

**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2769**

SUPPLEMENTAL COMPLIANCE REPORT

OF

GIBSON COUNTY, INDIANA

January 1, 2015 to December 31, 2015



**FILED**  
12/22/2016



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### SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
County Auditor	Sherri Smith	01-01-13 to 12-31-16
County Treasurer	Mary B. Key	01-01-15 to 12-31-18
Clerk of the Circuit Court	James R. Morrow	01-01-15 to 12-31-18
County Sheriff	Timothy Bottoms	01-01-15 to 12-31-18
County Recorder	Tonya Thompson	01-01-15 to 12-31-18
President of the Board of County Commissioners	Stephen E. Bottoms Gerald Bledsoe	01-01-15 to 12-31-15 01-01-16 to 12-31-16
President of the County Council	Jeremy Overton	01-01-15 to 12-31-16



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STATE BOARD OF ACCOUNTS  
302 WEST WASHINGTON STREET  
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INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513  
Fax: (317) 232-4711  
Web Site: [www.in.gov/sboa](http://www.in.gov/sboa)

TO: THE OFFICIALS OF GIBSON COUNTY, INDIANA

This report is supplemental to our examination report of Gibson County (County) for the period from January 1, 2015 to December 31, 2015. It has been provided as a separate report so that the reader may easily identify any Examination Results and Comments that pertain to the County. It should be read in conjunction with our Financial Statement Examination Report of the County, which provides our opinion on the County's financial statement. This report may be found at [www.in.gov/sboa/](http://www.in.gov/sboa/).

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Examination Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Examination Results and Comments, incorporated within this report, was not verified for accuracy.

*Paul D. Joyce*  
Paul D. Joyce, CPA  
State Examiner

August 1, 2016

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COUNTY AUDITOR  
GIBSON COUNTY

COUNTY AUDITOR  
GIBSON COUNTY  
EXAMINATION RESULT AND COMMENT

***REDEVELOPMENT COMMISSION FUNDS***

During the examination of the financial statement, we noted that the four funds relating to the Redevelopment Commission were included on the financial statement but were not included in the ledger.

Indiana Code 36-7-14-8(b) states in part:

"The fiscal officer of the unit establishing a redevelopment commission is the treasurer of the redevelopment commission. Notwithstanding any other provision of this chapter, the treasurer has charge over and is responsible for the administration, investment, and disbursement of all funds and accounts of the redevelopment commission in accordance with the requirements of state laws that apply to other funds and accounts administered by the fiscal officer. . . ."

All financial transactions pertaining to the governmental unit should be recorded in the records of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)



GIBSON COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on August 1, 2016, with Sherri Smith, County Auditor; Stephen E. Bottoms, County Commissioner; Jeremy Overton, President of the County Council, and James G. McDonald III, County Attorney.

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COUNTY TREASURER  
GIBSON COUNTY

COUNTY TREASURER  
GIBSON COUNTY  
EXAMINATION RESULT AND COMMENT

***TREASURER'S CASH BOOK***

During the examination, it was noted that the bank accounts of the Redevelopment Commission were not included on the Treasurer's Daily Balance of Cash and Depositories (Cash Book).

Indiana Code 36-7-14-8(b) states in part:

"The fiscal officer of the unit establishing a redevelopment commission is the treasurer of the redevelopment commission. Notwithstanding any other provision of this chapter, the treasurer has charge over and is responsible for the administration, investment, and disbursement of all funds and accounts of the redevelopment commission in accordance with the requirements of state laws that apply to other funds and accounts administered by the fiscal officer. . . ."

Indiana Code 5-13-5-1(a) states:

"Every public officer who receives or distributes public funds shall:

- (1) keep a cashbook into which the public officer shall enter daily, by item, all receipts of public funds; and
- (2) balance the cashbook daily to show funds on hand at the close of each day."

## Treasurer of Gibson County

Mary B. Key  
101 N. Main Street  
Princeton, IN 47670  
812-385-2540  
Fax 812-386-6520

August 8, 2016

State Board of Accounts  
302 West Washington Street, Room E 418  
Indianapolis, IN 46204-2765

### OFFICIAL RESPONSE

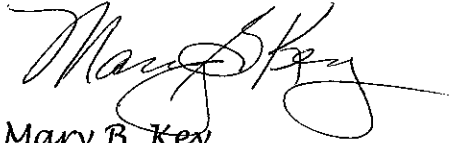
We are in the process of scheduling a meeting with Lori Rogers, SBOA, because we have not yet resolved the matter of how to include funds on our cash book that have already been dispersed from the funds ledger by check at settlement time.

The statement below is an excerpt from my 2015 response letter:  
*"Redevelopment Commission: This matter is much more complicated because of the "bond indenture" included within the bond documentation. With the help of Umbaugh, IceMiller and Lori Rogers at the SBOA, we have a plan to get the accounts in our records by the end of the year. Because of the indenture, the county does not and cannot pay the invoices associated with the Redevelopment Commission's projects and other expenses. As soon as the Auditor's office has the accounts, amounts and information included within their books, we will be able to pull said information from them and include on the cash book. We are working with the banks to have full access to the account information and to receive monthly statements."*

We have been working on this issue for the past year and understand this is county money however, when we make the

disbursement by check at settlement it is out of the ledger and therefore no longer on the right side of the cash book. Because of the bond by which these monies are bound, we do not write any checks or have the funds within an account to which we have access.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary B. Key". The signature is fluid and somewhat stylized, with the first name "Mary" being more prominent.

Mary B. Key  
Gibson County Treasurer

COUNTY TREASURER  
GIBSON COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on August 1, 2016, with Mary B. Key, County Treasurer; Sherri Smith, County Auditor; Stephen E. Bottoms, County Commissioner; Jeremy Overton, President of the County Council, and James G. McDonald III, County Attorney.

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CLERK OF THE CIRCUIT COURT  
GIBSON COUNTY

CLERK OF THE CIRCUIT COURT  
GIBSON COUNTY  
EXAMINATION RESULT AND COMMENT

***ANNUAL FINANCIAL REPORT***

The Annual Financial Report for 2015, submitted through Gateway, contained errors and, therefore, did not properly reflect the financial activity of the Gibson County Clerk of the Circuit Court. The Annual Financial Report is used to compile the Financial Statements that are presented in the Financial Statement Examination Report. In addition to immaterial reporting errors, the Clerk of the Circuit Court's office omitted the ISETS (child support) receipts, disbursements, and balances from the Clerk's Trust fund on the Annual Financial Report. The omitted amounts for the beginning balance, receipts, disbursements and ending balance were \$7,041; \$776,244; \$743,581; and \$39,704; respectively. The corrections were approved by management and are included in the Clerk's Trust fund on the County's financial statement.

Indiana Code 5-11-1-4(a) states:

"The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under IC 5-14-3.8-7."

CLERK OF THE CIRCUIT COURT  
GIBSON COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on August 1, 2016, with James R. Morrow, Clerk of the Circuit Court; Sherri Smith, County Auditor; Stephen E. Bottoms, County Commissioner; Jeremy Overton, President of the County Council; and James G. McDonald III, County Attorney.

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COUNTY REDEVELOPMENT COMMISSION  
GIBSON COUNTY

COUNTY REDEVELOPMENT COMMISSION  
GIBSON COUNTY  
EXAMINATION RESULTS AND COMMENTS

***SUPPORTING DOCUMENTATION AND COMMISSION APPROVAL***

Of the 21 disbursements reviewed, the following 6 did not have supporting documentation presented for examination nor were they approved by the Redevelopment Commission. In some cases, the only documentation available was the disbursement included on the trust bank account monthly statement. All disbursements were made by the trustee from the Redevelopment Commission trust accounts.

Date	Amount	Payee	Description of Purchase (if any)
January	\$ 1,728	Mulzer Crushed Stone	Request #13
January	3,600	Transfer to Operating Account	Reimburse for Payments to Bamberger Foreman and VPS Architecture
February	1,383	Wessler Engineering	Request #14
February	25,501	Transfer to 4H Project Account	Reimburse for Payments to McDonald Law and Ice Miller
April	112,110	BMB	
April	3,240	Wessler Engineering	
Totals	<u>\$ 147,562</u>		

Due to the lack of supporting information, we could not verify the purpose of these disbursements.

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

Indiana Code 36-7-14-29(a) states: "All payments from any of the funds established by this chapter shall be made by warrants drawn by the proper officers of the unit upon vouchers of the redevelopment commission signed by the president or vice president and the secretary or executive secretary."

***TAX INCREMENT FINANCING (TIF) ALLOCATION FUND USES***

The Redevelopment Commission allocated \$998,815 of TIF revenue for County emergency vehicles and equipment. During 2015, \$296,577 was expended for those items. The purchase of equipment is not an authorized use of TIF revenue.

In addition, the County Redevelopment Commission has authorized payments of \$1,000,000 a year, for the years 2014 through 2017 for a project with the Gibson County Horticultural and Agricultural Society, Inc. During 2015, \$777,285 was expended for this project. They have also authorized a project with Ivy Tech

COUNTY REDEVELOPMENT COMMISSION  
GIBSON COUNTY  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

Community College of Indiana for an amount not to exceed \$200,000 in 2014, and \$100,000 a year for 2015 through 2018. During 2015, \$299,910 was expended for this project. Neither of the projects are located within the allocation area nor was documentation provided for examination that shows a determination was made by the Redevelopment Commission that the project will serve the allocation area.

The power of a redevelopment commission to expend redevelopment funds, such as TIF funds, is limited to the express statutory powers as set forth in Indiana Code 36-7-14, *Redevelopment Commission of the Town of Munster, Indiana, v. Indiana State Board of Accounts and Paul D. Joyce, State Examiner of State Board of Accounts*, 28 N.E.3d 272 (Ind. App., 2015). Redevelopment does not include the purchase of equipment, except when furnishing the redevelopment office, IC 36-7-14-12.2(a)(19). The use of TIF funds is specifically limited to those uses set forth in Indiana Code 36-7-14-39(b)(3). The purchase of equipment is not a permitted use under Indiana Code 36-7-14-39(b)(3). Indiana Code 36-9-27-39(b)(3)(J) allows the redevelopment commission to pay expenses incurred for local public improvements that are in the allocation area or serving the allocation area.

Indiana Code 36-7-14-39(b)(3) states in part:

"Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following: . . .

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter. . . ."

Sources and uses of funds should be limited to those authorized by the enabling statute, ordinance, resolution, or grant agreement. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

McDONALD LAW OFFICE  
ATTORNEY AT LAW  
120 SOUTH MAIN STREET  
PRINCETON, INDIANA 47670

T. MORTON McDONALD 1882-1951  
DOUGLAS H. McDONALD 1909-1971  
JAMES G. McDONALD, JR. 1931-2004  
JAMES G. McDONALD III

TELEPHONE  
(812) 385-4816  
FAX  
(812) 386-6076

September 2, 2016

OFFICIAL RESPONSE

State Board of Accounts  
302 West Washington Street  
Room E 418  
Indianapolis, IN 46204-2765

In Re: Gibson County Redevelopment Commission

Dear Sir:

I serve as counsel to Gibson County, Indiana ("County") and the Gibson County Redevelopment Commission ("Redevelopment Commission"). This letter is included as a part of the response of the County and the Redevelopment Commission to the findings contained in the draft "Examination Results and Comments" ("Comments") provided by the State Board of Accounts at the exit conference conducted on August 1, 2016. This letter specifically addresses findings and comments under the heading "TAX INCREMENT FINANCING (TIF) ALLOCATION FUND USES".

Statutory Analysis

The first paragraph of the Comments notes that the Redevelopment Commission allocated and spent "TIF revenue for County emergency vehicles and highway equipment," and stated that "the purchase of equipment is not an authorized use of TIF revenue".

According to IC 36-7-14-39(b)(3)(J), TIF revenue (the incremental allocated taxes as provided in IC 36-7-14-39) may be used to pay expenses incurred by the Redevelopment Commission for "local public improvements" that are in or serving the allocation area. A local public improvement includes a redevelopment project and a purpose of a redevelopment commission under IC 36-7-14. IC 36-7-14.5-6. "Redevelopment" includes the following:

- (1) Acquiring real property in areas needing redevelopment.
- (2) Replatting and determining the proper use of real property acquired.
- (3) Opening, closing, relocating, widening, and improving public ways.
- (4) Relocating, constructing, and improving sewers, utility services, offstreet parking facilities, and levees.
- (5) Laying out and constructing necessary public improvements, including parks, playgrounds, and other recreational facilities.
- (6) Restricting the use of real property acquired according to law.



- (7) Repairing and maintaining buildings acquired, if demolition of those buildings is not considered necessary to carry out the redevelopment plan.
- (8) Rehabilitating real or personal property to carry out the redevelopment or urban renewal plan, regardless of whether the real or personal property is acquired by the unit.
- (9) Investigating and remediating environmental contamination on real property to carry out the redevelopment or urban renewal plan, regardless of whether the real property is acquired by the unit.
- (10) Disposing of property acquired on the terms and conditions and for the uses and purposes that best serve the interests of the units served by the redevelopment commission.
- (11) Making payments required or authorized by IC 8-23-17.
- (12) Performing all acts incident to the statutory powers and duties of a redevelopment commission.

IC 36-7-1-18. Public improvements include “other items described in IC 36-7-14-25.1(a). The “other items” for which TIF revenue may be spent include:

- the total of all expenses reasonably incurred in connection with the acquisition and redevelopment or economic development of the property, including:
  - the total cost of all land, rights-of-way, and other property to the acquired and developed or redeveloped; and
  - all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising expenses.

In addition to the authority to use TIF revenue expressly provided under IC 36-7-14-39, the Redevelopment Commission is expressly authorized to acquire any personal property needed for the redevelopment of areas needing redevelopment or for the development of economic development areas that are located within the boundaries of the County. (IC-37-7-14-12.2(a)(1)).

Thus, in order to understand IC 36-7-14-39(b)(3)(J), one must look to IC 36-7-1-18 to understand the expansive nature of redevelopment, the broad definition of “local public improvement” and the “other items” identified in IC 36-7-14-25,1(a), which are clearly permitted expenditures under IC 36-7-14-39.

The second paragraph of the Comments notes that the Redevelopment Commission “authorized payments” and expended funds for a project with the Gibson County Horticultural and Agricultural Society, Inc., and “authorized a project” with Ivy Tech Community College of Indiana and expended funds for that project. “Neither of the projects was located within the allocation area nor was documentation provided...that a determination was made by the Redevelopment Commission that the [projects] will serve the allocation area”. The Comments also state that “[The] power of a redevelopment commission to expend redevelopment commission funds, such as TIF funds, is limited to the express statutory powers as set forth in IC 36-7-14.” The Comments go on to state that “[redevelopment] does not include the purchase of equipment, except when furnishing the redevelopment office, IC 36-7-14-12.2(a)(19).” This

statement ignores IC 36-7-14-12.2(a)(1), which, as noted above, authorizes the Redevelopment Commission to acquire any personal property.

A review of IC 36-7-14 demonstrates the express statutory authority the Redevelopment Commission is given to make the expenditures with respect to the Agricultural Society and Ivy Tech.

The assessment, planning, replanning, remediation, development, and redevelopment of economic development areas: ... are public uses and purposes for which public money may be spent....

IC 36-7-14-2.5. "The redevelopment commission may ... [expend], on behalf of the special taxing district, all or any part of the money of the special taxing district<sup>1</sup>". IC 36-7-14-12.2(a)(20).

The redevelopment commission may ... [contract] for the construction of:

- (A) local public improvements (as defined in IC 36-7-14.5-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the corporate boundaries of the unit; or
- (B) any structure that enhances development or economic development.

IC 36-7-14-12.2(a)(21). The Redevelopment Commission is also authorized to issue bonds in order to raise money for property acquisition, redevelopment in a redevelopment project area or economic development in an economic development area. IC 36-7-14-25.1(a).

The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

- (1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;
- (2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;
- (3) capitalized interest permitted by this chapter and a debt service reserve for the bonds to the extent the redevelopment commission determines that a reserve is reasonably required; and
- (4) expenses that the redevelopment commission is required or permitted to pay under IC 8-23-17.

IC 36-7-14-25.1(a). Among the purposes for which TIF revenues may be expended under IC 36-7-14-39(b)(3):

- Paying the principal of and interest on any obligations payable solely from TIF revenues which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment or economic development of the allocation area;

---

<sup>1</sup> The Redevelopment Commission is the governing body of the Gibson County Redevelopment District, the boundaries of which are coterminous with the boundaries of Gibson County.

- Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in IC 36-7-14-25.1(a).

In addition to the express powers granted to the Redevelopment Commission under IC 36-7-14, IC 36-7-25 grants all redevelopment commissions, including the Redevelopment Commission certain additional powers. IC 36-7-25-7 is particularly applicable to the Redevelopment Commission's agreement with Ivy Tech, as it authorizes the Redevelopment Commission to contract with an entity whose principal functions include the provision of educational programs, worker training programs, or any other program "designed to prepare individuals to participate in the competitive and global economy," and to use TIF revenue, or other revenues of the Redevelopment Commission to fund such a program. IC 36-7-25-7. Before the Redevelopment Commission may do so, it must find that the program will promote the redevelopment and economic development of the County, is of utility and benefit, and is in the best interests of the County's residents.

Beyond the statutory authority, however, the Redevelopment Commission must first adopt a resolution designating a geographic area as an economic development area. This resolution must be supported by evidence and findings of fact and accompanied by a plan for the development of the economic development area. The plan includes any proposed acquisition of real or personal property to be used in the development of the area, a description of the local public improvements to be undertaken in or serving the economic development area and the estimated cost of accomplishing the plan. The Redevelopment Commission must establish a record, with findings of fact, that the acquisition of the personal property and the construction of the identified local public improvements is needed for the development of the economic development area.

As the documents included herein demonstrate, the Commission followed the required statutory procedures under IC 36-7-14-15 through 17 and IC 36-7-25-7 to adopt the appropriate resolutions and conduct the appropriate public hearings to permit public input as to the use of TIF revenue for each of the projects described. The applicable statute makes clear that any objections to the adoption of these resolutions and the fact finding of the Commission must be made in a timely fashion (IC-36-7-14-18) and it is also very clear from the applicable case law that the courts defer to the finders of fact as to the facts supporting the findings and the resolutions. Therefore, each of the projects described pass the test set by the Redevelopment Statute that must be accomplished prior to the use of the TIF revenues in each of those cases.

#### Documentation of Projects

The purchase of the emergency vehicles and highway equipment was approved in Resolution #2015-2, adopted by the Redevelopment Commission on August 3, 2015. Minutes of the Redevelopment Commission from that meeting, including evidence presented at that meeting, amply demonstrate that the purchase of the emergency vehicles and highway equipment was needed for the development of the economic development area (See Exhibits A,B, and C of Gibson County Redevelopment Commission). Testimony was provided by representatives of the

Gibson County Sheriff's Department, the Gibson County Ambulance Service and the Gibson County Highway Department supporting the findings of fact that the purchase of the vehicles and highway equipment was necessary to further the development of the economic development area.

Contrary to the assertions in the Comments that the Redevelopment Commission did not supply documentation regarding its determination that the Agricultural Society project served or benefitted the allocation areas, and its determination that the Ivy Tech project would promote the redevelopment and economic development of the County, the Redevelopment Commission did provide such documentation on June 2, 2014 and July 7, 2014. However, in the interests of permitting the revision of the Comments, the Redevelopment Commission encloses the following documentation:

Gibson County Horticultural & Agricultural Society, Inc. Documents:

Exhibit D - Resolution No. 2014-4  
Exhibit E – Project Agreement  
Exhibit F – Trust Agreement  
Exhibit G – June 2, 2014 Minutes  
Exhibit H – July 7, 2014 Minutes  
Exhibit I – July 28, 2014 Minutes

Ivy Tech Documents:

Exhibit J – Resolution No. 2014-5  
Exhibit K – Project and Trust Agreement  
Exhibit G – June 2, 2014 Minutes  
Exhibit H – July 7, 2014 Minutes

Conclusion

Based upon all of the foregoing, I respectfully request that the Comments be revised to delete the findings and comments under the heading "TAX INCREMENT FINANCING (TIF) ALLOCATION FUND USES".

Thank you for your consideration.

Very truly yours,

  
JAMES G. McDONALD, III

JGM III/mw  
Enclosures

*The official response included exhibits labeled A to K which are not included in the audit report. These exhibits are available upon request made to the Indiana State Board of Accounts office.*

## **INDIANA STATE BOARD OF ACCOUNTS COMMENT ON THE OFFICIAL RESPONSE**

To provide clarity and perspective, we are commenting on the Official Response to our Audit Result and Comment (ARC) titled "Tax Increment Financing (TIF) Allocation Fund Uses". An official response to this ARC was submitted by James G. McDonald, III, Counsel to the Gibson County Redevelopment Commission on behalf of Charles P. Young, President of the Redevelopment Commission.

In a case recently decided by the Indiana Court of Appeals in which transfer was denied by the Indiana Supreme Court, *Redevelopment Commission of the Town of Munster, Indiana, v. Indiana State Board of Accounts and Paul D. Joyce, State Examiner of State Board of Accounts*, 28 N.E.3d 272, 279 (Ind. App., 2015), *trans. denied* 34 N.E.3d 251 (Ind., July 2, 2015), a case that we cited in our report, the court addressed the use of TIF funds. After stating that the Munster Redevelopment Commission argued that the statutory powers granted to it were broad and that IC 36-7-14-39 should be interpreted broadly, the court indicated that there are limits on the types of expenditures that can be made with TIF funds:

"However, the plain language of the statutes leads us to conclude that the trial court's grant of summary judgment in favor of the Board [of Accounts] was proper. 'It is clearly established that boards of county commissioners possess only such powers as have been granted expressly by statute and those which must be necessarily implied to execute some expressed power.' [\*S. Bend Pub. Transp. Corp. v. City of S. Bend\*, 428 N.E.2d 217, 225 \(Ind. 1981\)](#). Our review of the relevant statutes fails to lead us to any provision that expressly permits the Commission to use TIF funds for ongoing maintenance of properties that have already been redeveloped."

Two of the citations mentioned in your letter, IC 36-7-14-39(b)(3)(J) and IC 36-7-1-18, were specifically considered in the court's opinion. The *Munster* court addressed IC 36-7-14-18(12) on page 280 of its opinion:

"The [Redevelopment] Commission also argues that [section 36-7-1-18\(12\)](#), which gives the Commission the right to perform 'all acts incident to the statutory powers and duties of a redevelopment commission' in the statutory definition of 'redevelopment' necessarily includes the right to use TIF funds to fund the parks' maintenance. We disagree. The powers granted by this provision are limited to the express statutory powers, or powers incidental to the expressed powers, of the Commission. See [\*S. Ry. Co. v. Harpe\*, 223 Ind. 124, 131, 58 N.E.2d 346, 349 \(1944\)](#). As we have determined, the Commission's use of TIF funds for the ongoing maintenance of a redeveloped property is not expressly or impliedly permitted in the relevant statutes."

The powers provision of the redevelopment law, IC 36-7-14-12.2, also has limits. The subdivision that you cite, IC 36-7-14-12.2(a)(1), specifically conditions a redevelopment commission's power to purchase property to that "needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit." It is our audit position that the purchase of law enforcement vehicles does not meet this requirement of being "needed for the redevelopment of areas needing redevelopment". Law enforcement vehicles are required in every part of a community regardless of whether redevelopment is taking place. Much like park maintenance costs in the Munster situation, law enforcement vehicles may not be purchased with TIF funds but rather are paid for from a unit's non-redevelopment funds.

Our audit position considers IC 36-7-14-2.5, IC 36-7-14-12.2(a)(20), and IC 36-7-14-12.2(a)(21) in light of the *Munster* case - that redevelopment funds can be spent only under the express statutory powers and within the legislatively-defined parameters of IC 36-7-14. TIF funds have the additional restrictions of IC 36-7-14-39. Our audit position takes into account an analysis of IC 36-7-14-2.5 and subdivisions 12.2(a)(20) and 12.2(a)(21) in conjunction with the rest of IC 36-7-14 without emphasizing a selective reading of individual words. IC 36-7-14-39(b)(3) and IC 36-7-14-25.1(a) allow TIF funds to pay expenses only for local public improvements that have been identified in the redevelopment resolution and associated plan documents.

IC 36-7-25-7 allows a redevelopment commission to contract with an eligible entity to provide an educational or training *program*, but the legislature has not included the power to construct facilities in this statute. IC 36-7-25-3 adds a further restriction – that projects that may be financed by a commission in redevelopment project areas or economic development areas may be financed if the projects are not located in those areas or the redevelopment district *as long as the projects, improvements, or purposes directly serve or benefit those areas*. There is no indication in the materials that you have provided that the IVY Tech project will directly serve any allocation area. With respect to using TIF funds for training, IC 36-7-14-39(b)(3)(K) specifically limits the use of TIF funds to *reimbursing* public and private entities for expenses incurred in training employees of industrial facilities that are located in the allocation area.

During an audit, we would expect to see a detailed and comprehensive written plan for the allocation project area. There should be benchmarks within the plan that would allow progress of the plan to be measured and to determine when the completion of the plan is accomplished. The property to be affected by the establishment of the allocation project area must be identified by listing the names of the owners of the various parcels, IC 36-7-14-15(b)(2). Maps and plats must be prepared showing the boundaries of the area in which property will be affected by the establishment of a redevelopment project area, IC 36-7-14-15(b)(1). The plan may be modified over time, and any modifications should have sufficient detail to identify the additional parcels affected to measure performance and provide estimated increased costs. When the plan for the area needing redevelopment (project area) is so broad that it could apply to any geographic area in the county, there is no way to determine that a project directly serves the project area or furthers the plan for that project area. Indiana Code 36-7-14-15 lists specific requirements for the plan for the redevelopment project area. The Plan Excerpt provided does not have sufficient information to determine that the 4H Building project and the Ivy Tech Welding Lab project directly serve the Pakota/Union Township Allocation Area.

COUNTY REDEVELOPMENT COMMISSION  
GIBSON COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on August 1, 2016, with Charles P. Young, President of the Redevelopment Commission; Sherri Smith, County Auditor; Stephen E. Bottoms, County Commissioner; Jeremy Overton, President of the County Council; James G. McDonald III, County Attorney; and Karen Arland, Attorney with Ice Miller LLP.