

# Superintendent of Schools



August 5, 2019

Mayor Quinton Lucas and Members of the City Council  
City of Kansas City, Missouri  
414 E. 12<sup>th</sup> Street  
Kansas City, Missouri 64106

Dear Mayor Lucas and Members of the City Council:

Kansas City Public Schools (KCPS) recognizes that property tax incentives are a valuable tool to promote economic development. When used effectively, the redirection or abatement of property tax revenue from local taxing jurisdictions can ultimately generate revenue growth in the future for those affected jurisdictions. For years, Kansas City has struggled to develop effective and appropriate economic development policy and practices – often pitting the development community’s interests against advocates for schools, libraries and social services. From the perspective of KCPS, AdvanceKC and the CAPS Ordinance (160383) represent an improvement of the city’s past tax incentive policy and process. While these efforts represent progress, comprehensive tax incentive reform is still needed to ensure shared outcomes and accountability.

Today, the support for comprehensive incentive reform is widespread, as articulated in the recent City elections, both by constituents and elected officials/candidates. I am encouraged by the Mayor’s editorial last week, which encourages collaboration between groups with disparate viewpoints to develop incentive reform that promotes equitable development throughout Kansas City. In the spirit of collaboration and transparency, KCPS offers a set of recommendations for sound, comprehensive incentive reform that we believe can serve as a guide for these conversations, and which aims to:

- a) ensure incentives (especially programs that allow for longer/deeper incentives such as TIF, PIEA, 353, Port Authority) are used more judiciously to achieve our shared economic development priorities/goals;**
- b) provide taxing jurisdictions better guidance/oversight of the use of incentives;**
- c) improve public transparency/understanding about how incentives are being used; and**
- d) develop and enforce performance standards and accountability.**

KCPS is a critical stakeholder in incentive policy/incentive reform discussions as our boundaries represent the most active area within the City of Kansas City, Missouri, in the use of incentives. In FY2018, the amount of property taxes abated/redirected from KCPS and 22 charter schools through incentives programs totaled \$26.8 million<sup>1</sup> (this is 17.4% of total property taxes collected for KCPS/charter schools in FY2018). In FY2017, that total was \$24.4 million, which ranked the 17<sup>th</sup> highest level of abatement/redirection among more than 5,600 school districts nationwide.<sup>2</sup> KCPS has a direct

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<sup>1</sup> FY 2018 GASB 77 Tax Abatement Disclosure Letter from City of Kansas City, MO Finance Department to KCPS, October 31, 2018

<sup>2</sup> Good Jobs First, “The New Math on School Finance”, December 2018

economic interest to ensure that the City's efforts to promote economic development through the use of tax incentives is prudent, equitable and balances economic development goals and the financial sustainability/funding of public education.

Many of our recommendations can be accomplished administratively by EDC/statutory agencies. Others will require Mayoral/City Council action. KCPS stands ready to work with city officials and other stakeholders to develop sound, comprehensive tax incentive reform that works and helps to make Kansas City a better place for all Kansas Citians to work, live and learn. If you have any questions regarding our recommendations, do not hesitate to contact me at 816-418-7616 and [mbedell@kcpublicschools.org](mailto:mbedell@kcpublicschools.org).

Yours in education,



Dr. Mark T. Bedell  
Superintendent of Schools  
Kansas City Public Schools

Cc:

Troy Schulte, City Manager

Greg Flisram, Interim CEO, Economic Development Corporation (EDC) & Executive Director, LCRA  
& 353 Advisory Board

Heather Brown, Executive Director, TIF Commission

David Macoubrie, Executive Director, PIEA

Drew Solomon, Executive Director, EEZ

Jon Stephens, CEO, PortKC

Frank White, Executive, Jackson County

Bruce Eddy, Executive Director, Jackson County Mental Health

Jerry Nolte, Presiding Commissioner, Clay County

Ron Schieber, Presiding Commissioner, Platte County

Dr. Kimberly Beatty, Chancellor, Metropolitan Community College

Crosby R. Kemper III, Executive Director, Kansas City Public Library

Steve Potter, Director, Mid-Continent Public Library

Dr. Yolanda Cargile, Superintendent, Hickman Mills School District

Dr. Michael Weishaar, Interim Superintendent, Center School District

Dr. Allan Markley, Superintendent, Raytown School District

Dr. Dan Clemens, Superintendent, North Kansas City Schools

Dr. Jeanette Cowherd, Superintendent, Park Hill School District

Dr. Jeremy Tucker, Superintendent, Liberty Public Schools

Dr. Emily Miller, Acting Superintendent, Lee's Summit School District

Dr. Kenny Rodriquez, Superintendent, Grandview School District

Dr. Mike Reik, Superintendent, Platte County School District

# Kansas City Public Schools Tax Incentive Reform Recommendations

August 5, 2019

## I. AdvanceKC Process/Reporting Recommendations

- a. **Earlier point of entry for taxing jurisdictions (preliminary project/plan briefings upon application filing):** Currently, the AdvanceKC process does not include a project briefing for taxing jurisdictions until a but-for analysis is ready for review (Agency Directors' meeting). By the time the taxing jurisdictions review a project it has gained significant traction within the EDC and it's difficult for the taxing jurisdictions to provide meaningful input. In many cases, the Agency Directors meeting occurs less than 2 weeks before the statutory agency makes a decision regarding the incentive level/term. In addition, the AdvanceKC process does not include any scheduled briefings for taxing jurisdictions for PIEA/LCRA plans, as the process was only set up for projects. While KCPS is working with these agencies to address this, plans should be formally incorporated into the AdvanceKC process.
- b. **Incorporate PortKC and EEZ projects into AdvanceKC process/CAPS ordinance:** PortKC is not subject to the AdvanceKC process/evaluation, nor the CAPS ordinance. While PortKC is not subject to City of Kansas City, MO ordinances, the City can outline its expectations for PortKC's CEO and Board, which is appointed by the Mayor, to follow the AdvanceKC process/CAPS ordinance guidelines (75% for Years 1-10 & 37.5% after Year 10). Note: EEZ Board is partially following AdvanceKC ordinance (EEZ uses Scorecard) and CAPS ordinance (75% for entire term). This should be amended to 37.5% for projects receiving incentives after Year 10, aside from projects meeting AdvanceKC exceptions.
- c. **Annual administrative updates of AdvanceKC map:** Currently, KCMO is utilizing 2005-2009 & 2010-2014 American Community Surveys (ACS) data to determine 10 years of continuous distress. The data used for the AdvanceKC Map is outdated and is in need of updating. In October 2018, KCPS sent a letter to the City Manager requesting this be updated. It is our understanding that there have been discussions that map updates require City Council approval. The necessary steps should be taken to clarify for City staff/EDC that the AdvanceKC map should be updated/posted annually within 60 days of release of new ACS report. We also understand that there is some discussion that the data used to determine distressed, severely distressed & continuously distressed is under reconsideration. KCPS would expect to be included as a stakeholder in those future discussions.
- d. **Project tracking log:** EDC staff and statutory agencies track projects seeking property tax incentives. This project tracking log should be submitted to taxing jurisdictions weekly (to coincide with Friday Agency Directors' meeting) and include all projects which have made application for incentives. Project tracking should begin upon receipt of an application to the EDC (or other agency) and be updated as the project makes its way through the approval process. The tracking log should include all AdvanceKC agencies, PortKC and EEZ projects that are not included in the AdvanceKC process. EDC, City and other taxing jurisdictions should work together to determine if additional information should be included in the tracking log.
- e. **Institute new plan/plan amendment tracking log:** EDC should develop a plan/plan amendment tracking log for all proposed plans/plan amendments required for property tax incentives. The log should be submitted to taxing jurisdictions weekly (to coincide with Friday Agency Directors' meeting). For proactive plans (EDC/City-initiated plans/plan amendments), tracking should begin upon the decision to begin preparing the plan document. For applicant-initiated plans, tracking should begin upon receipt of an application to the EDC. Logs will be updated as a plan

makes its way through the approval process. EDC, City and other taxing jurisdictions should work together to determine the key information to be included in the tracking log.

- f. **Annual report content/distribution:** The EDC provides quarterly and annual reports to the City of Kansas City, MO, which outline approved tax incentive projects during the quarter/fiscal year. The report provides a good snapshot of the scope/scale of incentives and should be made easily accessible to the public/taxing jurisdictions on the City and EDC websites. In addition, these reports should also include applications submitted but in process/denied/pulled). KCPS would like to work with the EDC, City and other taxing jurisdictions to determine any additional data/information that should be included in the annual report.
- g. **Public reporting/tracking of previously approved projects/plans:** Recommendations I.d-f relate to improved tracking of current/future projects/plans. There is also a strong desire for a document with a comprehensive look-back at previously approved projects/plans which includes information regarding the level of the incentive, term, end date, etc. While some statutory agencies are already tracking their projects, the tracking is not comprehensive of all agencies, and is not easily accessible to the public.
- h. **Taxing jurisdiction input into AdvanceKC/CAPS Ordinance look-back:** City staff conducted an evaluation of the implementation of the CAPS Ordinance and presented findings to the City Council in early 2019. While we appreciate City staff's efforts to evaluate the AdvanceKC process and CAPS Ordinance outcomes, in order to obtain a comprehensive assessment, taxing jurisdiction feedback should be included in future evaluations of incentive policies/processes that are provided to City Council.
- i. **Additional application documentation/look-back requirements:** In order to adequately evaluate projects (especially those seeking longer/deeper incentives), imposing additional application material requirements, such as market studies and term sheets from lending institutions, need to be evaluated. In addition, due to the preliminary stage that incentive decisions are made, SB Friedman, which conducts but-for analysis for many incentive projects, has made several recommendations to the EDC/City. These include: review of project costs upon completion to evaluate final costs relative to pro forma estimates, construction cost savings-sharing provisions.

## II. Research Needs

- a. **Conduct 3<sup>rd</sup> party benchmarking research:** In 2015, several of the taxing jurisdictions compiled data regarding the use of incentives from around the KC metro and peer cities, which suggested that KCMO utilizes incentives for longer terms/deeper levels than many cities, and KCMO lacks look-backs/monitoring requirements that other cities impose. Unfortunately, the AdvanceKC report did not include such benchmarking analysis. In order to guide future discussions regarding appropriate use of incentives (especially longer/deeper incentives), KCPS recommends the civic/foundation community conduct 3<sup>rd</sup> party benchmarking research so that the City, EDC, and taxing jurisdictions have relevant perspective/guidance as we consider economic development reform options.
- b. **Conduct 3<sup>rd</sup> party analysis of cost drivers in KC real estate development:** The development community has indicated that high construction costs without corresponding higher rent rates in the KC metro drive up the need for incentives. KCPS is unaware of any analysis/assessment of this statement. In order to better understand cost drivers, and thus, financial gaps, it is important to have a 3<sup>rd</sup> party assessment completed.

### III. Policy Recommendations

- a. **Address exceptions/loopholes in CAPS Ordinance:** The CAPS Ordinance includes several exceptions to the PILOT payment requirements. The exception defined as “any previously approved plans with defined diversion or abatement levels, or amendments or extensions of any existing agreements or any economic incentives currently in effect” has conflicting interpretations, and as such, has created significant consternation/distrust. It is critical that City Council clarify the intent of the language and KCPS requests the opportunity to provide feedback in advance of Council action.
- b. **Develop clear policy guidance to ensure appropriate use of incentive terms/levels:** KCPS and many other stakeholders have expressed concerns for many years that Kansas City has made the use of longer/deeper incentive levels the standard vs reserved for higher priority/higher need/higher impact projects/areas. While AdvanceKC and the CAPS Ordinance have improved upon past tax incentive processes/policies, they do not provide sufficient policy guidance re: economic development priorities and the use of longer (more than 15 years) and deeper (more than 50%) incentives. Over the past year, several projects have been evaluated where even the 3<sup>rd</sup> party but-for financial report has stated that “*there is an inherent public policy decision*”<sup>1</sup> regarding the scale of the request/type of development seeking incentives. Without strong policy guidance, many agencies fall back on the but-for financial analysis to determine the appropriate level of incentive, even if a project delivers limited impact and benefits (e.g., 20 years of abatement for event space in the Crossroads). This is the wrong approach to determine how to utilize the strongest tools in our toolbox, which should be reserved for our economic development priorities. Policy guidance can be provided in several ways: identifying additional geographic priorities (as done with the continuously distressed census tracts designation in the CAPS Ordinance); updating the AdvanceKC Scorecard and utilizing its scoring system to guide incentive level decision-making (see Section III.c); establishing guidelines on public incentive levels (% of total project costs and/or making shorter incentive terms the standard), ensuring equity in process/incentive approach for all school districts within KCMO, etc. Going forward, taxing jurisdictions, such as KCPS, should be a primary player in the development of these new policy guidelines.
- c. **Update AdvanceKC scorecard:** Currently, EDC staff prepares an AdvanceKC Scorecard for all projects seeking tax incentives (except PortKC projects). The scoring system is meant to assess “community impact” of a project and thereby ranking it as a) High Impact; b) Standard Impact; c) Low Impact; d) Not Recommended. ‘High Impact’ projects are exempt from the minimum PILOT payments outlined in the CAPS Ordinance. Despite language contained in Ordinance 140375 which states that the AdvanceKC Scorecard is adopted for the purposes of “determining the level of incentives to be offered”, the AdvanceKC Scorecard scoring system has no teeth as there is zero policy guidance on determining appropriate incentive levels for ‘Low Impact’ and ‘Standard Impact’ projects. Therefore, EDC staff has indicated that they rely on the results of the but-for analysis. For small projects in economically distressed areas, a longer/deeper incentive for a ‘Low Impact’ project might make sense. For ‘Low Impact’ projects in downtown/Crossroads, it is reasonable to expect that longer/deeper incentives might not be warranted, despite the results of the but-for analysis.

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<sup>1</sup> SB Friedman, Preliminary Financial Review – Hotel Bravo!, February 28, 2019

- d. **Evaluate existing PIEA/LCRA plan areas:** There are more than 150 active PIEA/LCRA plan areas<sup>2</sup> within the KCPS boundaries. Many of the older plans have no expiration date. A comprehensive evaluation of the existing plan areas is needed to determine if updates and/or expiration dates are needed. This evaluation could also assist in establishing in which areas to prioritize longer/deeper incentives.
- e. **Revise CAPS Ordinance for TIF:** Currently property tax abatement of 75% for 23 years is allowed under the CAPS Ordinance. This should be revised to be in alignment with PIEA/353 programs (75% for the first 10 years and 37.5% after Year 10).
- f. **Revise affordable housing definition/requirement for incentive projects:** Ordinance No. 180370 defines affordable housing for purposes of the AdvanceKC Scorecard as “that which a household having income equal to the median income for all households within Kansas City, Missouri, as estimated and reported by the American Community Survey 5-Year Estimates, as updated from time-to-time, would be able to afford if it were to expend not more than thirty percent (30%) of such income for the mortgage or rent, including other housing expenses such as property taxes, insurance, and utilities.” This allows 1 BDR apartments with rents greater than \$1,000 to qualify as affordable housing. Not surprisingly, this has generated significant pushback throughout the City. Proposed Ordinance 180721 sought to revise this definition but is still held in Committee. While it is important to clearly define “affordable housing” for the purposes of properties seeking tax incentives, it is unclear as to whether either definition of affordable housing would actually effectively help address the City’s affordable housing needs. An alternative to 180370 and 180721 is needed, and KCPS is committed to assist the City determine an appropriate definition for affordable housing for purposes of projects seeking property tax incentives.
- g. **Linking incentive levels to outcomes:** Currently, development agreements between developers and statutory agencies rarely link incentive levels tied to outcomes (aside from EEZ). “Incorporating performance standards into an application process is highly encouraged as it allows the City to fully measure the positive impact or lack thereof of granting abatements. An additional benefit of this is the ability of a city to integrate “clawbacks” into abatement policies, which may help a city recoup any, or part of, forgone revenue should a project not meet its projected goals.”<sup>3</sup>
- h. **Consolidate statutory agency board representation:** With 5+ active statutory agencies (TIFC, PIEA, LCRA, 353, PortKC, EEZ), it is challenging for taxing jurisdictions, statutory agency board members, and members of the community to monitor/evaluate the impact and benefit of all tax incentive programs/individual projects, especially when some of the agencies are not subject to the AdvanceKC process. While the LCRA and 353 Advisory Board hold meetings back to back with the same board members, the other agencies meet on different days, and have separate agency directors and/or separate board chairs. Streamlining the system is needed to ensure that all agencies are effectively fulfilling economic development priorities.
- i. **But-for analysis requirement & compliance with CAPS ordinance for PortKC projects:** Currently, the PortKC does not require a 3<sup>rd</sup> party but-for analysis. Instead it conducts a separate financial analysis. Unfortunately, this analysis does not provide the City nor taxing jurisdictions with sufficient information to determine if a project is receiving longer/deeper incentives than is necessary to make the project financially feasible. In addition, the PortKC is not subject to the AdvanceKC requirements nor the CAPS ordinance. While PortKC is not subject to City of Kansas City, MO ordinances, the City can outline its expectations for PortKC’s Executive Director and Board, which are appointed by the Mayor.

<sup>2</sup> Based on City of Kansas City, Missouri Parcel Viewer, Incentive Areas geodata, “Active” status, March 2019

<sup>3</sup> The PFM Group, City of St. Louis, Missouri City Economic Development Incentives, May 5, 2016

- j. **Taxing jurisdiction representation/appointments on all boards:** Non-city taxing jurisdictions currently have seats on the TIF Commission (5 of 11 seats) and EEZ Zone boards (2 of 7). Designating seats for non-city taxing jurisdictions is a critical component to ensuring that the position/voice of these entities can be heard. Seats should be designated for taxing jurisdictions for all other statutory agencies (LCRA, PIEA, 353, Port Authority). While MO State Statute requires that most representatives are mayoral-appointments<sup>4</sup>, non-city taxing jurisdictions could provide recommendations to the Mayor for a designated number of non-city taxing jurisdiction appointments. In addition, changes to the taxing jurisdiction representation for the EEZ Boards are needed. Currently, KCPS has a representative on the Zone 3 board, but not on Zones 1 & 2, even though the bulk of projects within KCPS' boundaries are within Zones 1 & 2. Note: if a particular taxing jurisdiction is not interested in filling a seat, it can advise the Mayor that it forgoes its seat.
- k. **Incorporate Port Authority and EEZ projects into AdvanceKC process/CAPS ordinance (see above)**

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<sup>4</sup> Aside from TIF Statute which stipulates that several members are appointed by school boards/other taxing jurisdictions directly