ABC's

OF IOWA URBAN RENEWAL

A Practical Guide for Cities and Counties

This Guide is intended for general informational purposes only. Answers to legal questions about Iowa urban renewal law can vary greatly depending upon the specific facts in a given situation. Please consult your attorney.

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Everything should be made as Simple as possible, but not simpler.

Albert Einstein

The difference between the right word and almost the right word is the difference between lightning and the lightning bug.

- Mark Twain

ARTICLE I

URBAN RENEWAL TERMS IN PLAIN ENGLISH

You will not find all of the terms listed here in the language of Chapter 403. Some of these terms have evolved as a short reference to a complicated concept.

AFFECTED TAXING ENTITY - All cities, counties and school districts who levy taxes in the **Urban Renewal Area** you are proposing.

AGRICULTURAL PROPERTY OR AGRICULTURAL LAND - Property that is in a tract of 10 acres or more, not platted into lots of less than 10 acres or divided by streets and alleys into parcels of less than 10 acres, which is used for the production of agricultural products in three of the past five years.

BASE YEAR (of a new urban renewal area) - The calendar year before the calendar year in which a city or county first certifies **Urban Renewal Project** Costs eligible for **TIF Reimbursement**.

BASE YEAR (of an amendment to an urban renewal area) – The calendar year before the year in which a TIF ordinance is effective on the amendment area.

BASE YEAR VALUE - The assessed value of all taxable property in a **TIF Area** on January 1st of the **Base Year**.

BLIGHT - An area where any number of specifically described conditions impair the growth, health, safety, or welfare of the community. **Blight** does not include **Agricultural Property**.

CONSULTATION - A meeting, after reasonable notice, where a city or county considering an **Urban Renewal Plan** discusses the plan with the **Affected Taxing Entities**.

DEBT CAPACITY OR CONSTITUTIONAL DEBT LIMIT - The amount of debt that can be incurred by a city or county. Most borrowings or obligations count against this limit except certain revenue Bonds or Notes. The limit is calculated by taking the 100% valuation for the City or County, before rollback but after military exemption, and multiplying it times .05.

DEVELOPMENT AGREEMENT - The Agreement a city or county who has an **Urban Renewal Area** has with other parties, usually a private developer. Generally, the **Development Agreement** describes a set of promises spelling out what the governmental entity will do for the private developer in return for the private development and the **Economic Development** or **Slum**/**Blight** removed.

ECONOMIC DEVELOPMENT - The creation of new jobs and income or the retention of existing jobs and income in an **Urban Renewal Area**. An **Urban Renewal Project** can generate direct **Economic Development**, such as the development of a new business or industry, or indirect **Economic Development**, such as the provision of housing for employee retention and recruitment, daycare services, or training for workers.

ESSENTIAL PURPOSE - The Iowa Code lists **Essential Purposes** for both cities and counties. The lists are not the same. Generally speaking, a city or county can undertake a loan for an **Essential Purpose** without holding an election or a **Reverse Referendum**. The only exception is for a general obligation bond to fund an **Urban Renewal Project**. In that case, the borrowing must be authorized under the **Reverse Referendum** procedure.

GENERAL PURPOSE - Like **Essential Purposes**, **General Purposes** are listed in the Code for both cities and counties. Basically, a **General Purpose** is any legitimate purpose not included in the **Essential Purpose** list.

INCREMENTAL TAXES OR TAX INCREMENTS - These are the property taxes generated by all increases in assessed value occurring in the **TIF Area** after the **Base Year**. **Incremental taxes** do not include any taxing entities' debt service levy or the school's physical plant and equipment (PPEL) and instructional support program (ISPL) levies and joint county-city building taxes.

JOINT AGREEMENT - An Agreement between a city and a county or two cities allowing one to form an **Urban Renewal Area** in their respective No-Man's Land.

LMI HOUSING - Housing that is affordable to **LMI** persons.

LMI MATCH - The amount of money you must spend on housing for LMI persons when you undertake an **Urban Renewal Project** for non-LMI housing infrastructure in an **Economic Development** Area. The **LMI Match** equals the percentage of LMI persons in your county multiplied by the TIF Reimbursement you will receive for the non-LMI housing infrastructure **Urban Renewal Project**. The **LMI Match** can be spent inside or outside the **Urban Renewal Area**. You can get the **LMI** percentage from your planner or the Iowa Department of Economic Development.

LOW AND MODERATE INCOME (LMI) - Persons in your county who have incomes at or below 80% of the median county income.

MINIMUM ASSESSMENT AGREEMENT - An Agreement where the governmental body, the developer and the assessor all agree that a proposed **Urban Renewal Project** will be assessed at a specific value upon project completion.

NO-MAN'S LAND - The area within two miles of a city. In the case of a county Urban Renewal Plan, it also means the area within the city limits.

PUBLIC IMPROVEMENTS - Water lines, sanitary sewer, storm sewer, streets, sidewalks, traffic controls, signs or other improvements, to be owned by the City or County, and available for public use.

REBATE AGREEMENT - An Agreement to return a portion of **Incremental Taxes** related to a specific **Urban Renewal Project** to the developer or owner of that project. This is a "pay as you go" approach and does not require a borrowing by the City or County. A **Rebate Agreement** can count against your **Debt Capacity**.

REVERSE REFERENDUM - A process to authorize city or county borrowing for a small General Purpose or for an urban renewal General Obligation Bond.

The **Reverse Referendum** involves publication of a Notice at least ten (10) days before a hearing. Unless you receive a petition, signed by a number of citizens who equal at least 10 percent who voted in the last general election, you can authorize the borrowing without an election. If you receive a petition signed by enough residents, you must either hold an election or drop your proposal to incur debt.

The **Reverse Referendum** does not apply to **Essential Purpose** borrowings other than **Urban Renewal Projects** and disaster response bonds over $2,999,999, and does not apply to revenue borrowings. An **Urban Renewal Revenue Bond** is a type of revenue borrowing.

SLUM - Deteriorated or obsolete structures that endanger people and property. Agricultural land is not a **Slum**.

TIF AREA - This is a specific geographic area, usually described by its boundaries. The **Incremental Taxes** paid in this area can be captured by the City or County who formed the area as TIF Reimbursement for Urban Renewal Projects.

TIF CERTIFICATION - A certification filed by a city or county that has a **TIF Area** and has incurred Project Costs in that area for a legitimate **Urban Renewal Plan** Purposes. Currently, **TIF Certifications** are due on or before December 1st of each year. See also Article VII.

TIF REIMBURSEMENT - The money you receive from **Tax Increments** based upon a **TIF Certification** to the county where the **TIF Area** exists.

URBAN RENEWAL AREA - This is a specific geographic area, usually defined by a boundary description, that has been designated as an appropriate area for urban renewal projects.

URBAN RENEWAL GENERAL OBLIGATION BOND - A Bond or Note sold to finance an Urban Renewal Project, and to be repaid from a debt service levy. (The debt service levy can sometimes be abated with **TIF Reimbursement**).

URBAN RENEWAL PLAN - The document that outlines the activities the City or County intends to undertake for the **Urban Renewal Area** it is forming. The **Urban Renewal Area** must meet certain requirements in Chapter 403 of the Iowa Code, and must be consistent with the City's or County's general plan for development and zoning.

URBAN RENEWAL PROJECT - An undertaking by a city or county inside an **Urban Renewal Area**. The **Urban Renewal Project** must meet the requirements of state law and the specific **Urban Renewal Plan** for the **Urban Renewal Area** it is in. The **Urban Renewal Plan** must include authority for the **Urban Renewal Project** before the project may be approved.

URBAN RENEWAL REPORT - A detailed report about an **Urban Renewal Plan** and **Area**, including such information as TIF expenditures, submitted electronically to the Department of Management by December 1 following the close of each fiscal year.

URBAN RENEWAL REVENUE BOND - A Bond or Note sold to finance an **Urban Renewal Project**, that will be repaid solely and only from the **Incremental Taxes** generated by the **Urban Renewal Area** containing the **Urban Renewal Project**.

In everything one must consider the end.

- Jean de La Fontaine

ARTICLE II

THE SIX TYPES OF URBAN RENEWAL AREAS

Iowa law recognizes at least six different kinds of **Urban Renewal Areas**. It is not uncommon to mix two or more together. Each one has its own purpose and rules. A first step in considering adoption of an **Urban Renewal Plan**, or undertaking an **Urban Renewal Project**, is to identify the type or types of area needed. Some areas include two or more types. However, once the **Urban Renewal Area** is designated as one of these types, or a combination, it cannot be redetermined throughout its duration. The five types are:

1. **SLUM AREA.** This is an area where **Slum** conditions exist and the City or County wants to eliminate those conditions.

2. **BLIGHT AREA.** This is an area where **Blight** conditions exist, and the City or County wishes to eliminate these conditions.

3. **ECONOMIC DEVELOPMENT - COMMERCIAL/INDUSTRIAL AREA.** This is an area where a city or county wants to create or retain jobs and income and strengthen the economy by promoting the development of new business and industry or by retaining existing business and industry.

4. **ECONOMIC DEVELOPMENT - LMI HOUSING AREA.** This is an area where the City or County wants to promote development or construct improvements to promote housing opportunities for **LMI** persons.

5. **ECONOMIC DEVELOPMENT - INFRASTRUCTURE FOR NON-LMI HOUSING.** This is an area where a city or county wants to help fund the cost of **Public Improvements** to serve housing that is too expensive for **LMI** persons. This type of area should be mixed with any of the other four types only when the effect that it might have is fully understood and accepted.

6. **MIXED AREAS**. This is an area that has more than one designation, such as blight and economic development.

More important than the quest for certainty is the quest for clarity.

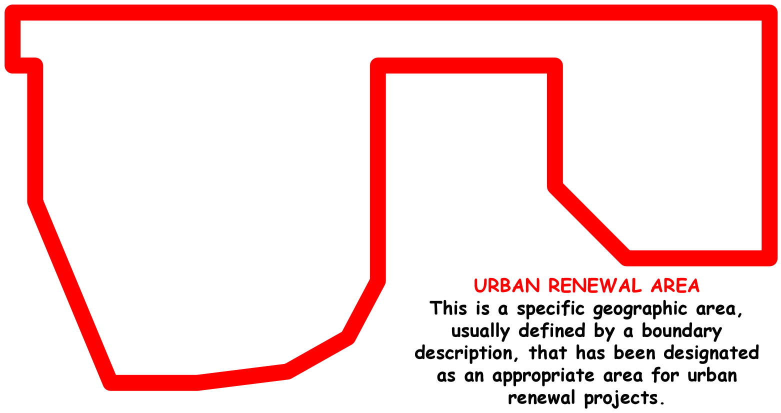
- Francois Gautier

ARTICLE III

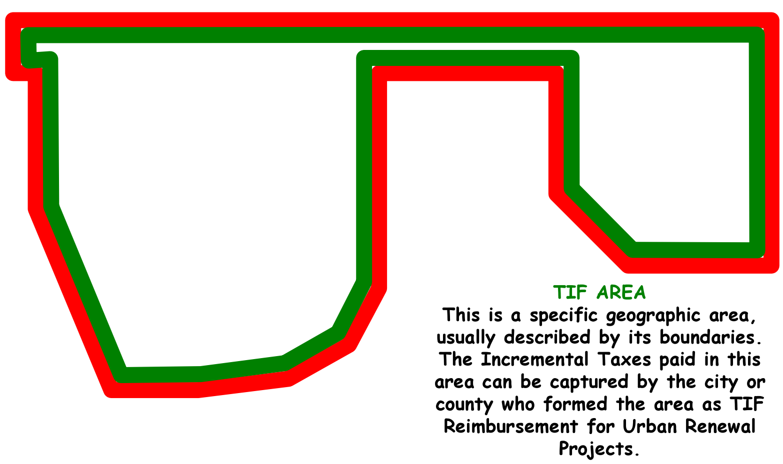
THE DIFFERENCE BETWEEN "URBAN RENEWAL" AND "TIF"

An "**Urban Renewal Area**" and a "**TIF Area**" do not mean exactly the same thing. An **Urban Renewal Area** is the geographic area covered by an **Urban Renewal Plan**. A **TIF Area** is the portion of the **Urban Renewal Area** in which **Incremental Taxes** can be divided to pay for **Urban Renewal Projects**. Most **TIF Areas** are identical to the corresponding **Urban Renewal Area**, but this is not always true. Some **Urban Renewal Areas** contain a smaller **TIF Area**, or multiple **TIF Areas**. A city or county can have an **Urban Renewal Area** with no **TIF Area**, but no **TIF Area** can exist where there is not an **Urban Renewal Area**.

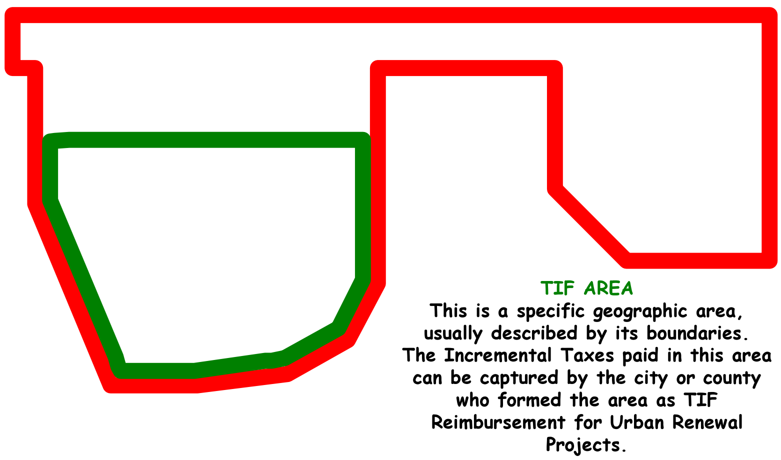
AN URBAN RENEWAL AREA



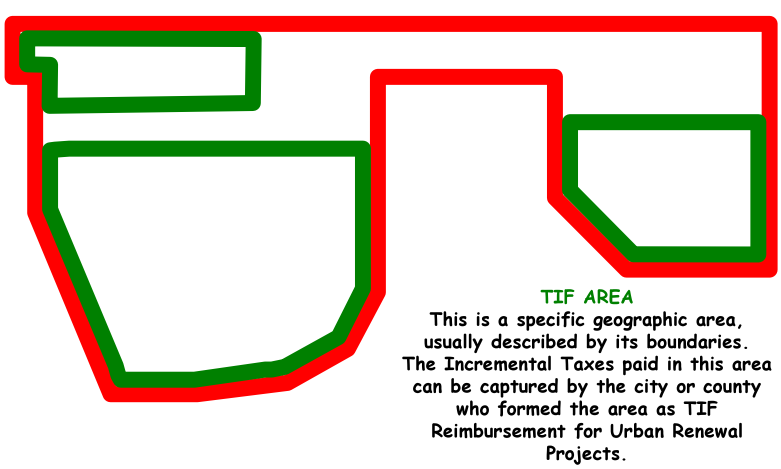
A TYPICAL TIF AREA (CO-EXTENSIVE WITH AN URBAN RENEWAL AREA)



A TIF AREA FOR PART OF AN URBAN RENEWAL AREA



A SET OF TIF AREAS IN A SINGLE URBAN RENEWAL AREA



A good conscience is a continual feast.

- Robert Burton

ARTICLE IV

WHAT CAN YOU USE TIF REIMBURSEMENT FOR?

TIF Reimbursement can only be spent for qualifying **Urban Renewal Projects**. There are several steps to determine whether a project is an **Urban Renewal Project** that qualifies for **TIF Reimbursement**. The steps are:

1. Determine that the expenditure relates to a project within the geographic borders of an **Urban Renewal Area**. If not, an area will have to be formed or amended to include the new geographic area before the project can be considered an **Urban Renewal Project**. The only exception is for an **LMI Match Urban Renewal Project**.

2. Determine whether the proposed project is covered by the list of allowable Urban Renewal activities listed in Iowa Code Sections 403.6 or 403.12.

3. Determine whether the proposed project is adequately described and covered in the **Urban Renewal Plan** for the **Urban Renewal Area** where the project will occur. If not, the **Urban Renewal Plan** will have to be amended to allow the **Urban Renewal Project**.

The 2012 changes to Urban Renewal law impose a prohibition against approval of any urban renewal project that is not included in an urban renewal plan. Thus, you must amend your **Urban Renewal Plan** to include any **Urban Renewal Project** that is not included in the plan. Cities and Counties may consider making amendments to **Urban Renewal Plans** on a regular basis, perhaps annually, as well as when needed throughout the year. An amendment should include potential **Urban Renewal Projects**, as well as the anticipated date of the project and its estimated cost. Potential **Urban Renewal Projects** may include:

- Public Improvements (list Urban Renewal Project, the rationale (economic development or blight remediation), estimated date, and include a "not to exceed" estimate of costs);

- Development Agreements (list Urban Renewal Project, the rationale (economic development or blight remediation), estimated date, and include a "not to exceed" estimate of costs);
- Blight Remediation (list Urban Renewal Project, the rationale (blight remediation), estimated date, and include a "not to exceed" estimate of costs);
- Property Acquisition or Conveyance of Property (list Urban Renewal Project, the rationale (economic development or blight remediation), estimated date, and include a "not to exceed" estimate of costs), and
- LMI MATCH (describe Urban Renewal Project (contribution to LMI Match Fund or specific LMI project), estimated date, "not to exceed" estimate of costs);
- Planning costs, engineering fees, attorney fees and other related administrative costs to support Urban Renewal Projects (list a description, estimated date, and "not to exceed" estimate of costs).

4. Determine whether the proposed project includes the relocation of a business not presently located within the municipality. "Relocation" is defined as the closure or substantial reduction of a business's existing operations in one area of the state and the initiation of substantially the same operation in the same county or a contiguous county in the state. This provision does not prohibit a business from expanding operations in the same or a continuous county of the state, provided that similar existing operations are not closed or substantially reduced. If the facts show a "relocation," the city or county must either enter into a written agreement with the municipality where the business is presently located (either specific to the particular business or an agreement regarding the "general use of economic incentives" to attract commercial or industrial development) or find that the relocation is in the public interest. A finding that the relocation is in the public interest must include written verification from the business that it is actively considering an out-of-state move that would result in a significant reduction in employment in the state or wages earned by workers in the state.

5. Determine whether the proposed project includes the use of **TIF Reimbursement** for a public building, including but not limited to a:

- Police station,
- Fire station,
- Administration building,
- Swimming pool,
- Hospital,
- Library,
- Recreational building,
- City hall, or
- Other public building that is exempt from taxation.

If so, an analysis of alternative development options and funding for the Urban Renewal Project and the reasons such alternate options would be less feasible than using TIF for the proposed Urban Renewal Project must be sent to the affected taxing entities with the consultation notice. (It could be part of the Plan or Amendment.) This analysis must also be included in the annual **Urban Renewal Report**.

6. Consider how the proposed project would further the overall purpose for the **Urban Renewal Area**. In other words, identify the ways the project will eliminate **Slum** or **Blight**, create or retain jobs and income (Economic Development), provide housing for **LMI** families, or provide **Public Improvements** for non-LMI housing development.

Unless the City or County can meet these tests and requirements, the proposed project should not be considered an **Urban Renewal Project**, and should not be certified for **TIF Reimbursement**.

Nine-tenths of wisdom is being wise in time.

- Theodore Roosevelt

ARTICLE V

FROM PROJECT COMPLETION TO TAX COLLECTION - HOW THE SYSTEM WORKS

When projecting how a proposed **Urban Renewal Project** will be funded, a city or county has to determine when **TIF Reimbursement** will be available.

Under Iowa law, new construction is first assessed on January 1st of the year after its completion. (Partial valuations are sometimes imposed when the construction process crosses into two calendar years).

The new valuation given on January 1st of any year does not take effect immediately. The property owner is advised of the proposed valuation and is given a significant amount of time to protest the assessment. The new value is only used for budgeting and tax collections in the next fiscal year. **TIF Reimbursement** will follow as the property tax bills based on that value are paid.

For example, new construction completed during the summer of 2012 will be first assessed on January 1, 2013. Taxes based on the January 1, 2013 valuation will not be paid until fiscal year 2014-2015. As you can see, it takes quite a while to collect taxes on new development, especially if the new development is completed early in a calendar year. Until the **Incremental Taxes** are collected, there will be no **TIF Reimbursement** dollars to spend.

FROM PROJECT COMPLETION TO TAX COLLECTION

HOW THE SYSTEM WORKS

2012	2013	2014	2015	2016
Project completes 2012	Assessed 01-01-13	Taxes Based on 01-01-13 Valuation Will Not be Paid Until Fiscal Year 14-15	**Until and unless** Incremental Taxes are Collected there are no TIF Reimbursement Dollars to Spend	**Until and unless** Incremental Taxes are Collected there are no TIF Reimbursement Dollars to Spend

I find the great thing in this world is not so much where we stand,
as in what direction we are going.

- Oliver Wendell Holmes, Jr.

ARTICLE VI

HOW DO YOU COMPUTE TAX INCREMENT?

Tax Increments are computed by comparing the Base Value of an **Urban Renewal Area** to the value in a given year. For a new **Urban Renewal Area** the Base Value is the value that area had on January 1st of the year before the year of the area's first **TIF Certification**. For example, if a new **Urban Renewal Area** is formed in calendar year 2012, and **TIF Certification** is first made for that area on or before December 1, 2012, the **Base Year** would be 2011, and the **Base Year Value** would be the assessed value of the taxable property in the area on January 1, 2011. (Note: The base value of area added by amendment is different. See the definition of **Base Year** on page 7.)

To determine the Tax Increment Value of the **Urban Renewal Area** in any given year, you would compare the assessed value in that year to the **Base Year**. That difference would then be multiplied by the net levy. Under current law, the net levy is the levy of all taxing bodies minus all debt service levies of the Affected Taxing Entities and the school's physical plant and equipment (PPEL), instructional support program (ISPL) levies, and joint county-city building taxes.

A simple example illustrates this concept better:

> First, assume that the first **TIF Certification** of a new **Urban Renewal Area** occurred on December 1, 2012, and that the assessed value in the **TIF Area** on January 1, 2011 (**Base Year**) was $1,000,000. Next, assume we are calculating Tax Increment for the year 2015. Assume the 2015 assessed value for the **TIF Area** is $2,000,000. This results in a $1,000,000 increase in assessed value over the Base Value.
>
> Next, assume that the total combined tax levy for the **TIF Area** is $32 per thousand, but four of those levy dollars are for various debt service funds and for the school's PPEL and ISPL. The net TIF levy would be $28 per thousand.

Multiply the $1,000,000 increase by $28 per thousand ($28 / $1,000), and you can estimate the maximum **TIF Reimbursement** that would be available.

The actual computation of Tax Increment is more complicated due to rollbacks, factors changing assessed values, fluctuating combined levy amounts, changes in taxable versus tax-exempt property and many other factors. When you estimate future **TIF Reimbursement**, there is a good likelihood of over or underestimation. If your city or county works with a financial consultant, you may want to enlist assistance in making these estimates.

TAX INCREMENT – FOLLOW THE MONEY

Taxes on Base Value	Go to levying bodies and are not available for the **Urban Renewal Project**
Debt Service Levies	Go to levying bodies and are not available for the **Urban Renewal Project**
PPEL	Go to school except under certain limited circumstances
ISPL	Go to school and are not available for the **Urban Renewal Project** except under circumstances described below
Joint County-City Building Taxes	Go to county/city and are not awarded for the **Urban Renewal Project**
Incremental Taxes	If certified, go to entity undertaking the **Urban Renewal Project** to extent needed

Note: In the 2012 amendments to Chapter 403, the Instructional Support Program Levy (ISPL) was Phased Out from the collection of incremental taxes. Any TIF debt incurred after April 24, 2012, will not be eligible to receive the benefits of the local school district's ISPL tax revenues, unless the ISPL is necessary to pay principal and interest on the TIF debt and the school district passes a special resolution approving use of such revenues. TIF debt incurred on or before April 24, 2012, may receive the benefit of ISPL tax revenues for fiscal years 2013-2014 and following only if the ISPL is necessary to pay principal and interest on the TIF debt and the city or county certifies to the auditor by July 1 of each fiscal year, beginning July 1, 2013. The auditor must then certify to the school district, also by July 1 of each fiscal year, beginning July 1, 2013. The school district must then pay those amounts directly to the city/county during that fiscal year (by Nov. 1 and May 1). This notification process will be similar to that of the TIF revenues generated by physical plant and equipment levies (PPEL). **Note:** Even though the statute contemplates the city or county certifying only to the auditor, we think it makes sense to certify to BOTH the auditor and the school district, in order to enhance communication. Cities or counties could certify to the school and auditor as part of their December 1 certification process to be sure to meet the July 1 deadline.

The wise desire no more than what they may get justly, use soberly, distribute cheerfully, and leave contently.

- Quoted by Benjamin Franklin

ARTICLE VII

TIF CERTIFICATION, CERTIFICATION OF COMPLIANCE AND SURPLUS FUNDS

The burden is on the City or County with an **Urban Renewal Area** to certify for **TIF Reimbursement** by December 1 of each year. To do a good job in making these certifications, the City or County needs to keep accurate records of the **Urban Renewal Project** costs it has incurred or advanced.

Cities and Counties are now also required to certify their compliance with TIF laws under Iowa Code section 403.19. Accurate record keeping will assist in this certification as well. Additionally, this certificate of compliance must be included in the city or county's audit each year it is audited.

Cities and Counties must include in their December 1 certification:

a) the amount of loans, advances, indebtedness, or bonds which qualify for payment from the special (TIF) fund in Iowa Code Section 403.19;

b) such amount shall include the **interest negotiated** on said loans, advances, indebtedness, or bonds, which qualify for payment for the special (TIF) fund;

c) such certificate shall include all amounts which qualify for payment from the special fund (TIF fund) **during the next fiscal year and all** amounts which qualify for payment from the special fund **in any future fiscal year**; and

d) such certification shall include the **date that the individual loans**, advances, indebtedness, or bonds **were initially approved by the governing body**.

Surplus Balances in "Inactive Funds" - Current law (Section 24.21 "Transfer of Inactive Funds") states: "Subject to the provisions of any law relating to municipalities, when the necessity for maintaining any fund of a municipality has ceased to exist, and a balance remains in said fund, the certifying board or levying board, as the case may be, shall so declare by resolution, and upon such declaration, such balance shall forthwith be transferred to the fund or funds of the municipality designated by such board, unless other provisions have been made in creating such fund in which such balance remains." The following language has been added to the section: "In the case of a special fund created by a city or a county under section 403.19, such balance remaining in the fund shall be allocated to and paid into the funds for the respective taxing districts as taxes by or for the taxing district into which all other property taxes are paid."

It is a good idea to keep a running account, by project, of the **Urban Renewal Project** costs incurred. It is also a good idea to certify these costs with reference to specific **Urban Renewal Projects** so all involved can track the **TIF Reimbursement**.

The easiest situation is where a city or county sells Bonds or Notes to fund a single **Urban Renewal Project**. In that case, you will have a repayment schedule and can easily see how much is needed in a given year. Things get more complicated when you certify multiple **Urban Renewal Projects**, internally fund a project with cash on hand, or enter into **Rebate Agreements**. The key is to keep accurate records and to provide enough information in the **TIF Certification** so no more, or less, is paid in **TIF Reimbursement** than you are entitled to receive.

Better ask twice than lose your way once.

- Danish Proverb

ARTICLE VIII

HOW TO GET HELP WITH AN URBAN RENEWAL PROJECT

There are many sources for help if you are considering an **Urban Renewal Area** or **Urban Renewal Project**. This is a list of those who can help.

1. **YOUR PLANNER -** Your planner can provide you with a draft Urban Renewal Plan and can help you determine which type or types the Plan falls under. See page 12.

2. **CITY/COUNTY ATTORNEY -** Your local attorney may be able to provide the assistance you need to undertake an **Urban Renewal Plan** or **Urban Renewal Project**. You should always consult them early in the process to see what role they are comfortable playing.

3. **BOND COUNSEL -** Your bond counsel can assist you in taking the legal steps necessary to form an **Urban Renewal Area** and a **TIF Area**. Your bond counsel can also help you with any borrowings you need to do related to your **Urban Renewal Project**. Bond counsel can prepare **Development Agreements**. Bond counsel need not prepare all **Development Agreements**, but should be consulted as the terms could affect the tax-exempt status of any borrowing you might want to do. Bond counsel can also advise you on types of **Development Agreements**.

4. **COUNTY AUDITOR -** Your County Auditor can provide you with information about tax rates and levies. Since you will be reporting your **Urban Renewal Area TIF Certification** to the Auditor, you should keep your Auditor informed as you go through the process of forming and using an **Urban Renewal Area**.

5. **COUNTY ASSESSOR -** Your County Assessor can provide valuable information regarding the **Base Value** a proposed **TIF Area** will have, and is an essential player if you use a **Minimum Assessment Agreement**. Your assessor can also help you identify tax parcels so the **Urban Renewal Area** and **TIF Area** do not cut through a parcel leaving part in and part out.

6. **FINANCIAL ADVISOR -** Your financial advisor can be a key player in planning and administering an **Urban Renewal Area**. Financial advisors are able to help you make projections of **Tax Increments** available, the timing of **TIF Reimbursements**, the amount and timings of borrowings and various other matters.

7. **DEPARTMENT OF MANAGEMENT -** The Department of Management employs staff members who are well versed in urban renewal and can help you make decisions about a proposed **Urban Renewal Area** and **TIF Reimbursement**.

8. **STATE AUDITOR'S OFFICE -** The State Auditor's Office also employs staff members who are well versed in urban renewal and can assist you with respect to urban renewal as it relates to your budget.

9. **IOWA ECONOMIC DEVELOPMENT AUTHORITY (IEDA) -** IEDA administers a "one-stop" process for determining whether a project qualifies for state incentives. Whenever you undertake an **Urban Renewal Project**, you should contact IDED to see if other funding is available. The IEDA also administers a waiver process for the **LMI Match** and has information about the **LMI** numbers for your county.

10. **YOUR PEERS -** Other clerks and auditors may have significant experience with respect to urban renewal, TIF, borrowing to fund **Urban Renewal Projects** and dealing with Developers. You may be able to gain valuable information by discussing your **Urban Renewal Projects** with them.

11. **YOUR ENGINEER -** Your engineer can help you with legal descriptions and project design. Your engineer might also play a critical role in whether a developer has adequately constructed certain improvements.

This list is not meant to be comprehensive. You won't necessarily need to consult all of the above in a given project, and many will help you with areas outside those listed above.

The universe is change; our life is what our thoughts make of it.

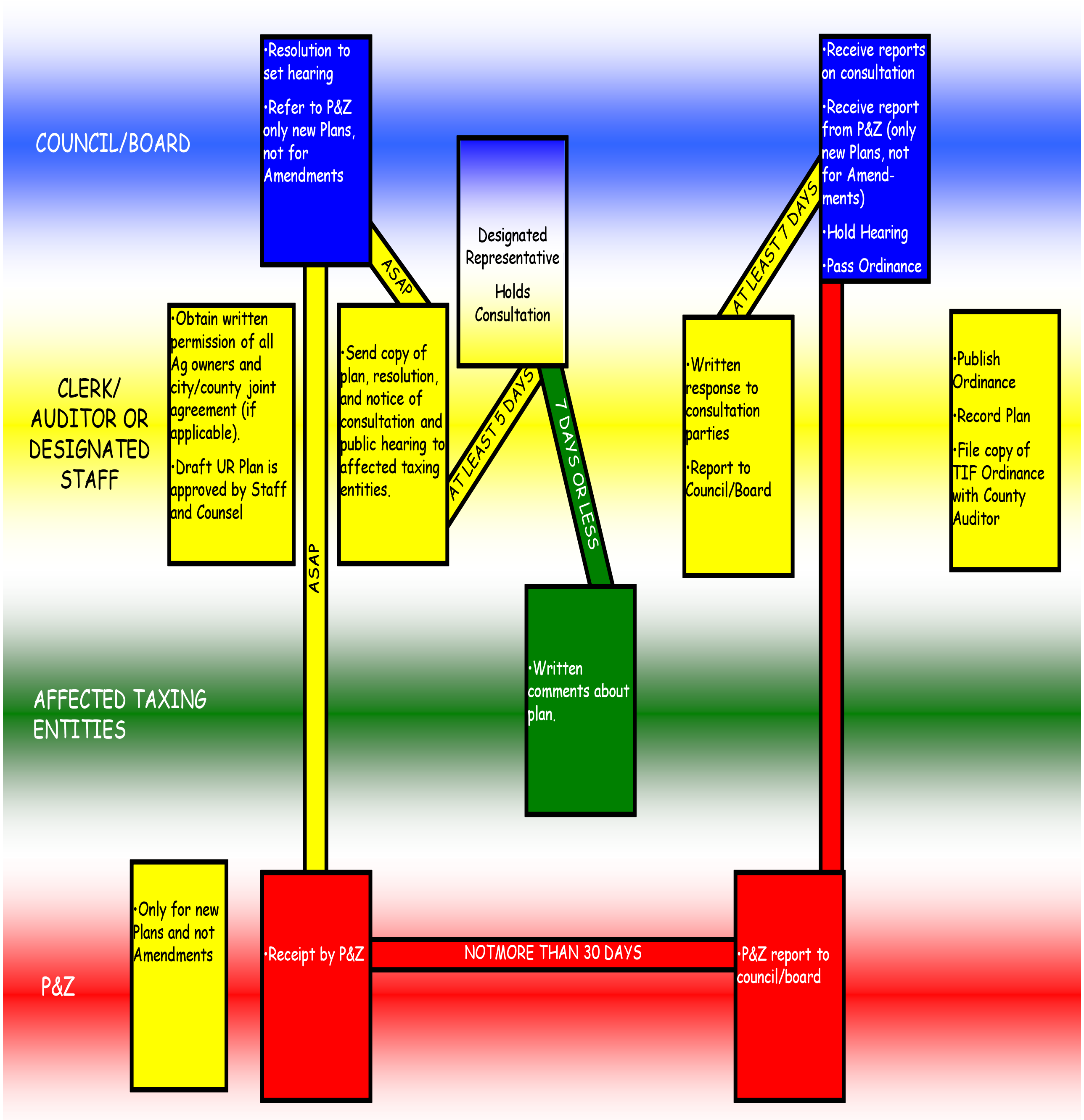
- Marcus Aurelius

ARTICLE IX

HOW TO ADOPT OR AMEND AN URBAN RENEWAL AREA

The process to adopt an **Urban Renewal Plan** is complex and involves several steps. Generally, the steps are outlined on the chart that is included on the next page.

The process for amending an **Urban Renewal Area** is the same as for adopting the area in first place, with two exceptions. First, the Planning and Zoning Commission review and recommendation process is not required for any amendments to an existing Plan. You will continue to need Planning & Zoning Commission review for new Plans. Second, if you are adding property to the **Urban Renewal Area** that will not be subject to a TIF ordinance, you do not need to undertake the **Consultation** process.


COUNCIL/BOARD
CLERK/ AUDITOR OR DESIGNATED STAFF
AFFECTED TAXING ENTITIES
P&Z
•Resolution to set hearing
•Refer to P&Z only new Plans, not for Amendments
ASAP
ASAP
Designated Representative
Holds Consultation
•Obtain written permission of all Ag owners and city/county joint agreement (if applicable).
•Draft UR Plan is approved by Staff and Counsel
•Send copy of plan, resolution, and notice of consultation and public hearing to affected taxing entities.
AT LEAST 5 DAYS
7 DAYS OR LESS
•Written comments about plan.
•Written response to consultation parties
•Report to Council/Board
AT LEAST 7 DAYS
•Receive reports on consultation
•Receive report from P&Z (only new Plans, not for Amend- ments)
•Hold Hearing
•Pass Ordinance
•Publish Ordinance
•Record Plan
•File copy of TIF Ordinance with County Auditor
•Only for new Plans and not Amendments
•Receipt by P&Z
NOTMORE THAN 30 DAYS
•P&Z report to council/board

Millions long for immortality who do not know what to do with themselves or a rainy Sunday afternoon.

- Susan Ertz

ARTICLE X

HOW TO CALCULATE SUNSET PROVISIONS

1. **SLUM AREA OR BLIGHT AREA** - Iowa law does not apply a sunset for a **Slum** Area or **Blight** Area under current law. However, if you put sunset provisions in the **Urban Renewal Plan**, these will voluntarily limit the lifespan of the area.

2. **ECONOMIC DEVELOPMENT COMMERCIAL/INDUSTRIAL AREA** - Such areas, and if no part contains slum or blighted conditions, if adopted on or after January 1, 1995 without a voluntary sunset, are subject to a 20-year sunset. The 20-year lifespan begins with the calendar year following the year that you first make a **TIF Certification** for the area.

3. **MIXED ECONOMIC DEVELOPMENT AND SLUM OR BLIGHT AREA** – Because the 20-year sunset applies to an economic development area that "no part contains slum or blighted conditions," such area has no sunset.

4. **ECONOMIC DEVELOPMENT FOR LMI HOUSING AREA** - Economic Development for **LMI Housing** areas has a 20-year lifespan. The first of the 20 years begins in the Calendar Year following the year that you first make a **TIF Certification** for the area.

5. **ECONOMIC DEVELOPMENT AREA PUBLIC IMPROVEMENTS RELATED TO NON-LMI HOUSING** - The lifespan of an Economic Development Area that is used for **Public Improvements** related to non-LMI Housing is limited to 10 fiscal years, beginning with the second fiscal year after you first make **TIF Certification** for the project. Please note this is a *fiscal* year reference and it begins a year later than it does for the sunset for other **Economic Development** Areas. If a municipality has a population under 15,000, with the written permission of the **Affected Taxing Entities**, the 10-year sunset can be extended for up to 15 years.

If liberty means anything at all, it means the right to tell people what they do not want to hear.

- George Orwell

ARTICLE XI

TIF REIMBURSEMENT IS NOT AN ENTITLEMENT – THE ROLE OF LOCAL OFFICIALS

You will sometimes be approached by individuals who insist that they want "their TIF." Some mistakenly believe the taxes they generate on new improvements are theirs, and that you are obligated to make incentives if they ask. This is not true. City Councils and County Boards of Supervisors must apply the steps to determine if a proposed project is eligible for **TIF Reimbursement**. See page 16. Even if the project is eligible, the elected officials must also determine whether support of the proposed project warrants the expenditure of public funds. You should be especially careful in making that decision, since you are dealing with the taxes of the other **Affected Taxing Entities**, as well as your own.

You should also avoid promising that incentives will be available until you have held the necessary hearings to adopt the **Urban Renewal Plan or Amendment**, enact the TIF ordinance and have a signed **Development Agreement** with the developer.

Often, private developers fail to recognize that it takes time for cities and counties to follow procedures that create or amend **Urban Renewal Areas** and to borrow money for **Urban Renewal Projects**. You may have to remind them of your obligations.

Common sense consists in not letting oneself be dazzled by a sentiment or an idea, however excellent they may be, to the point of losing sight of everything else.

- Andre Gide

ARTICLE XII

PITFALLS OF MINIMUM ASSESSMENT AGREEMENTS

Iowa law does provide for **Minimum Assessment Agreements** where an **Urban Renewal Project** is undertaken with a **Development Agreement**. The **Minimum Assessment Agreement** can provide a tool for protecting the City's investment of funds. You should understand that there are some shortcomings with that tool, however.

First, the **Minimum Assessment Agreement** does not work well if the developer signs it for a large tract of land, and then breaks that land into separate parcels for development. It can be difficult to allocate the part of the minimum assessment that applies to each parcel. This is especially true with regard to single-family housing projects.

Second, you should make sure that the County Assessor has viewed the plans and specifications for the proposed project and is making a realistic appraisal of the assessed taxable value. Assessors are sometimes unfamiliar with the importance of this process, and may sign off for a **Minimum Assessment Agreement** that exceeds the fair assessed taxable value.

Finally, although the assessment creates a tax lien, a default by the developer, a failure of its business, or its taking bankruptcy can delay collection of taxes for an extended time. If a developer's business fails and there is a bankruptcy, the successors in interest will not want to be bound by the **Minimum Assessment Agreement**. Even if you can bind successors in interest legally, they will often exert enough leverage to get a concession on the minimum assessment amount in return for returning the property to productive use.

While the **Minimum Assessment Agreement** does provide you with some protection, you should not view it as an insurance policy.

For tax purposes, a **Minimum Assessment Agreement** often results in the City or County having to issue taxable bonds for certain of its project costs.

Also, you may want your city/county attorney to search for any prior liens so that you can request prior lien/interest holders sign (or consent to) the **Minimum Assessment Agreement** so that it is effective against such prior lien/interest holders.

As a rule, I always look for what others ignore.

- Marshall McLuhan

ARTICLE XIII

FINANCING ALTERNATIVES

An **Urban Renewal Project** can be financed in many different ways. The alternatives include:

1. **REBATE AGREEMENTS - Rebate Agreements** put the burden of financing improvements on the developer's shoulders. The City or County merely agrees to return a portion of the **Tax Increments** related to the developer's improvements on an annual basis, after taxes are collected. The advantages of this approach are a savings to the City or County with respect to borrowing costs, and a shift of the risk of non-development and underdevelopment to the developer. The risk of legislative changes in the formula for determining **TIF Reimbursement** is also shifted to the developer under this approach.

2. **INTERNAL LOANS -** A city or county can "advance" funds it has on hand to fund an **Urban Renewal Project** and then pay itself back with **TIF Reimbursement**. If a municipality advances funds for an Urban Renewal Project, follow any rules for when excess funds can be transferred. For example, transfer of surplus funds from a city utility fund requires the city to determine that the fund's cash balance meets a certain level and requires adoption of a special resolution by the city.

It is also useful to document all advances or loans clearly and transfer the money, whether from the General Fund or a utility fund (or another fund), to a "TIF Advance Fund" or a "Capital Project Fund" or another fund designated for each Urban Renewal Project that contemplates a period of payments. For example, project costs would be paid out of the TIF Advance Fund. Once such cost ("debt") is certified to the County by the **TIF Certification** and **TIF Reimbursement** is received from the County and deposited into the special TIF Fund, such amount can be transferred from the special TIF Fund back to the General Fund or a utility fund (or another fund).

Obviously, the City or County loses the chance to invest funds it advances, so a reasonable interest component can be certified along with the principal amount.

3. **CHAPTER 384 G.O. BONDS -** There are two ways to issue general obligation bonds under Chapter 384 in connection with an **Urban Renewal Project**.

First, you can authorize the project under the essential purposes list and hold a **Reverse Referendum**. The **Reverse Referendum** applies regardless of the amount you want to borrow.

Another approach to issuing Chapter 384 G.O. Bonds for **Urban Renewal Projects** is applicable where the project involves something that is in the **Essential Purpose** list on its own. For instance, streets are considered an **Essential Purpose** for cities and bonds can be issued after a hearing to build streets. You could issue G.O. bonds to build a street for an **Urban Renewal Project**, and certify that street for **TIF Reimbursement**. It is required, however, that the governing body pass a resolution or motion finding that the street project constitutes a valid **Urban Renewal Project** and should be included in a **TIF Certification.**

4. **CHAPTER 403 G.O. BONDS -** Chapter 403, the urban renewal statute, provides separate authority to issue general obligation bonds to fund **Urban Renewal Projects**. The same **Reverse Referendum** procedure applies for these bonds as for the first type of **Chapter 384 G.O. Bonds**. The **Chapter 403 G.O. Bonds** can be exempt from both state and federal taxes under some circumstances. It is required, however, that **Chapter 403 G.O. Bonds** be sold at a public sale.

5. **CHAPTER 403 REVENUE BONDS -** Chapter 403 also provides a process to issue revenue bonds to fund **Urban Renewal Projects**. The **Chapter 403 Revenue Bonds** can be payable from **Tax Increments**, other project income, or both. Even though the section authorizing **Chapter 403 Revenue Bonds** says they do not count against your **Debt Capacity**, the Supreme Court has held otherwise. The **Chapter 403 Revenue Bonds** can be exempt from state and federal tax, under certain circumstances.

6. **GENERAL FUND LOANS -** The Code does allow you to borrow from the General Fund for the same purposes you can borrow with a debt service levy. You have to meet restrictions on the percentage of General Fund loans you have payable in relation to your General Fund budget, so you should work closely with your bond counsel and financial advisor if you choose this option.

7. **LEASE-PURCHASE AGREEMENTS -** The Code does allow cities and counties to acquire improvements and property through a lease-purchase process. Generally, the authorization procedures for a lease-purchase are the same as for bonds, however, there is a slightly more advantageous approach to authorizing lease-purchase agreements payable from the General Fund. Again, consult your bond counsel and financial advisor if you are considering this option.

Nothing in life is to be feared. It is only to be understood.

- Marie Curie

ARTICLE XIV

TIF AGREEMENTS AND FINANCINGS – WHEN DO THEY COUNT AGAINST YOUR DEBT LIMIT?

Many of the financing alternatives you have for **Urban Renewal Projects** can count against your **Debt Limit**. You should assume they do, including **Rebate Agreements**, unless you have consulted your bond counsel and have agreed upon a different result. You may be able to make these obligations exempt from your **Debt Capacity** calculation by structuring your obligation to pay so it is subject to annual appropriation.

Perseverance is not a long race; it is many short races one after another.

- Walter Elliott

ARTICLE XV

PHASED DEVELOPMENT CONSIDERATIONS

Because the sunset provisions may make it hard to complete a large project within the allotted time, developers sometimes seek agreements that allow them to develop in phases. This is especially true with respect to **Public Improvements** related to non-LMI housing due to the short 10-year window for **TIF Reimbursement**.

One way to manage the timing of projects with regard to sunset provisions is to use multiple **Urban Renewal Areas**. Since the sunset requirements are by the first **TIF Certification** for an **Urban Renewal Area**, making a certification on the first phase of a project that is in its own **Urban Renewal Plan** will not start the sunset for other phases that are included in other **Urban Renewal Plans**. Please note, however, that the **Tax Increments** from one **Urban Renewal Area** cannot be spent in the other **Urban Renewal Plan Areas**, except in the case of the **LMI Match**. This approach also makes it hard to fund infrastructure improvements that may serve more than one **Urban Renewal Area**.

If you are considering a phased development, you should discuss that option with your planner, local attorney and bond counsel.

Discovery consists in seeing what everybody has seen and thinking what nobody has thought.

- Albert Szent-Gyorgyi

ARTICLE XVI

WHAT TYPES OF INCENTIVES CAN BE OFFERED TO DEVELOPERS?

Unlike tax abatement programs, and other state-defined economic development programs, the types of incentives that can be offered to a developer are not dictated by the urban renewal law. As long as the proposed activity fits within the guidelines for a legitimate **Urban Renewal Project**, the City or County can offer a wide variety of benefits and use them in combinations at its own discretion. For instance, you could make a grant, make a forgivable loan, make a loan that is expected to be paid back, agree to rebate **Tax Increments** after they are received through the **TIF Reimbursement** process, build **Public Improvements**, acquire and assemble land for development, take responsibility for clean up of contamination, provide services and amenities that help with the recruitment and retention of employees, provide training programs and many other activities.

As you consider projects, make sure you can meet the tests for a legitimate **Urban Renewal Project**. Keep in mind that every incentive you offer has a cost, to your taxpayers and those who pay taxes to the other **Affected Taxing Entities**. You should attempt to offer incentives that are reasonable in relation to the benefits to the public. Always follow the public approval process necessary to form the **Urban Renewal Area**, undertake the **Urban Renewal Project** and finance the project before promising that any incentives will be provided.

Truth is such a rare thing, it is delightful to tell it.

Emily Dickinson

ARTICLE XVII

REPORTING REQUIREMENTS – THE URBAN RENEWAL REPORT

Any municipality that had an **Urban Renewal Plan** and **Area** in effect at any time during the most recently ended fiscal year must complete an **Urban Renewal Report** for each such plan and area by the December 1 following the end of such fiscal year. The report is prepared and submitted electronically pursuant to Department of Management instructions. The Department of Management will then make these reports publicly available on a searchable internet database.

The **Urban Renewal Report** is very detailed. If you have a **Urban Renewal Plan** and **Area** in effect that requires the filing of a report, you should start drafting the report early, due to the amount of research needed for the information requested. Good record keeping throughout the entire fiscal year will assist in the creation of these reports. The 21 paragraphs of required information are summarized as follows:

1. Each **Urban Renewal Area** type (designation) and the date such determination was made;
2. A map of the area;
3. A copy of all TIF ordinances;
4. Copies of the original **Urban Renewal Plan**, each amendment to the plan, and the dates of such amendments;
5. A list and description of all **Urban Renewal Projects** within the area either in process or completed during the fiscal year;
6. A description of each TIF expenditure;
7. The amount of loans, advances, indebtedness, or bonds, which qualify for payment from TIF moneys and were incurred or issued during the fiscal year;
8. The amount of loans, advances, indebtedness, or bonds, which qualify for payment from TIF moneys and remain unpaid at the end of the fiscal year;
9. The total amount of property taxes rebated (or otherwise expended) during the fiscal year, and amounts agreed to for future years;

10. A list of all properties and the owners of those properties who received property tax rebates (or other expenditures) and amount of property tax rebates in the past fiscal year, as well as future obligations;
11. The balance of the municipality's TIF fund;
12. Aggregate assessed value of all taxable property within the **Urban Renewal Area**;
13. The aggregate assessed value of each taxable property class in the **Urban Renewal Area**;
14. The portion of the assessed value of all taxable property within the **Urban Renewal Area** that was used to calculate the amount of excess taxes under Iowa Code '403.19(2);
15. The amount of taxes under '403.19(2) in excess of the amount required to pay applicable loans, advances, indebtedness, and bonds that was paid as property tax for the respective taxing districts;
16. Any interest earned on the TIF fund and deposited into the TIF fund and net proceeds from the sale of assets purchased with TIF moneys;
17. The amount of taxes that each taxing entity contributed to the TIF fund that fiscal year;
18. The amount of expenditures by the municipality for public improvements related to housing and residential development;
19. The amount of assistance to **LMI Housing** provided by the municipality;
20. Pursuant to any applicable **Development Agreement**, the number of jobs to be created, the wages of those jobs, the total private capital investment, and the total cost of public infrastructure constructed; and
21. Any other related information deemed relevant by the Department of Management.

The consequences of not filing the **Urban Renewal Report** are significant – for reports due beginning December 1, 2013 the Department of Management will not certify any of the municipality's taxes back to the county auditor. The report will also be audited as part of an audit any year the city or county is audited.

The items above are a summary of the 2012 Amendments to Chapter 403. The exact information is described in the 2012 Amendments and will be governed by on-line forms drafted by the Department of Management and made available to Cities and Counties.

Because a municipality's use of Tax Increments is now part of the municipality's audit (and a representative of the municipality will need to certify compliance with the urban renewal law), it is important that the following actions "tie" or are consistent. Those items include (1) authorization for each **Urban Renewal Project** in the Plan (description and "not to exceed" cost), (2) a resolution by the municipality finding that the expense/cost is an authorized urban renewal project, authorizing payment of the cost, qualifying the cost for certification, and directing that the cost be certified to the County in the December 1 report, and (3) listing such **Urban Renewal Project** on the December 1 certification request to the county and in the **Urban Renewal Report.**

Seek simplicity,
and distrust it.

- Alfred North Whitehead

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