



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Dear Senators:

The Nebraska Auditor of Public Accounts (APA) has received several concerns regarding Tax Increment Financing (TIF) funding and its use by local municipalities for various redevelopment projects throughout the state. As a result, the APA began limited preliminary planning work to ascertain whether that redevelopment money was spent correctly, and applicable statutory requirements were observed.

Background Information

Tax increment financing (TIF) is a popular funding tool used by local governments to promote economic development and redevelopment through the Community Development Law, which is set out at Neb. Rev. Stat. §§ 18-2101 through 18-2157 (Reissue 2022, Supp. 2023) and certain supplemental statutes.

Broadly stated, TIF is a statutory mechanism by which a municipality can create a redevelopment authority for the purpose of helping to rehabilitate an area that the local governing body has designated as “substandard and blighted.” Public funds may be expended – usually in the form of bonds, loans, notes, advances of money, or other forms of indebtedness of a Community Redevelopment Authority created by a municipality – on that redevelopment project and are repaid by dividing the ad valorem property tax on the formerly blighted area. The “base” tax, which is determined by the value of the property immediately prior to the redevelopment work, continues to be paid to the political subdivisions that levied the taxes upon such property. Meanwhile, the “excess” tax paid on any subsequent increase in property value resulting from the redevelopment work is remitted to a separate fund for the sole purpose of relieving the debt incurred by the redevelopment project. When that debt is paid in full or after 15 years (or 20 years for “extremely blighted” areas), whichever comes first, the division of the ad valorem property tax on the redeveloped land is ceased, and the total tax amount is paid once more to the political subdivisions. For the purposes of this letter, the term “TIF proceeds” is synonymous with the “excess” ad valorem property taxes used to pay for the redevelopment costs.

The primary statutory language authorizing this process is found at Neb. Rev. Stat. § 18-2147 (Supp. 2023), which provides, as is relevant, the following:

(1) Any redevelopment plan as originally approved or as later modified pursuant to section 18-2117 may contain a provision that any ad valorem tax levied upon real property, or any portion thereof, in a redevelopment project for the benefit of any public body shall be divided, for the applicable period described in subsection (4) of this section, as follows:

* * * *

(b) That portion of the ad valorem tax on real property, as provided in the redevelopment contract, bond resolution, or redevelopment plan, as applicable, in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies. An authority may use a single fund for purposes of this subdivision for all redevelopment projects or may use a separate fund for each redevelopment project; and

* * * *

(4)(a) For any redevelopment plan for which more than fifty percent of the property in the redevelopment project area has been declared an extremely blighted area in accordance with section 18-2101.02, ad valorem taxes shall be divided for a period not to exceed twenty years after the effective date as identified in the project redevelopment contract or in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124.

(b) For all other redevelopment plans, ad valorem taxes shall be divided for a period not to exceed fifteen years after the effective date as identified in the project redevelopment contract, in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124, or in the redevelopment plan, whichever is applicable.

It is important to note that TIF is not a tax reduction. The overall property tax paid on an improved area remains the same whether the renovation is financed privately or through TIF pursuant to an approved redevelopment project. TIF merely diverts temporarily the revenues from that portion of the increased property tax valuation generated by any improvements financed with public funds. During the time that they are restricted exclusively to paying off the costs of the redevelopment project, those “excess” taxes are unavailable for any other public purpose.

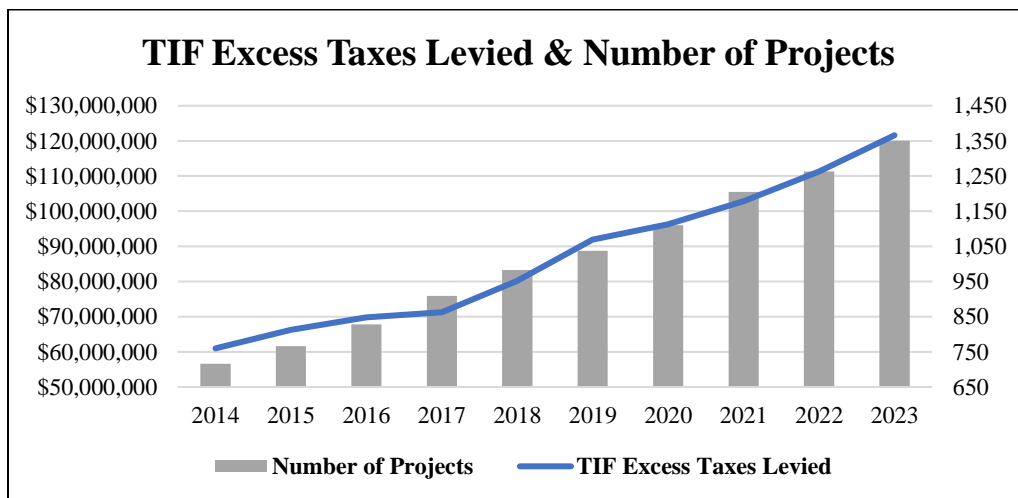
Prior to 2021, the term for collecting “excess” ad valorem property taxes was no more than 15 years. The Community Development Law was amended by LB 25 (2021), however, to extend the period for collecting “excess” ad valorem property taxes from 15 years to 20 years for redevelopment projects located within “extremely blighted” areas. However, because the projects that the APA examined were all effective before 2021 – with the exception of the Omaha Streetcar TIF project – we are using 15 years as the maximum allowable period for tax division.

In 2016, the APA looked in depth at TIF projects throughout Nebraska and noted significant issues with several projects, including many that had received a disproportionate share of TIF proceeds. At that time, there were 828 active TIF projects with total “excess” property valuations of \$3.3 billion.

Only seven years later, as of 2023, there were 1,351 active TIF projects with “excess” property valuations totaling \$6.1 billion. In that year alone, the various public bodies that had approved redevelopment projects pursuant to the Community Development Law set aside a combined total of **\$121,609,126** in TIF proceeds, which could be used for no other purpose than to pay the costs of local redevelopment projects.

It is not the intent of the APA to opine upon either the purpose or the efficacy of TIF; however, the utilization of TIF continues to grow significantly – diverting for payment of redevelopment project costs, at least for a number of years, a portion of ad valorem property tax revenues that would be available for other public purposes – with little monitoring and oversight across the state.

The following graph illustrates the growth of TIF utilization in Nebraska over the past decade:



As shown above, both the number of TIF projects and the amount of “excess” ad valorem property taxes set aside to pay their redevelopment costs have nearly doubled since 2014.

Furthermore, as displayed by the chart below, Nebraska municipalities have distributed more than half a billion dollars of TIF proceeds over the past five years:

Tax Year	Number of Projects	TIF Base Value	TIF Excess Value	Excess Taxes Levied
2019	1,037	\$833,328,139	\$4,327,068,748	\$91,942,952
2020	1,110	\$1,071,592,943	\$4,568,936,282	\$96,256,159
2021	1,205	\$1,351,735,247	\$4,934,132,307	\$102,881,289
2022	1,263	\$1,875,047,428	\$5,319,553,675	\$111,274,990
2023	1,351	\$1,897,221,416	\$6,147,147,553	\$121,609,126
Total “Excess” Ad Valorem Property Taxes				\$523,964,516

During past examinations, this office has reported on numerous issues pertaining to TIF. The following is a summary of the various concerns identified.

The reports referenced below are available on the APA’s website at: https://auditors.nebraska.gov/APA_Reports.

- ***Statewide TIF Project Letter***

On December 20, 2016, the APA issued a letter addressing inquiries received from a number of State senators regarding certain TIF projects in Nebraska. Our office was asked to ascertain the impact that TIF has had upon overall tax distributions to local entities, including whether that redevelopment money was spent correctly, and the statutory requirements of the Community Development Law were followed.

In the letter, the APA provided comments and recommendations pertaining to several issues – many of which were similar to those addressed herein – identified through the examination of 35 different TIF projects throughout the state.

- ***City of Benkelman TIF Projects Attestation Report***

Our office performed an attestation of the City of Benkelman’s TIF projects and issued a report thereon dated March 11, 2021. That report examined three TIF projects within the City: the Gavilon Grain Project; the 906 Chief Street Project; and the Collinsville One Project.

The APA disclosed several issues identified during the attestation. For instance, the Benkelman Community Redevelopment Authority (Benkelman CRA) received over \$500,000 more in TIF proceeds than needed to pay off the debt incurred by the Gavilon Grain Project. Instead of using even a portion of that unnecessary extra TIF funding to satisfy the outstanding debt, the Benkelman CRA allowed the indebtedness to persist and used the “excess” ad valorem property tax money collected for other expenses, including the Benkelman CRA coordinator’s salary, an unrelated fitness center project, property acquisitions, tax payments on property owned by the Benkelman CRA, and gift cards from local businesses – none of which pertained directly to the actual costs of the redevelopment project.

- ***City of Auburn Community Redevelopment Authority Letter***

On May 7, 2024, our office released a letter regarding the City of Auburn’s TIF projects, which were overseen by that municipality’s Community Redevelopment Authority (Auburn CRA).

In that letter, the APA disclosed concerns with the implementation of the Auburn Core Redevelopment Plan. As of December 31, 2023, the City of Auburn and the Auburn CRA held \$1,101,893.60 in TIF proceeds. The Auburn CRA used a portion of those funds to reimburse certain development projects within the Auburn Core Redevelopment Plan area through the use of revocable grants. The APA recommended that the City of Auburn implement procedures for ensuring that TIF proceeds are utilized in accordance with the Community Development Law, and all unused TIF proceeds are returned to Nemaha County for proper redistribution.

Current TIF Projects Examined

Overall, for purposes of this letter, the APA selected 44 additional TIF projects throughout the state for testing. For each project examined, the APA tested the documentation obtained from the municipality to ensure the following: 1) the amounts of TIF proceeds set aside were not greater than the actual redevelopment project costs; 2) redevelopment project expenditures were allowable and could be traced to adequate supporting documentation; and 3) the periods for dividing the ad valorem property taxes in order to finance the TIF projects did not extend beyond either the time needed to satisfy the debt incurred or the 15-year statutory deadline.

A summary of these 44 TIF projects is provided in the following table:

Entity Name	Entity Type	Project #	Project Name	Effective Date	Last Payment from County	# of Years Taxes Rec'd	Total TIF Receipts	Total Expenses
Beatrice	City	34-8799	Hydo - 301 Court Street	1/1/2019	5/14/2024	5	\$48,461.36	(\$35,247.29)
Broken Bow	City	21-9903	Chapin's Furniture	11/29/2007	5/15/2024	16	\$40,702.32	(\$40,317.25)
Cambridge	City	33-8703	Cambridge Ethanol Plant	1/1/2008	3/8/2024	16	\$3,365,773.97	(\$6,119,807.15)
Friend	City	76-9601	Friend Redevelopment Area 1 - 2nd (Bucket TIF)	1/1/2009	4/15/2024	15	\$1,313,905.08	(\$2,109,036.81)
Gothenburg	City	24-0822	All Points Elevator	1/1/2008	3/6/2024	16	\$630,308.95	(\$630,308.95)
Holdrege	City	69-9519	Holdrege VA Clinic	1/1/2008	6/1/2021	13	\$197,043.99	(\$197,043.99)
Lexington	City	24-0905	Lexington CED S Adams Subdivision	12/20/2007	3/1/2024	16	\$390,487.47	(\$670,562.83)
Lincoln	City	55-9900	Assurity	4/17/2009	5/15/2024	15	\$7,265,728.96	(\$7,265,152.13)
Lincoln	City	55-9908	Yolande Avenue	6/27/2011	5/15/2024	12	\$855,310.72	(\$240,062.79)
Lincoln	City	55-9912	World's Foremost Bank	1/1/2013	4/18/2024	11	\$1,214,507.34	(\$1,214,507.34)
Lincoln	City	55-9914	Block 38 Redevelopment	8/11/2011	5/15/2024	12	\$2,389,114.47	(\$2,379,585.71)
Lincoln	City	55-9916	North Haymarket Hotel	8/8/2011	5/15/2024	12	\$3,039,820.96	(\$2,884,554.48)
Lincoln	City	55-9918	Haymarket Hotel and Toolhouse	1/1/2012	5/15/2024	12	\$3,323,843.64	(\$3,220,351.49)
Lincoln	City	55-9940	18th and Q Redevelopment	1/1/2014	5/15/2024	10	\$3,829,502.22	(\$3,828,531.23)
Lincoln	City	55-9942	Landmark III Redevelopment	1/1/2014	5/15/2024	10	\$2,689,939.41	(\$2,689,675.89)
Lincoln	City	55-9993	Block 85 Redevelopment Project	11/5/2008	5/15/2024	15	\$913,870.92	(\$633,283.80)
Lincoln	City	55-9999	Shoemaker Travel Plaza	1/1/2011	5/15/2024	13	\$1,035,187.16	(\$1,032,387.24)
Omaha	City	28-2173	2173 Shamrock Parking, LLC (Paxton Building)	*5/3/2005	12/31/2021	16	\$8,965,495.76	(\$8,965,495.76)
Omaha	City	28-2193	CF Studio LLC	*12/5/2006	1/1/2024	17	\$51,930.10	(\$48,174.71)
Omaha	City	28-2194	Jackson Development LLC	*4/17/2007	1/1/2024	17	\$6,423,694.69	(\$6,093,434.52)
Omaha	City	28-2196	Downtown Dodge Development LLC	*6/26/2007	1/1/2024	17	\$1,508,981.60	(\$1,453,568.80)
Omaha	City	28-2197	P&A McGill LLC #1	*4/24/2007	1/1/2024	17	\$751,897.02	(\$708,852.55)
Omaha	City	28-2207	Kimball Lofts/Graham Ice Cream Building	*4/24/2007	12/31/2022	15	\$783,937.52	(\$783,937.52)
Omaha	City	28-2208	Aksarben Apartments, LLC (Aksarben Village)	*6/5/2007	1/1/2024	17	\$6,550,256.64	(\$5,951,833.82)
Omaha	City	28-2209	Georgetown Properties, LLC/Alchemy Aksarben	*6/5/2007	12/31/2023	16	\$2,830,777.28	(\$2,607,336.88)
Omaha	City	28-2224	ALDI, Inc - Sutherlands Plaza	*11/14/2006	12/31/2023	16	\$408,582.36	(\$408,582.36)
Omaha	City	28-2241	901 Land LLC	*8/12/2008	1/1/2024	16	\$1,012,249.60	(\$1,009,746.30)

*For these City of Omaha TIF projects, the redevelopment plans did not appear to establish a definitive effective date. Therefore, the APA used the dates the plans were approved as the effective dates. The City of Omaha later clarified that it used the dates listed in the Notices to Divide filed with Douglas County as the effective dates for these projects.

Entity Name	Entity Type	Project #	Project Name	Effective Date	Last Payment from County	# of Years Taxes Rec'd	Total TIF Receipts	Total Expenses
Ralston	City	28-5461	Hoiph Lakeview Village Apartments, LLC	1/1/2007	6/14/2024	17	\$157,984.74	(\$142,121.59)
Sidney	City	17-4060	Cabela's Project 2007	1/1/2008	6/14/2024	16	\$692,751.81	(\$711,582.74)
Sidney	City	17-4078	Cabela's Downtown	1/1/2014	5/15/2024	10	\$728,197.97	(\$668,670.86)
Sidney	City	17-4080	Cabela's Corporate Campus Expansion	1/1/2015	5/15/2024	9	\$3,176,704.43	(\$3,085,356.72)
Valley	City	28-1572	Dial Land Development (Mallard Lake)	1/1/2008	5/15/2024	17	\$143,921.84	(\$136,612.10)
Valley	City	28-1574	Mallard Lake	1/1/2010	5/15/2024	14	\$2,078,049.84	(\$2,058,129.27)
Valley	City	28-1575	Mallard Landing	1/1/2011	5/15/2024	13	\$1,367,106.44	(\$1,361,371.27)
Valley	City	28-1576	Mallard Landing	1/1/2012	5/15/2024	12	\$1,763,676.29	(\$1,736,670.19)
Valley	City	28-1577	Mallard Lake	1/1/2013	5/15/2024	11	\$2,067,490.69	(\$2,019,605.57)
Valley	City	28-1578	Mallard Landing	1/1/2014	5/15/2024	10	\$1,792,842.85	(\$1,763,935.58)
Valley	City	28-1579	Mallard Landing	1/1/2015	5/15/2024	9	\$1,068,728.90	(\$1,042,817.54)
Valley	City	28-1580	Bluewater Infrastructure	1/1/2016	5/15/2024	8	\$1,324,285.01	(\$1,296,980.88)
Valley	City	28-1581	Mallard Landing	1/1/2016	5/15/2024	8	\$990,823.07	(\$980,847.11)
Valley	City	28-1582	Bluewater Infrastructure	1/1/2017	5/15/2024	7	\$1,455,671.76	(\$1,417,849.63)
Valley	City	28-1583	Mallard Lake	1/1/2017	5/15/2024	7	\$875,711.79	(\$865,858.43)
Valley	City	28-1585	Bluewater Infrastructure	1/1/2018	5/15/2024	6	\$1,946,863.70	(\$1,730,446.91)
Waterloo	Village	28-1536	Properties Unlimited, LLC (Business Park)	1/1/2008	5/15/2024	16	\$408,390.81	(\$521,499.73)

The following comments and recommendations, which have been discussed with the appropriate municipal officials, are intended to improve internal control or result in other operating efficiencies.

Comments and Recommendations

1. Division of Ad Valorem Property Taxes Exceeded 15 Years

For 17 of 44 projects examined, the APA determined that ad valorem property taxes had been divided for more than 15 years after the redevelopment project's effective date. As a result, the municipalities received extra TIF proceeds for these projects, ranging from \$385.07 to \$1,213,365.06. The details for this finding are provided in the following table:

Entity Name	Project #	Project Name	# of Years Taxes Rec'd	TIF Receipts	TIF Repayment	Questioned TIF Proceeds	APA Notes
Broken Bow	21-9903	Chapin's Furniture	16	\$40,702.32	\$0.00	\$385.07	The City received two extra payments of TIF proceeds, totaling \$145.36. In addition, the City had a residual balance of \$239.71 in TIF proceeds that were received but not expended in prior years.
Cambridge	33-8703	Cambridge Ethanol Plant	16	\$3,370,621.85	(\$4,847.88)	\$0.00	The City received one extra payment of TIF proceeds, totaling \$4,847.88. This overpayment was refunded to the County to be redistributed, and the County Assessor was notified to stop the division of taxes going forward.

Entity Name	Project #	Project Name	# of Years Taxes Rec'd	TIF Receipts	TIF Repayment	Questioned TIF Proceeds	APA Notes
Gothenburg	24-0822	All Points Elevator	16	\$631,473.08	(\$1,164.13)	\$0.00	The City received one extra payment of TIF proceeds, totaling \$1,164.13; however, it had notified the County previously that the project's financing loan had matured and to terminate the division of ad valorem property taxes. The City returned the overpayment to the County and again requested the termination of the division of taxes.
Lexington	24-0905	Lexington CED S Adams Subdivision	16	\$394,393.66	(\$3,906.19)	\$0.00	The City received three extra payments of TIF proceeds, totaling \$3,906.19. This overpayment was refunded to the County to be redistributed, and the County Treasurer and County Assessor were notified to terminate the division of ad valorem property taxes.
Omaha	28-2173	2173 Shamrock Parking, LLC (Paxton Building)	16	\$8,965,495.76	\$0.00	\$648,842.26	The City received extra payments of TIF proceeds, totaling \$648,842.86.
Omaha	28-2193	CF Studio LLC	17	\$51,930.10	\$0.00	\$7,544.71	The City received extra payments of TIF proceeds, totaling \$7,544.71. City representatives stated that this redevelopment project is located in an "extremely blighted" area and, therefore, entitled to 20 years of TIF proceeds. However, this project was approved prior to the 2021 amendment to the Community Development Law. This issue will be explained in further detail below.
Omaha	28-2194	Jackson Development LLC	17	\$6,423,694.69	\$0.00	\$831,863.80	The City received extra payments of TIF proceeds, totaling \$831,863.80. According to City representatives, this redevelopment project is located in an "extremely blighted" area and entitled to 20 years of TIF proceeds. However, this project was approved prior to the 2021 amendment to the Community Development Law. This issue will be explained in further detail below.
Omaha	28-2196	Downtown Dodge Development LLC	17	\$1,508,981.60	\$0.00	\$154,418.81	The City received extra payments of TIF proceeds, totaling \$154,418.81. According to City representatives, this TIF project is located in an "extremely blighted" area and entitled to 20 years of TIF proceeds. However, this project was approved prior to the 2021 amendment to the Community Development Law. This issue will be explained in further detail below.
Omaha	28-2197	P&A McGill LLC #1	17	\$751,897.02	\$0.00	\$103,814.17	The City received extra payments of TIF proceeds, totaling \$103,814.17. According to City representatives, this redevelopment project is located in an "extremely blighted" area and entitled to 20 years of TIF proceeds. However, this project was approved prior to the 2021 amendment to the Community Development Law. This issue will be explained in further detail below.
Omaha	28-2208	Aksarben Apartments, LLC (Aksarben Village)	17	\$6,550,256.64	\$0.00	\$1,213,365.06	The City received extra payments of TIF proceeds, totaling \$1,213,365.06.

Entity Name	Project #	Project Name	# of Years Taxes Rec'd	TIF Receipts	TIF Repayment	Questioned TIF Proceeds	APA Notes
Omaha	28-2209	Georgetown Properties, LLC/Alchemy Aksarben	16	\$2,830,777.28	\$0.00	\$223,440.40	The City received extra payments of TIF proceeds, totaling \$223,440.40.
Omaha	28-2224	ALDI, Inc - Sutherlands Plaza	16	\$408,582.36	\$0.00	\$33,926.18	The City received extra payments of TIF proceeds, totaling \$33,926.18.
Omaha	28-2241	901 Land LLC	16	\$1,012,249.60	\$0.00	\$2,503.30	The City received extra payments of TIF proceeds, totaling \$2,503.30.
Ralston	28-5461	Hoifh Lakeview Village Apartments, LLC	17	\$173,095.48	(\$15,110.74)	\$30,061.37	The City received extra payments of TIF proceeds, totaling \$30,061.37. The County Treasurer was notified in December 2023 to terminate the division of ad valorem property taxes; however, the County continued its division of taxes for this project. The City returned \$15,110.74 to the County in April 2024. However, the County mistakenly paid this money back again to the City in June 2024.
Sidney	17-4060	Cabela's Project 2007	16	\$692,751.81	\$0.00	\$27,969.72	The City received three extra payments of TIF proceeds, totaling \$27,969.72. The City had previously sent a letter to the County Assessor to cancel the division of ad valorem property taxes, effective December 15, 2023; however, the extra disbursements were received nonetheless.
Valley	28-1572	Dial Land Development (Mallard Lake)	16	\$143,921.84	\$0.00	\$7,302.64	The City received two extra payments of TIF proceeds, totaling \$7,302.64.
Waterloo	28-1536	Properties Unlimited, LLC (Business Park)	16	\$408,390.81	\$0.00	\$24,699.42	The City received four extra payments of TIF proceeds, totaling \$24,699.42.

Below are images of the sites for two of the projects listed above. Also included are images of the sites after their redevelopment:

City of Omaha – Project #28-2208 – Aksarben Apartments, LLC (Aksarben Village)



Village of Waterloo – Project #28-1536 – Properties Unlimited, LLC (Business Park)



As explained in the “Background Information” section herein, TIF proceeds are authorized for a maximum period of 15 years for areas designated as “substandard and blighted” and, subsequent to the passage of LB 25 (2021), no more than 20 years for “extremely blighted” areas under § 18-2147(4) of the Community Development Law.

After this established statutory period of time or when that debt is paid in full, whichever comes first, the division of the ad valorem property tax on the redeveloped land is ceased, and the total tax amount is paid once more to the political subdivisions, as required under § 18-2147(1)(b).

As mentioned in the table above (pages 5-7), the City of Omaha has extended the term for collecting “excess” ad valorem property taxes from 15 to 20 years for four of its TIF projects: #28-2193 – CF Studio LLC; #28-2194 – Jackson Development LLC; #28-2196 – Downtown Dodge Development; and #28-2197 – P&A McGill LLC #1. The City took this action because the areas for these projects were reclassified as “extremely blighted” subsequent to the passage of LB 25 (2021), which created the language in § 18-2147(4)(a) permitting the additional five years for such exceptionally dilapidated areas.

According to City of Omaha representatives, the authorization for this reclassification and resulting TIF deadline extension lies with the approval of the Housing and Mobility Redevelopment Plan (Redevelopment Plan) by the City Council on March 29, 2022. That Redevelopment Plan was implemented through the adoption of Resolution 2022-0224, which established the Urban Core Housing and Mobility Streetcar TIF Districts #28-2513 and #28-2514, and the Urban Core Housing and Mobility Influence Area TIF Districts #28-2515 and #28-2516 (collectively the “Redevelopment Project”), among other projects within the Redevelopment Plan area. The City of Omaha maintains that, because these four projects (#28-2193, #28-2194, #28-2196, and #28-2197) are located within the Redevelopment Plan area, they are now subject to its provisions. To support this contention, the City of Omaha cites the following provision in the Redevelopment Plan:

Within the District, this Plan also authorizes the addition of eligible expenses attributed to the Redevelopment Project to existing projects within the District and the Influence Area and the use of TIF proceeds generated from multi-family residential, retail, office, and commercial projects in years 16 through 20 for projects located in extremely blighted areas.

However, the 2021 amendment to the Community Development Law to allow for extending the division of ad valorem property taxes to 20 years for “extremely blighted” areas had not been passed when these projects were originally approved, between 2005 and 2008. It is worth noting also that these four TIF projects were near the end of the original 15-year period for the division of TIF proceeds when the period was extended. The APA is unsure if the Legislature intended to allow for the extension of the period for the division of “excess” ad valorem property taxes for existing TIF projects that were near completion.

While some municipalities have returned extra TIF proceeds received after the statutory deadline to their respective counties for proper redistribution, as detailed in the table above, others remain in possession of these unwarranted additional funds.

Good internal controls require procedures to ensure that municipalities collect and distribute properly all TIF proceeds, ensuring that ad valorem property taxes are divided and utilized for qualifying redevelopment projects only within the appropriate timeframe provided by the Community Development Law.

Without such procedures, there is an increased risk for not only loss or misuse of TIF proceeds but also statutory noncompliance.

We recommend the municipalities implement procedures to ensure all TIF proceeds are distributed properly. We also recommend the municipalities still in possession of “excess” ad valorem property taxes received after either of the deadlines in § 18-2147(4) return those funds to their respective counties for redistribution.

City of Broken Bow Response: *After reviewing our records for Chapin’s Furniture, Project # 21-9903, we agree that we are in possession of excess ad valorem property taxes received after 15 years. We agree with the APA figures of \$385.07 but have one addition to your totals. When we alerted Custer County to the situation, the May payment of \$1,022.88 had already been processed and we received those funds on June 15, 2024. These additional funds bring the amount that the City of Broken Bow owes Custer County to \$1,407.95. We have returned those funds to Custer County for redistribution.*

The City of Broken Bow understands the responsibility that we have in implementing procedures to ensure all TIF proceeds are distributed properly and return any unwarranted additional funds to Custer County in a timely manner. We have had substantial turnover in personnel the last few years and that contributed to overlooking sending a notice of completion to Custer County for this project. We have created procedures and documents that allow us to track these items more efficiently and are now cross-training personnel to allow multiple members of our staff to be up to date on all of our TIF requirements.

City of Ralston Response: *The City of Ralston agrees with the Auditor’s analysis in regard to TIF Project 28-5641. The City is in the process of repaying the funds.*

The Auditor’s letter goes on to state:

“Good internal controls require procedures to ensure that municipalities collect and distribute properly all TIF proceeds, ensuring that ad valorem property taxes are divided and utilized for qualifying redevelopment projects only within the appropriate timeframe provided by the Community Development Law.”

The City of Ralston is committed to providing strong internal controls at all levels of finance, including our handling of TIF. In negotiating recent TIF agreements, the City staff team of the City Administrator, City Attorney, and City Finance Director became concerned that once passed, TIF agreements were being inadequately reviewed and that a legislatively defined process was needed to ensure future review. We have developed an annual review policy for our Community Redevelopment Board in response to these concerns.

We appreciate the Auditor’s work on this issue, will repay the funds associated with Project 28-5641, and use the new annual review process to enhance our internal controls.

City of Sidney Response: *The City of Sidney takes pride in the accuracy of our record keeping and is aware of the TIF project #17-4060 imbalance and has plans to rectify this in our next available property tax cycle.*

City of Valley Response: *Thank you for your letter. The City acknowledges that the City of Valley has received extra TIF proceeds in connection with City of Valley TIF Project No. 28-1572 in the total amount of \$7,302.64. The division of the ad valorem real estate taxes in connection with this project should have ceased as of January 1, 2024. The City will immediately direct the Douglas County Assessor to cease the division of ad valorem real estate taxes in connection with City of Valley TIF Project No. 28-1572 and will coordinate directly with the developer to obtain a refund the overpaid amounts. These amounts will then be returned to the County to be divided amongst the taxing entities.*

Village of Waterloo Response: *In response to the errors in the handling of the TIF project being brought to [the Village’s] attention, [the Village Clerk has] taken the steps to review and recalculate end dates of all current TIF projects and a new system was put in place to ensure timely communication with the county. [The Village Clerk has] had discussions with the county about the best way to rectify the oversight.*

Thank you for your assistance with this matter.

City of Omaha Response: *This correspondence responds to the concern that the City improperly divided taxes for more than term provided for under the Nebraska Community Development Law, Sections 18-2101 et seq., of the Nebraska Revised Statutes (referred to herein as the “Act”).*

Expired Projects

Historically, the plain language of the Act regarding the effective date and the commencement of the term was not easily implemented, as there is no process for dividing taxes in the middle of the calendar year or to specifically coincide with either the date of a redevelopment plan or redevelopment agreement. The Notice to Divide has provided a consistent date for the commencement of the division of taxes and a clear demarcation for the commencement of the TIF term. The majority of the Expired Projects were processed and approved in 2007, setting a base year value on January 1, 2007, and dividing taxes as of January 1, 2008. Excess ad valorem taxes were subsequently collected starting in 2009 for fifteen (15) tax years.

Nebraska law provides for ad valorem taxes to be paid in arrears, which may cause confusion in calculating the term of the Expired Projects. Calculating the TIF term from the division year to the final year of payment, the result is 16 years, however, this calculation includes the initial year when taxes are due, but not paid to Douglas County. In reality, there are only fifteen (15) years of taxes paid to Douglas County that are then transmitted to the City for the repayment of TIF indebtedness. For clarity, the City could revise its redevelopment agreements to specifically identify the “division date” as the “effective date” and acknowledge that ad valorem taxes are paid in arrears.

The City agrees that good internal controls are necessary to ensure that municipalities collect and distribute all TIF proceeds properly, ensuring that ad valorem property taxes are divided and utilized for qualifying redevelopment projects only within the appropriate timeframe, and only as authorized by the Act. The City has adopted processes and procedures to ensure compliance with the Act, and regularly revisits and refines these procedures to ensure continued compliance with any and all revisions to the Act or updates in best practices.

At present, the City dedicates Planning Department staff to the work with developers, receive and review applications, maintain all required information, and ensure compliance with the Act. Applications for the use of TIF are received by City staff, reviewed by an internal committee of department directors and Mayor’s office representatives, and subjected to public hearings before the Planning Board and City Council. This process is further detailed in the City’s TIF annual report. Upon approval of an application, and the receipt of funds, all payments are processed through the City’s Finance Department, held and disbursed pursuant to the Act and any relevant bond documents or redevelopment agreements. Should the APA require additional information or detail regarding these processes and procedures, the City will gladly accommodate any such request.

Urban Core Projects

The Urban Core Housing and Mobility Redevelopment Plan (“Redevelopment Plan”) was approved by the Omaha City Council on March 29, 2022. The application of the Redevelopment Plan to these existing redevelopment projects, was included, as follows:

Several areas and properties within the Redevelopment Plan Area are subject to existing redevelopment plans. This plan supersedes previous planning efforts, except where such plans authorize the division of ad valorem taxes. Effective redevelopment plans that authorize the division of ad valorem taxes shall remain in effect and if there is a conflict between those plans and this plan, those plans shall control. (Redevelopment Plan, page 2)

This provision identifies existing plans within the Redevelopment Plan Area, and sets forth the City's intent to amend such plans, except to the extent they currently authorize the division of taxes. The City then amended those redevelopment plans to extend their existing term to twenty (20) years, as allowed for in the Act, as follows:

Within the District, this Plan also authorizes the addition of eligible expenses attributed to the Redevelopment Project to existing projects within the District and the Influence Area and the use of TIF proceeds generated from multi-family residential, retail, office, and commercial projects in years 16 through 20 for projects located in extremely blighted areas.

By adopting the Redevelopment Plan, the City amended the redevelopment plans for existing redevelopment projects within the Redevelopment Plan Area, to provide for the payment of debt service related to certain public improvement expenses within the Redevelopment Plan Area benefitting the individual redevelopment projects, as well as extend the TIF term for those projects located in extremely blighted areas. Section 18-2103(27) expressly authorizes a redevelopment plan to cover or include more than one community redevelopment area for a single project (“[r]edevelopment plan means a plan, as it exists from time to time for one or more community redevelopment areas, or for a redevelopment project”). Section 18-2117 of the Act expressly provides that, “[a] redevelopment plan may be modified at any time by the authority.” The City complied with both of these provisions in adopting the Redevelopment Plan, and relied on that action as a modification of the existing redevelopment plans subsumed within the Redevelopment Plan Area.

The Redevelopment Plan was subject to, and complied with, all notices and public hearings as required by Section 18-2115 of the Act. The Redevelopment Plan was approved subsequent to the passage of LB 25 (2021), which authorized no more than 20 years for “extremely blighted” areas under Neb. Rev. Stat. § 18-2147(4) (Supp. 2023) of the Act. Neither LB 25, nor the Act, prohibit an authority from amending redevelopment plans in response to new or amended provisions.

Specifically regarding the amendment of existing redevelopment plans in extremely blighted areas, Section 18-2147(4)(a) of the Act states, “any redevelopment plan for which more than fifty percent of the property in the redevelopment project area has been declared an extremely blighted area in accordance with section 18-2101.02, ad valorem taxes shall be divided for a period not to exceed twenty years after the effective date as identified in the project redevelopment contract or in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124”. (emphasis added). As more than fifty percent of the redevelopment project area for each Urban Core Project is within an extremely blighted area, the City authorized the additional division of taxes for the newly authorized extended term, by amending the Urban Core Project redevelopment plans with the implementation of the Redevelopment Plan. Section 18, 2147(4)(a) not only authorizes the extension of the TIF term from fifteen to twenty years for existing redevelopment plans, it requires it through the use of the word “shall”. The City is not obligated to extend the term of its approved redevelopments plans and redevelopments agreements within extremely blighted areas, but may exercise its right to do so. That is what the City did here.

Moreover, the Redevelopment Plan did not restart the TIF term for the existing projects. Those contractual arrangements remain. Accordingly, the Redevelopment Plan does not impact the repayment of the existing indebtedness, but only provides for the collection of excess ad valorem tax revenue to pay indebtedness issued for additional public improvements in the Redevelopment Plan Area, in compliance with the Act.

The division of taxes pursuant to the Act, as authorized by the Redevelopment Plan, was implemented through four Notices to Divide, which established the Urban Core Housing and Mobility Streetcar TIF Districts #28-2513 (Active TIFs) and #28-2514 (Non TIFs), and the Urban Core Housing and Mobility Influence Area TIF Districts #28-2515 (Active TIFs) and #28-2516 (Non TIFs) (“Urban Core Notices to Divide”). The Urban Core Projects are located within the Redevelopment Plan Area, and are subject to its provisions and the Urban Core Notices to Divide.

Amending each of the active TIF redevelopment projects in the Redevelopment Plan Area, including the Urban Core Projects, through the Redevelopment Plan is effectively the same action as if the City had amended each individual redevelopment plan. The intent to extend the TIF term to twenty years, where available, was clearly articulated in the Redevelopment Plan, associated materials, and the Urban Core Notices to Divide. The City

could, moving forward, amend the Redevelopment Plan, or each individual redevelopment plan for active TIF projects, to restate and reaffirm the actions authorized by the Redevelopment Plan, namely to extend the TIF terms of existing redevelopment projects located in extremely blighted areas from fifteen years to twenty years to service the debt associated with the additional public infrastructure. Alternatively, the City could amend the Redevelopment Plan to create new fifteen and twenty year TIF terms that would commence after the expiration of the terms of the existing redevelopment projects. However, the City's preference was to transmit to the taxing jurisdictions the obligated revenues earlier, and to a greater extent, by limiting this additional indebtedness to the terms of existing projects.

The City's actions in approving the Redevelopment Plan, for the purposes identified therein and more specifically explained above, is commensurate with the stated legislative intent and authority set forth in the Act. Specifically, the City is affording the maximum opportunity, consistent with the sound needs of the city as a whole, to the rehabilitation or redevelopment of the community redevelopment area by exercising its powers to the greatest extent it deems feasible consistent with the general plan for the development of the city. Neb. Rev. Stat. §18-2104. This intent and grant of powers through the Act, is further expressed in Neb. Rev. Stat. § 18-2143, which states, "all grants of power, authority, rights, or discretion made to a city and to an authority, shall be liberally construed, and all incidental powers necessary to carry into effect the Community Development Law are hereby expressly granted to and conferred upon a city or an authority created pursuant thereto." Lastly, Neb. Rev. Stat. §18-2142.01 affords the City a conclusive presumption of validity to any bond or agreement of the city, after the passage of thirty days from issuance or effective date. This presumption of validity would apply to the all redevelopment contracts entered into in furtherance of the Redevelopment Plan and bond indebtedness issued to fulfill the provisions of the Redevelopment Plan, all as set forth above.

The City sincerely appreciates the inquiry by the APA and the opportunity to provide this information, which affirms the City's actions regarding the Projects identified by the APA comply with the Act. The City is open to further discussion, implementation of actions suggested above, or additional feedback.

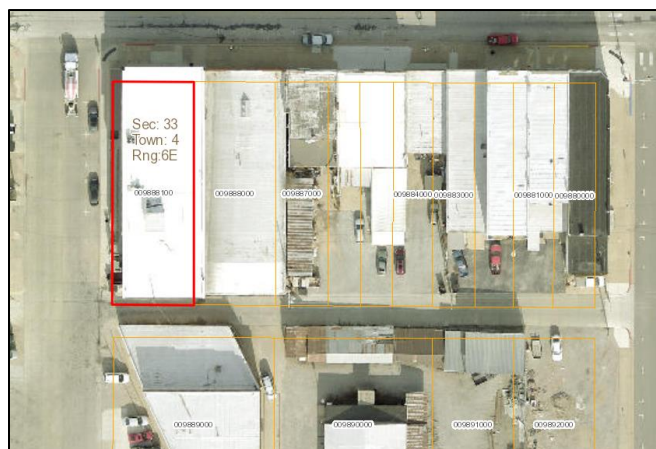
2. TIF Proceeds Received Exceeded Redevelopment Project Expenditures

For 2 of 44 redevelopment projects examined, the APA determined that more TIF proceeds were received than needed to pay actual project costs. The following table details the amounts by which TIF proceeds exceeded project expenses:

Entity Name	Project #	Project Name	Total TIF Receipts	Total Expenses	Excess Funds
Beatrice	34-8799	Hydo - 301 Court Street	\$48,461.36	(\$35,247.29)	\$13,214.07
Lincoln	55-9993	Block 85 Redevelopment Project	\$913,870.92	(\$633,283.80)	\$280,587.12

Below is an image of the site for one of the projects listed above. Also included is an image of the site after its redevelopment:

City of Beatrice – Project #34-8799 – Hydo - 301 Court Street



City of Beatrice – Project #34-8799 – Hydo - 301 Court Street

The City of Beatrice paid off the debt for redevelopment project #34-8799 in 2023, leaving a residual balance of \$12,138.03 in TIF proceeds. Nevertheless, the municipality continued to receive two additional payments of “excess” ad valorem property taxes, totaling \$1,076.04, through May 2024. Consequently, the City had a total balance of \$13,214.07 in unused TIF proceeds as of May 2024. The Redevelopment Agreement for this project contains a provision under Section 3.04 (“Use of TIF Indebtedness”) that states, in relevant part, the following:

Any residual TIF Revenues collected by the CRA during the fifteen (15) year term of this agreement which are not required to pay off TIF Indebtedness shall be retained by the CRA to be expended on qualifying improvements within Redevelopment Area No. 2.

Upon inquiry with the City regarding this TIF project, the City Attorney provided the APA with the following response:

Section 3.04 of the Redevelopment Agreement provides that any residual ad valorem taxes which are not required to pay off the TIF Indebtedness is retained by the CRA to be expended on qualifying improvements within Redevelopment Area No. 2. As such, pursuant to the Redevelopment Agreement, the CRA will retain the excess taxes for public improvements in this redevelopment area until the 15th year taxes are divided for this parcel.

Similar provisions are widely used in communities throughout Nebraska. There is nothing in the Community Development Law that prohibits such provisions, and using the excess taxes to fund public improvements within the redevelopment area not only benefits all redevelopers, businesses, and/or residences located within the redevelopment area, but also follows the spirit of Community Development Law by using these taxes to fund public improvements that help eliminate blight and substandard conditions.

As of the date of this email [July 11, 2024], none of these funds have been expended, only retained in an account to be expended at a later date.

However, this provision of the Redevelopment Agreement does not appear to be compliant with either State statute or the Department of Revenue’s administrative rules and regulations.

City of Lincoln – Project #55-9993 – Block 85 Redevelopment Project

The amortization schedule document provided by the City of Lincoln for TIF Project #55-9993 showed that the indebtedness had an ending balance of \$4,093.37 as of May 31, 2021. The City of Lincoln’s last disbursement of TIF proceeds occurred on April 22, 2021. Instead of making a final payment to satisfy the project debt, however, the City of Lincoln appears to have continued to receipt the “excess” ad valorem property taxes received from the Lancaster County Treasurer. As of May 31, 2024, the City of Lincoln has received a total of \$270,632.94 in TIF proceeds, as well as earned \$9,954.18 in interest thereon, since making the aforementioned last payment on April 22, 2021 – meaning that a total of \$276,493.75 more in TIF proceeds has been collected than needed to pay off the redevelopment costs ending balance. Regardless, the City of Lincoln does not appear to have remitted these excess funds to the Lancaster County Treasurer as of July 31, 2024.

Neb. Rev. Stat. § 18-2147(1)(b) (Supp. 2023) of the Community Development Law restricts the use of TIF proceeds to payment of applicable redevelopment costs, as follows:

That portion of the ad valorem tax on real property, as provided in the redevelopment contract, bond resolution, or redevelopment plan, as applicable, in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies. An authority may use a single fund for purposes of this subdivision for all redevelopment projects or may use a separate fund for each redevelopment project.

(Emphasis added.) Furthermore, in Title 350 of the Nebraska Administrative Code (NAC) § 18-003.03C(2), (March 15, 2009) – which, having been properly “adopted and filed” has “the effect of statutory law,” per *E.M. v. Neb. HHS*, 306 Neb. 1, 17-18, 944 N.W.2d 252, 265 (2020) – the Department of Revenue has clarified that TIF proceeds are “to be used for the sole purpose of paying the indebtedness incurred for the project for which the taxes were pledged.” (Emphasis added.)

After all such specific financial obligations have been fully satisfied, § 18-2147(1)(b), as quoted above, directs the county assessor and the county treasurer to be notified and all ad valorem property taxes to be “paid into the funds of the respective public bodies.” This is reiterated by Title 350 NAC Section 18-003.03D, as follows:

When the indebtedness incurred for the project has been paid, the local governing body charged with such indebtedness, shall immediately send written notification to the assessor and county treasurer that all further real property taxes shall be distributed to the respective political subdivisions allowed to levy a tax on the project.

(Emphasis added.) When the amount of redevelopment funding received through TIF proceeds exceeds actual project costs, a municipality may come into possession of residual TIF revenues not permitted by statute. Because they may be used only to pay “the indebtedness incurred for the project for which the taxes were pledged,” per Title 350 NAC § 18-003.03C(2), unexpended TIF revenues may be allocated for no other purpose, including funding different redevelopment projects. Therefore, such unexpended TIF proceeds should be returned to the county treasurer for proper redistribution.

Good internal controls require procedures to ensure that the amount of TIF proceeds collected is not greater than the total eligible project costs.

Without such procedures, there is an increased risk for not only loss or misuse of TIF monies but also statutory noncompliance.

We recommend the municipalities implement procedures to ensure eligible redevelopment project costs equal or exceed the amount of TIF proceeds received, regardless of the financing mechanism used. We also recommend the municipalities ensure the county assessor and county treasurer are notified when those TIF proceeds have completely funded the costs of the redevelopment project for which they were collected. For those municipalities whose TIF proceeds have exceeded project costs, we recommend the unused TIF proceeds be turned over to the county treasurer for proper redistribution.

City of Beatrice Response: *The City has reviewed the Nebraska Auditor of Public Accounts’ letter regarding the use of excess TIF funds from the City’s Hydo – 301 Court Street Redevelopment Project.*

The City respectfully disagrees with the analysis presented by the Nebraska Auditor of Public Accounts regarding this matter. However, the City shall, within the next fourteen (14) calendar days of this email, file the certificate of completion for the redevelopment project and turn over all excess funds collected from this redevelopment project to the Gage County Treasurer’s Office so that said excess funds can be distributed to the other taxing entities within Gage County.

City of Lincoln Response: *On November 3, 2008, the City Council also adopted Resolution No. A-85116, approving an amendment to the FY 08/09 Capital Improvement Program and Bond Ordinance No. 19169 approving a not-to-exceed principal amount of \$932,000 for the Tax Allocation Bond in connection with the Block 85 Redevelopment Project.*

On January 23, 2012, Resolution No. A-86686 was passed, approving an amended Block 85 Redevelopment Agreement allowing for the reimbursements of public improvements totaling \$535,595 and divided the project into two Phases. Phase I identified \$424,217 in TIF toward public improvements. These improvements included utility relocation and improvements, alley improvements, and streetscape and sidewalk improvements in the 9th Street

right-of-way. Debt was issued to the Phase I developer in the amount of \$392,342.73 under the associated Tax Allocation Bond subject to repayment through tax increment financing. The Phase I developer has been repaid \$388,249.36 of the principal with interest. The city owes the developer an additional \$4,093.37, plus \$1,459.83 in additional expenses in principal payments with interest, subject to receiving necessary documentation of such expenses. The developer has been notified that upon receipt of this documentation, they will be reimbursed.

The Phase II Developer has demonstrated expenditure of \$45,311.26 in expenses for eligible streetscape improvements. The developer has been notified that upon receipt of the necessary signature page, the City will reimburse this amount under the terms of the redevelopment agreement.

Both the Phase I and II developers have contractually obligated themselves to design and construct additional streetscape improvements as part of the Block 85 Redevelopment Project for the remaining amounts of \$30,414.49 and \$66,066.88 respectively or a total of \$96,481.37 subject to reimbursement from the City from funds generated pursuant to the Community Development Law.

The City has notified the Phase I and Phase II developers that they have until the end of the calendar year to complete the streetscape work and invoice the City for reimbursement or notify the City in writing within ten business days that it will be unable to complete the work obligated under the agreement. If notified of the developer’s inability to complete the work within ten days, the City will have the authority under both the redevelopment plan and agreement to complete the developer’s obligation and reimburse itself from TIF. If the developer does not notify the City within 10 days and neither the developer nor the City completes the work for reimbursement by the end of the calendar year 2024, the remaining funds held by the City upon completion of the Block 85 Redevelopment Project will be directed back to the County Treasurer for distribution to the taxing authorities.

3. TIF Project Fund Accounting Procedures

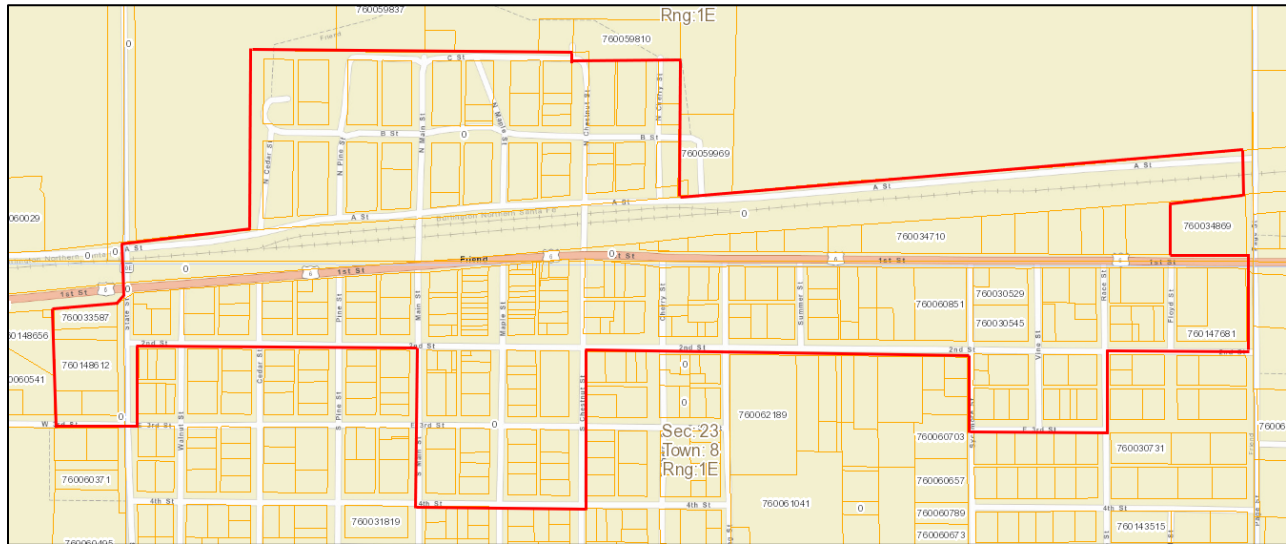
The APA determined that, for 2 of 44 redevelopment projects examined, the municipalities failed to account separately for the receipt and disbursement of TIF proceeds acquired for those and other active projects. As a result, the APA was unable to determine which costs were associated with a given project and whether TIF proceeds had been expended for allowable purposes. Both redevelopment projects at issue are discussed in further detail below.

City of Friend – Project #76-9601 – Redevelopment Area 1 – 2nd

Initiated in 2009, this project was for the purchase of property located in the project area and the preparation of such area through the construction of public infrastructure, repairs, and improvements. A summary of the TIF receipts and disbursements for the project is shown below:

Project #	Project Name	Effective Date	Last Payment from County	# of Years Taxes Rec'd	TIF Receipts	Total Expenses
76-9601	Friend Redevelopment Area 1 - 2nd (Bucket TIF)	1/1/2009	4/15/2024	15	\$1,313,905.08	(\$2,109,036.81)

The project site is outlined on the following map:



The City of Friend used a single ledger to record the financial activity for all of its active redevelopment projects, precluding the ability to track separately the receipts and disbursements of TIF proceeds for each. The APA therefore obtained a listing from the Saline County Treasurer’s office showing the TIF proceeds paid to the City of Friend solely for redevelopment project #76-9601. In the above table, the APA included only the expenses of that project – incorporating therein all expenses from the City of Friend’s ledger – and excluding the TIF proceeds for that municipality’s other redevelopment projects.

In total, the City of Friend received the following in revenues, including both TIF proceeds and other funds, for its active redevelopment projects:

Project #76-9601 TIF Receipts	Other TIF Project Receipts	Other Receipts	TIF Repayment	Total Receipts
\$1,325,142.62	\$166,861.43	\$900,174.71	(\$11,237.54)	\$2,380,941.22

Because the City of Friend failed to segregate adequately the funds for each of its active redevelopment projects, the APA was unable to verify that TIF proceeds were used appropriately for any specific project.

The total amount of TIF proceeds disbursed for all of the City of Friend’s active redevelopment projects is detailed in the table below:

Loan Payments	Grant Payments	Other Expenses	Total Expenses
(\$656,892.43)	(\$593,215.23)	(\$858,929.15)	(\$2,109,036.81)

As shown above, the City of Friend paid a total of \$656,892.43 in TIF proceeds on municipal debt, incurred through the issuance of loans, for its various redevelopment projects. However, the City could not provide any amortization schedules to support the payments on the debt.

Also reflected in the above table is the City of Friend’s use of TIF proceeds to issue a total of \$593,215.23 in grants for its redevelopment projects. Redevelopers or residents were able to apply to the City for such grants if their projects fell within the redevelopment area. The City of Friend also paid \$858,929.15 in TIF proceeds, as similarly shown above, for various other expenses that appear to have been unrelated to a specific TIF project, including lawn care, P.O. Box rental fees, and taxes on unrelated property owned by the City of Friend Community Redevelopment Authority.

As mentioned already, the City of Friend did not account separately for each of its redevelopment projects, effectively comingling all of the TIF proceeds pledged thereto and other funds as well. The total amount of non-TIF proceeds received by the City appears to have been \$900,174.71. This amount was insufficient to cover the total of \$1,452,144.38 expended for the grants (\$593,215.23) and other expenses (\$858,929.15), leaving a remainder

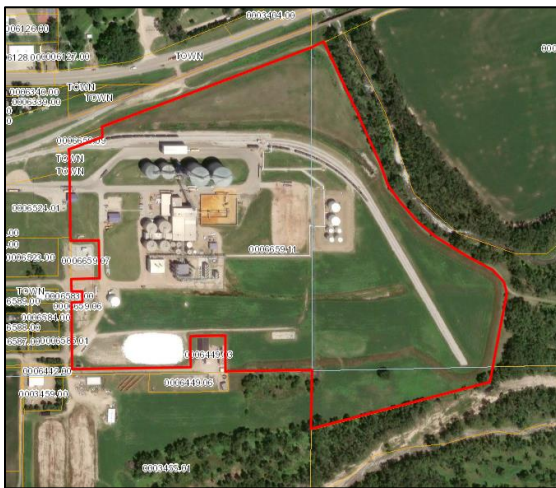
of \$551,969.67. This remainder, plus the loan payments of \$656,892.43, for a total of \$1,208,862.10, was left to be covered from the TIF proceeds. The difference between the net TIF proceeds (less the TIF repayment of \$11,237.54), which totaled \$1,480,766.51 and the amount of \$1,208,862.10 in loan payments and remaining grant payments is \$271,904.41. Therefore, the City of Friend appears to have \$271,904.41 in TIF proceeds remaining from its active redevelopment projects.

City of Cambridge – Project #33-8703 – Cambridge Ethanol Plant

This project, which became effective in 2008, was for the construction of an ethanol plant to produce 44 million gallons of ethanol. A summary of the receipt and disbursement of TIF proceeds for the project is shown below:

Project #	Project Name	Effective Date	Last Payment from County	# of Years Taxes Rec'd	TIF Receipts	TIF Repayment	Total Expenses
33-8703	Cambridge Ethanol Plant	1/1/2008	3/8/2024	16	\$3,370,621.85	(\$4,847.88)	(\$6,119,807.15)

An image of the project site is shown below. Also included is an image of the site after its redevelopment:



Similar to the City of Friend, the City of Cambridge did not track separately the receipt and disbursement of TIF proceeds for each of its redevelopment projects, using instead a single ledger to record all TIF-related financial activity. The APA therefore obtained a report from the Furnas County Treasurer’s office showing the TIF proceeds paid to the City solely for redevelopment project #33-8703. Included in the table above are only the TIF proceeds for that project and all expenses from the City’s ledger; the TIF proceeds for the City of Cambridge’s other TIF projects are excluded.

The City of Cambridge also failed to segregate the TIF proceeds from the other miscellaneous forms of revenue received. In total, the City of Cambridge received the following in revenues related for its redevelopment projects:

Project #33-8703 TIF Receipts	Other TIF Project Receipts	Other Receipts	TIF Repayment	Total Receipts
\$3,370,621.85	\$1,036,438.86	\$1,835,309.28	(\$4,847.88)	\$6,237,522.11

Because the City of Cambridge failed to segregate adequately the funds for each redevelopment project, the APA was unable to verify that TIF proceeds were used only for allowable purposes. The total disbursement of TIF proceeds for those projects is detailed below:

Loan Payments	Other Expenses	Total Expenses
(\$1,754,081.51)	(\$4,365,725.64)	(\$6,119,807.15)

While making payments on its debt, the City of Cambridge also used \$4,365,725.64 of its receipts to pay various other expenses, including property taxes.

The total amount of non-TIF tax funds received by the City appears to have been \$1,835,309.28. This amount would be insufficient to cover the total of \$4,365,725.64 expended for the other expenses, leaving a remainder of \$2,530,416.36. This remainder, plus the loan payments of \$1,754,081.51, for a total of \$4,284,497.87, was left to be covered by the net TIF proceeds (less the TIF repayment of \$4,847.88), which totaled \$4,402,212.83. The difference between the \$4,402,212.83 in net TIF proceeds and the \$4,284,497.87 in loan payments and remaining other expenses is \$117,714.96. Therefore, the City appears to have amassed a surplus of \$117,714.96 in TIF proceeds for its active redevelopment projects.

Because neither the City of Friend nor the City of Cambridge was accounting separately for its redevelopment projects, there was no assurance that TIF proceeds received for a specific project were used on applicable expenses only for that project. As stated in the previous comment, the purpose of TIF is to use “excess” ad valorem property taxes to pay off the debt incurred for the particular redevelopment project responsible for producing those revenues. This is stated in Neb. Rev. Stat. § 18-2147(1)(b) (Supp. 2023) of the Community Development Law:

That portion of the ad valorem tax on real property, as provided in the redevelopment contract, bond resolution, or redevelopment plan, as applicable, in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies. An authority may use a single fund for purposes of this subdivision for all redevelopment projects or may use a separate fund for each redevelopment project.

(Emphasis added.) Furthermore, in Title 350 NAC 18-003.03C(2) (March 15, 2009) – which, having been properly “adopted and filed” has “the effect of statutory law,” per *E.M. v. Neb. HHS*, 306 Neb. 1, 17-18, 944 N.W.2d 252, 265 (2020) – the Department of Revenue has clarified that TIF proceeds are “to be used for the sole purpose of paying the indebtedness incurred for the project for which the taxes were pledged.” (Emphasis added.)

After all such specific financial obligations have been fully satisfied, § 18-2147(1)(b), as quoted above, directs the county assessor and the county treasurer to be notified and the ad valorem property taxes to be “paid into the funds of the respective public bodies.” This is reiterated by Title 350 NAC Section 18-003.03D, as follows:

When the indebtedness incurred for the project has been paid, the local governing body charged with such indebtedness, shall immediately send written notification to the assessor and county treasurer that all further real property taxes shall be distributed to the respective political subdivisions allowed to levy a tax on the project.

(Emphasis added.) While nothing in the Community Development Law expressly prohibits using a single fund to hold all of a municipality’s TIF proceeds, the resulting comingling of receipts for different projects is fraught, as described above, with potential complications – not the least of which is the prohibited use of TIF proceeds pledged for one redevelopment project to the pay for the costs of a different project or other municipal expenses.

Good internal controls require proper accounting practices, including the segregation of different project funds, to ensure compliance with the provisions of the Community Development Law, especially the requirement that TIF proceeds pledged for a specific project are used solely for that purpose.

Without such practices, there is an increased risk for not only loss or misuse of funds but also statutory noncompliance.

We recommend the municipalities implement proper accounting procedures, including the segregation of different project funds, to ensure compliance with the provisions of the Community Development Law, especially the requirement that TIF proceeds pledged for a specific project are used solely for that purpose.

City of Friend Response: *The City of Friend CRA appreciates the state auditor’s review and feedback concerning TIF project #76-9601. The City of Friend CRA is committed to full compliance with the Nebraska Community Development law.*

4. Lack of Supporting Documentation

The APA determined that, for 1 of 44 redevelopment projects tested, inadequate documentation was maintained to support the expenditure of TIF proceeds. This project, along with its insufficient supporting documentation, is discussed in further detail below.

City of Holdrege – Project #69-9519 – VA Clinic

This project, which became effective in 2008, was for the construction of an approximately 5,766 square foot medical clinic to serve veterans. This included improvements to infrastructure, lighting, and landscaping of the area. The following table contains a summary of the receipt and disbursement of TIF proceeds for this redevelopment project:

Project #	Project Name	Effective Date	Last Payment from County	# of Years Taxes Rec'd	Total TIF Receipts	Total Expenses
69-9519	Holdrege VA Clinic	1/1/2008	6/1/2021	13	\$197,043.99	(\$197,043.99)

An image of the project site is shown below. Also included is an image of the site after its redevelopment:



The City of Holdrege was unable to present the APA with an amortization schedule for this redevelopment project. According to the TIF application provided, the bank loan amount was \$812,000, and the total TIF assistance was \$120,000. However, the redevelopment contract stated that the estimated amount of the TIF assistance would be only \$165,420. No definitive amount appears, therefore, to have been established for the TIF proceeds utilized.

The City of Holdrege eventually paid a total of \$197,043.99 to the developer before the redevelopment project was discontinued. Because the redevelopment contract does not appear to have been revised, the City of Holdrege appears to have paid the developer \$31,623.99 more than the \$165,420 specified in that document. According to City of Holdrege representatives, no one was ever assigned the duty of following up on the developers to certify project costs. The APA was unable to verify the propriety of project expenditures due to the City of Holdrege’s inability to provide adequate supporting documentation for the TIF proceeds expended thereon.

Neb. Rev. Stat. § 18-2102.01(7) (Reissue 2022) of the Community Development Law provides the following:

The [community redevelopment] authority shall keep an accurate account of all its activities and of all receipts and disbursements and make an annual report of such activities, receipts, and disbursements to the governing body of the city.

Additionally, without adequate documentation to support redevelopment project expenses, the municipality is unable to confirm that TIF proceeds were expended for eligible costs – including, among others, those incurred by the project for which the TIF proceeds had been pledged.

Good internal controls require the maintenance of proper documentation to ensure compliance with the provisions of the Community Development Law governing the appropriate expenditure of TIF proceeds.

Without such records, there is an increased risk for not only loss or misuse of funds but also statutory noncompliance.

We recommend the municipality implement procedures to ensure redevelopment project costs paid with TIF proceeds are adequately documented, using contracts, agreements, invoices, receipts, or other records that support the nature of the project expenses and allow for a determination regarding compliance with the provisions of the Community Development Law.

City of Holdrege Response: *After reviewing and comparing the City’s former and current practices for approving Tax Increment Financing applications and payments, we believe our former inadequacies in TIF administration have been addressed.*

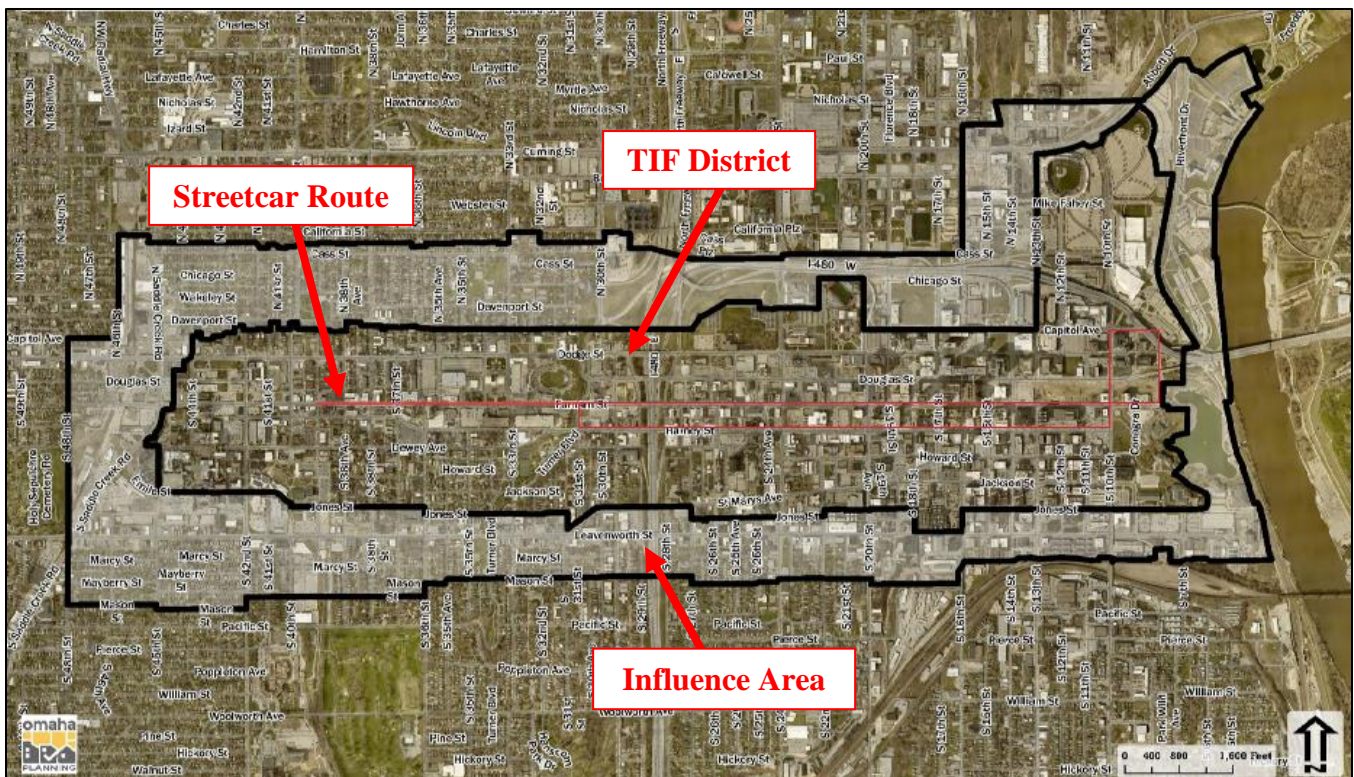
- *Our new City/CRA Attorney offers a better understanding of Community Development Law and the TIF process.*
- *We use new TIF Application and Contract Forms that identify and hold the redeveloper accountable for providing receipts for certified project costs and an amortization table for their loan.*
- *City officials will cooperate over the project’s life to ensure that TIF projects comply with current Community Development Law as well as the specific requirements of the project’s contract. Project costs will be submitted to and reviewed by the City Administrator and City Attorney. The City Treasurer will not issue TIF payments without their approval.*

Items for Legislative Consideration

In addition to the issues described previously, the APA received concerns regarding the use of TIF proceeds for the City of Omaha’s (City) Housing and Mobility Redevelopment Plan (Redevelopment Plan). Of particular interest has been the City’s Streetcar Project, which is contained within the Urban Core Housing and Mobility Streetcar TIF Districts #28-2513 and #28-2514, and the Urban Core Housing and Mobility Influence Area TIF Districts #28-2515 and #28-2516 (collectively the “Redevelopment Project”). As a result, the APA sought to obtain a better understanding of the use of TIF for the Redevelopment Plan and its implementation pursuant to the Community Development Law. During the course of this examination, the APA identified certain issues related to the Redevelopment Project that merit disclosure – if for no other reason than to facilitate discussion regarding the intent of the Community Development Law. Those issues are summarized below:

City of Omaha Streetcar TIF Project

On March 29, 2022, the Omaha City Council (City Council) passed Resolution 2022-0224, approving the Redevelopment Plan. The Redevelopment Plan Area (Plan Area) consists of approximately 50 city blocks enclosed by 50th Street in the west, Cuming Street in the north, the Missouri River in the east, and Woolworth Street in the south. The Plan Area is then divided into two sections – the Housing and Mobility TIF District (TIF District) and the Housing and Mobility Influence Area (Influence Area). According to documentation received from the City and Douglas County, the TIF District is comprised of 1,030 total parcels, which had a total base valuation of \$342,403,000 in tax year 2023. The Influence Area is made up of 95 total parcels and had in tax year 2023 a total base valuation of \$159,039,300. An image of both districts is included below:



To finance the Redevelopment Project, the Redevelopment Plan authorized at least \$356,400,000 in TIF proceeds. Section 9 (“Financing for Redevelopment Projects”) of the Redevelopment Plan allows the City to divide ad valorem taxes on every property located within the TIF District, as follows:

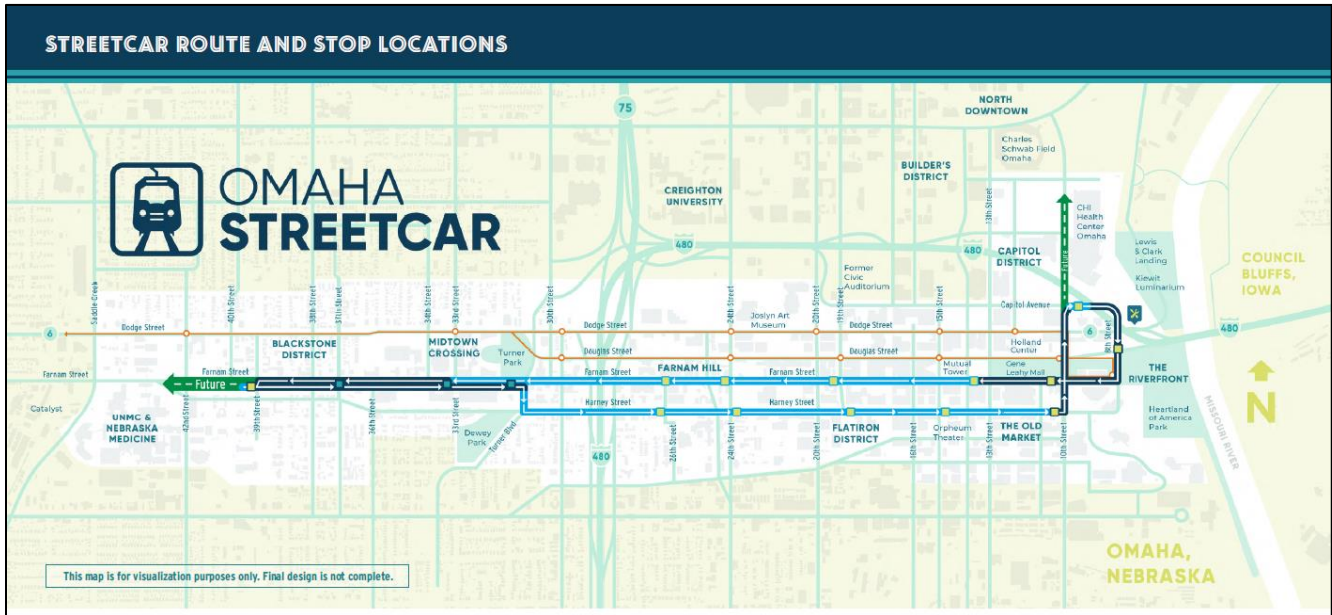
This Plan authorizes the City of Omaha to divide taxes on every property within the District to capture a portion of any natural increase in valuation that occurs on such properties due to the construction of the modern streetcar. Such authorization relies on the fact that development and redevelopment within the District, and particularly the implementation of a modern streetcar and affordable and work-force housing, will accelerate increases in valuation throughout the District.

(Emphasis added.) In addition to dividing ad valorem taxes on all properties within the entire TIF District, the Redevelopment Plan requires developers and redevelopers of properties within the District to allocate a portion of any TIF proceeds received for those separate projects toward funding of the Redevelopment Project. A developer whose property happens to be located within the TIF District would be required to contribute 25% of any TIF proceeds received for redeveloping that property to the City. A developer whose property is located within the Influence Area would be required likewise to contribute 10% of any TIF proceeds received for redeveloping that property to the City. In both cases, those separate projects and the TIF proceeds received for them would be unrelated to the Redevelopment Project.

The purpose of the Redevelopment Plan was to focus on three main areas of improvement: transit and mobility; affordable housing; and job growth. For transit and mobility improvements, the Redevelopment Plan proposed the construction of a modern streetcar, or in other words the “Streetcar Project.” The prospective streetcar would be an urban circular operating on a fixed line that would allow for free transportation to downtown and midtown destinations in the City. It would run on electricity and carry approximately 130 to 170 people. Providing free transportation on a streetcar would improve transit options, enhance tourism, and reduce poverty through economic efficiency, according to the Redevelopment Plan. At the time of approval, the estimated cost for the Streetcar Project was \$306,000,000, with a 2026 completion date.

The Omaha Streetcar Authority (Streetcar Authority) was created through an interlocal agreement between the City Council and the Omaha Transit Authority, known as Metro, in April 2022. The seven-member Streetcar Authority would oversee the design, implementation, and operation of the streetcar. Less than a month later, in May 2022, design of the streetcar was underway.

Since the Redevelopment Plan’s inception, the streetcar route has been reduced by several blocks in order to accommodate possible future extension of the route into North Omaha or the University of Nebraska Medical Center Campus. As of February 22, 2024, the proposed route would extend on Farnam Street between 39th Street and Turner Boulevard, the Farnam/Harney Street couplet between Turner Boulevard and 10th Street, and a single track on 10th Street to Capitol Avenue and down through 8th Street back to Farnam Street. Along the three-mile loop would be 16 stations and a vehicle maintenance facility. An illustration of this proposed route is shown below:



To assist with financing the construction and development of the streetcar, the City has authorized \$490,000,000 in bonds, with \$70,850,000 in bonds issued as of June 10, 2024. The City has also planned to purchase from Mutual of Omaha Insurance Company, Inc., (Mutual of Omaha) and operate at least three parking garages near the streetcar route. On July 23, 2024, the City Council approved, through the adoption of Ordinance #43901, a Purchase and Sale Agreement between the City and Mutual of Omaha for the purchase of the latter’s three parking garages, located at 3202 Harney Street, 115 South 35th Street, and 225 South 33rd Street, for \$52,230,000. The City intends for the profits received from the garage parking fees to help offset the operating costs of the streetcar.

During examination of the Redevelopment Plan and additional documentation provided by the City, the APA identified the following provisions of the Redevelopment Plan that may need further consideration.

Housing and Mobility TIF District Area

As shown in the previous diagram, the TIF District’s redevelopment area constitutes a sizeable portion of the City. Redevelopment plans that establish a redevelopment area that cover much of a municipality’s boundaries, such as this Redevelopment Plan, are typically referred to as “bucket TIF” plans – a term not found, it should be noted, in either Nebraska statutes or the opinions of the Nebraska Attorney General or this State’s appellate courts.

Section 9 of the Redevelopment Plan authorizes, as mentioned already, the division of ad valorem taxes on all real property within the TIF District, as follows:

This Plan authorizes the City of Omaha to divide taxes on every property within the District to capture a portion of any natural increase in valuation that occurs on such properties due to the construction of the modern streetcar. Such authorization relies on the fact that development and redevelopment within the District, and particularly the implementation of a modern streetcar and affordable and work-force housing, will accelerate increases in valuation throughout the District.

(Emphasis added.) As described previously in the “Background Information” section herein, in order for a redevelopment project to be eligible for TIF, the area in which it is located must have been designated as “substandard and blighted.” Neb. Rev. Stat. § 18-2103(3) (2024 Neb. Laws, L.B. 1317, § 56) defines, in relevant part, a “blighted area” as follows:

Blighted area means an area (a) which, by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use

However, many of the buildings located within the TIF District do not appear sufficiently dilapidated to be considered “deteriorated or deteriorating.” Provided below are images of two buildings located along the streetcar route within the TIF District:



WoodmenLife Tower
1700 Farnam Street



FBG Building
27th & Harney Street

Properties within the TIF District stretch to roughly six blocks from the streetcar route. According to the City, these properties, despite being situated blocks away from the streetcar route, will see an increase in valuation because of that new mode of transportation – due, at least partially, to the hope that developers or redevelopers will capitalize on the opportunities identified in the Redevelopment Plan.

Section 8a (“Tax shifts resulting from the approval of the use of funds pursuant to Section 18-2147”) of the Redevelopment Plan assures, “Only the incremental taxes created by development within the Redevelopment Plan Area will be captured to pay for the project’s eligible public expenditures.” As stated plainly in Section 9 (quoted on page 21 herein) of the Redevelopment Plan, however, “every property within the District” will produce incremental taxes for the Streetcar Project. Therefore, if it is the City’s intent to divide ad valorem taxes on all TIF District properties, TIF proceeds will be captured on properties that are not subject to actual redevelopment. It is worth mentioning also that – as construction on the streetcar had not begun at the time the Redevelopment Project was created and ad valorem taxes in the TIF District were divided – TIF proceeds are already being collected solely from increases in valuations not attributable to the streetcar construction.

25% / 10% TIF Contributions

Also mentioned previously (page 21 herein) is the City’s requirement for any developers or redevelopers of property within the redevelopment area to contribute a portion of the TIF proceeds on their projects – 25% for properties located in the TIF District and 10% for properties located in the Influence Area – to help fund the Redevelopment Project.

Such a division and distribution of “excess” ad valorem property taxes would appear to result in TIF proceeds generated from one project being used for another, separate project.

The APA has observed that redevelopment plans for new projects in these two areas include the provision for this split; however, as reiterated throughout this letter, “excess” ad valorem property taxes are set aside, in the words of Title 350 NAC 18-003.03C(2) (March 15, 2009), promulgated by the Department of Revenue, “for the sole purpose of paying the indebtedness incurred for the project for which the taxes were pledged.” As also pointed out repeatedly herein, Neb. Rev. Stat. § 18-2147(1)(b) (Supp. 2023) of the Community Development Law states clearly how TIF proceeds are to be used:

That portion of the ad valorem tax on real property, as provided in the redevelopment contract, bond resolution, or redevelopment plan, as applicable, in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies

(Emphasis added.) Thus, as concluded in **Comment and Recommendation Number 3** (“TIF Project Fund Accounting Procedures”) herein, TIF proceeds should not be shared between redevelopment projects. Rather, when the debt for a redevelopment project has been paid, any surplus TIF proceeds should be returned to the county and disbursed to the correct political subdivisions. Even when surplus TIF proceeds remain after paying off one project’s redevelopment debt, those residual funds should not be shared with another project.

TIF Deadline Extension

As described in the “Background Information” section herein, LB 25 (2021) amended the Community Development Law to extend the term for collecting “excess” ad valorem property taxes from 15 years to 20 years for redevelopment projects located within “extremely blighted areas.” Neb. Rev. Stat. § 18-2103(13) (2024 Neb. Laws, L.B. 1317, § 56) defines an “extremely blighted area” as follows:

[A] substandard and blighted area in which: (a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate is at least two hundred percent of the average rate of unemployment in the state during the same period; and (b) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area[.]

As a result of this amendment, the City Council designated certain portions of the redevelopment area as “extremely blighted.” According to the Redevelopment Plan, the redevelopment area is comprised of both “blighted and substandard” and “extremely blighted and substandard” portions. Section 9 of the Redevelopment Plan states that the “extremely blighted” designation does the following for this project:

[A]llows the division of taxes for up to 20 years. The City of Omaha intends to use 20-year TIF to the extent feasible to facilitate the projects identified in this Redevelopment Plan, and this Redevelopment Plan authorizes the City to do so in accordance with the Community Development Law.

Section 9 of the Redevelopment Plan states also that even existing projects located in “extremely blighted” areas are to be made subject to this extended funding deadline, as noted in **Comment and Recommendation Number 1** (“Division of Ad Valorem Taxes Exceeded 15 Years”) herein:

Within the District, this Plan also authorizes the addition of eligible expenses attributed to the Redevelopment Project to existing projects within the District and the Influence Area and the use of TIF proceeds generated from multi-family residential, retail, office, and commercial projects in years 16 through 20 for projects located in extremely blighted areas.

The APA observed multiple existing TIF projects, separate from the Redevelopment Project, within the TIF District or Influence Area, that have reached their maximum 15 years for receiving TIF proceeds but continue to be funded by the ongoing division of ad valorem property taxes. When the APA inquired with City representatives, it was explained that these projects are each located in extremely blighted areas and, therefore, subject to the additional funding as described in the Redevelopment Plan.

However, Section 2 (“The Redevelopment Plan Area”) of the Redevelopment Plan states that any provision for dividing ad valorem property taxes contained in an existing redevelopment plan is to remain undisturbed:

Several areas and properties within the Redevelopment Plan Area are subject to existing redevelopment plans. This plan supersedes previous planning efforts, except where such plans authorize the division of ad valorem taxes. Effective redevelopment plans that authorize the division of ad valorem taxes shall remain in effect and if there is a conflict between those plans and this plan, those plans shall control.

(Emphasis added.) Though located within the TIF District or Influence Area, these projects pre-date the Redevelopment Project, and based on the above provision, appear not to be subject to its Redevelopment Plan. Furthermore, the effective dates for these projects were established before the Community Development Law was amended in 2021 to authorize an additional five years of ad valorem property tax division for “extremely blighted” areas.

In light of the above, the APA questions whether the existing TIF projects at issue are eligible to receive TIF proceeds for more than 15 years.

Redevelopment Plan Area Alliance

During examination of the Redevelopment Plan, the APA observed that neither the City nor the Streetcar Authority would be managing the finances of the Redevelopment Project. Instead, revenues, including funds received from the division of ad valorem property taxes, would be transferred to the Redevelopment Plan Area Alliance, a non-profit corporation, for overall financing and management. Section 9 of the Redevelopment Plan describes the Redevelopment Plan Area Alliance and its duties, as follows:

The Redevelopment Plan Area Alliance is a Nebraska nonprofit corporation, exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, the purpose and mission of which is to facilitate the implementation of the Redevelopment Plan by serving as a coordinator and conduit for public and private funding, including funds derived from the division of ad valorem taxes under the Community Development Law.

The APA has searched for, but been unable to locate, any filings made with the Nebraska Secretary of State by the Redevelopment Plan Area Alliance. The APA is unaware, moreover, of any provision in the Community Development Law authorizing a nonprofit entity to act as custodian of the “excess” ad valorem property taxes received by a municipality. In fact, § 18-2147(1)(b) requires that all “excess” ad valorem property taxes collected “shall be allocated to and, when collected, paid into a special fund of the authority”

For the various reasons addressed herein, the Legislature may wish to consider whether the Community Development Law is being not only utilized effectively but also interpreted and implemented appropriately.

We recommend the Legislature review the items discussed herein to determine whether municipal redevelopment projects and their attendant costs, as well as the uses of TIF proceeds to pay for those expenses, are in accordance with both the express provisions and underlying intent of the Community Development Law – and, if any doubt exists in that regard, whether statutory change or clarification is warranted.

* * * * *

Our limited procedures for this letter were designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that could exist. Nevertheless, our objective is to use the knowledge gained during examination of the TIF projects addressed herein to make comments and recommendations that we hope will be useful to the participating municipalities, and the Legislature.

Prior to the release of this letter, the comments herein were communicated individually to the entities involved with the relevant TIF projects. Responses received from those political subdivisions were incorporated into this letter.

This communication is intended solely for the information and use of the applicable municipalities, and the Legislature. It is not intended to be, and should not be, used by any other parties or individuals. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

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