application form there show a significant slowdown in growth after 2022, as the current project will not allow to grow any bigger than what is stated. The common idea is to build up enough space at the new address to move the whole company to the new building once the capacities provided by the current setup are fully used up. This will also eliminate temporary inefficiencies caused by the split setup we will see in 2020 and 2021 alike. By 2025 our strategy foresees to have more than doubled our production capacity as compared to the current situation.



*Visualization of the project at five pods (out of 8 possible pods) the first one to be build is highlighted.*



*Historical and planned development of Employee numbers (full time)*

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SUBJECT: TAX INCENTIVE POLICY

ADOPTED DATE: JANUARY 2, 2018

PAGE 1 OF 5

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This policy sets forth the criteria under which the Cass County Board of Commissioners may grant tax exemptions for new or expanding businesses, whether commercial, industrial or service. The Cass County Board of Commissioners states that its purpose in adopting this policy is to sanction, authorize, and encourage activities in the public interest and for the welfare of the State of North Dakota, its political subdivisions, and the people by assisting in the establishment of additional industrial plants, the expansion and retention of existing business, and promotion of economic activities within the State, and thereby increasing production of wealth, and adding to the volume of employment. This policy is a business expansion and jobs creation policy and applies to new and existing businesses as well as new or existing buildings. This tax incentive policy shall apply only to businesses that locate in Cass County, outside of any incorporated city.

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, at the commission's discretion, evaluated on a case by case basis. 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) again at the commission's discretion. The amount of those payments would be determined through negotiations with the County and the project operator.

The following guidelines are recommended:

Cass County will use as a guide the general review criteria below in evaluating the applications for assistance. Each incentive option will be administered according to the appropriate state law in conjunction with the specific policy or guideline adopted by the Cass County Commission.

- 1) A \$100.00 non-refundable fee is required to begin the application process. In addition, the project operator shall publish two notices, the form of which shall be prescribed by the State Board of Equalization. This notice to competitors of such an application for tax exemption shall be published in the official newspaper at least one week apart and not less than 15, nor more than 30 days, before the Board of Commissioners is scheduled to consider such application.
- 2) A new business to the community must not gain unfair advantage with existing competitors using the exemption. The "unfair advantage" argument must be made by a competitive business, in writing, to the Board of Commissioners within 15 days after publication of the official notice.
- 3) An existing business is eligible for tax exemption if expansion of the business includes new jobs and a minimum 20% increase in taxable property value, limited to the assessed valuation of the expansion. Property tax liability on existing buildings are not eligible for the exemption.
- 4) Warehousing and retail projects would not receive exemptions unless the owner could prove need or provide other information to justify granting the exemption.
- 5) Growth projections in the community must be verifiable through either the County Assessor or County Auditor's Office.

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SUBJECT: TAX INCENTIVE POLICY

ADOPTED DATE: JANUARY 2, 2018

PAGE 2 OF 5

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Economic Impact to the County

The economic impact to the County 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 county.

Diversification and Growth of the Economic Base

The County is concerned about attracting and retaining companies that provide diversification from the existing industrial base to bring about a more stable economic environment in the county.

Number and Type of Jobs to be Created

The County 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.

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 County will also be interested in the company's history of growth, potential for future growth, and the general outlook for growth of the industry.

If requested by the County, the developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to: assessment agreements, letters of credit, cash escrows, and personal guaranties. If requested by the County, or its consultants, the developer shall provide sufficient financial, environmental, or other data relative to the successful operation of the project.

Kinds of Businesses Targeted for Possible Incentives

The County will typically assist primary sector businesses. Primary sector businesses are those in which at least 70% of the revenues generated by the product or service, they provide come from outside the Fargo trade area (150-mile radius). The 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 North Dakota Department of Commerce and submit that information along with the incentive application. 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 County is sensitive to concerns of providing assistance if jobs are simply being relocated within the Fargo Trade Area.

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SUBJECT: TAX INCENTIVE POLICY

ADOPTED DATE: JANUARY 2, 2018

PAGE 3 OF 5

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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.

A total of 100 points is required for recommended approval under the point system. The 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+

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SUBJECT: TAX INCENTIVE POLICY

ADOPTED DATE: JANUARY 2, 2018

PAGE 4 OF 5

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**Points Hourly Salary w/o Benefits**

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

**Local Competition:**

**Points % of Gross Income with Any Local Competition**

+25 0% - 10%
+15 11% - 30%
+0 31% - 50%
-25 Over 50%

**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
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**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

Incentive Agreement and Reporting Requirements

Each company receiving a business incentive shall be subject to a business incentive agreement with the County as well as the State of ND and reporting provisions and requirements set forth by the ND Century Code and summarized below:

1) Progress Reports

The recipient shall file a report annually for two years after receiving the incentive or until all goals set forth in the incentive agreement have been met, whichever is later. Reports shall be completed using the format drafted by the State of ND and shall be filed with the County no later than March 1 of each year for the progress made the previous year.

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SUBJECT: TAX INCENTIVE POLICY

ADOPTED DATE: JANUARY 2, 2018

PAGE 5 OF 5

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- 2) Maintain Facility  
The recipient agrees to maintain and operate its facility at the site where the incentive is used for a period of five years after the date the incentive is provided.
  
- 3) Failure to Comply  
Business failing to comply with the incentive program will be subject to fines and repayment requirements and will be deemed ineligible to receive any future incentives for a period of five years.

Incentive Application Process and Procedure

Application for business incentives must be made on forms provided by the County and include the \$100.00 non-refundable fee. Following a review and evaluation by appropriate County Staff and/or County's consultant, (GFMEDC), the application shall be referred to the Cass County Commission for further action.

The application packet shall include: a detailed description of the project, preliminary site plan, the incentive amount requested, public purpose of the project, number and type of jobs to be created, wages and benefits, verifiable funding sources and uses, projected project financial statements.

Applicants must complete and submit a property tax clearance record which can be obtained from the state tax office. The purpose of this document is to show the applicant is current on existing property tax liabilities.

In those cases, where an application for tax exemption involves new construction, 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. If, however, the business submits information prior to the exemption lapsing outlining circumstances which necessitate a longer construction schedule, the County Commission can vote to extend the construction period.

If an exemption has been granted and the project operator wishes to locate the operation in another facility, the exemption may be transferred to the new building if the value of the new building is no more than 15% higher than that of the building for which the exemption was originally granted or if the capital investment in the project does not increase by more than 20%. If the new building is more than 15% greater in estimated value or the capital investment in the project increases by more than 20%, the County Commission will reconsider the exemption.

HISTORICAL REFERENCE DATE: JUNE 5, 1995  
AUGUST 3, 1998  
FEBRUARY 21, 2006  
JANUARY 2, 2018

NO. \_\_\_\_\_

DATE \_\_\_\_\_

SCALE \_\_\_\_\_

Project: \_\_\_\_\_  
 Location: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Scale: \_\_\_\_\_

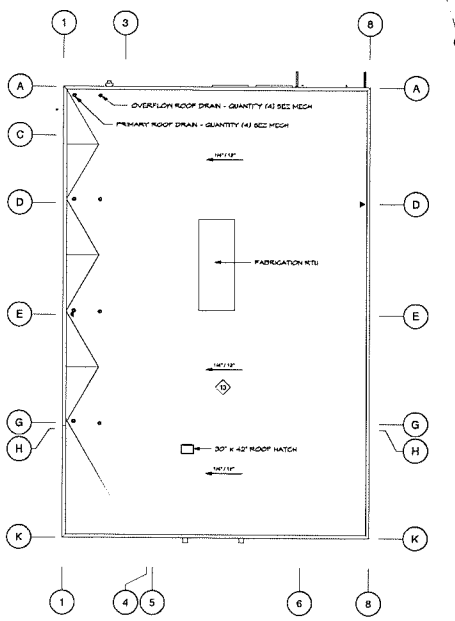
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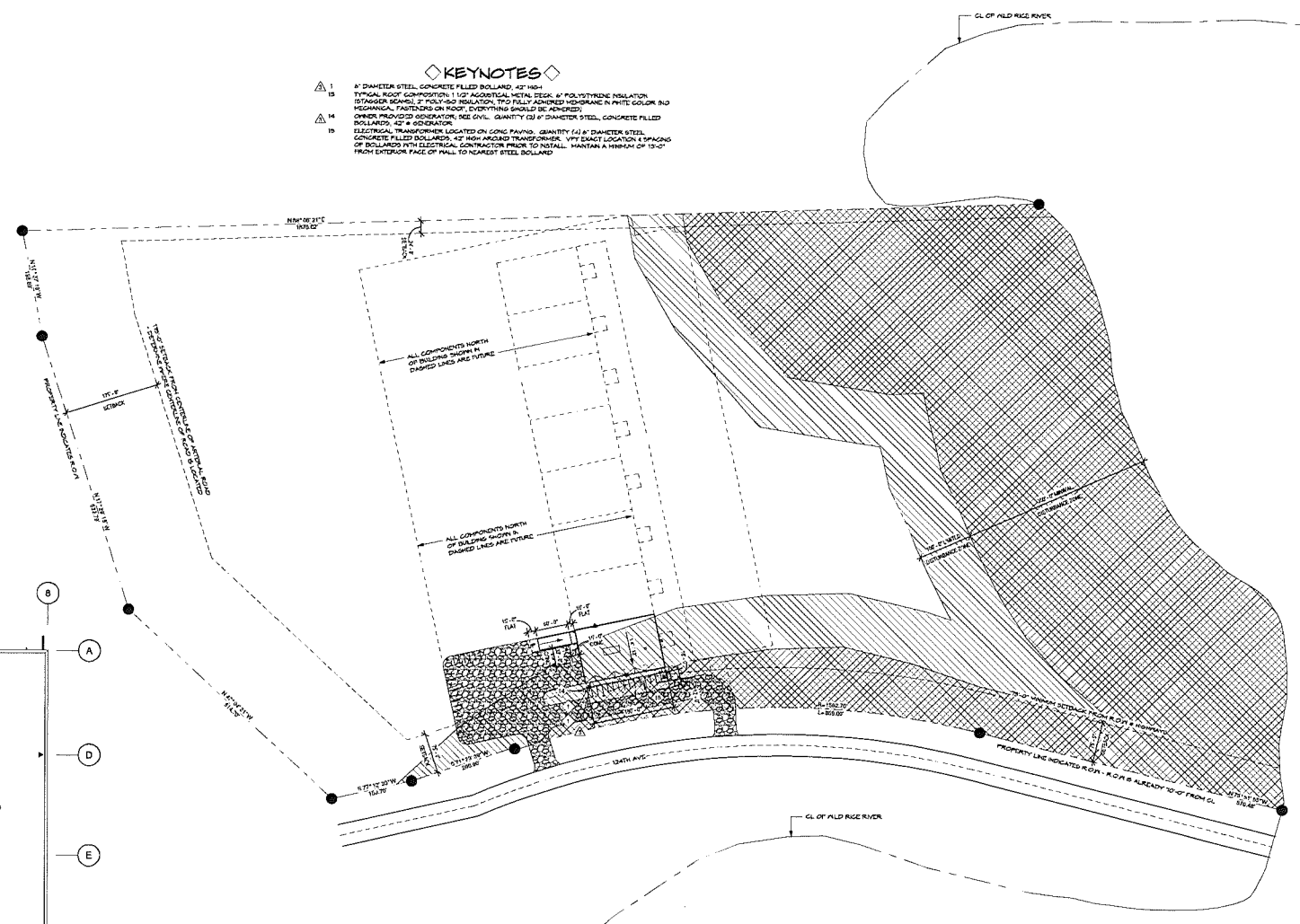
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**KEYNOTES**

- 1 8" DIAMETER STEEL, CONCRETE FILLED BOLLARD, 42" HIGH
- 2 TYPICAL ROOF COMPOSITION: 1 1/2" AGGREGATE, METAL DECK, 1/2" POLYSTYRENE INSULATION, 1/2" RANGER BEAMS, 2" POLY-ISO INSULATION, 1/2" POLY-ADHESIVE MEMBRANE, 1/4" WHITE GROUT, RIG MECHANICAL FASTENERS ON ROOF. EVERYTHING SHOULD BE ANCHORED
- 3 OWNER PROVIDED GENERATOR, SEE CIVIL. QUANTITY (3) 8" DIAMETER STEEL, CONCRETE FILLED BOLLARDS, 42" HIGH
- 4 ELECTRICAL TRANSFORMER LOCATED ON CONC PAVING. QUANTITY (4) 8" DIAMETER STEEL, CONCRETE FILLED BOLLARDS, 42" HIGH AROUND TRANSFORMER. VERIFY EXACT LOCATION & SPACING OF BOLLARDS WITH ELECTRICAL CONTRACTOR PRIOR TO INSTALL. MAINTAIN A MINIMUM OF 10'-0" FROM EXTERIOR FACE OF WALL TO NEAREST STEEL BOLLARD



**2 ROOF PLAN**  
SCALE: 1/8" = 1'-0"



**1 SITE PLAN**  
SCALE: 1/8" = 1'-0"

**CHAPTER 40-57.1**  
**TAX EXEMPTIONS FOR NEW AND EXPANDING BUSINESSES**

**40-57.1-01. Declaration and finding of public purpose.**

The legislative assembly declares and finds that it is and has been its purpose in preparing and adopting the provisions of this chapter to sanction, authorize, and encourage activities in the public interest and for the welfare of the state, its subdivisions, and people by assisting in the establishment of additional industrial plants, the expansion and retention of existing business, and promotion of economic activities within the state and thereby increasing production of wealth and adding to the volume of employment, particularly during those seasons when employment in farming and ranching is slack, thus alleviating unemployment among the people of the state.

It is the intent of the legislative assembly that political subdivisions and the state board of equalization in their determination of whether the tax exemptions authorized by this chapter shall be granted shall give due weight to their impact and effect upon existing industry and business to the end that an unfair advantage shall not be given to new or expanded enterprises which is to the substantial detriment of existing enterprises.

**40-57.1-02. Definitions.**

As used in this chapter, unless a different meaning clearly appears from the context:

1. "Local development organization", as used in section 40-57.1-04.3, means a profit or nonprofit corporation incorporated under the laws of this state or a limited liability company organized under the laws of this state, formed for the purpose of furthering the economic development of its community and environs, with authority to promote and assist the growth and development of business concerns in the areas covered by its operations. The operations of the corporation or limited liability company must be limited to a specified area in this state. The controlling interest in the corporation or limited liability company must be held by at least twenty-five persons residing or doing business in the community or its environs. These persons must control not less than seventy-five percent of the voting control of the corporation or limited liability company. No shareholder or member of the corporation or limited liability company may own in excess of twenty-five percent of the voting control in the corporation or limited liability company if that shareholder or member has a direct pecuniary interest in any project or business concern which will occupy the property of the corporation or limited liability company. The primary objective of the corporation or limited liability company must be to benefit the community through increased employment, payroll, business volume, and corresponding factors rather than monetary profits to its shareholders or members. Any monetary profits or other benefits going to the shareholders or members must be merely incidental to the primary objective of the corporation or limited liability company.
2. "Municipality" means counties as well as municipalities of the types listed in subsection 4 of section 40-01-01.
3. "Primary sector business" has the meaning provided in section 1-01-49.
4. "Project" means any revenue-producing enterprise, or any combination of two or more of these enterprises. For the purpose of the income tax exemption, "project" means both "primary sector business" and "tourism" as defined by this section and includes the establishment of a new qualifying business or the expansion of a qualifying existing business.
5. "Tourism" means all tourism-related businesses and activities, including recreation, historical and cultural events, guide services, and unique lodging and food services which serve as destination attractions.



**40-57.1-03. Municipality's authority to grant or revoke tax exemption or payments in lieu of taxes - Notice to competitors - Limitations.**

1. After negotiation with a potential project operator, a municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations. A municipality may also grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities for all or part of the sixth year through the tenth year from the date of commencement of project operations. Before a municipality may grant a partial or complete exemption from ad valorem taxation under this section:
  - a. The governing body of the municipality must have received the certification of the department of commerce division of economic development and finance that the project is a primary sector business, as defined in subsection 3 of section 40-57.1-02; or
  - b. The city council or commission, if the project is proposed to be located within the boundaries of a city of fewer than forty thousand population, or the board of county commissioners, of a county of fewer than forty thousand population and if the project is proposed to be located in the county but outside the corporate limits of any city, may grant a partial or complete exemption from ad valorem taxation for a project operating in the retail sector if that governing body has obtained the approval of exemption of property under this subdivision from a majority of the qualified electors of the city or county voting on the question at a city or county election held in conjunction with a statewide general election and if that governing body has established by resolution or ordinance the criteria that will be applied by the governing body to determine whether it is appropriate to grant a partial or complete exemption from ad valorem taxation under this section for a project operating in the retail sector. The ballot for elector approval of exemption of property under this subdivision must present the question at the election for a yes or no vote on the question:

Shall the governing body of [name of county or city] be empowered to grant property tax exemptions upon application of new or expanding retail sector businesses?

Only a governing body of a city or county that meets the requirements of this subdivision may grant a partial or complete exemption from ad valorem taxation under this section for a project operating in the retail sector. Criteria established by the governing body under this subdivision, at a minimum, must be intended to require:
    - (1) Evaluation of the potential positive or adverse consequences for existing retail sector businesses in the municipality from granting the exemption;
    - (2) Evaluation of the short-term and long-term effects for other property taxpayers in the municipality from granting the exemption;
    - (3) A written agreement with the project operator, including performance requirements for which the exemption may be terminated by the governing body of the municipality if those requirements are not met; and
    - (4) Evaluation of whether the project operator would locate the project within the municipality without the exemption.
2. In addition to, or in lieu of, a property tax exemption granted under this section, a municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used in the operation of a project. The governing body of the municipality shall designate the amount of the payments for each year and the beginning year and the concluding year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this section may not extend beyond the twentieth year from the date of commencement of project operations. To establish the amount of payments in lieu of taxes, the governing body of

- the municipality may use actual or estimated levels of assessment and taxation or may establish payment amounts based on other factors. The governing body of the municipality may designate different amounts of payments in lieu of taxes in different years to recognize future project expansion plans or other considerations.
3. Before a governing body may grant a partial or complete exemption from ad valorem taxation or the option to make payments in lieu of ad valorem taxes under this chapter, the governing body shall consult with the department of commerce. If the department of commerce determines that the total project costs are estimated to exceed one billion dollars, the department of commerce shall conduct a public hearing and notice of that hearing must be provided to each affected taxing district and any existing business within the municipality for which the potential project would be a competitor.
  4. By November first of each year, the municipality that granted the option to make payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of taxes due under this section in the following year. After receiving the statement from the municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer for collection at the time when, and in the manner in which, ad valorem taxes must be certified. Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this section, the county treasurer shall apportion and distribute that amount to taxing districts on the basis on which the general real estate tax levy is apportioned and distributed. The municipality may enter into a written agreement with the local school district and any other local taxing districts that wish to enter the agreement for an alternate method of apportionment and distribution. If such an agreement is entered into, the county treasurer shall apportion and distribute the money according to the written agreement. All provisions of law relating to enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem taxes apply to payments in lieu of taxes under this section. However, the discount for early payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this section. The buildings, structures, fixtures, and improvements comprising a project for which payments in lieu of taxes are allowed under this section must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.
  5. Negotiations with potential project operators for tax exemption or payments in lieu of taxes must be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if the project is proposed to be located outside the corporate limits of any city. A partial exemption must be stated as a percentage of the total ad valorem taxes assessed against the property. Unless the governing body of the municipality determines that there is no existing business within the municipality for which the potential project would be a competitor, the potential project operator shall publish two notices to competitors, the form of which must be prescribed by the tax commissioner, of the application for tax exemption or payments in lieu of taxes in the official newspaper of the municipality at least one week apart. The publications must be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider the application. The municipality shall determine whether the granting of the exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if it so determines, shall give its approval.
  6. By motion approved by the governing body of the municipality before the beginning of a taxable year for which a property tax exemption or the option to make payments in lieu of taxes under this section previously has been approved by the governing body, a property tax exemption may be revoked or reduced and payments in lieu of taxes may be revoked or increased for that taxable year for reasons specified in a negotiated agreement or if the governing body finds that:
    - a. Information provided by the project operator during the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes has proven to be inaccurate or untrue;

- b. Use of the property by the project operator does not comply with the reasonable expectations of the governing body at the time the property tax exemption or the option to make payments in lieu of taxes was approved;
  - c. The property has been improved to a substantially greater extent than the governing body reasonably anticipated at the time the property tax exemption or the option to make payments in lieu of taxes was approved; or
  - d. There has been a change of ownership of the property since the property tax exemption or the option to make payments in lieu of taxes was approved.
7. During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city must comply with the requirements in section 40-05-24.
8. A city or county may not supersede or expand the provisions of this section under home rule authority.

**40-57.1-04. Exemption from income tax - Notice to competitors - Limitations.**

Upon application by a project operator to the state board of equalization, the net income of a project may be exempt from state income tax for a period not exceeding five years from commencement of project operations. The application for the exemption must be reviewed as to the eligibility of the project by the department of commerce division of economic development and finance and its recommendations forwarded to the state board of equalization. The project operator shall provide notice to competitors in the manner prescribed by the state board of equalization. The board shall determine whether the granting of the exemption is in the best interest of the people of North Dakota and, if it so determines, approve the exemption. The board shall, after making its determination, certify the findings back to the applicant and to the tax commissioner. Nothing contained herein shall have the effect of exempting the project from filing an annual income tax return.

**40-57.1-04.1. Ad valorem tax exemption for existing structures - Requirements.**

Notwithstanding any other provision of this chapter, a project operator who otherwise qualifies under this chapter may, upon application consistent with the provisions of this chapter, receive a partial or complete exemption from ad valorem taxation on any existing structure used in or necessary to the operation of the project for a period not exceeding five years from the date of commencement of project operations in the structure. For taxable years beginning after December 31, 1988, the governing body of a municipality may grant additional exemptions of property under this section during a period not exceeding ten years from the date of commencement of project operations in the structure if the structure is owned by the United States, the state, or a political subdivision of the state and leased to the project operator. The project operator shall apply to the governing body of the municipality annually for the exemption and the governing body of the municipality may grant the exemption for only one year at a time.

**40-57.1-04.2. Local development corporation defined - Requirements - Purpose.**

Repealed by S.L. 1991, ch. 447, § 10.

**40-57.1-04.3. Property tax exemption on speculative industrial buildings and properties owned by a local development organization.**

A municipality may, in its discretion, grant partial or complete exemption from ad valorem taxation on buildings, structures, and improvements constructed and owned by a local development organization for the express purpose of attracting new industry to this state. This exemption from ad valorem taxation is only available on new buildings, structures, and

improvements while they remain unoccupied. Once the building, structure, or improvement is occupied, the exemption continues until the next annual assessment date following the first occupancy. This section does not affect the eligibility for property tax exemption of a business available under other provisions of this chapter, provided application for the tax exemption is granted prior to occupancy. A written request for the exemption is to be filed by the local development organization with the municipality. The request will be reviewed at an official meeting of the governing body and will be placed on the agenda for final action at the next official meeting. The governing body of the municipality shall notify the county director of tax equalization with respect to any exemption granted under this section.

**40-57.1-04.4. Clearance of tax obligations and tax liens of record.**

1. A project operator is not eligible for the income tax exemption under section 40-57.1-04 until a showing is made that the project operator has satisfied all state or local tax obligations and tax liens of record for delinquent property, income, income withholding, sales, or use taxes owed to the state or a political subdivision.
2. A certificate from the tax commissioner to the state board of equalization satisfies the requirement of subsection 1.
3. If the project operator is a corporation or a passthrough entity defined in section 57-38-01, any of its officers, governors, or managers charged with the responsibility for making either property, income, income withholding, sales, or use tax returns and payments are subject to the provisions of subsections 1 and 2 with respect to all state or local tax obligations and tax liens of record for delinquent property, income, income withholding, sales, or use taxes for which the individual is personally liable. If the project operator is a partnership, each general partner is subject to the provisions of subsections 1 and 2 with respect to all state or local tax obligations or tax liens of record for delinquent property, income, income withholding, sales, or use taxes for which the individual is personally liable.

**40-57.1-05. Reapplication for tax exemption - Discretion of board of equalization.**

The municipality or the state board of equalization, upon the presentation of additional facts and circumstances which were not presented or discovered at the time of the original application for tax exemption under the provisions of this chapter, may accept reapplications from project operators at any time if the project operators first publish notice of application for tax exemption as required by this chapter.

**40-57.1-06. Change in investment, new location, or change in project operator or use requiring reapplication for tax exemption or payments in lieu of taxes.**

If the capital investment in the buildings, structures, fixtures, and improvements comprising the project exceeds the original investment or total investment after an approved reapplication under this section because expansion of the project has increased the investment in the project by more than twenty percent, the project operator must reapply to receive an exemption or to make payments in lieu of taxes on the added value of the property. If the project operator does not reapply, or if the reapplication is disapproved, the increased capital value of the buildings, structures, fixtures, and improvements comprising the project is subject to ad valorem taxation. If at any time a project operator who is exempt from taxation or subject to payments in lieu of taxes under this chapter moves the business to a new location, the project operator must reapply to retain the remaining balance of the property tax exemption or the option to make payments in lieu of taxes or elect to make application as a new business. A business relocation has no effect on the income tax exemption of the project operator if it is shown by the project operator to the satisfaction of the state board of equalization that the nature of the business has not been changed by the move and that the effect of the business upon competitors has not been changed by the move. In addition, a property tax exemption or option to make payments in lieu of taxes provided by this chapter applies only to the project operator to whom it is granted and is valid only while the property is used for the purposes stated in the application. If there is a change in use of the property or if a new project operator takes possession of the property, the

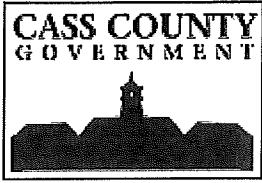
property tax exemption or option to make payments in lieu of taxes terminates and the project operator must file a new application with the municipality for a tax exemption or option to make payments in lieu of taxes for the remainder of the exemption or payments in lieu of taxes period provided under section 40-57.1-03.

**40-57.1-07. Exemptions - Time for making application.**

1. No property tax exemption shall be granted under this chapter unless the application for it is granted as provided in this chapter prior to the commencement of construction of the project as that term is defined in section 40-57.1-02 or prior to occupancy by the project operator if the project is an existing building.
2. Application for an income tax exemption as provided in this chapter must be made by the project operator no later than one year after the commencement of project operations.

**40-57.1-08. Large industrial projects - Exclusion from provisions of chapter.**

Repealed by S.L. 1994, ch. 784, § 7.



December 10, 2019

Todd Ellig, Chairman  
Stanley Township  
2005 124th Avenue South  
Horace, ND 58047-9717

COPY

## Board of County Commissioners

Chad M. Peterson  
Fargo, North Dakota

Rick Steen  
Fargo, North Dakota

Ken Pawluk  
Fargo, North Dakota

Duane Breitling  
West Fargo, North Dakota

Mary Scherling  
Stanley Township,  
North Dakota

Rupak Gandhi, Superintendent  
Fargo Public School District  
415 4<sup>th</sup> Street North  
Fargo, ND 58102

RE: Property Tax Incentive Application

Dear Mr. Ellig and Mr. Gandhi:

A business tax exemption is being requested from Cass County by Korber Medipak Systems NA, Inc. Enclosed are copies of said application; the notice of hearing for January 6, 2020; state law pertaining to this proposed exemption; and Cass County's tax incentive policy.

The commission will hear comments from the township and school district at their meeting on Monday, January 6, 2020. Please note the language in item 7 on page four of the copy of North Dakota Century Code 40-57.1-03, and if you wish, have a representative of your respective jurisdiction present at the meeting on January 6<sup>th</sup> beginning at 3:30 PM.

The Board of Commissioners meets in the Commission Room, first floor of the Cass County Courthouse, 211 9<sup>th</sup> Street South, Fargo, North Dakota.

Sincerely,

Heather Worden, Administrative Assistant  
Cass County Commission

Heather Worden  
Commission Assistant

Enclosures

cc: County Commissioners

PO Box 2806  
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