

FARGO PROPERTY TAX INCENTIVE
APPLICATION FOR
BORDER STATES INDUSTRIES, INC.
(Jim Gilmour)

SUGGESTED MOTION:

Move to participate in the request for a payment in lieu of tax (PILOT) in the City of Fargo submitted by Border States Industries, Inc. on a new primary sector distribution facility located on six parcels of land on 43rd Street North and 42nd Street North in Fargo for up to a ten-year period.

OR

SUGGESTED MOTION:

Move to NOT participate in the request for a payment in lieu of tax (PILOT) in the City of Fargo submitted by Border States Industries, Inc. on a new primary sector distribution facility located on six parcels of land on 43rd Street North and 42nd Street North in Fargo for up to a ten-year period.

OR

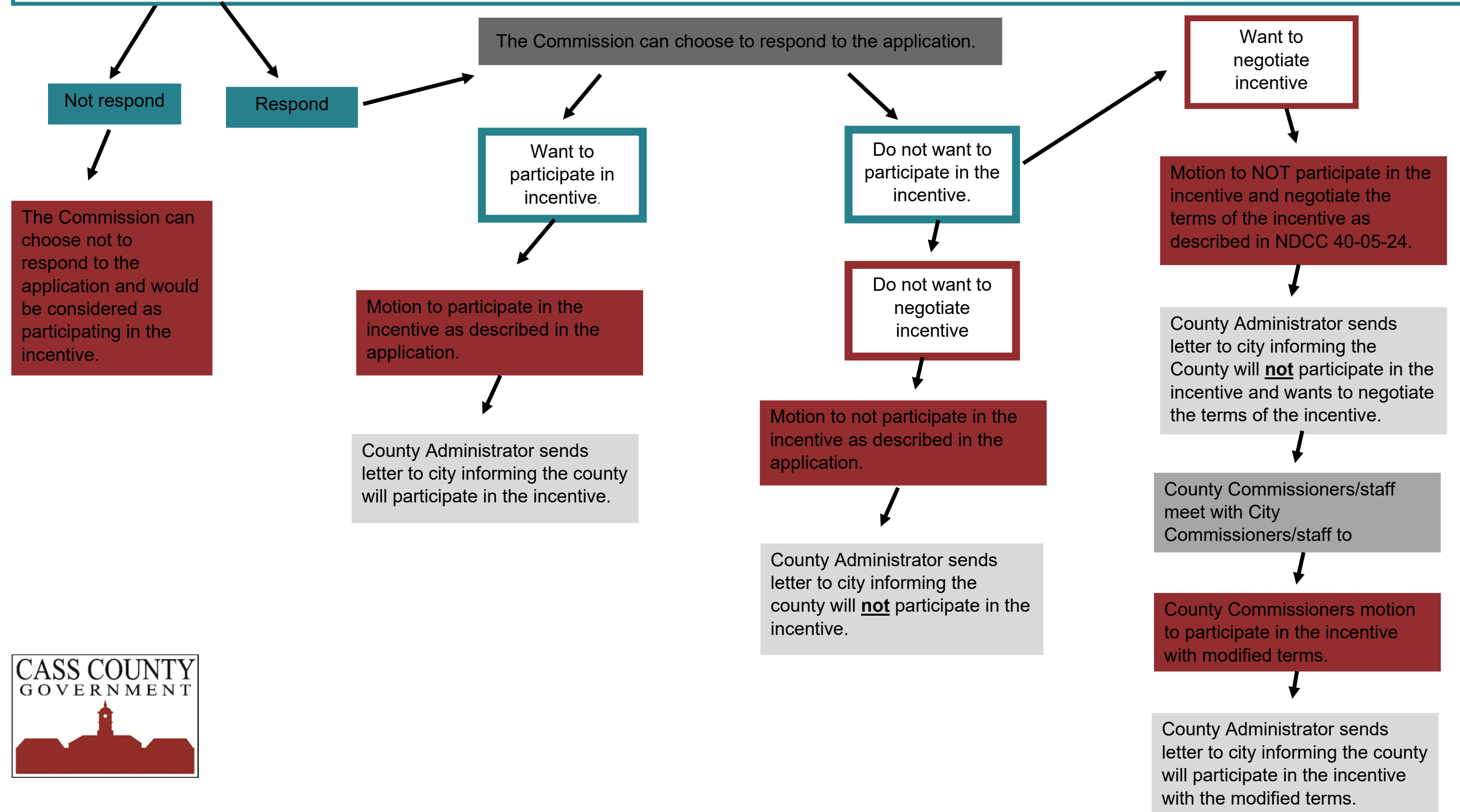
SUGGESTED MOTION:

Move to NOT participate in the request for a payment in lieu of tax (PILOT) in the City of Fargo submitted by Border States Industries, Inc. on a new primary sector distribution facility located on six parcels of land on 43rd Street North and 42nd Street North in Fargo for up to a ten-year period and negotiate the terms of the property tax incentive as described in N.D.C.C 40-05-24.

CITY SENDS INCENTIVE APPLICATION TO COMMISSION

*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. (NDCC 40-05-24)

* 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. (NDCC 40-05-24)





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.



RECEIVED
CASS COUNTY COMMISSION

FEB 20 2024

ASSESSMENT DEPARTMENT

February 14, 2024

Chad Peterson, Chairman
Cass County Commission
211 9th St. S
Fargo, ND 58103

Mr. Peterson,

According to N.D.C.C. Chapter 40-05-24, if the City of Fargo anticipates granting a property tax incentive for more than five years, the Chairman of the County Commission must be notified by letter. Within thirty days of receipt of the letter, the County Commission shall notify the City of Fargo whether they intend to participate in the incentive.

The City of Fargo has received an application from Border States Industries Inc. for a payment in lieu of tax (PILOT) incentive on a new primary sector distribution facility (see attachment for location), with an estimated improvement value of \$38,119,300.

The request is for a 10 year PILOT exemption consisting of a 100% exemption of the building value from property taxes for the duration.

The land would be fully taxable with an estimated value of \$4,347,000, and annual taxes of approximately \$59,100.

Please respond at your earliest convenience with the determination made by the County Commission regarding the participation.

Thank you.

Mike Splonskowski

Fargo City Assessor

cc: Robert Wilson



ASSESSMENT DEPARTMENT

Proposed Incentive Schedule. Calculations are based off construction cost and do not account for annual fluctuations in market value or mill levies.

		Incentive %	Payments	Full Taxes Due	Benefit	Total Est Tax
IncntYr 1	2026	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 2	2027	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 3	2028	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 4	2029	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 5	2030	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 6	2031	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 7	2032	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 8	2033	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 9	2034	100	\$0	\$518,422	\$518,422	\$59,119
IncntYr 10	2035	100	\$0	\$518,422	\$518,422	\$59,119

TOTALS

\$0

\$5,184,225

**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>Border States Industries, Inc.</u>
2.	Address of project <u>Please see attached legal description.</u>
	City <u>Fargo</u> County <u>Cass</u>
3.	Mailing address of project operator <u>PO Box 2767</u>
	City <u>Fargo</u> State <u>ND</u> Zip <u>58108-2767</u>
4.	Type of ownership of project
	<input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Subchapter S corporation <input type="checkbox"/> Individual proprietorship
	<input type="checkbox"/> Corporation <input type="checkbox"/> Cooperative <input type="checkbox"/> Limited liability company
5.	Federal Identification No. or Social Security No. <u>[REDACTED]</u>
6.	North Dakota Sales and Use Tax Permit No. <u>[REDACTED]</u>
7.	If a corporation, specify the state and date of incorporation <u>North Dakota - 1/6/1961</u>
8.	Name and title of individual to contact <u>James Sipe, Executive VP - Supply Chain</u>
	Mailing address <u>PO Box 2767</u>
	City, State, Zip <u>Fargo< ND 58108-2767</u> Phone No. <u>1-701-476-3148</u>

Project Operator's Application For Tax Incentives

9.	Indicate the tax incentives applied for and terms. Be specific.
	<input type="checkbox"/> Property Tax Exemption
	<input checked="" type="checkbox"/> Payments In Lieu of Taxes
	<u> </u> Number of years <u>2026</u> Beginning year <u>2035</u> Ending year
	<u> </u> Percent of exemption <u>\$100</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 a existing business project

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).

Please see attached project description.

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

The following machinery and equipment will be installed in the distribution center: Furniture, racking, pallet wrapper, pallet jacks, floor scurbber, wire machine, forklifts, and miscellaneous warehouse items.

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>Please see</u>	_____	_____	_____	_____
Annual expense	_____	_____	_____	_____	_____
Net income	_____	_____	_____	_____	_____

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>3136</u>	<u>58</u>	<u>60</u>	<u>62</u>	<u>65</u>	<u>68</u>
	(2) <u>38</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Estimated payroll	(1) <u>387,835</u>	<u>4,225,721</u>	<u>4,541,521</u>	<u>4,875,821</u>	<u>5,308,961</u>	<u>5,768,961</u>
	(2) <u>2,221,621</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</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).
~~1) Border States Industries, Inc., 2400 38 ST S, Fargo - approved in 2016 and expires in 2029~~
 2) Border States Industries, Inc., 605 25 ST S, Fargo - approved in 2014 and expires in 2025

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
~~Dakota Supply Group: 2601 3rd Ave. N., Fargo, ND 58102~~
 Consolidated Electrical Distributors: 3850 34th Avenue S, Fargo, ND 58104
 Wesco: 2650 7th Ave. N., Fargo, ND 58102

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, James Sipe, 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.

 Executive VP - Supply Chain 2-7-24
 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

LEGAL DESCRIPTION OF PROPERTY: SIX PARCELS OF LAND INCLUDING:

Lots one, Two, Three, Four, Five, and Six, in Block Three of Laverne's Second Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

Common Addresses:

- *Lot 1:* 3181 43rd St. N
- *Lot 2:* 3101 43rd St. N
- *Lot 3:* 3303 43rd St. N.
- *Lot 4:* 3030 42nd St. N.
- *Lot 5:* 3100 42nd St. N.
- *Lot 6:* 3190 42nd St. N.

include wire cutting, return staging and processing, Border States services, Material Handling Equipment (MHE), and asset storage. While Border States does not manufacture the products it sells, this facility will include a Border States service center which may focus on some light assembly, modification and kitting operations.

Inventory will be received at the distribution center from Border States' various manufacturer and vendor partners. Border States will house approximately \$40 to \$50 million dollars in inventory at the distribution center. The inventory stored will consist primarily of electrical, construction, & utility materials and equipment. The majority of products are materials that can be stored efficiently indoors and that can be transported on standard pallets. Border States anticipates 25,000 -30,000 unique SKU's housed within the Upper Midwest distribution center once fully operational.

At least 58 full-time employees will be needed on day one of operations. The distribution center will include office space, a conference room, a breakroom, and a reception area for distribution center employees and distribution center support. All administrative and branch support functions will remain at Border States' branch support center in Fargo.

Paragraph 20: Annual Expense, Revenue, and Net Income: The distribution center will not directly generate revenue because sales are not generated from the distribution center. Rather, the distribution center will serve Border States' Upper Midwest operating branch locations which generate revenue. Calculating the increase in revenue and net income because of the operational efficiencies created by the distribution center is a complex and nuanced analysis. Upon request, Border States can provide on a confidential basis financial information needed to evaluate the application.