Performance Audit
Urban Redevelopment Contracts Should Be Monitored and Enforced

December 2010

City Auditor's Office

City of Kansas City, Missouri

5-2009

CITY OF FOUNTAINS
HEART OF THE NATION
KANSAS CITY
MISSOURI

Office of the City Auditor

21st Floor, City Hall
414 East 12th Street
Kansas City, Missouri 64106

(816) 513-3300
Fax: (816) 513-3305

December 8, 2010

Honorable Mayor and Members of the City Council:

This performance audit of the city's urban redevelopment program focuses on the program's contract monitoring and compliance processes. The program is intended to encourage the removal of blight and the redevelopment of property through the abatement of real estate taxes and the use of eminent domain to assemble land.

Property owners who are receiving substantial property tax abatements under the city's urban redevelopment program are not fulfilling their obligations. Contract compliance has been a problem for years. Despite staff efforts to encourage compliance, we found that simple reporting and notification requirements were not met.

The city does not have a monitoring process in place to systematically determine whether developers are meeting their contractual obligations to the city. Limited staffing, fragmented responsibilities, lack of procedures, and varied and changing contract requirements have contributed to the lack of contract oversight.

Staff has designed but not implemented a plan to enforce the obligations of redevelopment corporations and subsequent owners of properties benefiting from tax abatements. Termination of redevelopment contracts could return properties to the tax rolls, producing millions of dollars in additional revenues. Taxing jurisdictions would have received an additional $2.3 million dollars for tax year 2009, including $372,000 for the city, had the city terminated the contracts and abatements for five projects we reviewed that were not fulfilling their contract obligations.

Contracts have little value if not followed. Management has not required developers and subsequent property owners to meet contractual obligations. We recommend that the city manager ensure staff monitor urban redevelopment contracts and when obligations are not met, follow the process outlined in the code to remedy the breach, up to and including termination of the contract and abatement. We also recommend that the city manager have city staff review and evaluate the current standard urban redevelopment obligations, and only include those provisions that will be monitored and enforced in future contracts.

We shared a draft of this report with the interim city manager on October 6, 2010. His response is appended. We appreciate the courtesy and cooperation of staff in the City Planning and Development, Finance, Human Relations, and Law departments; the Kansas City Economic Development Corporation; Planned Industrial Expansion Authority, and Jackson County. The audit team for this project was Jason Phillips and Nancy Hunt.

Gary L. White
City Auditor

Urban Redevelopment Contracts Should Be Monitored and Enforced

Table of Contents

Introduction 1

Objectives 1

Scope and Methodology 1

Background 2

Urban Redevelopment Program 2

Findings and Recommendations 5

Summary 5

Not All Receiving Abatements Comply with Contract Obligations 5

Abated-Property Owners Fail to Report and Provide Notifications 6

Contract Compliance Has Been a Problem for Years 9

Monitoring Is Not Systematic or Proactive 10

Monitoring Is Conducted on an Ad Hoc Basis 10

City Plan Commission Not Performing Two-Year Status Reviews 11

Several Factors Contribute to Lack of Contract Oversight 12

Contract Requirements Should Be Enforced 13

Enforcement Actions Designed But Not Implemented 13

Terminations Could Result in Increased Tax Revenues 14

Contracts Should Be Followed and Enforced 15

Future Contract Requirements Should Reflect Program Objectives 15

Recommendations 16

Appendix A 17

Interim City Manager's Response 17

Urban Redevelopment Contracts Should Be Monitored and Enforced

List of Exhibits

Exhibit 1. Annual and Financial Reporting through 2009 7
Exhibit 2. Developer's Fulfillment of Project-Specific Requirements 8
Exhibit 3. Notice of Transfer Filed by Most Recent Sellers 9
Exhibit 4. Election to Continue Notification by Most Recent Purchaser 9
Exhibit 5. Monitoring and Enforcement Recommendations and Status 14
Exhibit 6. Actual and Estimated Tax Revenues and PILOTs for Projects Reviewed that Did Not Meet Contract Obligations 15

Introduction

Objectives

We conducted this audit of the monitoring and compliance processes of the city's urban redevelopment program under the authority of Article II, Section 216 of the Charter of Kansas City, Missouri, which establishes the Office of the City Auditor and outlines the city auditor's primary duties.

A performance audit provides assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria. Performance audits provide objective analysis so that management and those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision-making, and contribute to public accountability.[1]

This report is designed to answer the following questions:

- What monitoring and compliance processes does the city's urban redevelopment program use?
- Can the city terminate urban redevelopment program exemptions when the original developer or subsequent property owners have not fulfilled program and contractual obligations?

Scope and Methodology

Our review focuses on the processes used by the city for city-evaluated, approved, and monitored urban redevelopment projects. During planning work we interviewed Planned Industrial Expansion Authority staff and reviewed selected authority records. This audit, however, does not address the processes used for authority-approved projects. Our methods included:

[1] Comptroller General of the United States, *Government Auditing Standards* (Washington, DC: U.S. Government Printing Office, 2007), p. 17.

- Reviewing the Missouri statutes and the city's Code of Ordinances that govern the city's urban redevelopment program to identify program requirements and expected processes and controls.

- Interviewing city staff and reviewing documents in the City Planning and Development, Human Relations, Finance, and Law departments to identify actual monitoring and compliance practices.

- Reviewing contracts and records for six completed and currently abated projects to identify developers' obligations, determine developers' compliance with those obligations, and develop questions for the Law Department to identify potential consequences for developers' failure to meet contract obligations.

- Obtaining legal opinions from the Law Department to determine whether a developer's failure to meet obligations could result in the termination of the abatement and to better understand the requirements of the code and statutes.

- Interviewing staff from the Jackson County Assessment and Collection departments and using county tax records to estimate the economic impact of terminated contracts for those that did not fulfill their obligations.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. No information was omitted from this report because it was deemed privileged or confidential.

Background

Urban Redevelopment Program

The city's urban redevelopment program is an economic development tool that encourages the removal of blight[2] and the redevelopment of property through the abatement of a portion of real estate taxes for up to

[2] Code of Ordinances, Kansas City, Missouri, Sec. 74-4 defines a blighted area as "those portions of the city which the council shall determine that, by reason of age, obsolescence, inadequate or outmoded design or physical deterioration, have become economic and social liabilities and that the conditions in such localities are conducive to ill health, transmission of disease, crime or inability to pay reasonable taxes."

25 years and the use of eminent domain to assemble land in the redevelopment area. The urban redevelopment program is governed by Missouri's Urban Redevelopment Corporations Law — Chapter 353 and Kansas City's Urban Redevelopment Ordinance — Chapter 74.

Abatements are available for all types of property including, industrial, commercial, and residential. Although the terms and conditions of redevelopment contracts vary, the abatement is usually divided into two periods. During an initial period of up to 10 years, the county typically bills real property taxes on the frozen value of the land only, as established in the year before the redevelopment corporation acquired title. During the subsequent period of up to 15 years, the property taxes are calculated on up to 50 percent of the current taxable value of the land and improvements. Resolutions also permit the extension of the land-only abatement for the full 25-year period for low income housing projects and commercial projects in economically distressed areas.[3]

Chapter 74 outlines the application and approval processes that an urban redevelopment corporation must follow to obtain City Council approval before the director of finance can enter into a contract with a redevelopment corporation. In return for the city granted property tax abatement, the contract and city code establish certain developer obligations. The most basic obligation is to eliminate blight through the removal, construction, or renovation of buildings. Other obligations include such things as reporting obligations and notification requirements, and may include payments in lieu of taxes and claw-back provisions. Copies of redevelopment contracts and amendments are included in the county's property records.

All taxing jurisdictions that receive revenues from real property tax are also impacted by the city's power to abate taxes. Real property tax levies are used to generate taxes for the city and the school district, county, library, junior college, mental health, disabled services, and state blind pensions.

[3] In 1987, the City Council adopted Resolution 61320 as amended expressing the intent to grant 100 percent abatements for a 25-year period to low income housing projects demonstrating an economic necessity. In 1998, Second Committee Substitute for Resolution 980273 and Resolution 980793 as amended reaffirmed this intent, as well as expressed council support for expanding 25 year-100 percent abatements to commercial projects in certain economically distressed areas.

Findings and Recommendations

Summary

Developers and subsequent property owners who are receiving property tax abatements are not fulfilling contractual obligations. Annual and financial reports are not filed. Property transfers have not been accompanied by an assignment of rights and release of obligations. Project-specific contract commitments have not been met. The city has not received timely notification when properties within redevelopment projects are sold nor have purchasers notified the city of their election to continue under the redevelopment plan.

The city does not have a system in place to determine whether developers are meeting their contractual obligations to the city. Compliance reviews are initiated when a complaint is received or a developer makes a request. The City Plan Commission is not performing status reviews required by code and reviews for certificates of full compliance are not conducted because developers do not request them. Limited staffing, fragmented responsibilities, lack of procedures, and varied and changing contract requirements have contributed to the lack of contract oversight.

Staff has designed but not implemented a plan to enforce the obligations of redevelopment corporations and subsequent owners of properties benefiting from tax abatements. Until the city takes action to enforce its contracts, there are no consequences for owners' failure to meet contractual obligations. Termination of redevelopment contracts could result in properties returning to the tax rolls, producing millions of dollars in revenues for taxing jurisdictions. Urban redevelopment contracts should be monitored and their provisions enforced. When obligations are not met, the city should follow established procedures and seek available remedies, including the termination of the redevelopment contracts and abatements. Future contracts should only include those provisions that the city is willing and able to monitor and enforce.

Not All Receiving Abatements Comply with Contract Obligations

We reviewed the contracts and city files for six urban redevelopment projects. While all of the projects appeared to be completed and

occupied, the developers and current owners were not complying with the reporting, notification, and contract-specific terms contained in contracts. Despite periodic efforts by staff to encourage compliance, urban redevelopment program contract compliance has been a problem for years.

Abated-Property Owners Fail to Report and Provide Notifications

Some developers and subsequent property owners who are receiving property tax abatements are not fulfilling contractual obligations. Annual and financial reports are not filed. Property transfers have not been accompanied by an assignment of rights and release of obligations. Project-specific contract commitments have not been met. The city has not received timely notification when properties within redevelopment projects are sold nor have purchasers notified the city of their election to continue under the redevelopment plan.

Developers are not meeting annual and financial reporting requirements. Section 74-11 of the Code of Ordinances establishes reporting requirements for redevelopment corporations. Annual reports are self-reported by the developer and are due once the redevelopment plan is approved by the City Council. The annual report contains information about the project and developer demonstrating that the project is progressing; properties are maintained; and residents and businesses displaced by redevelopment are treated fairly. More recent contracts also include provisions related to prevailing wage, equal opportunity in employment, and minority and women business enterprise compliance.

Annual financial reports are due once the redevelopment corporation owns project property and the abatement period begins. A certified public accountant (CPA) must certify that the financial report was prepared or examined by the CPA. These reports include financial data for the redevelopment project, such as the earnings from and costs of the redevelopment project.

We did not find all of the annual and annual financial reports for the six projects we reviewed. All reporting was filed for one of the six projects, while one developer had not filed any. (See Exhibit 1.) For those reports that were filed, information was not always complete. Some of the reports reviewed did not contain required information such as a sample notice provided to each displaced occupant, goal accomplishment, evidence of compliance with prevailing wage orders, or compliance with property maintenance and nuisance codes.

Exhibit 1. Annual and Financial Reporting through 2009

Project	Annual Reports Filed?	Financial Reports Filed?
Laboratory	No	No
Low Income Housing	Sometimes	Sometimes
Production Facility	Yes	Yes
Apartments	Sometimes	Yes
Warehouse	Sometimes	Sometimes
Office Building	Sometimes	Sometimes

Sources: Finance and City Planning and Development files.

Property transfers have not been accompanied by an assignment of rights and release of obligations. When properties within a development plan are sold or transferred, the developer is not absolved of reporting obligations. The developer is still responsible for reporting until the City Council approves a release and the reassignment of rights and obligations to the new owner. When an assignment and release does not occur, multiple entities - both the developer and subsequent owners - can have reporting responsibilities. This may cause further reporting complications and make it even more difficult to monitor development plan activities.

Although ownership of all of the projects examined had changed, we did not find City Council-approved reassignment of rights and obligations for the most recent prior owners. We also found that four of the prior owners with continuing reporting responsibilities no longer exist, making it likely that future reporting obligations will not be met.

Developers are not fulfilling project-specific requirements. Each redevelopment contract is unique and may contain project-specific requirements. For the six contracts we reviewed, one did not have any additional requirements, two developers fulfilled their additional requirements, and we could not find any evidence that three developers attempted to address and report on their additional obligations. One developer failed to pay almost $67,000 for public improvements. Another did not report on efforts to meet employment goals and failed to remain as the general partner for the development. A third owner failed to provide information necessary to determine whether additional payments in lieu of taxes (PILOTs) were due. (See Exhibit 2.)

Exhibit 2. Developer's Fulfillment of Project-Specific Requirements

Project	Project-Specific Requirement	Requirement Met?
Laboratory	Developer to enter into cooperative agreement with city to pay specified amounts for public improvements.	Partially - Entered into agreement, but did not make all payments.
Low Income Housing	Developer will make reasonable efforts to establish a goal of ten percent (10%) of the total employment within the project for the employment of individuals living directly in the census tracts of the area surrounding and including the development. Developer shall submit information regarding employment of individuals for the project in its annual report.	Unknown - Incomplete and missing reports.
	Redevelopment corporation may sell the project but will remain as the general partner with management authority and responsibility for operations.	No - Corporation withdrew as general partner and dissolved.
Production Facility	Developer will enter into an agreement to maintain decorative paving and other streetscape elements in the public right of way.	Yes
Apartment	Developer agrees to contribute monies to a Corridor Study Fund and in lieu of a parkland dedication.	Yes
Warehouse	Claw back provision based on maintaining a specified number of full-time employees. Reporting compliance annually with additional PILOTs paid if employment levels are not maintained.	Unknown - No report filed.
Office Building	None	N/A

Sources: Contracts and Finance and City Planning and Development Files.

Property ownership changes without timely notification. The developer and subsequent property owners are allowed to sell or transfer any or all of the real property in the redevelopment area during the abatement period. The contract requires, however, that the developer or subsequent owner provide written notice (name and address of new owner and usually the property sold or transfered) to the director of finance within ten days of the date of the sale or transfer. In the files we reviewed, two of six sellers filed the notice of transfer within the 10-day

timeframe. The city accepted notices 27 and 611 days late for two other sales. Two sellers did not notify the city at all. (See Exhibit 3.)

Exhibit 3. Notice of Transfer Filed by Most Recent Seller

Project	Notice Filed?
Laboratory	No
Low Income Housing	Late
Production Facility	No
Apartments	Yes
Warehouse	Late
Office Building	Yes

Sources: Finance and City Planning and Development files.

Purchasers fail to notify the city of their election to continue under the plan. When a sale or transfer of property within the redevelopment area has occurred, the redevelopment contract requires that the new owner notify the director of finance in writing of their election to continue under the development plan within six months after the date the title is obtained. Our review revealed that the most recent purchasers of five of the six projects examined had not officially elected to continue under the redevelopment plan. (See Exhibit 4.)

Exhibit 4. Election to Continue Notification by Most Recent Purchaser

Project	Election to Continue Notification?
Laboratory	No
Low Income Housing	No
Production Facility	Yes
Apartments	No
Warehouse	No
Office Building	No

Sources: Finance and City Planning and Development files.

Contract Compliance Has Been a Problem for Years

Problems in property owner reporting and notification have continued long after indications of problems were detected and reported. In 1988, the *Kansas City Business Journal*[4] reported that Kansas City officials were not requiring developers to comply with city laws involving

[4] John Carroll and Carey Gillam, "City not tracking 353 projects, abated taxes," *Kansas City Business Journal*, May 16, 1988, page 1.

financial reporting. A year later, the *Kansas City 353 Study - Independent Monitoring and Evaluation*[5] identified problems in developer compliance and city monitoring.

City staff have also compiled compliance problem information. In 2001, City Planning and Development staff noted that only 58 percent of developer reports were filed between 1995 and 1999. Of the reports filed, only 14 percent were compliant. In 2008, staff reported that although redevelopment corporations were reporting as required, subsequent property owners, who now own most of the abated parcels, were not. Only about 20 percent of successor owners who were receiving the abatement were reporting.

Staff took steps to encourage compliance. In the early 2000s, city staff developed, tested, and began making available reporting instructions, templates, and sample reports to property owners. Staff also sent letters to redevelopment corporations and some subsequent owners reminding them of their reporting obligations and identifying project compliance status. Corporations and owners were asked to review and update the city's project information. In 2001, after staff had updated the city's records, another round of letters was sent. These letters noted that subsequent purchasers, who were receiving the benefits of the tax abatements, were not reporting.

Monitoring Is Not Systematic or Proactive

The city does not have a system in place to determine whether developers are meeting their contractual obligations to the city. Reviews are initiated when a complaint is received or a developer makes a request. The City Plan Commission is not performing status reviews required by code and reviews for certificates of full compliance are not conducted because developers do not request them. Limited staffing, fragmented responsibilities, lack of procedures, and varied and changing contract requirements have contributed to inadequate contract oversight.

Monitoring Is Conducted on an Ad Hoc Basis

City staff does not actively monitor urban redevelopment contracts. Rather, staff reviews of project compliance are usually triggered by a

[5] *Kansas City 353 Study - Independent Monitoring and Evaluation*, Ochsner – Hare & Hare, March 1989. This study was conducted to gather additional factual data about the operation of the city's urban redevelopment program in order to resolve ligation brought against the city and two redevelopment corporations. The principal object of the litigation was to reform the procedures for granting urban redevelopment tax abatements.

developer's request for an action such as a plan amendment, a supplemental contract, a certificate of compliance, or the assignment of obligations to a new owner. Complaints also initiate limited reviews of specific requirements such as a review of wages paid on a project.

No one regularly determines whether contractual obligations are met. City staff is not monitoring contract compliance on an on-going basis. Reports are "received and filed" without review or evaluation. As a result, the city has not received all revenues owed and not all projects progressed as promised.

City Plan Commission Not Performing Two-Year Status Reviews

Two-year status reporting, as established in the city's Code of Ordinances,[6] is not occurring. After a development plan has been approved by the City Council, the City Plan Commission is supposed to investigate and at least once every two years report to the City Council regarding each development project and the performance or compliance with each development plan and city code. Reporting is not required for plans that have been amended within two years or for projects that have been completed and for which the developer requested and the city issued a certificate of full compliance.

Certificate of full compliance reviews are not requested or required. The certificate approval process could provide the city with an opportunity to evaluate whether a developer has performed as promised. When developers request a certificate, city staff investigate the project; determine whether the developer complied with the redevelopment plan, contract, and code requirements; and report their findings to the City Plan Commission. The commission is responsible for investigating and recommending to the City Council whether a certificate of full compliance should be issued for the project. The City Council receives the commission's recommendation and, with a positive finding, authorizes the director of city planning and development to issue the certificate. After the certificate is issued, the commission is no longer required to include the completed project in its two-year reporting.

The process designed to ensure that blight is eliminated, projects are progressing, and contract obligations are current is not operating because the code does not require that a developer seek a certificate of full compliance. An important check point is dependent on the developer's voluntary request for a review once project construction or rehabilitation is completed.

[6] Code of Ordinances Section 74-17(b).

Several Factors Contribute to Lack of Contract Oversight

Insufficient staff, fragmented responsibilities, lack of established procedures, and the unique and complex nature of the urban redevelopment contracts have contributed to the city's lack of monitoring.

Limited staffing. Lack of assigned staff has limited monitoring. As far back as 1989, the *Kansas City 353 Study - Independent Monitoring and Evaluation* found that insufficient staffing was a program problem. Staffing limitations have worsened as staff reductions have eliminated the knowledge base of previously assigned staff and further reduced those available to carry out program responsibilities.

Fragmented responsibilities. Major responsibilities for redevelopment program monitoring appear to be divided among the City Planning and Development Department, the Finance Department, the Human Relations Department, and the City Plan Commission. Fragmentation of program administration results in a lack of overall program oversight and confused responsibilities which has limited monitoring.

Lack of written procedures. The city does not have written policies and procedures for the administration of millions of dollars in urban redevelopment abatements. Without written procedures, established guidance on monitor is lacking. The need for written guidance becomes more critical with the elimination of institutional knowledge through the reassignment of staff and reductions in force.

Varied contracts. The unique and changing nature of the contracts also complicates monitoring. The contracts define project timelines; the abatement periods; whether payments in lieu of taxes are required; reporting and notification requirements; and additional project specific requirements. Multiple projects can be within a single plan area. Individual projects may have separate contract requirements and different owners. Additionally, supplemental urban redevelopment contracts may be executed, modifying selected terms and incorporating the city's then-current urban redevelopment code. All of these variations combine to make each contract complex and unique, which makes contract oversight more difficult.

Monitoring economic development is recommended. For consistency, transparency, and accountability, the Government Finance Officers Association recommends that a clearly defined monitoring process

should be part of the economic development policy.[7] The monitoring process should include periodic evaluations of individual project performance and an evaluation of the cumulative costs, benefits, and degree of goal attainment of the overall program. Each project should be periodically evaluated. The Association also states that it is important to examine conditions attached to the incentives in the agreement to ensure that compliance standards for physical development and fiscal performance are met. The city manager should ensure that city staff monitor the city's urban redevelopment contracts.

Contract Requirements Should Be Enforced

Staff has designed but not implemented a plan to enforce the obligations of redevelopment corporations and subsequent owners of properties benefiting from tax abatements. Until the city takes action to enforce its contracts, there are no consequences for owners' failure to meet contractual obligations. Termination of redevelopment contracts could result in returning properties to the tax rolls, producing millions of dollars in revenues for taxing jurisdictions.

Enforcement Actions Designed But Not Implemented

Although staff developed steps to improve monitoring and enforcement, most were not implemented. In January 2008, during consideration of a supplemental redevelopment contract, members of the Planning and Zoning Committee expressed concerns about developers' lack of contract compliance and the need for consistent and reliable reporting.[8] A committee member asked what protections were in place to prevent future contract monitoring problems.

City staff later testified and provided a memorandum that contained recommended actions to improve developer compliance and staff monitoring. (See Exhibit 5.) The Finance Department drafted a request for proposal seeking a consultant who would address most of the recommendations; however it was not issued.

[7] Recommended Practice, Monitoring Economic Development Performance (2009) (CEDCP), Government Finance Officers Association.

[8] Planning and Zoning Committee Meeting, January 16, 2008.

Exhibit 5. Monitoring and Enforcement Recommendations and Status

Recommendation	Status
Compile an Access database of properties and owners receiving abatement.	In Process
Send letters to property owners receiving abatement giving a 12/31/2008 deadline for reporting.	Not Implemented
In 2009, begin default proceedings for property owners not filing required annual reports.	Not Implemented
Prepare draft City Plan Commission rules to clarify urban redevelopment program requirements.	Not Implemented
Report annually to City Council on annual reporting compliance by property owners.	Not Implemented
Report every three years starting in 2009 on the specific status of individual 353 projects.	Not Implemented
Work with the economic development staff to revise the urban redevelopment program under the new economic development incentive policy.	In Process
Present to City Council a resolution for an annual fee for the 353 Program.	Not Implemented

Sources: March 6, 2008, Memorandum from Lead Planner, City Planning and Development Department, Bruce Wiggins to Councilman and Chairman of the Planning and Zoning Committee Terry Riley; and interviews with Finance and City Planning and Development staff.

Until the city takes action to enforce its contracts there are no consequences for owners' failing to meet contractual obligations. City code[9] authorizes legal action when the developer fails to substantially meet its legal obligations. Before the city attorney may take any action, however, a breach of contractual obligations must be established. The City Plan Commission must certify the noncompliance to the City Council. The City Council must then authorize the city attorney to take legal actions. The legal actions that may be authorized are an injunction, damages, or termination. Each situation, however, must be evaluated on a case-by-case basis.

Terminations Could Result in Increased Tax Revenues

The current owners of five of the six completed urban redevelopment projects reviewed had not complied with the requirements of their contracts with the city. Termination of these abatements could result in increased tax revenues for the city, as well as other taxing jurisdictions. If the city had terminated the urban redevelopment property tax abatements for the five projects that were not in compliance with their

[9] Code of Ordinances section 74-31(a).

contracts, all taxing jurisdictions would have received an additional $2.3 million dollars in 2009, including $372,000 for the city. (See Exhibit 6.)

Exhibit 6. Actual and Estimated Tax Revenues and PILOTs for Projects Reviewed that Did Not Meet Contract Obligations.

2009 Property Tax Revenue and PILOTs	All Taxing Jurisdictions	Kansas City's Share
Estimated revenue without abatement	$2,744,622	$456,473
Actual revenue with abatements	428,519	84,280
Estimated additional revenue without abatements	2,316,102	372,193[10]

Sources: Jackson County tax records and City Auditor's Office Calculations.

Contracts Should Be Followed and Enforced

Management has not required developers and subsequent property owners to meet contractual obligations. Current city urban redevelopment requirements were established by ordinance, plan, and contract. Prior officials thought that the requirements were important enough to include as specific contractual obligations. The city manager should ensure that staff monitor the city's current urban redevelopment contracts and present the City Plan Commission with information to determine whether those receiving abatements are in compliance with the terms of their contracts. When owners are not compliant, remedies, including termination of the abatement should be sought.

Future Contract Requirements Should Reflect Program Objectives

Reviewing contract requirements and ensuring that only those that help fulfill urban redevelopment program objectives are included in contracts could make monitoring future contracts more efficient. Contracts should be written to achieve clear objectives and contract requirements should be related to those objectives.

Management is responsible for making the best use of scarce resources and ensuring that developers and subsequent owners of abated property fulfill their contractual obligations. Contracts that are not enforced and information that is "received and filed" are of little value. Removing unnecessary or outdated requirements and developing alternative monitoring requirements could help staff concentrate on critical information.

The city manager should have city staff review the current standard urban redevelopment contract requirements, evaluate which requirements support accomplishing the program's objectives, suggest modifications

[10] The estimated additional revenues due the city are understated by the city's share of the replacement tax.

to the city's code where necessary, and include only those provisions that will be monitored and enforced in future urban redevelopment contracts.

Recommendations

1. The city manager should ensure that the city's urban redevelopment contracts are monitored.

2. The city manager should direct that staff provide urban redevelopment contract monitoring information to the City Plan Commission so that agreements can be enforced.

3. The city manager should have city staff review the current standard urban redevelopment contract requirements, evaluate which requirements support accomplishing the program's objectives, suggest modifications to the city's code where necessary, and in future contracts include only those provisions that will be monitored and enforced.

Appendix A

Interim City Manager's Response

Office of the City Manager

RECEIVED
OCT 29 2010
CITY AUDITOR'S OFFICE

DATE: October 29, 2010

TO: Gary White, City Auditor

FROM: Troy M. Schulte, Interim City Manager

SUBJECT: Response to Draft Report of Chapter 353 Program Audit

In response to the aforementioned draft report, the City manager's Office has reviewed your recommendations and offers the following responses as outlined below. In general we agree with the recommendations.

Recommendation #1. The City Manager should ensure that the City's urban redevelopment contracts are monitored.
Response #1. Agreed

Recommendation #2. The City Manager should direct that staff provide urban redevelopment contract monitoring information to the City Plan Commission so that agreements can be enforced.
Response #2. Agreed

Recommendation #3. The City Manager should have City staff review the current standard urban redevelopment contract requirements, evaluate which requirements support accomplishing the program's objectives, suggest modifications to the City's code where necessary, and in future contract include only those provisions that will be monitored and enforced.
Response #3. Agreed. Historically, the staff's priority has been focused on the review and approval phases of this program, and insufficient resources have been directed, or maintained, to ongoing monitoring and contract compliance. There has also been a lack of clarity and consistency as to which Department held monitoring responsibilities. We propose to establish a working group from City Planning, Finance, Law, EDC, and the City Manager's office to evaluate the program and provide recommendations in line with the audit report. Our response would cover recommendations to deal with existing contracts, and recommendations on the use and direction of the Chapter 353 Program going forward. Looking forward, our emphasis will be to examine revisions to the program that will streamline approvals and monitoring, simplify the reviews, and see if the program can be targeted at small businesses. Our goal would be to bring a series of recommendations back to the City Council in approximately 120 days.