

## MEMO

TO: Oregon Urban Renewal/ Tax Increment Financing Agencies

FROM: Elaine Howard, Scott Vanden Bos

RE: Urban Renewal/TIF Agencies actions in response to COVID-19

DATE: March 23, 2020

As our firm has been considering the impacts of the COVID-19 we have thought about ways cities/urban renewal agencies can add to their resources to assist people in their community. Some potential courses of action you might want to consider:

- Move up the timing on capital projects to provide jobs in the wake of the potential small business failure.
- Provide additional resources to small businesses in your budget for next year in an effort to avoid their failure over the next year. Remember your UR funds are restricted to capital expenditures, so make sure not to violate those restrictions. You might need to process an amendment to your urban renewal/ tax increment financing (UR/TIF) Plan to add the project and the project would have to be in the UR/TIF Area.
- Use TIF funds to complete projects that would otherwise be done by the city's unrestricted funds so you could use those unrestricted funds for business/community assistance. You might need to process an amendment to your urban renewal (UR)/TIF Plan to add the project and the project would have to be in the UR/TIF Area.
- Under-levy your urban renewal resources to shift funds from the urban renewal budget to the city budget to avoid ORS 457 restrictions on spending and to supply additional resources of other taxing districts. We have thought through

some of the issues and ramifications of an under-levy and have summarized them for your consideration.

- Program Income: We have had some agencies ask us about the use of Program Income. See page 96 for the section on Program Income in the Best Practices Manual.

### **Background on Under-levy:**

The Oregon Legislature amended ORS 457 in 2009 by passing HB 3056. The new legislation introduced several new and significant concepts that relate to the calculation of tax increment collections (including tax increment financing (TIF) sharing). Agencies may direct the county assessor to “under-levy” or collect less than all the TIF generated by “divide the taxes,” either on an annual basis or permanently. This provision is in ORS 457.455 (1). There are a handful of agencies who have already used this provision since 2009.

We want to present the under-levy in a novel way, that is to use the under-levy to free monies restricted by ORS 457 to usage on specific activities and areas and move a portion to the less restricted city budget. The most significant downside to this approach for the urban renewal agency is that an under-levy will redistribute TIF dollars to all taxing districts, not just the city, and there will be a “loss” of total dollars in the gain of freedom from restrictions. However, the other taxing districts may well need those additional resources.

If an UR/TIF agency notifies the assessor on Form UR-50 that it wishes to take less than the full amount of revenue that would be available under the normal allocation of TIF dollars, the assessor will allocate the funds not requested by the agency back to the other taxing districts, including the city itself, for that fiscal year.

ORS 457.455(3) requires the UR/TIF Agency to consult and confer with each taxing district affected by the urban renewal plan prior to any under-levy. We have found this

especially important for districts who have local option levies that may still be impacted by urban renewal and where there is compression as they may be negatively impacted if there is an under-levy for urban renewal.

If the city then receives these former TIF funds directly, the funds will no longer have specific requirements from the urban renewal plan nor ORS 457 requirements on expenditures, so the city could set up a program to assist their community with the parameters that work best in their community. There would no longer be requirements for capital projects, but assistance could be designed to specifically address the community's needs. A down side is that the city's share of the overall tax rate is usually only about 25-30% of the full tax rate, so you will have fewer funds at your direct disposal if you do not take the funds through your urban renewal agency, but you would have greater flexibility in the use of those funds.

### **What are the steps to take if considering an under-levy?**

1. You may have already submitted your budget to start the budget process. You will need to follow your local procedures for adopting/amending your budget.
2. Discuss the opportunity with your urban renewal agency and/or city council and get direction from them to investigate the option of the under-levy.
3. Check any bond/loan covenants to make sure you are not prohibited from doing an under-levy. Consider the contractual commitments you already have. Determine if you can do an under-levy. ( You must keep taking enough revenue to fulfill your debt obligations and any requirements for debt service coverage ratios.)
4. Check back in with your urban renewal agency and city council.
5. Contact all other taxing districts and explain the under-levy and your desire to under-levy. Stipulate how you will be using your increased revenue. There may be potential to get other taxing districts to similarly contribute their increased dollars to COVID-19

relief, especially the county. If you get buy-in from the county to also contribute their share of an under-levy, you increase the amount of funds for your community. (Consult and confer is required per statute, but also a great team building gesture.)

6. Fill out your Form UR-50 to indicate what share of TIF dollars you want to take for your urban renewal agency. These are due on July 15, so if you want to pursue this, you should act immediately to begin your process. If you have never done this before, make sure you get peer review on your method and/or contact an urban renewal professional to help you and go over your method with the assessor's office as mistakes on the Form UR50 can not be corrected. If you underestimate your assessed value to get the amount of TIF you need, and the assessor processes that as the tax roll is determined and allocations are made to taxing districts, you will not be able to change the Form UR-50 in that tax year.

6. If you have a specific plan duration provision in your urban renewal plan (not all plans have a specific duration provision), you will want to consider how to adjust this provision as any under-levy will reduce the amount of funds you will be allocated during that duration time frame. We suggest you might want to pass an amendment to the duration provision at the same time as you decide to do an under-levy. Every urban renewal plan is different, so the provision for extending a time frame will be different in each plan.