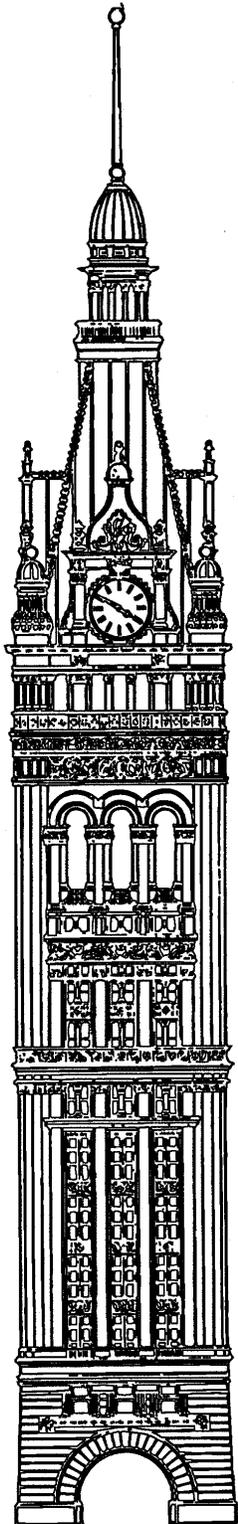


City of Milwaukee

- Fair Share Program -



Guidelines for Payments in Lieu of Taxes from Exempt Institutions

Thomas M. Barrett, Mayor

Steven A. Miner, Assessment Commissioner

- Fiscal Year 2019 -

PILOT Procedure

The City of Milwaukee initiates discussions regarding a voluntary annual PILOT payment at the time a tax-exempt organization qualifies for and is granted a property exemption or when it contemplates either acquiring, expanding, improving or replacing its property. This policy has the pragmatic advantage of allowing exempt institutions to include the cost of any PILOT payment in their project financial plans.

When an institution anticipates multiple alterations to its campus, the agreement could take the form of a campus-wide agreement. This type of agreement allows for a predetermined formula to be applied to future property acquisitions or expansions and avoids duplicating the entire PILOT process each time a new project is undertaken.

There are four basic steps in the PILOT process:

1. When an institution is granted an exemption or a previously exempted organization demonstrates its intent to expand, improve, replace or acquire a facility, the institution is given a sample PILOT agreement. (See Attachment A)
2. The Assessor's Office will meet with the exempted organization to discuss the formulation of a payment in lieu of tax agreement and the amount of payment;
3. Once an agreement in principal is reached, the City Assessor's office drafts the PILOT agreement using the standardized format as a guide (See Attachment A);
4. After the PILOT agreement is approved by the institution, City Assessor's office and the City Attorney's office, the contract is executed.

Guidelines for Establishing the Payment in Lieu of Tax Amount

PILOT payments are based upon the value of the property and the revenue the municipal government forgoes due to the exempt status of the property. The City utilizes the following guidelines, while understanding that each institution and property has unique circumstances that make flexibility necessary.

Estimating Value: Value can be determined using one of the following methodologies:

1. **Cost:** When an institution undertakes a large construction and/or renovation project, the cost involved in the construction provides a basis for determining the value. The Assessor's Office establishes a price per square foot based on the cost information provided by the institution.
2. **Assessed Value:** In situations where the exempt institution purchases property that was previously taxable and no renovations are planned, the assessed value is used as the basis for the PILOT.

3. **Comparable Buildings:** When possible, the value of a facility is based on the assessed value of comparable buildings in the same or comparable neighborhood with similar use.

Calculating the PILOT (fair share) Amount

The "fair share" of a tax-exempt property is determined by multiplying the project value by the current city tax rate and dividing by 1,000. In 2018, a tax-exempt property with an estimated value of \$1 million would make a payment of \$10,590, for example. The calculation does not include the tax rates of other jurisdictions city taxpayers support like Milwaukee County, Milwaukee Public Schools, Milwaukee Area Technical College and the Milwaukee Metropolitan Sewerage District.

Credits for Services Provided by Tax-Exempt Institutions

Many institutions prefer offering community services, such as scholarships, or free use of the institution's facilities or other services, to making actual cash payments to the city. The city will evaluate requests for community service credits on a case-by-case basis, but services that support the priorities of the Barrett administration to promote education, public safety, and expand jobs are preferred. Such credits must be new services over and above what the institution was providing prior to the execution of the PILOT agreement.

Escalator Clause

PILOT agreements apply an escalator clause to the base year payment to mitigate the effects of inflation. The city uses the Consumer Price Index produced by the Bureau of Labor Statistics at the U.S. Department of Labor. PILOT agreements last five years and are automatically renewed using the same methodology unless either party provides notification otherwise.

SUMMARY

The City of Milwaukee would like to thank those institutions that support the PILOT program. City government and exempt institutions must maintain a cooperative partnership to ensure Milwaukee's fiscal and economic health. By contributing back to the community, exempt institutions increase the city's ability to sustain its level of city services, a benefit to all city residents and institutions.

Please do not hesitate to contact Steve Miner at (414) 286-3101 if you have any questions or comments about these guidelines.

**SAMPLE TAX-EXEMPT INSTITUTION
PILOT AGREEMENT**

OWNER: SAMPLE TAX-EXEMPT INSTITUTION
A Wisconsin Tax Exempt Institution

OWNER ADDRESS: 200 East Wells St
Milwaukee, WI 53202

PROPERTY ADDRESS: 200 East Wells St
Milwaukee, WI 53202

PROPERTY PARCEL
IDENTIFICATION NO: 300-0000-000-0

This agreement for payments in lieu of taxes ("PILOT") is made by and between SAMPLE TAX-EXEMPT INSTITUTION NAME, ("TAX-EXEMPT") and the City of Milwaukee, a Wisconsin municipal corporation ("CITY"), as of the ____ day of _____, ____ ("AGREEMENT").

WITNESSETH

WHEREAS, TAX-EXEMPT owns or intends to acquire real property which is legally described in Exhibit A attached hereto (the "PROPERTY"); and

WHEREAS, TAX-EXEMPT and CITY have each determined that it is in their best interests to enter into this AGREEMENT, with the AGREEMENT being subject to: (i) TAX-EXEMPT being the holder of legal title to the PROPERTY; and (ii) CITY determining that the PROPERTY is tax exempt under TAX-EXEMPT's use, occupancy and ownership;

WHEREAS, CITY has determined that, under the facts and circumstances currently disclosed or known to the CITY and the law currently existing, and under TAX-EXEMPT'S intended ownership, occupancy and usage disclosed the CITY, the PROPERTY qualifies for real

and personal property tax exemption under § 70.11(4), Wis. Stats., as of January 1, 2019; and

WHEREAS, TAX-EXEMPT recognizes that, notwithstanding property tax exempt status of the PROPERTY, valuable government services and benefits will be provided to it and the PROPERTY, which services and benefits directly or indirectly relate to the public health, safety and welfare, and which include, but are not limited to fire and police protection, paved streets and sidewalks, street lights and snow removal; and

WHEREAS, TAX-EXEMPT wishes to make PILOT payments to CITY in recognition of those services and benefits referred to herein.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. INCORPORATION OF WHEREAS CLAUSES.

The parties hereby acknowledge that the above clauses are part of this AGREEMENT.

2. CITY SERVICES.

A. Services Typically Covered by Property Tax

It is the parties' intent that CITY will provide public services to TAX-EXEMPT and the PROPERTY subject to the same terms and conditions as apply to properties owned by citizens or the public generally. Such services and benefits include, but are not limited by specific enumeration herein, those typically covered by the property tax such as fire and police protection, and on public streets, snow removal, street and sidewalk maintenance, and street lighting. CITY shall not have breached its obligations hereunder if it is prevented from providing benefits and/or services to TAX-EXEMPT or the PROPERTY because of typical *force majeure* reasons (e.g. war, flood, fire, labor dispute, supply shortage, act of God, natural disaster, etc.), because of budgetary constraints, or because any person or entity shall assert a right which

prevents delivery of such benefits and/or services.

B. Special Assessments, Special Charges and Fees.

Notwithstanding paragraph 2.A. or property tax exempt status of the PROPERTY, TAX-EXEMPT understands that it may be subject to special charges, and special taxes as defined in § 74.01, Wis. Stats. (and as also referred to in Ch. 66, Wis. Stats.) and fees charged by CITY in the same manner that such special assessments, special charges, special taxes, and fees are charged for similar services and/or undertakings to commercial buildings within CITY. This provision shall not affect CITY's powers, consistent with the law, to determine the services and benefits (other than those typically covered by the property tax) that shall be provided to the PROPERTY and/or similarly situated property pursuant to this paragraph 2.B. Nothing contained herein shall preclude TAX-EXEMPT from appealing, as provided by law, the imposition of such special assessments, special charges, special taxes or fees.

3. PILOT PAYMENTS .

A. Calculation for 2019 and Subsequent Years.

In recognition of those services and benefits covered by paragraph 2.A. of this AGREEMENT, beginning in tax year 2019 until termination of this AGREEMENT, TAX-EXEMPT agrees to pay CITY an annual PILOT for the PROPERTY for each tax year (or portion thereof) during which TAX-EXEMPT owns the PROPERTY.

The method to be used in determining the PILOT payment for the base year shall be the Value¹ of the PROPERTY for that base tax year determined by the CITY Assessor's office

¹ "Value" herein means CITY Assessor's determination of the fair market value of the real property constituting the PROPERTY on January 1 of that tax year, subject to any revised determination under paragraph 6 of this AGREEMENT.

times the CITY 's Property Tax Rate² for that tax year, divided by 1,000. In each subsequent year of this agreement, the VALUE of the PROPERTY shall be adjusted according to the Consumer Price Index. If TAX-EXEMPT transfers or conveys the PROPERTY, the PILOT for that year will be prorated based upon the number of full months for which TAX-EXEMPT owned the PROPERTY.

B. Payment Due Date.

PILOT payments for the tax year 2019 and subsequent years shall be due and payable (i) in full on or before January 31 of the year following the tax year for which the PILOT payment was calculated, or (ii) if TAX-EXEMPT elects to pay in installments, according to the following schedule: One-tenth of the PILOT payment by the last day of each month for the first 10 months in the year following the tax year for which the PILOT payment was calculated. TAX-EXEMPT shall be deemed to have elected to pay the PILOT payment in installments by making the first full installment payment on or before January 31 in the respective year in which the PILOT payment is due.

C. Use of PILOT Payment.

CITY may use and expend PILOT payments hereunder in such manner and for such purposes as CITY desires.

D. Voluntary PILOTS; Waiver. TAX-EXEMPT is bound to make the PILOT payments required hereunder only to the extent that monies are obtainable for such purpose. TAX-EXEMPT has a good faith duty to take affirmative steps to satisfy its PILOT obligations hereunder by including the PILOT amount in its financial planning process.

If TAX-EXEMPT meets its good faith duties under the terms of this

² "Property Tax Rate" means the property tax rate for only the CITY as determined for taxable property in CITY from time to time. For example, the 2018 CITY's Property Tax Rate was \$10.59 per \$1,000 in assessed value.

AGREEMENT, CITY shall not take and hereby waives any enforcement or collection action against TAX-EXEMPT. No tax lien shall attach to the PROPERTY in the event of non-payment or partial payment.

4. EXEMPT STATUS.

CITY has determined that, if TAX-EXEMPT acquires a PROPERTY and currently uses or will use it for the purposes described in its preliminary application for exemption, filed with CITY prior to the execution of this AGREEMENT, the PROPERTY does or will qualify for real and personal property tax exemption under Wisconsin law. TAX-EXEMPT understands and acknowledges that: (i) the earliest date that the PROPERTY can qualify for tax exemption is January 1, 20__; (ii) under the preamble to § 70.11, Wis. Stats., TAX-EXEMPT must, as a condition to securing an exemption, timely file an exemption application with CITY's Assessor; and (iii) CITY reserves all rights under Wisconsin law to grant or deny TAX-EXEMPT's application for exemption. In the event that CITY grants TAX-EXEMPT's application for exemption, CITY Assessor's Office may review and reconsider the PROPERTY's exempt status under § 70.11, Wis. Stats., from time to time with the respective January 1 dates being the reference dates for those exemption reviews.

If for any reason, CITY determines that all or any portion of the PROPERTY does not qualify for exemption from property tax: (i) CITY shall provide written notice of such determination to TAX-EXEMPT no later than May 31 of that year; (ii) no PILOT payment shall be due under this AGREEMENT with respect to any year for which exemption, in full or in part, does not apply; (iii) if a PILOT payment has been paid for such tax years, CITY shall promptly refund such PILOT payments or, at the option of CITY, offset such PILOT payments against any property taxes due on the PROPERTY, in which case CITY will treat such offset as having been

made under protest; and (iv) the PROPERTY, or any portion thereof which does not qualify for exemption, shall be placed on the property tax rolls for that and any subsequent years for which an exemption has been determined not to apply. If TAX-EXEMPT disagrees with CITY's determination that the PROPERTY, or any part thereof, no longer qualifies for tax exemption, TAX-EXEMPT may challenge such determination by following any procedure provided under Wisconsin law.

5. TERM.

A. Termination of AGREEMENT.

This AGREEMENT shall terminate on the soonest of any of the following described dates:

(i) The day before the respective January 1 of the year for which the CITY determines that the Property no longer qualifies for property tax exemption.

(ii) The effective date of an enactment by the State of Wisconsin of a mandatory payment for municipal services by owners of property exempt from the general property tax or similarly situated owners of exempt property for the type of municipal services covered by this AGREEMENT;

(iii) The effective date of a repeal by the State of Wisconsin of the property tax exemption for the PROPERTY and other similarly situated property;

(iv) Five years from the effective date of this AGREEMENT.

(v) Upon a determination by TAX-EXEMPT that continuation of the AGREEMENT is not in the best interests of TAX-EXEMPT and after 30 days written notice to the CITY;

(vi) Upon a determination by the CITY that continuation of the AGREEMENT

is not in the best interest of the CITY and after 30 days written notice to TAX-EXEMPT.

B. Payments Due and Payable at Termination Survive Termination.

Notwithstanding any termination of this AGREEMENT, TAX-EXEMPT shall continue to be liable to the CITY for all PILOT payments due and payable under this AGREEMENT until the effective date of termination hereof.³

6. DOCUMENTS, INSPECTION, COOPERATION.

TAX-EXEMPT agrees to cooperate with CITY (including, but not limited to, the City Assessor's Office, the City Attorney's Office, and the City Comptroller's Office) with respect to this AGREEMENT by allowing inspections of the PROPERTY upon reasonable written request by CITY and such documents that CITY and TAX-EXEMPT may reasonably agree are relevant to exemption and valuation determinations. Notwithstanding the foregoing, CITY reserves all its rights in law and equity to inspect and to obtain disclosure, documents, inspection, and information.

7. AMENDMENT.

This AGREEMENT may be modified and amended from time to time as CITY and TAX-EXEMPT shall mutually agree in writing, executed by both parties.

8. GOVERNING LAW.

The laws of the State of Wisconsin and ordinances and regulations of the City of Milwaukee shall be the governing law with respect to this AGREEMENT.

³ For example, if for year 2018, the CITY agrees that TAX-EXEMPT is exempt from property tax, then TAX-EXEMPT would owe the CITY a PILOT payment for the tax year 2018, payable in calendar year 2019. TAX-EXEMPT would remain liable to pay said PILOT payment for tax year 2018 DURING 2019 even though the AGREEMENT terminates pursuant to paragraph 5. A. of this AGREEMENT for tax year 2019.

9. AUTHORITY.

TAX-EXEMPT represents and warrants to CITY that its representative executing this AGREEMENT has been duly authorized to so execute and to cause TAX-EXEMPT to enter this AGREEMENT. CITY represents to TAX-EXEMPT that CITY's Common Council has authorized CITY to enter this AGREEMENT pursuant to Common Council File No.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by duly authorized representatives as of the date and year first written above.

CITY OF MILWAUKEE

SAMPLE TAX-EXEMPT INSTITUTION

BY _____
Thomas M. Barrett, Mayor

BY _____
TAX-EXEMPT CEO, Manager

Attest: _____
Jim Owczarski
City Clerk

Printed Name

COUNTERSIGNED:

BY: _____
Martin Matson
City Comptroller

CITY ATTORNEY'S OFFICE
Approved as to form, execution and content
This ____ day of _____, 2019.

Assistant City Attorney