BUREAU OF GOVERNMENTAL RESEARCH
1055 St. Charles Ave., Suite 200
New Orleans, LA 70130
504-525-4152 / www.bgr.org

April 4, 2024

The Honorable Helena N. Moreno, President
The Honorable Jean Paul "JP" Morrell, Vice President
New Orleans City Council
1300 Perdido Street, 2nd Floor West
New Orleans, LA 70112

Re: Economic Development Incentives Review

Dear Councilmembers Moreno and Morrell:

The Bureau of Governmental Research (BGR) is delighted to hear that you are undertaking a comprehensive review of economic development incentives in preparation for proposing reforms to local and state incentive laws. BGR has an extensive body of work on improving incentives in New Orleans that is relevant to your review**.** Our research and guidance on payment in lieu of taxes (PILOT) programs may be particularly valuable to your incentive review in light of your recent concerns about PILOT approval processes. We have summarized BGR's key findings below and welcome the opportunity to discuss them with you in greater detail.

Under a PILOT agreement, a developer transfers real estate title to a project to a public entity for a number of years. Pursuant to state law, this keeps the property off the tax rolls, thus reducing the developer's expenses and making the project more attractive for financing. The public entity and the developer typically negotiate an annual payment to cover some or all taxes that would otherwise be due. Any difference between the two is the developer's actual tax break – and the revenue forgone by the parish government, school board, levee district and other tax recipient bodies.

Tax subsidies such as PILOTs are often viewed by developers and public officials as free money. But a PILOT subsidy represents an allocation of future resources and should be evaluated with a stringency worthy of other long-term investment. The investment should be made only if it furthers a defined policy priority, is proven necessary, and is as efficient, effective, and equitable as possible for the community. Ensuring this outcome requires a carefully constructed framework of laws, policies and processes for PILOT subsidy authorization and administration. The framework must drive PILOT programs to operate with strong public oversight and regular assessment of subsidized projects' performance.

Key Policy Elements from BGR's PILOT Research

BGR has researched PILOT subsidies extensively. In 2009, as New Orleans' Industrial Development Board (IDB) considered numerous requests for PILOT subsidies during the Hurricane Katrina recovery, BGR drafted policies and procedures to address gaps in the IDB's approval and administration of PILOTs. BGR presented the guidance to the IDB in the context of its mission of spurring commercial real estate development. Consistent with findings from national research on economic development incentives, the guidance recommended two strategic approaches to PILOT subsidies:

- The first path centers on **job creation**. It uses incentives to compete for business developments that expand the availability of quality jobs and grow key industry sectors to bring new money into the local economy.

- The second path seeks **area redevelopment**. It targets the incentive to help offset the extraordinary costs of redeveloping blighted property in distressed areas where private investment would not otherwise occur in a reasonable timeframe. The intent is to make more productive use of the urban environment and catalyze other investment in the area.

Either strategic approach goes a long way toward ensuring that the public, not just the developer, benefits from the incentive.

BGR's guidance is based on general best practices for economic development subsidies and can be applied to PILOT programs today that are focused on commercial development. The core elements of the guidance, outlined below, underscore the importance of establishing multiple criteria for subsidy approval and comprehensive evaluation and oversight processes. PILOT programs that incorporate these elements will be better positioned to deliver on their promises of economic growth and opportunity.

Set Minimum Project Eligibility Requirements. Clear minimum requirements for subsidy consideration weed out projects that have little chance of delivering sufficient returns to the community. They enable the PILOT program to say "no" upfront and avoid unnecessary or inappropriate subsidies that diminish the local tax base. To be eligible for consideration under either the job creation or area redevelopment approach, a project must:

- Create or retain a significant number of full-time jobs and meet defined wage and benefits thresholds (job creation approach only).

- Be used exclusively by a type of business likely to drive new economic growth such as manufacturing, industrial or other without local substitutes (job creation approach only).

- Provide evidence of significant blight that will continue to discourage private investment at the site (area redevelopment approach only).

Rely on Expert Analysis to Determine Whether a Project Meets Additional Requirements. Evidence that the project subsidy is a prudent public investment is essential. A project should not move forward for further consideration unless a qualified third-party consultant determines that:

- A PILOT subsidy is necessary for the project to proceed.
- The project's estimated fiscal benefits (e.g., new tax revenue generated for local government) significantly exceed the fiscal costs (e.g., foregone local tax revenue and increased demand for public services such as roads, police and fire protection, and schools).
- The present value of the PILOT subsidy does not exceed a reasonable amount per job created by the project (job creation projects only).
- The appropriate development would not occur at the project's site in a reasonable timeframe without the PILOT subsidy (area redevelopment projects only).

Restrict PILOT Subsidies to Projects Supported by the City of New Orleans. This confirms that there is broad agreement within the community's elected governing body about the value of the project as an appropriate candidate for a subsidy. PILOT agreements should not be approved without confirmation from the City's director of economic development that the project advances one or more of the City's economic development priorities and a resolution of support for the project approved by at least five City Council members.

Establish Limits on Subsidy Duration. To avoid subsidizing projects beyond their need, set reasonable maximum lengths (number of years) for PILOT agreements.

Use a Scoring System to Determine a Project's PILOT Subsidy Level. If a project meets all requirements, apply a standard scoring system to fairly determine the maximum subsidy level it merits. Projects earning higher scores would be eligible for higher subsidy levels. The scoring system should allocate points based on the project's demonstrated level of need for a subsidy and its ability to advance strategic priorities – e.g. one point for every three full-time jobs above the minimum created. BGR notes that the scoring can be more flexible, such as applying points based on ranges of performance instead of specific quantities. The point is that the scoring system provides a more objective assessment of the relative value promised in exchange for the subsidy.

Follow a Transparent, Consistent Subsidy Approval Process. This creates high standards for all developers. The process starts with detailed proposals. It requires documentation of project analyses. And it ensures opportunity for meaningful public participation. The same process should apply to all projects, and should include:

- Completion of a detailed application, including statements of the project's projected revenues, expenses and net income prepared on the same basis as any other pro forma provided to prospective bond underwriters or purchasers.

- A written review of the project's alignment with minimum eligibility requirements produced by staff of the PILOT-authorizing agency.

- A public meeting of the PILOT-authorizing agency's governing body to determine if the project meets all minimum eligibility requirements to merit further consideration for a subsidy.

- A written report by the third-party consultant analyzing the project's alignment with subsidy criteria.

- Notice of the PILOT request given to all government entities that levy property taxes.

- A public hearing on the PILOT request held prior to consideration of its approval, with notice of the hearing given at least 14 days in advance of the meeting.

Institute Clear Compliance Measures. To ensure that subsidies are dependent on actual project performance:

- Include specific commitments to job creation, wages and/or other benefits (including adherence to the City's local hire and disadvantaged business enterprise requirements) in PILOT projects' lease agreements.

- Annually review each approved project's jobs, wages and other benefits actually created against its specific commitments and minimum eligibility requirements for PILOT subsidies.

- Include clawbacks (i.e., higher payments to taxing bodies) in PILOT agreements and enforce them if projects do not meet their commitments and cancel PILOT agreements if projects fail to deliver the program's minimum requirements.

Provide for Program-Wide Oversight. These practices increase accountability and support careful stewardship of public resources across all projects awarded PILOTs:

- Produce an annual public report on PILOT program detailing the amount of subsidy (property tax savings) for each project and the project's compliance with lease commitments.

- Periodically contract with a third-party evaluator to analyze the fiscal costs of PILOT subsidies, their impact on advancing economic development priorities and areas for improving PILOT policies, procedures and administration.

Limit Amount of Annual Tax Revenue Foregone Through the Program. Establish a cap on the total value of PILOT subsidies to prevent excessive erosion of the local property tax base. A cap would also encourage approval of only the most promising investments.

We have attached a copy of BGR's complete 2009 proposed PILOT policies and procedures document. While some figures, such as income targets and minimum wage targets need updating, the full document includes helpful details and explanations.

BGR's analysis of economic development incentives recognizes that in some cases tax subsidies may be necessary and produce substantial community and fiscal benefits. But, as illustrated above, identifying such cases and securing the best deal for the public requires far more than a developer's assurances. We believe our PILOT policy recommendations can inform any reforms you pursue. We look forward to following the incentive review's progress and assisting in any way we can.

A Word on Affordable Housing PILOTs

BGR's proposed policies focused on PILOTs for commercial economic development projects and therefore did not consider approval and administration needs for affordable housing PILOTs. However, property tax abatements are often used to incentivize affordable housing production in New Orleans, with multiple agencies now authorized to grant PILOTs for this purpose. The scope of BGR's incentive research to date does not extend to recommendations for affordable housing PILOT programs, but we hope your work will recognize the importance of developing a strong policy framework for this area as well.

Sincerely,

Rebecca Mowbray

Rebecca Mowbray
President and CEO
Samuel Zemurray Chair in Research Leadership
Bureau of Governmental Research

ATTACHMENT A

In 2007, BGR identified significant concerns with how the IDB reviewed, approved and monitored PILOT subsidies. BGR flagged inadequate information for evaluating PILOT requests, inadequate financial analysis, and a lack of standards for awarding PILOTs. BGR urged reforms to address the issues and the IDB responded by implementing some important changes. In particular, it:

- Revamped its application form to request more data from developers seeking PILOT subsidies.

- Began retaining a consultant to analyze a project's financial need for the PILOT subsidy.

- Started using clawback arrangements, by which it can increase the PILOT amount if a project generates more revenue or cash flow than projected.

However, many gaps remained, and in 2009 the IDB asked BGR to prepare a complete set of recommended policies and procedures for PILOT approval and administration. BGR submitted its recommendations with annotations in October 2009. IDB leadership discussed the recommendations with BGR, but never presented them to the full governing board for approval. In the years since, the IDB has taken several steps in line with BGR's recommendations to work more closely with the City's Office of Economic Development. BGR's recommendations are reprinted in full in the following pages. Please note that dollar figures have not been adjusted for inflation and reflect 2009 costs and wages.

<u>PROPOSED STATEMENT OF POLICY AND PROCEDURES FOR PAYMENT IN LIEU OF TAXES (PILOT) SUBSIDY</u>

PREPARED BY THE BUREAU OF GOVERNMENTAL RESEARCH FOR THE INDUSTRIAL DEVELOPMENT BOARD

OCTOBER 2, 2009

<u>SECTIONS</u>

Note: Text of policy and procedures is provided below, with notes in shaded boxes to the right

Statement of Policy and Procedures
of the Industrial Development Board of the City of New Orleans, Louisiana, Inc.
for the Payment in Lieu of Taxes (PILOT) Subsidy
Adopted ____, 2009

INTRODUCTION AND STATEMENT OF POLICY

The Industrial Development Board of the City of New Orleans, Louisiana, Inc., (Board) is a nonprofit, public corporation established by the Council of the City of New Orleans (City Council) pursuant to Louisiana Revised Statutes 51:1151 et seq. The Board is authorized under those statutes to serve as a conduit for the issuance of revenue bonds to finance the acquisition and construction of eligible projects within the City of New Orleans.

This introduction to the statement of policies and procedures describes the PILOT Subsidy mechanism and states the Board's general policy regarding the subsidy.

In connection with a bond issuance, the Board may execute a "sale-leaseback" of certain real and personal property associated with the project. In a sale-leaseback transaction, the Board acquires the property from and leases it back to the beneficiary of the bond issuance.

Pursuant to Louisiana law, the property acquired by the Board is exempt from all taxation in the State of Louisiana, including ad valorem property taxes. However, the Board can require a lessee to make annually to parish and municipal taxing authorities a payment in lieu of taxes (PILOT). The Board may set the PILOT at an amount below the taxes that would have been payable on the project had it remained in the ownership of the lessee, thus providing a property tax subsidy to the lessee (PILOT Subsidy).

It is the Board's general policy to require a PILOT equal to the full amount of taxes that would have been payable on the project had it remained in the ownership of the lessee. The Board may, however, award PILOT Subsidies for projects that further the Board's strategic goals and meet all the applicable requirements set forth in these policies and procedures.

STRATEGIC FOCUS

Section 1. Dual Strategies. The Board wishes to use the PILOT Subsidy judiciously to facilitate private-sector job creation and retention and to spur investment in blighted areas. The Board may award a PILOT Subsidy when necessary to help New Orleans attract or retain a business that provides a significant number of full-time jobs offering good wages and benefits (Job Creation Project). It may also use PILOT Subsidy to help offset the extraordinary costs of redeveloping blighted property in distressed areas of New Orleans when such investment is necessary to spur private investment (Area Redevelopment Project).

Section 1 describes the dual strategies of the PILOT Subsidy program, reflecting the direction provided by the Board at its meeting on May 19, 2009.

Section 2. Declaration of Type of Project. In submitting a request for a PILOT Subsidy to the Board, the applicant must declare whether the project is a Job Creation Project or an Area Redevelopment Project. The project will then be evaluated according to the policies and procedures applicable to that type of project.

Section 2 provides a method for routing applications through the appropriate evaluation and approval process.

GENERAL PROCESS

Section 3. Application. An applicant seeking a PILOT Subsidy must make the request in its application for revenue bond financing. Applicants making PILOT Subsidy requests must submit the completed application for bond financing, along with all required application fees and the supplemental data required by Section 15 of this statement of policies and procedures. The Board will not consider preliminary approval of the revenue bond financing until it has received all the required documentation to initiate its review of the PILOT Subsidy request.

Section 3 describes the general application process for PILOT Subsidy requests.

Section 4. Preliminary Review. Upon receipt of a completed application, the Board shall initiate a preliminary review of the PILOT Subsidy request.

This section describes the preliminary review of the PILOT Subsidy. The applicable requirements will depend on whether it is a Job Creation Project or an Area Redevelopment Project.

(a) The Board's staff shall prepare a written review of whether the applicant's project meets the Minimum Requirements for Preliminary Review set forth in Section 9 or 12, as applicable. If the

Board makes a determination that the project meets the minimum requirements, the Board may authorize further consideration of the request for a PILOT Subsidy.

(b) Following this authorization, the Board shall select a consultant from the list created pursuant to Section 18 to prepare and submit, in a timely manner, the cost-benefit analysis and other analyses necessary to determine whether the project meets certain Minimum Eligibility Requirements set forth in Section 10(a) or 13(a), as applicable. The applicant shall remit the required fee for the consultant's work to the Board within three (3) days after the consultant is selected and provide any additional information requested by the consultant. The consultant shall prepare the cost-benefit analysis following the guidelines in Section 19.

The Board would continue its current practice of requiring a fiscal cost-benefit analysis of each project requesting a PILOT Subsidy. However, there would be two changes to the practice. First, the consultant would be selected from a list of pre-qualified analysts. Second, the consultant would adhere to specific guidelines.

(c) After the Board receives the consultant's report, the Board shall review it for responsiveness and quality. If the Board determines that the report is deficient, the Board shall request that the consultant submit a revised report.

(d) If the consultant finds that any of the relevant requirements of Section 10(a) or 13(a) is not met, the Board shall reject the request for a PILOT Subsidy. If all such requirements are met, the Board may proceed with further review of the project.

Section 5. Notice to Tax Recipient Bodies. Following this authorization, the Board shall give timely written notice to the appropriate representatives of the ad valorem tax recipient bodies in Orleans Parish. It shall state its intention to consider the project for a PILOT Subsidy award, describe its reviews to date, and ask each body to submit a written statement of support or opposition to the request for a PILOT Subsidy prior to the public hearing date, as determined below. The Board shall not consider the subsidy request for final approval unless it has received a resolution of support from the New Orleans City Council, approved by at least five of its

This section strengthens the Board's current practice of seeking the input of property tax recipient bodies, and the approval of City Council, by making City Council approval contingent on a super majority of its members.

seven members, and discussed all statements of objection submitted by other tax recipient bodies.

Section 6. Public Hearing. Also, the Board shall set a date for a public hearing on the request for a PILOT Subsidy. This hearing may be held during the meeting at which the Board considers the request for PILOT Subsidy Approval; however, the hearing must occur before the Board begins its deliberations on the request. The public hearing on the request for a PILOT Subsidy may coincide with, but is separate and distinct from, any public hearing on the applicant's request for bond financing. Notice of a public hearing on the request for a PILOT Subsidy shall be published in the official journal of the City of New Orleans at least 14 days prior to the public hearing date.

This section sets forth the requirements for public hearings on PILOT Subsidy requests.

Section 7. PILOT Subsidy Approval. Following the public hearing, and the Board's determination that a project meets all Minimum Eligibility Requirements, the Board may award a PILOT Subsidy to an applicant (PILOT Subsidy Approval). The applicant's satisfaction of the statement's requirements shall not create any right to a PILOT Subsidy. The Board retains full discretion to make or deny the award to qualifying projects.

At the time it grants PILOT Subsidy Approval, the Board shall set the annual PILOT amounts and the duration and other terms of the PILOT Subsidy, with the general objective of minimizing the amount of the PILOT Subsidy. The Board's approval of the PILOT Subsidy may coincide with, but is separate and distinct from, its final approval of the applicant's bond financing.

LIMITATIONS ON PILOT SUBSIDY AWARDS

Section 8. Limitations on PILOT Subsidies. All PILOT Subsidies approved by the Board shall be subject to the following limitations:

(a) *Maximum Annual Subsidy*. The Board provides a PILOT Subsidy by setting the annual PILOT at an amount below the taxes that would be payable if the project remained in the ownership of the lessee. The lower the level at which the PILOT is

This limitation builds on the Board's current practice of not setting the annual PILOT in an amount less than the pre-development taxes on the site. Academic research suggests that abating only the incremental growth in property value best connects the tax relief to the incremental public benefits, and reduces the threat to local set, the greater the annual subsidy. The Board shall not set the annual PILOT amount at a level below the greater of: (i) the predevelopment ad valorem tax liability of all lands and improvements comprising the project site, calculated using the tax bills for the most recent tax year prior to the application date, and (ii) an amount equal to X(1 – Y), where X equals the estimated taxes that would be payable for the completed project if it were owned by the lessee and Y equals the Maximum Percentage calculated using the applicable scoring system in Sections 11 or 14.

government revenues.[1]

The limitation further restricts the maximum subsidy based on the project's score. For example, suppose predevelopment taxes are $40,000. If the estimated taxes payable on the completed project would be $350,000 (X), and the maximum percentage subsidy based on the project score is 80% (Y), then the minimum PILOT amount is $70,000 ($350,000*20%), rather than $40,000. This alternative cap seeks to align the maximum subsidy more closely with the projected benefits. Working within the caps, the Board can then negotiate the individual PILOT Subsidies needed by the project.

(b) *Maximum PILOT Amount.* By law, the Board cannot set the annual PILOT at an amount exceeding the ad valorem tax liability of the project if it were owned by the lessee.

(c) *Maximum Duration.* The duration of a PILOT Subsidy for a Job Creation Project shall not exceed 10 years. The duration for an Area Redevelopment Project shall not exceed the shorter of 20 years or the term of the original bond issue.

The maximum duration would reduce the risk that tax recipient bodies would unnecessarily forego future tax revenues. Relative to Job Creation Projects, academic research emphasizes the need to concentrate incentives in the early years of the project. Business executives evaluating competing project locations focus on short-term profit goals. They heavily discount the value of future returns, making the incentive offered beyond 10 years close to irrelevant in the business decision.[2]

Because the costs of remediating blight would be financed through the bond issue for the project, a longer duration is appropriate for PILOT Subsidy for Area Redevelopment Projects.

EVALUATION OF JOB CREATION PROJECTS

Section 9. Minimum Requirements for

This section establishes basic thresholds for considering Job Creation Projects, focusing on

[1] Mikesell, John L., et al., *A guide to the structure of property tax abatements in the United States*, manuscript submitted to the Lincoln Institute of Land Policy pursuant to a research contract, May 2005, p. 19. Also, Wassmer, Robert W., "Property Tax Abatement as a Means of Promoting State and Local Economic Activity," in Augustine, Nancy Y., et al., eds., Erosion of the Property Tax Base: Trends, Causes, and Consequences (Cambridge, Mass.: Lincoln Institute of Land Policy, 2009), p. 237.

[2] Bartik, Timothy J., "Economic Development," in J. Richard Aronson and Eli Schwartz, eds., Management Policies in Local Government Finance, 5th ed. (Washington, D.C.: International City/County Management Association, 2004), pp. 366-367. In addition, the 10-year maximum duration would match the maximum allowed under Louisiana's Industrial Tax Exemption program, which exempts manufacturing property from ad valorem taxes. It would also match the duration of many other property tax incentive programs nationwide. Wassmer, Robert W., "Property Tax Abatement," op. cit., p. 239.

quality jobs.

Preliminary Review. To be eligible for review, the application for a Job Creation Project must meet the following minimum requirements:

To be eligible for preliminary review, the applicant is required to make a series of representations about the project, beginning with a minimum number of project employees working full-time jobs, as defined in Section 26. These representations would be incorporated into the lease agreement for the project, if the applicant receives final approval for a PILOT Subsidy.

(a) *Minimum Number of Full-Time Employees.* The applicant must represent either that (1) the project will directly create and maintain for the life of the PILOT Subsidy an annual average of at least 50 project employees working full-time jobs, or (2) that the project will allow the applicant to maintain for the life of the PILOT Subsidy an annual average of at least 50 project employees working full-time jobs that would otherwise leave the city.

A Base Wage requirement of $10 per hour would ensure that a full-time job, defined in Section 26 as at least 1,750 hours of work per year, would pay in excess of the federal poverty threshold for a three-person household (approximately $17,200).[3]

According to the U.S. Bureau of Labor Statistics, which calculates CPI-U, the unadjusted change in the index is commonly used for escalation purposes.[4]

(b) *Base Wage.* The applicant must represent that the project will pay to every project employee (full-time or part-time) a gross wage or annual salary that is equivalent to or exceeds the Base Wage. The Base Wage shall be set at a $10 per hour of work in 2010, and shall be adjusted annually by the change in the Consumer Price Index for All Urban Consumers (CPI-U), specifically the change in the index's U.S. city average of all items before seasonal adjustment.

The median earnings requirement would help target high-impact projects. According to the 2007 American Community Survey, the most recent data available, the median earnings for full-time Orleans Parish workers was $35,227.[5]

(c) *Median Earnings.* The applicant must represent that the median gross annual pay for project employees working full-time jobs will exceed the median earnings for full-time Orleans Parish workers estimated in the most recent American Community Survey published by the U.S. Census Bureau.

(d) *Health Insurance and Other Benefits.* The applicant must represent that it will offer benefits to all project employees working full-time jobs, which at a minimum shall include health insurance coverage for the employee and eligible

[3] The poverty threshold is determined by the U.S. Census Bureau.
[4] "The unadjusted data are of primary interest to consumers concerned about the prices they actually pay. Unadjusted data also are used extensively for escalation purposes. Many collective bargaining contract agreements and pension plans, for example, tie compensation changes to the Consumer Price Index before adjustment for seasonal variation." U.S. Bureau of Labor Statistics, "Consumer Price Index: July 2009," news release, August 14, 2009.
[5] The median earnings estimate comes from 2007 American Community Survey Table No. B24041.

family members. The health insurance coverage must be made available within a reasonable time after the commencement of employment, and the employer must pay at least 50% of the health insurance premium for the employee.

(e) *Eligible Businesses.* The project must be used exclusively by a manufacturing or industrial business or by a commercial business other than the following types: restaurant, retail store, hotel, motel, entertainment venue, recreation venue, or real estate investment venture, such as a retail shopping center, multi-tenant commercial office building, multi-tenant housing complex or public-access parking garage. This requirement applies whether the project seeking the PILOT Subsidy is constructed as a stand-alone project or a component of a larger development.

The eligible businesses requirement does not target a specific list of industries. Instead, it focuses generally on projects with high economic impact by excluding types of projects that would likely contribute little to local economic growth. This is because they could easily substitute for goods and services provided by local competitors.[6]

(f) *Statement of Need.* The applicant must submit a written statement describing why the requested PILOT Subsidy is necessary for the project. The statement should include: (1) the reasons for pursuing the current project, (2) an explanation, with supporting calculations, of why the projected property tax liability at the project location is less attractive than at competing locations under consideration by the company, (3) identification of the competing locations actively recruiting the company, and (4) an explanation of why other forms of public economic development incentives or assistance are inadequate or insufficient for the project.

This statement of need forces applicants for Job Creation Projects to address why the project location is at a competitive disadvantage from the standpoint of property taxes. Generally, academic research has found that property taxes become a significant factor in the business location decision only after the company has chosen the region in which it will locate. It then studies the tax liabilities and physical characteristics of possible sites in competing jurisdictions within the region.[7]

(g) *Good Standing.* The applicant, its principals and affiliated companies must be current on all taxes, debts and other obligations to the City of New Orleans.

Section 10. Minimum Eligibility Requirements.

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[6] Bartik, Timothy J., "Economic Development," op. cit., p. 385. Also, telephone interview with author, September 16, 2008.

[7] Weber, Rachel, and David Santacroce, *The Ideal Deal: How Local Governments Can Get More for Their Economic Development Dollar*, prepared for Good Jobs First and the Center for Urban Economic Development at the University of Illinois at Chicago, March 2007, p. 3.

The Board shall not award a PILOT Subsidy unless it determines that the project meets all of the following minimum requirements:

(a) *Findings.* The Board's consultant must make, and the Board must accept, the following findings:

(1) *Need for the PILOT Subsidy.* A PILOT Subsidy is necessary for the project to proceed.

(2) *Minimum Benefit-to-Cost Ratio.* The projected fiscal benefits exceed the fiscal costs by a ratio of at least 3:1.

The cost-benefit analysis compares the fiscal costs and benefits of the project on a present value basis. However, a net present value calculation is only as good as the underlying cash flow projections.[8] To compensate for the difficulty of making long-term projections and quantifying certain costs, such as increased public services and lost revenues at competing businesses, there should be a minimum ratio of benefits to costs significantly greater than 1:1.[9]

(3) *Cost-Per-Job Standard.* The present value of the PILOT Subsidy, as determined by the cost-benefit analysis, does not exceed $35,000 per new full-time employee at the project.

This standard sets a threshold for the efficient use of the subsidy to spur job creation.[10] For example, a project requesting a 10-year PILOT Subsidy equal to $2 million on a present value basis would need to have at least 58 full-time employees to meet the standard.

(b) *Other Minimum Eligibility Requirements.* No later than the public hearing on the PILOT Subsidy Request, the Board shall receive the following:

(1) *Economic Development Priority.* A letter from the director of economic development for the City of New Orleans affirming that the project would advance one or more of the city's economic development priorities, as expressed in the city's Master Plan or, in its absence, another official statement.

The economic development priority requirement would provide additional assurance to the Board that the project would advance the city's economic development plan.

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[8] Brealey, Richard A., et al., Fundamentals of Corporate Finance (New York: McGraw-Hill, Inc., 1995), p. 141.
[9] The proposed benefit-to-cost ratio of 3:1 is BGR's recommendation. Academic research on the matter is limited. One scholar recommends a "healthy positive margin" between projected benefits and costs. Wassmer, Robert W., "Property Tax Abatement," op. cit., pp. 251-252.
[10] The $35,000 limit is recommended by Good Jobs First, a Washington, D.C., nonprofit organization that promotes accountability in state and local economic development subsidies. The limit is cited in: Weber, Rachel, and David Santacroce, *The Ideal Deal,* op. cit., p. 38.

(2) *Land Use and Planning Approval*. Evidence that the applicant has received approval for all planning, zoning, resubdivision, historic district and other land use actions necessary to develop the proposed project.

The land use and planning approval requirement would ensure that the project has met city planning requirements prior to the Board awarding the PILOT Subsidy.

(3) *Tax Recipient Bodies.* A resolution of support from the New Orleans City Council, approved by at least five of its seven members.

Section 11. Scoring System. To determine the Maximum Percentage for a project meeting the minimum requirements of Sections 9 and 10, the Board's consultant shall calculate a score using the following system. In general, the system ties the maximum percentage subsidy to the extent to which a project could advance the Board's job creation strategy:

The scoring system attempts to quantify how the project would advance the job creation strategy, which focuses on attracting or retaining businesses that provide significant numbers of full-time jobs offering good wages and benefits. Generally, the greater the number of jobs, the greater is the Maximum Percentage. However, the score also weighs the proposed wages and benefits. Thus, the system would favor both (i) projects that create high-paying jobs, many of which would be filled by new residents, and (ii) those that create large numbers of jobs paying closer to the median, which may be more accessible to local residents, including the unemployed. Both types of jobs are important to a local economy.[11]

Scoring Criteria:

(Before producing a total score, round down any fractional points that result from scoring individual criteria.)

Project Employment. 1 point for every 3 full-time employees projected above the minimum required in Section 9(a).

Base Wage. 1 point for every $1 projected above the minimum established in Section 9(b).

Median Earnings. 1 point for every $1,000 in excess of the target median established in Section 9(c).

The system would produce the following scores for these hypothetical projects, assuming the Board's minimum wage is $10 and the Orleans Parish median full-time wage is $35,227:

Corporate headquarters with 125 full-time employees, a minimum wage of $12 per hour and median earnings of $51,000. The employer will pay 100% of health insurance premium costs. The total score is 25+2+15+5 = 47.

Biotechnology manufacturer with 65 full-time employees, a minimum wage of $14 per hour and median earnings of $61,000. The employer will pay 80% of health insurance premium costs. The total score is 5+4+25+3 = 37.

Film studio with 90 full-time employees, a minimum wage of $12 per hour and median earnings of $42,000. The employer will pay 100% of health insurance premium costs. The total score is 13+2+6+5 = 26.

[11] URS Corporation and NexGen Advisors, *PILOT Evaluation Program Project: Evaluation Report*, prepared for Memphis and Shelby County Division of Planning and Development, December 1, 2005, p. 6. Also, Erickcek, George, *Preparing a Local Fiscal Benefit-Cost Analysis,* International City/County Management Association IQ Report, Vol. 37, No. 3 (2005), p. 7.

Health Insurance. 1 point for every 10% of the employee's premium cost paid by the employer above the minimum established in Section 9(d).

Large warehouse with 100 full-time employees, a minimum wage of $10 per hour and median earnings of $37,300. The employer will pay 50% of health insurance premium costs. The total score is 16+0+2+0 = 18.

<u>*Total Points – Advancement of Job Creation Strategy:*</u>

Points	Advancement	Maximum Percentage
0-10	Limited	50%
11-20	Moderate	60%
21-30	Good	70%
31-40	Strong	80%
> 40	Very Strong	90%

EVALUATION OF AREA REDEVELOPMENT PROJECTS

Section 12. Minimum Requirements for Preliminary Review. To be eligible for review, the application for an Area Redevelopment Project must meet the following minimum requirements:

The minimum requirements for Area Redevelopment Projects do not limit the types of projects that may qualify. Instead, they focus on the area redevelopment strategy: helping to offset the costs of eliminating blighted conditions when necessary to spur private investment.

(a) *Site Location.* The project must be located within one or more of the geographic areas eligible for investments of federal New Markets Tax Credits, as determined by the U.S. Treasury.

The site location criterion provides a way for the Board to encourage applicants to both invest in distressed areas and leverage non-local financing. New Markets Tax Credits refer to the federal income tax credits that provide incentives to private investors to fund investments in urban areas with at least 20% poverty. Approximately 70% of the city's Census Tracts qualify as eligible areas for the tax credits. In addition to providing an objective and easily-applied method of targeting areas in need, the criterion may encourage more projects to pursue the tax credit financing. This could reduce the need for local subsidies. Some past Board-financed projects have successfully combined both New Markets Tax Credit financing and PILOT Subsidy.

(b) *Statement of Blight and "But For."* The applicant must submit a written statement, accompanied by at least 10 photographs of the site, describing the blight at the proposed project site and why "but for" a PILOT Subsidy the site would not attract appropriate private investment in a reasonable time frame. The statement, which will be independently evaluated pursuant to Section 13(a)(1) and (2) below, shall include a detailed discussion of the following:

The blight and "but for" criteria are concepts borrowed from property tax increment financing (TIF), which functions similar to PILOT Subsidy. Property TIF is a financing mechanism that enables a local government to capture incremental tax revenues from new development at a site and reinvest them in that site to fund improvements. PILOT Subsidy, as used by the Board, allows the developer to keep a portion of his taxes to pay other project costs. Thus, both mechanisms use a property tax subsidy to spur site development.

(1) *Blight.* For the purposes of this statement of policies and procedures, the Board defines "blight" as substantial evidence of at least one of the following site conditions: (i) deterioration, dilapidation and decay of existing buildings or other structures; (ii) long-term vacancy or abandonment of existing buildings or structures; or (iii) environmental contamination or other dangerous conditions that threaten life or property.

The blight criterion is critical for establishing that extraordinary development hurdles exist at the proposed site. The applicant's evidence that the site is blighted will be evaluated independently by the Board's consultant, as described below.

(2) *"But For."* The applicant must explain in the written statement why appropriate development (as opposed to the applicant's project) would not occur at the site in a reasonable time frame without, or "but for," the PILOT Subsidy. Among other things, the applicant should discuss: (i) how long key properties within the proposed site have been vacant, abandoned or poorly used; (ii) what redevelopment efforts, if any, have been previously attempted; (iii) whether the key properties have previously been marketed for sale or lease, whether they were fairly priced, how long they stayed on the market and with what results; (iv) private development interest in the surrounding neighborhood; (v) why the private market failure at the proposed site requires government intervention; and (vi) why PILOT Subsidy would be more efficient and effective than other forms of government intervention, particularly state and federal resources.

The "but for" criterion makes the case why government intervention through the PILOT Subsidy is necessary to alleviate the blighted site conditions and spur private development. The "but for" requirement is a difficult judgment, but one that can be supported by the type of evidence required in subsection (b)(2).[12]

(c) *Costs to Eliminate Blight.* The applicant must submit a detailed, line-item budget of the costs associated with the property assembly, demolition, infrastructure, environmental clean-up or other site preparatory work, and the stabilization of any existing structures, that will be necessary to eliminate the blighted conditions at the proposed

The costs of eliminating the blighted conditions are a factor in the scoring system below.

[12] The evidence is based in part on suggestions in: Weber, Rachel, and Laura Goddeeris, *Tax Increment Financing: Process and Planning Issues*, working paper prepared for the Lincoln Institute of Land Policy, 2007, pp. 5-6.

project site. General and administrative costs associated with the blight elimination work, as well as the costs associated with other phases of the project, shall be excluded from this budget.

(d) *Pro Forma*. The applicant must submit pro forma statements of revenues, expenses and net income for the proposed duration of the PILOT Subsidy, both with and without the proposed subsidy. The statements shall be prepared on the same basis as any other pro forma provided to prospective bond underwriters or purchasers.

Some jurisdictions require pro forma statements both with and without the effect of the tax subsidy to facilitate their analysis of the project's need for the subsidy.

(e) *Job Creation Bonus.* An Area Redevelopment Project that would also create or retain a significant number of full-time jobs may qualify for a Job Creation Bonus in the scoring system below. An applicant seeking bonus points for creating jobs must represent either that (1) the project will directly create and maintain for the life of the PILOT Subsidy an annual average of at least 50 project employees working full-time jobs, or (2) that the project will allow the applicant to maintain for the life of the PILOT Subsidy an annual average of at least 50 project employees working full-time jobs that would otherwise leave the city.

The Job Creation Bonus would provide special bonus points in the scoring system below to assist Area Redevelopment Projects that also create or retain an annual average of at least 50 project employees working full-time jobs. If an applicant is eligible for and accepts the bonus points, the minimum job creation requirement in this section would become a commitment in the lease agreement, as further described in Section 20.

(f) *Good Standing*. The applicant, its principals and affiliated companies must be current on all taxes, debts and other obligations to the City of New Orleans.

Section 13. Minimum Eligibility Requirements. The Board shall not award a PILOT Subsidy unless it determines that the project meets all of the following minimum requirements:

(a) *Findings.* The Board's consultant must make, and the Board must accept, the following findings:

(1) *Finding of Blight*. That the site is blighted,

The applicant's written statement should be independently reviewed.[13] The degree of blight

[13] This review is also recommended with property tax increment financing. Weber, Rachel, and Laura Goddeeris, *Tax Increment Financing,* op. cit., p. 6.

as defined in Section 12(b)(1). The consultant shall also assess the degree of blight at the project site on a scale of 1 to 5, with 1 being minimally blighted and 5 being severely blighted.

existing at the site is used as a factor in the scoring system below.

(2) *Finding of "But For."* Appropriate development (as opposed to the applicant's project) would not occur at the site in a reasonable time frame without, or "but for," the PILOT Subsidy.

This "but for" test would evaluate the second part of the statement submitted in compliance with Section 12(b).

(3) *Verification of Blight Elimination Budget.* The blight elimination budget includes only those costs eligible under Section 12(c) and that the budget is reasonable for the scope of work proposed.

In addition, the blight elimination budget should be checked for reasonableness and the exclusion of certain costs in compliance with Section 12(c).

(4) *Verification of Need for PILOT Subsidy*. The PILOT Subsidy is necessary for the project to proceed.

(5) *Minimum Benefit-to-Cost Ratio*. The projected fiscal benefits exceed the fiscal costs by a ratio of at least 3:1.

The minimum benefit-to-cost ratio would be required for Area Redevelopment Projects, as it is for Job Creation Projects. Area Redevelopment Projects, which would likely consist primarily of residential or local commercial uses, will have lower benefit-to-cost ratios than Job Creation Projects. Their ability to meet the 3:1 ratio will depend on the extent to which (i) they maximize unsubsidized, revenue-producing uses at the site, such as retail and for-sale housing, and (ii) they limit their PILOT Subsidy requests.

(6) *Catalytic Effect*. The development of the project has a reasonable likelihood of attracting significant additional private investment to the surrounding neighborhood. The consultant shall also gauge the extent of the possible catalytic effect on a scale of 1 to 5, with 1 being lowest impact and 5 being highest impact.

As with TIF, PILOT Subsidy for Area Redevelopment Projects should aim to make initial investments that could attract other private development to the neighborhood, multiplying the benefits to the public. Assessing catalytic effect is ultimately a judgment based on the consultant's knowledge of the surrounding area and development trends. The extent of the possible catalytic effect is used as a factor in the scoring system below.

(b) *Other Minimum Eligibility Requirements.* No later than the public hearing on the PILOT Subsidy Request, the Board shall receive the following:

(1) *Land Use and Planning Approval.*

The land use and planning approval criterion is the

Evidence that the applicant has received approval for all planning, zoning, resubdivision, historic district and other land use actions necessary to develop the proposed project.

same as required for Job Creation Projects.

(2) *Tax Recipient Bodies.* A resolution of support from the New Orleans City Council, approved by at least five of its seven members.

Section 14. Scoring System. To determine the Maximum Percentage for a project meeting the minimum requirements of Sections 12 and 13, the Board's consultant shall calculate a score using the following system. In general, the system ties the maximum percentage subsidy to the extent to which a project could advance the Board's area redevelopment strategy:

The scoring system attempts to quantify how the project would advance the area redevelopment strategy, which focuses on offsetting the extraordinary costs of redeveloping blighted property when such investment is necessary to spur private investment. Generally, the greater the blight, the greater is the Maximum Percentage. However, the score also weighs the catalytic effect of the project and any Job Creation Bonus.

Scoring Criteria:

(Before producing a total score, round down any fractional points that result from scoring individual criteria.)

Cost to Eliminate Blight. 1 point for every $300,000 of blight elimination cost determined in accordance with Sections 12(c) and 13(a)(3).

Degree of Blight. 1 point multiplied by the numerical rank assigned by the consultant in accordance with Section 13(a)(1).

Extent of Possible Catalytic Effect. 1 point multiplied by the numerical rank assigned by the consultant in accordance with Section 13(a)(6).

Job Creation Bonus. 3 points if the project meets or exceeds the minimum required in Section 12(e). The applicant may accept or decline the bonus points.

Total Points – Advancement of Area Redevelopment Strategy

The system would produce the following scores for these hypothetical projects:

Large-scale commercial redevelopment of an assemblage of blighted property. The cost to eliminate the blight is $10 million. The consultant ranks the degree of blight at 5 and the extent of possible catalytic effect at 5. The project is eligible for, but the applicant declines the Job Creation Bonus. The total score is 33+5+5 = 43.

Conversion of a former 250,000-square-foot office building into a mix of for-sale condominiums, rental apartments and retail space. The blight elimination cost is $8 million. The consultant ranks the degree of blight at 5 and the extent of possible catalytic effect at 3. The project is not eligible for the Job Creation Bonus. The total score is 26+5+3 = 34.

Conversion of a defunct school into a mix of for-sale condominiums, commercial office space and apartments. The cost to eliminate the blight is $5 million. The consultant ranks the degree of blight at 3 and the extent of possible catalytic effect at 3. The project is not eligible for the Job Creation Bonus. The total score is 16+3+3 = 22.

New retail store on vacant land. The cost to eliminate the blight is $2 million. The consultant ranks the degree of blight at 2 and the extent of possible catalytic effect at 1. The project is eligible for and the applicant accepts the Job Creation Bonus. The total score is 6+2+1+3 = 12.

Points	Advancement	Maximum Percentage
0-10	Limited	50%
11-20	Moderate	60%
21-30	Good	70%
31-40	Strong	80%
> 40	Very Strong	90%

SUPPORTING POLICIES AND PROCEDURES

Section 15. Supplemental Application Data. In addition to submitting all information required by the application for bond financing, any applicant seeking a PILOT Subsidy shall supplement the completed application with the following data:

(a) The property tax assessment data for all parcels comprising the project site for the most recent tax year, with copies of the legal description of each parcel attached.

(b) The total millage rate applicable to each parcel in the most recent tax year.

(c) The property taxes imposed on each parcel in the most recent tax year, with copies of the tax bills attached.

(d) The total amount of taxes payable in the most recent tax year, based on the above data.

(e) The estimated appraised value of the completed project for assessment purposes, with a copy of the underlying pro-forma appraisal attached.

(f) The estimated assessed valuation of the completed project, based on the estimated appraised value.

(g) The estimated amount of taxes that would be payable on the completed project, based on the estimated assessed valuation multiplied by the projected total millage rate applicable to the project.

(h) The proposed annual PILOT amounts for each year and the proposed duration of the subsidy.

(i) The estimated annual PILOT Subsidy for each year, determined by subtracting the proposed annual PILOT amount from the estimated taxes that would be payable in each year.

(j) Any and all documentation described under, and necessary for the Board to evaluate whether the project meets, the applicable Minimum Requirements for Preliminary Review.

Section 16. Fees. The applicant must pay any and all fees required by the Board to process and evaluate requests for PILOT Subsidy. The fees are established in a separate fee policy approved by the Board and available at the applicant's request.

Section 17. Disclosure; Conflict of Interest. The applicant shall disclose any financial relationship, current or anticipated, between itself, its parent, sister or subsidiary companies, or the principals of the applicant or related companies, or their immediate family members, and any member of the Board, any Board employee, or any Board consultant, adviser or counsel. If any such relationship is disclosed, the Board shall take all appropriate actions to comply with Louisiana law and avoid any conflict of interest. The requirements of this section are in addition to, not in lieu of, any and applicable requirements provided in the ethics laws of the State of Louisiana and the City of New Orleans.

This disclosure requirement for applicants would strengthen transparency and address potential conflicts of interest to ensure the Board complies with state law.

Section 18. Consultants. The Board may hire one or more consultants to assist in evaluating PILOT Subsidy requests and monitoring lease agreements. By October 31 of each calendar year, the Board shall issue a Request for Qualifications (RFQ) to seek consultants interested in assisting the Board. The RFQ shall request, among other information, the consultant's background, education, relevant experience and fee schedule. The RFQ shall also require the respondents to comply with Section 17. At its December meeting, the Board shall certify for the next year an official list of qualified consultants who have responded to the RFQ and adequately demonstrated their qualifications. During the next year, the Board may select consultants as needed from the list and subject to compliance with Section 17 to assist the Board in the evaluation of PILOT Subsidy requests or the monitoring

This section establishes a formal process by which the Board would select consultants. Due to the Board's regular need for consultants to assist in evaluating projects and in monitoring an expanding number of performance obligations, the Board should build a pool of qualified consultants from which to make selections.

of leases.

Section 19. Cost-Benefit Analysis Guidelines. To ensure consistency and thoroughness in the preparation of cost-benefit analyses, the Board establishes the following guidelines:

(a) *Geographic Area.* The geographic area for the analysis shall be Orleans Parish.

(b) *Economic Impact Model.* The consultant shall use the U.S. Bureau of Economic Analysis RIMS II model or another generally-accepted economic impact model to estimate the direct, indirect and induced economic impacts of the project.

The first step in preparing a cost-benefit analysis is to estimate the economic impacts of the proposed project.[14] An economic impact model would be used to estimate a project's total economic impact. In broad outline, the model would estimate the total impact by applying multipliers to a project's direct impacts, or the changes it causes in local business activity.[15] Multipliers are the numerical factors used to estimate the subsequent economic effects of the initial changes in business activity. These subsequent effects consist of indirect impacts (those that result from the project's purchases of supplies, materials and services from local firms) and induced impacts (those that result from spending by the project's employees at local stores and local service providers).[16]

(c) *Estimates of Economic Impacts.* The consultant shall observe the following guidelines in estimating the economic impacts of the project:

An economic impact model can easily be misused; therefore, this subsection incorporates guidelines to avoid common errors.

(1) Segregate one-time impacts, such as those resulting from project construction, from recurring impacts, such as those resulting from project operation.

(2) Avoid double-counting investment spending if the model estimates such spending based on job inputs.

If the model estimates the spending on the plant and equipment based on the number of jobs, entering the cost of building the plant would double-count the impact.[17]

(3) Reduce employment, sales or other projections as appropriate for anticipated displacement effects, such as the closure

The third guideline emphasizes that sales or jobs that would have accrued to other businesses in the parish, but are displaced by the project, should not be counted. Displacement effects are not

[14] Erickcek, George, *Preparing a Local Fiscal Benefit-Cost Analysis,* op. cit., p. 2.
[15] Weisbrod, Glen, and Burton Weisbrod, *Measuring the Economic Impacts of Projects and Programs*, Economic Development Research Group, April 1997, p. 4.
[16] Erickcek, George, *Preparing a Local Fiscal Benefit-Cost Analysis*, op. cit., p. 2.
[17] Ibid., p. 3.

of, downsizing at, or sales diverted from other Orleans Parish businesses.

assumed in many economic impact models and must be estimated by the analyst.[18]

(4) Apply conservative multipliers to the direct impacts to estimate total economic impacts.

Multipliers should be conservative because the new dollars generated by the project would be expected to leak quickly out of Orleans Parish in the form of purchases made in surrounding jurisdictions.[19]

(5) In the case of retail stores, apply the multipliers only to the retail mark-up or trade margin, i.e., gross retail sales less the cost of goods sold.

The fifth guideline addresses a common error in the use of economic impact models: applying the local multiplier to total sales rather than the value added by the retailer, and thus overestimating the ripple effects of the sales.[20]

(6) Adjust for the timing of the anticipated economic impacts (i.e., whether they will occur in Year 1, 2, 3 and so on) as appropriate.

Economic impact models typically fail to address the timing of the impacts, so this becomes the responsibility of the analyst.[21]

(d) *Estimates of Fiscal Impacts*. The consultant shall observe the following guidelines in estimating the fiscal benefits and costs of the project to local governments:

Whereas the economic impact analysis estimates the project's contribution to the local economy, the fiscal cost-benefit analysis estimates the new revenues and costs for local government bodies.[22]

(1) Calculate the net present value of the fiscal benefits and costs of the project over a period not to exceed the project construction period plus the applicable maximum duration for PILOT Subsidy, as set forth in Section 8(c). The discount rate shall consist of a basic rate of interest, such as the *Wall Street Journal* Prime Rate or the government's cost of borrowing, plus an assumed inflation rate, if appropriate.

The economic life of the project will vary by the type of project, but it is the appropriate period for the analysis in order to fully capture a project's costs and benefits.[23] However, in today's rapidly changing marketplace, fewer projects have an economic life exceeding 15 to 20 years.[24]

Regarding the discount rate, a nominal rate (including a projected inflation rate) should be used if the cash flows are stated in nominal terms, while a real rate (excluding projected inflation) should be used if the cash flows are stated in real terms.[25] However, there should not be an additional discount for project risk, as is often applied in the private capital markets; rather,

[18] Ibid., p. 3.
[19] "Local government managers should be skeptical of claims of multipliers greater than 2.5 (i.e., for each job created in an assisted business, 1.5 jobs will be created in supplier and retail businesses); such multipliers require assisted businesses to have unusually strong links to local suppliers or unusually highly paid workers." Bartik, Timothy J., "Economic Development," op. cit., pp. 357.
[20] Erickcek, George, *Preparing a Local Fiscal Benefit-Cost Analysis*, op. cit., p. 2.
[21] Ibid., p. 5.
[22] Ibid., p. 1.
[23] Ibid., p. 12.
[24] Ibid., p. 12.
[25] Gramlich, Edward R., A Guide to Benefit-Cost Analysis, 2nd ed. (Prospect Heights, Ill.: Waveland Press, Inc., 1998), p. 98.

benefits and costs should be adjusted for any uncertainty prior to applying the discount rate.[26]

(2) Calculate a ratio of the present value of the fiscal benefits to the present value of the fiscal costs.

This calculation supports a minimum eligibility requirement for both Job Creation Projects and Area Redevelopment Projects.

(3) Include only the Orleans Parish fiscal benefits resulting from the anticipated spending of project employees.

Where employees live significantly influences where they shop.[27] Those residing in Orleans Parish will likely spend a significantly greater portion of their new income within the parish than will those employees living in the suburbs. In addition, any increases in property tax due to employees' new home construction or renovation should be limited to Orleans Parish homeowners.

(4) Include as a cost the estimated ad valorem property tax revenue to be foregone on the completed project.

Some argue that the tax abatement should not be counted as a cost on the assumption that the project would not occur without the subsidy. However, the cost-benefit analysis asks whether local governments would be better off financially once the subsidized project is completed. Thus, the analysis should include the costs of the tax abatement, as it would the costs of other public assistance such as infrastructure investment.[28]

(5) Include the new costs associated with increased demand on Orleans Parish government services, estimated using an average cost or marginal cost approach where appropriate.

The most common method for estimating the increased costs of public services is the average cost approach. It assigns current government operating costs to residential and nonresidential property based on their shares of total property value. Then, the residential and nonresidential costs are divided by total population and total employees, respectively. The per-capita and per-employee average costs are multiplied by the new city residents and new employees, respectively, to estimate the increased costs of the project. However, in some cases, such as large development projects, the unique demands placed on public services make an average cost approach inappropriate. In those cases, a marginal cost method, such as an estimate based on a case study, should be used.[29]

(e) *Non-Quantifiable Benefits and Costs.* If the consultant perceives certain benefits or costs that cannot be adequately estimated or quantified, the consultant shall describe them in the report and

Costs and benefits that cannot be measured should not be ignored. An example of a non-quantifiable cost would be residential displacement from existing units caused by new residential development. Examples of non-quantifiable benefits include the amelioration of

[26] Ibid., pp. 99-100.
[27] Erickcek, George, *Preparing a Local Fiscal Benefit-Cost Analysis*, op. cit., p. 4.
[28] Ibid., pp. 8-9.
[29] Ibid., p. 7. Also, Burchell, Robert W., and David Listokin, The Fiscal Impact Handbook: Estimating Local Costs and Revenues of Land Development (New Brunswick, N.J.: Center for Urban Policy Research, Rutgers University, 1978), pp. 16, 18.

discuss their relevance in proportion to the quantified benefits and costs.

neighborhood distress and improvement of the overall quality of life.[30]

Section 20. Lease Agreement. The terms and conditions of the PILOT Subsidy award and the procedures for payment of the annual PILOT shall be included in the lease agreement between the Board and the beneficiary of the bond issuance. Representations made by the applicant in its application shall be incorporated into the agreement in the form of representations and covenants, as appropriate.

Obligations for specific performance by the company increase the likelihood of the project producing clear, measurable benefits in exchange for the subsidy.[31] In general, the terms and conditions of obligations should be clearly stated in the incentive contract in order to be enforceable.[32]

The lease for Job Creation Projects shall include a commitment to report the data necessary for the Board to determine compliance with the lessee's covenants relating to jobs, wages and benefits by January 15 following the end of the first calendar year of project operations, and each year thereafter, for the duration of the PILOT Subsidy. If the Board determines that the lessee has fallen below any of the minimum thresholds established in Sections 9(a) through 9(d), the annual PILOT Subsidy for that year shall be eliminated and the lessee shall pay the Maximum PILOT Amount. To the extent that the lessee meets the minimum thresholds but falls short of its commitments, the PILOT Subsidy for the year of non-compliance shall be reduced as set forth in the following paragraph.

These obligations would provide clear measures of project performance, addressing jobs, wages and benefits. They would be accompanied by a penalty for non-compliance.

Each year, the Board will review the jobs, wages and benefits actually created against the lessee's commitments, and give a score based on the system in Section 11. If this score is less than the score used to determine the Maximum Percentage at the time of PILOT Subsidy Approval, a copy of which score shall be incorporated into the lease, the PILOT for the year of non-compliance shall be recalculated using the applicable Maximum Percentage for the new score.

The lease for Area Redevelopment Projects shall include a commitment to report the project's annual gross revenue to the Board no later than 10 days after the lessee

For Area Redevelopment Projects, a significant part of the public benefit is achieved through the redevelopment of the blighted site. This commitment, based on a practice recently initiated by the Board, would provide tax recipient bodies

[30] Erickcek, George, *Preparing a Local Fiscal Benefit-Cost Analysis*, op. cit., pp. 3-4, 10-11.
[31] Sullivan, Daniel Monroe, "Local Governments as Risk Takers and Risk Reducers: An Examination of Business Subsidies and Subsidy Controls," *Economic Development Quarterly*, Vol. 16, No. 2 (May 2002), p. 115.
[32] Weber, Rachel, and David Santacroce, *The Ideal Deal*, op. cit., pp. 11, 20-23.

receives the audited annual financial statements for the first calendar year of project operations, and each year thereafter, for the duration of the PILOT Subsidy. To the extent that actual reported revenue exceeds the projected revenue shown in the pro forma, a copy of which shall be incorporated into the lease, the Board shall require the lessee to pay a Supplemental PILOT equal to 75% of the excess revenue, up to the difference between the annual PILOT amount and the Maximum PILOT Amount for the year – i.e., the PILOT Subsidy. The Board reserves the right to retain an independent certified public accountant to verify the reported revenue and the calculation of any Supplemental PILOT.

with the opportunity to recoup all or part of the PILOT Subsidy if the project performs better than projected. This is an important safeguard because the Board must initially set the annual levels of PILOT Subsidy – even within the limitations in Section 8 – based primarily on the applicant's representations of what the project needs to be financially feasible.

The 75% limitation allows the lessee to retain 25% of any excess revenue, provides the lessee with an incentive to boost project performance, and reduces the risk of the lessee misreporting revenues. The amount of excess revenue recouped by the tax recipient bodies is limited to the PILOT Subsidy for the year, because by law the total PILOT cannot exceed the Maximum PILOT Amount, i.e., the ad valorem taxes that would be payable if the project were owned by the lessee.

For Area Redevelopment Projects taking the Job Creation Bonus, the lease shall also include a commitment to report the data necessary for the Board to determine compliance with the minimum requirement of Section 12(e) by January 15 following the end of the first calendar year of project operations, and each year thereafter, for the duration of the PILOT Subsidy. If the lessee has not complied with the requirement, the Maximum Percentage at the time of PILOT Subsidy Approval shall be reduced by 10% for the year of non-compliance. The PILOT for that year shall be recalculated using the reduced Maximum Percentage.

Section 21. Other Lease Requirements. Certain local and disadvantaged business utilization requirements of the City of New Orleans and Board monitoring requirements, summarized below, shall also be incorporated into the lease agreement:

(a) *Use of Local Businesses.* The Board and the applicant must establish, and the lessee must make a good faith effort to achieve, certain goals relative to the utilization of locally-owned and disadvantaged business enterprises for compliance with Section 70-432.1 of Chapter 70 of the Code of the City of New Orleans. If the lessee fails to make a good faith effort, as determined by the City of New Orleans, the annual PILOT for the

This obligation is similar to a current practice of the Board to encourage the use of Orleans Parish businesses. In general, to the extent that a project's demands for goods and services can be met locally, it enhances the multiplier effect of the project on the local economy.[33]

However, the proposed obligation takes into account the recently-passed City Council Ord. Cal. No. 27,520 that, among other things, makes the city's locally-owned and disadvantaged business enterprise goals applicable to projects that receive tax incentives, such as PILOT Subsidy.

[33] Bartik, Timothy J., "Economic Development," op. cit., pp. 357.

year of non-compliance shall be increased by an amount equal to 10% of the maximum PILOT amount.

(b) *Monitoring Compliance with Lease Agreements.* The Board's staff or consultant shall have the right to inspect the premises and records relating to the project as necessary to monitor and verify compliance with the performance obligations and other terms of the lease. Such inspections shall be conducted during normal business hours and with 48 hours notice to the lessee. The cost of the monitoring shall be paid through the lessee's annual administrative fee, as determined by the Board and stated in the lease agreement.

Careful monitoring is essential to ensuring that projects produce the benefits they promise in exchange for the PILOT Subsidy. To accomplish this, the Board must have the ability to inspect the premises of and verify data submitted by the lessee.[34]

Section 22. Maximum PILOT Amount. The Board shall annually determine for each completed project a Maximum PILOT Amount, i.e., the estimated ad valorem tax liability of the project if it were owned by the lessee. To determine this amount, the Board shall obtain the assessed valuation of the exempt property, as described below, as well as the total applicable millage rate from the Orleans Parish tax collector. It shall then multiply the assessed valuation by the millage rate to determine the Maximum PILOT Amount.

This section provides a procedure for determining the annual Maximum PILOT Amount for projects receiving PILOT Subsidy. Under this procedure, the Board would arrange with the Assessor to produce an assessment of the exempt property associated with the project. Based on this assessment, the Board would calculate the ad valorem tax liability of the project if it were owned by the lessee, i.e., the Maximum PILOT Amount. This determination is critical to quantifying the annual PILOT Subsidy and for enforcing lease commitments and penalties.

The assessed valuation of the exempt property shall be obtained as follows. Upon execution of the lease agreement, the Board shall arrange with the tax assessor for Orleans Parish having jurisdiction over the project (Assessor) to assess the exempt property upon completion of the project and in each regular assessment cycle thereafter. The assessments shall be performed in accordance with the standard methods and procedures for assessing property for the purpose of ad valorem taxation, including the right to contest the assessed valuation of the property. The Assessor shall provide the current assessed valuation of the exempt property to the Board by December 31 of each year of the PILOT Subsidy. If the Assessor refuses or otherwise fails to provide this valuation, the Board shall obtain an estimate of the assessed valuation of the project from a certified real estate appraiser.

[34] Weber, Rachel, and David Santacroce, *The Ideal Deal*, op. cit., pp. 23-24.

Section 23. Annual Report. The Board shall prepare for public distribution an annual report on its activities in the preceding year. The report shall be produced by September 30. It shall include the following data:

The annual report would present data collected during the Board's monitoring and provide the Board and the public with a picture of how projects are performing.

(a) The PILOT scheduled to be remitted by each project

(b) The actual PILOT remitted by each project, including any Supplemental PILOT

(c) The Maximum PILOT Amount for each project, as determined in accordance with Section 22

(d) The PILOT Subsidy amount for each project, i.e., the difference between the actual PILOT remitted and the Maximum PILOT Amount

(e) Individual project compliance with the lease commitments and penalties

Section 24. Program Cap. The total ad valorem property tax revenue foregone in any year, defined as the sum of the PILOT Subsidy amounts documented in the annual report as required by Section 23(d), shall not exceed $15 million.

A cap on the dollar amount of the property taxes foregone annually by Orleans Parish tax recipient bodies would further encourage the Board to be selective in its future PILOT Subsidy awards. A program cap is recommended for discretionary economic development incentives.[35]

There is incomplete assessment data available to calculate the total foregone taxes on active subsidized projects. The $15 million cap is a starting point and can be revised as the Board develops more detailed information. The $15 million, for instance, could provide room for 50 active subsidized projects averaging $300,000 in annual foregone taxes. From the perspective of the city's General Fund, the cap would mean foregoing up to $3.2 million annually for police, fire, streets, parks, recreation and general government purposes. The $3.2 million would represent less than 5% of the total property tax revenue budgeted annually for those purposes.[36]

Section 25. Program Evaluation. Every three years,

Periodic program evaluation is essential for economic development incentive programs to

[35] Bartik, Timothy J., "Solving the Problems of Economic Development Incentives," *Growth and Change,* Vol. 36, No. 2 (Spring 2005), p. 148.
[36] The city's General Fund property taxes for police, fire, streets, parks, recreation and general government purposes total 27.86 mills in 2009, or 21% of the total 130.10 mills levied citywide. The total property tax revenue anticipated for those purposes in the 2009 General Fund budget is approximately $72 million, or 15% of that budget.

the Board shall hire a consultant to prepare a written evaluation of the overall performance of the PILOT Subsidy program. The evaluation shall include an analysis of the economic and fiscal impacts of the projects receiving PILOT Subsidy during the period, including the total ad valorem taxes foregone; describe the extent of any non-quantifiable benefits and costs of the projects; analyze how the job creation and area redevelopment strategies and goals were advanced during the period; and recommend improvements to the program, including this statement of policies and procedures. Each lessee shall make available to the consultant upon written request the project-related data necessary to prepare the analysis.

continuously improve and avoid repeating past mistakes. It provides an opportunity not only to assess the program's performance, but also to reevaluate its strategies and goals.[37]

Section 26. Definitions. This statement uses the following terms:

"Board" means the Industrial Development Board of the City of New Orleans, Louisiana, Inc.

"City Council" means the Council of the City of New Orleans, Louisiana.

"Full-time job" means an employment position providing at least 1,750 hours of work to an employee within a year.

"Maximum PILOT Amount" means the amount equal to the ad valorem tax liability of the project if it were owned by the lessee.

"PILOT" means the payment in lieu of taxes required pursuant to Louisiana Revised Statutes 51:1160.

"PILOT Subsidy" means the difference between the Maximum PILOT Amount and a lesser annual PILOT determined by the Board.

"Project" means a development, consisting of land, buildings, structures, fixtures, furnishings, equipment and any other facilities, both movable and immovable, eligible under Louisiana Revised Statutes 51:1151 et seq. to be financed and acquired by the Board.

[37] Poole, Kenneth E., et al., *Evaluating Business Development Incentives*, prepared for the U.S. Department of Commerce, Economic Development Administration, August 1999.

“Project employee” means a person employed at the project, whether by the lessee, a sub-lessee or an entity that contracts with the lessee or sub-lessee to provide all or part of the necessary labor force at the project. It does not include employees of contractors providing bona fide ancillary services, such as cleaning, maintenance and repairs.

Section 27. Applicant Acknowledgment of Statement. In making a request for a PILOT Subsidy, the applicant acknowledges that it has read and understood, and agrees to comply fully with, the provisions of this statement of policies and procedures.

This provision should also be included in the application for bond financing and acknowledged with the applicant’s signature.