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# City of Grand Forks Staff Report Finance/Development Committee July 26, 2010

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**Agenda Item:** Grand Forks Renaissance Fund Organization

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**Submitted by:** Greg Hoover, Urban Development Director

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**Staff Recommended Action:** Provide direction on Renaissance Fund Organization options

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**Committee Recommended Action:** Held in committee

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**Council Action:**

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## **BACKGROUND:**

When the Finance & Development Committee briefly discussed this item at the June 28 meeting, direction was given to staff to prepare expansion options for future discussion. Staff is currently working on this. The other issue in the staff report, a Renaissance Fund Organization, was not discussed, and staff now seeks Committee input.

The 2009 legislature allocated \$2.5 million in tax credits for Renaissance Fund Organizations (RFOs) to raise capital to make investments in eligible projects. Half of this amount was granted to Fargo last summer; other cities may apply for the remaining \$1.25 million. Last fall, Bruce Gjovig from the Center for Innovation expressed interest in developing an RFO with half of the investment capital for the 42<sup>nd</sup> Street Corridor and half for the Renaissance Zone. Gordon LaFrance (State Ren Zone Program Manager) and Bob Stein (Fargo City Planner) attended a Finance & Development Committee meeting to discuss setting up and managing RFOs. Three separate RFOs have been established in Fargo. A copy of Fargo's most recent agreement with an RFO managing organization is attached.

Consensus at the meeting last fall was that it was not appropriate for the City to manage what is essentially a private venture capital fund. Staff seeks direction as to whether or how the City should pursue establishment of an RFO.

## **ANALYSIS AND FINDINGS OF FACT:**

- There is \$1.25 million in tax credits available for RFOs in large North Dakota cities.
- Last fall, the Committee expressed interest in developing an RFO.
- Direction on establishing an RFO is requested.

## **SUPPORT MATERIALS:**

- Agreement template used by City of Fargo
- State guidelines: <http://www.communityservices.nd.gov/community/renaissance-zone/>

-- S A M P L E --

## **RENAISSANCE ZONE FUND AGREEMENT**

This agreement is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Fargo, whose address is 200 North Third Street, Fargo, North Dakota 58102, a municipal corporation (hereinafter referred to as “City”), and DRF (hereinafter referred to as the “Organization”), whose address is c/o Richard Engen, 607 NP Avenue, Suite 200, Fargo, North Dakota, 58102.

### **RECITALS:**

**WHEREAS**, the legislature of the State of North Dakota has enacted Chapter 40-63 of the North Dakota Century Code by the terms of which any incorporated city is allowed to apply for designation of a portion of the city as a renaissance zone and which authorizes a city with a designated renaissance zone to establish a renaissance fund organization(s) or to designate a for-profit subsidiary of the local authority; and,

**WHEREAS**, the DRF became organized on (*Month*), (*Year*) for the purpose of operating as a renaissance fund organization for the city of Fargo as provided in Chapter 40-63 of the North Dakota Century Code, to raise funds to be used to make investments in zone projects, and to provide financing to renaissance zone projects in a manner that will encourage capital and real estate investment in the City of Fargo and,

**WHEREAS**, it is the desire of the Organization to serve as a renaissance fund organization as described in section 40-63-07(1) for the City; and,

**WHEREAS**, the City wishes to contract with the Organization as a renaissance fund organization for Fargo under North Dakota Century Code section 40-63-07(1); and,

**WHEREAS**, the State of North Dakota, acting through the Division of Community Services (DCS) is requiring that the City and DCS enter into a Memorandum of Agreement in a form similar to that which is attached hereto as Exhibit “A”, which provides authority to DCS to require of the City, certain acts or things, including the authority to:

- a. demand information from the City;
- b. require the City to make adequate progress in furtherance of the City’s Development Plan;
- c. take action against the City if adequate progress has not been made after DCS has provided such 90-day written notice;
- d. require the City to comply with Chapter 40-63 of the North Dakota Century Code, as amended or repealed by the Legislative Assembly, and may require the City to modify its Development Plan in accordance therewith prior to the effective date of such legislation.

**WHEREAS**, it is the further desire of the City and the Organization to set forth the terms by which the Organization shall serve as a designee of the City.

**NOW, THEREFORE**, it is hereby agreed as follows:

1. The Organization is hereby designated to serve as a renaissance fund organization for the city of Fargo for a period of time not to surpass the duration of the Renaissance Zone program in the City of Fargo.

2. The Organization shall comply with all applicable city, state, and federal laws, statutes and regulations, including, without limitation, all applicable securities laws, banking and/or finance laws, and NDCC Chapter 40-63; including the North Dakota Renaissance Zone Program Statement.

3. Upon request made by the City, the Organization shall comply with any requests for information, progress reports, or such other requirements imposed upon the City by the State of North Dakota and/or DCS as may be made pursuant to the provisions of a memorandum of Agreement between the City and the State of North Dakota acting through the Division of Community Services (hereinafter referred to as “DCS”).

4. This agreement, and the Organization, shall be subject to the requirements of Fargo’s Development Plan as approved by DCS.

5. The Organization shall provide a report, including a summary financial report, to the Fargo Board of City Commissioners on at least an annual basis. At the same time, the Organization shall provide a report as to the status and a summary of projects funded by the Organization.

6. The Organization shall ensure that an amount equal to investor funds properly identified or earmarked for the DRF will be invested in the Fargo Renaissance Zone. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. Such funds may only be invested in one or more projects or businesses that meet the criteria set forth in subparagraphs a, b, c, or d below:

a. The investment is for construction of a new building in the Fargo Renaissance Zone that is an approved renaissance zone project.

b. The investment is for renovation of an existing building in the Fargo Renaissance Zone that is an approved renaissance zone project.

c. The investment is in a business that is to occupy one or more buildings that qualify under subparagraphs a or b, above, and, in addition said business is an initial tenant in space qualifying under subparagraphs a or b, above. In other words, the business receiving said funds must be the first tenant to occupy the particular space in an approved renaissance zone project. Notwithstanding the provisions of this subparagraph c, in the event a business receiving funds does not actually take occupancy within twenty-four (24) months of the distribution of funds from the DRF to the business, such action or non-action shall constitute a breach of this agreement and City may notify the Office of

the Tax Commissioner for the State of North Dakota of the breach and request that the Commissioner revoke the grant of tax credits awarded to the DRF.

d. Other types of investments and investment alternatives may be considered but are subject to review by the Renaissance Zone Authority on an individual basis provided that such investments are consistent with the Renaissance Zone Vision and Goals.

7. This agreement, and the designation of the Organization by the City, may not be assigned by the Organization.

8. The Organization shall hold harmless the City from any liability for damages to any person or property or claim for damages brought against the City resulting from the actions of the Organization.

9. Default. The failure of the Organization to comply with the terms hereof shall constitute a default of the agreement, and shall cause a termination of the designation of the Organization as a renaissance zone fund for the City; provided, however, that in the event the Organization has breached one or more requirements hereunder, the City shall give the Organization written notice of the nature of the breach, and shall extend to the Organization a grace period of no less than thirty (30) days to cure such breach. If the Organization takes action to cure the breach within the grace period extended, no default shall have occurred.

**DATED** as of the date and year first above written.

**THE CITY OF FARGO, NORTH DAKOTA,**  
A municipal corporation

By \_\_\_\_\_

DRF

By \_\_\_\_\_