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Redevelopment Association of Idaho, Inc.
251 E. Front Street, Suite 301
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Re: 2016 Legislative Session

Dear Directors and Members:

The 2016 Legislative Session brought about significant reforms to the statutes governing urban renewal agencies, specifically, the Urban Renewal Law of 1965, Chapter 20, Title 50, Idaho Code, as amended (the "Law") and the Local Economic Development Act, Chapter 29, Title 50, Idaho Code, as amended (the "Act"), without addressing any of the modernization concepts supported by the Redevelopment Association of Idaho, Inc. ("RAI"). This effort began with the Interim Committee sessions in the summer and fall of 2015 and extending into the 2016 session. The Interim Committee convened several times from the start of the session through February, a practice virtually unheard of according to legislative lobbyist veterans.

The 2016 Legislative Session was challenging and few, if any, could have predicted the rollercoaster ride resulting in the passage of an urban renewal bill on the closing day of the Session. We appreciated the engagement of the RAI members who responded to RAI's legislative alerts and contacted legislators to discuss the importance of urban renewal as an economic development tool. Member contact is integral to the process and directly assisted with retaining or adding necessary language to make House Bill 606 workable. Certainly one of the takeaways from this Session is the continued need to support RAI's mission to educate legislators, the public, and others concerning how the urban renewal tool is used. RAI's role further includes educating RAI members regarding compliance with increasing statutory reporting requirements. We would particularly like to thank Seth Grigg and the Association of Idaho Cities ("AIC") for their efforts during the Session. Without Seth's tireless attention to

HB 606 throughout the Session, and his continued efforts to keep us involved in the process, the results of the 2016 Legislative Session could have been far more draconian.

We received assistance from many other quarters. Without their assistance, some of the protections and safeguards within HB 606 would not have been achieved.

House Bill 606: Also known as the “urban renewal reform bill” substantially amends the Law and the Act, particularly for plans adopted post July 1, 2016, and will impact how urban renewal is used as an economic development tool going forward. This bill was signed into law by the Governor on April 5, 2016. The impact of HB 606 will be addressed in detail during the AIC Annual Conference on June 22-24, 2016, in Boise. Below, please find a summary of the most significant changes made to the urban renewal statutes in HB 606:

1. **Elected Agency Board.** By enactment of an ordinance, the local governing body may provide the agency board members shall stand for election.
2. **Agency Board Composition.** Members of the local governing body shall constitute less than a majority of the agency board members. However, the local governing body has the ability to terminate the appointed agency board and to designate itself as the board “for not more than one (1) calendar year.” Presumably, this would allow a local governing body (the full City Council) the ability to take control from a rogue agency board and allow time to appoint a new board with less than a majority elected officials of the city. Additionally, agency board members must be residents of the county where the agency is located.
3. **No Risk of a Base Reset for Future Plan Amendments to Plans Adopted or Amended Before July 1, 2016.** A significant turning point in the Interim Committee discussions occurred in November 2015, with the issuance of an Attorney General Opinion indicating the base assessment roll values of a revenue allocation area should be reset to the current values upon the year of modification, yet recognizing there may be a statutory conflict in the Law and the Act leading to a different conclusion. The effect of a base reset is the loss of the increment value resulting in an immediate loss of revenue to an urban renewal agency leading to likely default on existing obligations. The Idaho State Tax Commission has never interpreted a plan amendment to require a base reset.

In an effort to acknowledge existing plans operating under the current interpretation that plan amendments do not cause a reset to the base assessment roll values to current values, language was added to the definition of “base assessment roll” to protect plans adopted or modified prior to July 1, 2016, and to clarify that subsequent modifications to plans

adopted or amended prior to July 1, 2016, are not subject to the new “base reset” limitations set forth in new Section 50-2905A.

4. **Urban Renewal Plans Adopted After July 1, 2016, May Only Be Amended in Limited Circumstances.** Idaho Code § 50-2903A is a new section of Idaho Code addressing under what circumstances an urban renewal plan can be amended/modified without resetting the base assessment roll values, including 1) to make technical or ministerial plan amendments that do not increase the use of tax increment revenues; 2) to make a one-time plan amendment to increase the revenue allocation area boundary by up to 10%; 3) to de-annex parcels from a revenue allocation area; or 4) to make a plan amendment to support growth of an existing commercial or industrial project in an existing revenue allocation area.

There is no exception to allow plan amendments to add projects in support of an unanticipated/new economic development opportunity in an existing revenue allocation area.

Upon certification by the agency of outstanding indebtedness that cannot be repaid prior to termination, a reset does not occur; however, the agency is required to rebate to the taxing districts any amount that exceeds the amount necessary to pay the indebtedness as certified.

5. **Urban Renewal Plans Adopted or Amended After July 1, 2016, Must State With Specificity Details Concerning the Types of Projects That Are Contemplated.** For urban renewal plans adopted post July 1, 2016, the specificity requirement combined with the reset of the base assessment roll upon plan modification will limit an agency’s ability to respond to new economic development opportunities. The specificity requirement is likely applicable to amendments of existing plans; however, plans adopted prior to July 1, 2016, may be amended without risk of a base reset.
6. **Limitations on the Use of Revenue Allocation Funds to Construct Certain Municipal Buildings.** New Section 50-2905A allows the use of revenue allocation funds to fund up to 50% of the costs to construct municipal buildings. If 51% or more of the project costs to construct a municipal building are to be funded by revenue allocation funds, the project must be approved by 60% of the participating qualified electors. Municipal building is defined as, and therefore, the voting provisions only apply to the construction of: an administrative building, a city hall, a library, a courthouse, public safety or law enforcement buildings, other judicial buildings, fire stations, jails, and detention facilities. No voter approval is required for public parking structures. Additionally, the limitation applies only to the municipal building itself and should not impact the ability of an agency to fund infrastructure (water, sewer,

streetscape, public parking, etc.) to support the municipal building. This new Section should have no impact on the ability to fund projects using lease revenue.

7. **Commencing January 1, 2017, Urban Renewal Agencies Are Subject to Additional Reporting Requirements Managed by the State Tax Commission and Draconian Penalties for Non-Compliance.** Idaho Code § 50-2913 is a new section establishing a central repository to be managed by the State Tax Commission for urban renewal agencies to upload urban renewal plans and urban renewal plan amendments. Urban renewal agencies that fail to comply with reporting requirements will experience, among other penalties, loss of new increment and a temporary loss of property tax replacement revenues. There is no statutory protection for outstanding indebtedness.

House Bill 404: RAI, AIC, and others were able to successfully defeat House Bill 404, which sought to require only urban renewal agencies to reimburse telecommunications providers for the full costs of relocating facilities within a project area.

Other legislation of interest to urban renewal agencies is as follows:

House Bill 443: Authorized cities to retain records through digital means and clarifies record retention period. It may be appropriate for urban renewal agencies to adopt these standards as policy.

House Bill 447: Expanded the public records exemption for proposed or existing critical infrastructure when disclosure of such information is reasonably likely to jeopardize the safety of persons, property or the public safety.

House Bill 541: Provides political subdivisions to acquire personal property or services through contracts entered into by the state of Idaho Division of Purchasing.

Senate Bill 1219: Amended the construction manager/general contractor law adopted in 2014. The bill requires the solicitation of bids from at least three qualified contractors or suppliers, allows limitations on self-performance, requires fees/compensation to be specified in written contracts, clarifies that all bids are public records, and that bidding may be done in stages.

Overall, this was an extremely active Session due to the work of the Interim Committee and Leadership's (particularly in the House) goals to have an urban renewal bill this year. Unfortunately, representations were made by Representative Rick Youngblood (Nampa) that this was not the end of the revisions to the Law and the Act, but rather the beginning. Many opponents of urban renewal also feel House Bill 606 was a good start but did not go far enough. The role of RAI in the legislative process was instrumental in educating legislators and communicating statutory analysis on proposed language that would have effectively killed the

tool. Due to the hard work of many, the RAI is being called upon with more frequency to provide information and guidance related to urban renewal issues. With this increased role, there will continue to be an increasing legislative presence required. Unfortunately we have no reason to believe HB606 will hold off urban renewal related legislation in 2017; however, we believe that an overhaul effort will not be undertaken next Session.

At the upcoming AIC Conference, RAI will be presenting a more thorough analysis of House Bill 606 and other significant legislation. The session is scheduled for 9:15 to 10:45 on Thursday, June 23, 2016, with another session being presented by the Tax Commission immediately following. The RAI Annual Meeting will be held that afternoon at 4:00 p.m. More details will follow.

Should you have any questions, please feel free to contact one of us.

Sincerely,

ELAM & BURKE
A Professional Association



Ryan P. Armbruster



Meghan S. Conrad

MSC/ksk