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

SPECIAL REPORT

TAXPAYER PETITION FOR THE

CITY OF COLUMBUS

BARTHOLOMEW COUNTY, INDIANA

Petition Dated June 27, 2018

FILED

11/16/2018

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SCHEDULE OF OFFICIALS

Office	Official	Term
Clerk-Treasurer	Luann Welmer	01-01-16 to 12-31-19
Mayor	James D. Lienhoop	01-01-16 to 12-31-19
President of the Board of Public Works and Safety	James D. Lienhoop	01-01-16 to 12-31-19
President of the Common Council	Frank Miller	01-01-17 to 12-31-18
Superintendent of Utilities	Keith Reeves	01-01-17 to 07-31-18
	Scott Dompke	08-01-17 to 12-31-18
Manager of Finance and Business Operations	Dale Langferman	01-01-17 to 01-31-17
	(Vacant)	02-01-17 to 09-10-17
	Arron O'Neal	09-11-17 to 12-31-18
Airport Director	Brian Payne	01-01-17 to 12-31-18

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TO: THE OFFICIALS OF THE CITY OF COLUMBUS, BARTHOLOMEW COUNTY, INDIANA

Pursuant to Indiana Code 5-11-6-1, we have made reasonable tests and inquiries of the transactions related to the "Taxpayer Petition to Examine City of Columbus Redevelopment Commission's $1 Million Payments to Indiana University." The scope of our investigation was limited to the requests identified in the petition. Our findings are based on files and records provided by the Redevelopment Commission and the City of Columbus. We did not perform an audit in accordance with generally accepted auditing standards or the standards applicable to financial and performance audits contained in Government Auditing Standards issued by the Comptroller General of the United States, as steps related to those standards are not required for this investigation or others performed pursuant to IC 5-11-6-1.

Petitioners requested a determination of whether the Contract for Construction of Improvements between the Columbus Redevelopment Commission and the Indiana University Board of Trustees was legally executed and performed and an explanation of how the contract was lawful. The Indiana State Board of Accounts is a post-audit agency, and as such, cannot render legal opinions. Our report contains the positions we would take in an audit. Such audit positions shall not be construed to be legal opinions.

The results of our tests and inquiries are contained in the attached comments. Due to the nature of the report, we have restated the requests identified in the taxpayer petition followed by the Indiana State Board of Accounts comments related to those requests.

Paul D. Joyce

Paul D. Joyce, CPA
State Examiner

October 11, 2018

PETITION REQUEST: "We are requesting that you examine the "Contract for Construction of Improvements" to IU's Columbus facility to determine whether the contract has been lawfully executed and performed."

STATE BOARD OF ACCOUNTS COMMENTS

Background Information

On May 21, 2018, the City of Columbus Redevelopment Commission (Commission) adopted Resolution No. 9-2018 entitled "RESOLUTION OF THE COLUMBUS REDEVELOPMENT COMMISSION TO RECOMMEND TO THE COLUMBUS CITY COUNCIL THE EXPENDITURE OF FUNDS TO BUILD OUT THE FACILITY TO HOUSE THE INDIANA UNIVERSITY SCHOOL OF ARCHITECTURE IN COLUMBUS."

In Resolution No. 9-2018 the Commission resolved, as follows:

a. "Indiana University Foundations acquisition of 333 Second Street will be used of the Indiana University School of Art, Architecture + Design and will offer a masters level program within the facility known as the J. Irwin Miller Masters of Architecture Program.

b. The total contribution to this program from both public and private contributions will exceed twenty million dollars.

c. The 333 Second Street structure will need to be built out to meet the needs of the students, faculty, and administrative needs of the University.

d. The 333 Second Street facility is located within the Central TIF District within Columbus and is also within the Central Economic Development District.

e. This Commission has the authority pursuant to Ind. Code Sec. 36-7-14-12.2(21) to contract for the construction of local public improvements within both the TIF district and the economic development district whereby such structure will enhance the development and economic development.

f. The inclusion of the Indiana University, J. Irwin Miller Master of Architecture Program will bring new employment to the city of Columbus, enhance the cultural experience for the city, and offer residents and visitors many new opportunities to experience the City of Columbus as well as make contributions to our local retailers."

On June 5, 2018, the City of Columbus Common Council (Council) adopted Resolution No. 6-2018 entitled, "RESOLUTION OF THE COLUMBUS CITY COUNCIL TO APPROVE THE EXPENDITURE OF FUNDS OF NO MORE THAN $1M FROM THE CENTRAL ALLOCATION AREA TO BUILD OUT THE FACILITY TO HOUSE THE INDIANA UNIVERISTY SCHOOL OF ARCHITECTURE MASTERS PROGRAM IN COLUMBUS, INDIANA."

In Resolution No. 6-2018, the Council resolved, as follows:

a. "Indiana University Foundations acquisition of property located at 333 Second Street will be used for the Indiana University School of Art, Architecture + Design and will offer a masters level program within the facility known as the J. Irwin Miller Masters of Architecture Program.

b. The total contribution to the City of Columbus through the IUA+D and the newly established Masters of Architecture Program from both public and private contributions will exceed twenty million dollars ($20,000,000).

c. The structure at 333 Second Street will need to be renovated to meet the needs of the students, faculty, and administrative needs of the University.

d. The 333 Second Street facility is located within the Central TIF District within Columbus and is also within the Central Economic Development Area.

e. This Commission has the authority pursuant to Ind. Code Sec. 36-7-14-12.2(21) to contract for the construction of local public improvement within both the TIF district and the economic development district whereby such structure will enhance the development and economic development.

f. The inclusion of the Indiana University, J. Irwin Miller Master of Architecture Program will bring new employment to the City of Columbus, enhance the cultural experience for the City, and offer residents and visitors many new opportunities to experience the City of Columbus as well as make contributions to our local retailers."

The June 18, 2018 minutes of the Commission, pages 6 and 7 state: "Counsel presented to the Commission a draft contract to be entered into with Indiana University for the contribution to the IU School of Architecture. Counsel noted that a few months earlier there had been discussions with IU about this funding and parties all agreed that it was necessary to enter into a contract . . . No formal motion was required although there was a consensus by and between all Commissioners that the President of the Commission could execute contract on behalf of the Commission."

On June 18, 2018, the Commission entered into a "Contract for Construction of Improvements" with the Indiana University Board of Trustees (Indiana University). In this contract, the Commission agreed to contribute up to one million dollars for improvements to the building located at 333 2nd Street, Columbus Indiana, also known as the Republic Building.

The Republic Building, owned by the Indiana University Foundation, will house the Indiana University J. Irwin Miller Masters of Architecture Program.

Payments made by the Commission were to be based on invoices and supporting documentation submitted by Indiana University. Indiana University was to bid the project and serve as project manager.

Statutory References

Indiana Code 36-7-14-12.2(a)(21) allows a redevelopment commission to:

"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."

Indiana Code 36-7-14-2.5(c) states, in part, "Except as provided in subsection (d), a redevelopment commission may not enter into any obligation payable from public funds without first obtaining the approval, by ordinance or resolution, of the legislative body of the unit."

Audit Position

Based on the foregoing information and statutory references, we do not take audit exception to the execution of the Contract for Construction of Improvements between the Columbus Redevelopment Commission and the Indiana University Board of Trustees.

PETITION REQUEST: "We, as taxpayers of the City of Columbus, simply request an explanation of how the contract is lawful."

STATE BOARD OF ACCOUNTS COMMENTS

Background Information

The Republic Building is located in the Central Tax Increment Financing (TIF) Allocation Area, which is incorporated within an Economic Development Area established pursuant to IC 36-7-14-41. The Economic Development Area Plan states:

> "The Goals and Policies Element of the Comprehensive Plan of the City of Columbus included these goals and policies for downtown Columbus:
>
> Goal E-1. Downtown Columbus: (Washington & Franklin Streets, between 2nd and 8th Streets) This area is characterized by tree-lined streets, cleanliness, attractive buildings, well-maintained sidewalks, buildings of a consistent scale, low-key signs, pedestrian orientation, attractive window displays, buildings close to the street, parking in community lots or behind buildings.
>
> POLICY E-1-1: Maintain the downtown as the heart of the city, retaining its function as the government, institutional, and financial center of the community.
>
> The downtown is important to the community, healthy communities have strong downtowns. Traditional downtown functions include government, institutional uses (such as churches and schools) and finance, and those should be retained in downtown Columbus."

Resolution of the Commission

On June May 21, 2018, the City of Columbus Redevelopment Commission adopted Resolution No. 9-2018 entitled "RESOLUTION OF THE COLUMBUS REDEVELOPMENT COMMISSION TO RECOMMEND TO THE COLUMBUS CITY COUNCIL THE EXPENDITURE OF FUNDS TO BUILD OUT THE FACILITY TO HOUSE THE INDIANA UNIVERSITY SCHOOL OF ARCHITECTURE IN COLUMBUS."

In Resolution No. 9-2018 the Commission resolved, as follows:

a. "Indiana University Foundations acquisition of 333 Second Street will be used for the Indiana University School of Art, Architecture + Design and will offer a masters level program within the facility known as the J. Irwin Miller Masters of Architecture Program.

b. The total contribution to this program from both public and private contributions will exceed twenty million dollars.

c. The 333 Second Street structure will need to be built out to meet the needs of the students, faculty, and administrative needs of the University.

d. The 333 Second Street facility is located within the Central TIF District within Columbus and is also within the Central Economic Development District.

e. This Commission has the authority pursuant to Ind. Code Sec. 36-7-14-12.2(21) to contract for the construction of local public improvement within both the TIF district and the economic development district whereby such structure will enhance the development and economic development.

f. The inclusion of the Indiana University, J. Irwin Miller Master of Architecture Program will bring new employment to the city of Columbus, enhance the cultural experience for the city, and offer residents and visitors many new opportunities to experience the City of Columbus as well as make contributions to our local retailers."

On June 18, 2018, the Commission entered into the "Contract for Construction of Improvements" with Indiana University, which contained the following provisions:

1. "Indiana University, which is a public institution, is required and will conduct public bidding for the improvement work to be performed at 333 Second Street and will engage the successful bidder and will become the project manager.

2. The city of Columbus Redevelopment Commission by way of this agreement will receive invoices for services for the following improvement work to the property: . . .

3. Indiana University will receive invoices from the successful bidder for services performed and will initially pay said invoices.

4. The University will then submit the invoices to the Redevelopment Commission as well supporting and background material necessary for the Commission to determine the scope, extent, and nature of the improvement work.

5. The Redevelopment Commission will then issue a check to Indiana University, or its designee, pursuant to the invoices and supporting documents previously submitted and consistent with the Commission's resolution and commitment of May 21, 2018.

6. For administrative reasons, and due to the timing of receipt of invoices, the Commission may pay said invoices up to sixty (60) days after receipt of said invoices."

Bidding of the Public Work Works Project

Under the statutory provisions of Indiana Code 5-16, the Trustees of Indiana University released the project for bid on May 10, 2018, as Project Number 20180429 – CO000 H. Bids were received in the Office of the Vice President for Capital Planning and Facilities on May 24, 2018. The contract was awarded to the low bidder on June 7, 2018.

Statutory References

The powers and duties of a redevelopment commission are contained in IC 36-7-14 and IC 36-7-25.

Indiana Code 36-7-1-18 states, in part:

"'Redevelopment' includes the following activities: . . .

(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."

Indiana Code 36-7-14-12.2 states, in part:

"(a) The redevelopment commission may do the following: . . .

(21) 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."

Indiana Code 36-7-14.5-6 states:

"As used in this chapter, 'local public improvement' means any of the following:

(1) A redevelopment project.

(2) A purpose of a commission under IC 36-7-14 or IC 36-7-30.

(3) A purpose of an authority under this chapter."

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. . . ."

Indiana Code 36-7-14-2.5 states, in part:

"(a) The assessment, planning, replanning, remediation, development, and redevelopment of economic development areas:

(1) are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of:

(A) the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens; and

(B) the costs of these projects;

(2) will:

(A) benefit the public health, safety, morals, and welfare;

(B) increase the economic well-being of the unit and the state; and

(C) serve to protect and increase property values in the unit and the state; and

(3) are public uses and purposes for which public money may be spent and private property may be acquired.

(b) This section and sections 41 and 43 of this chapter shall be liberally construed to carry out the purposes of this section.

(c) Except as provided in subsection (d), a redevelopment commission may not enter into any obligation payable from public funds without first obtaining the approval, by ordinance or resolution, of the legislative body of the unit. . .."

Audit Position

Based on the foregoing information including the relevant City of Columbus redevelopment documents reviewed by us, we do not take audit exception to the transaction contemplated by the Contract for Construction of Improvements and the use of redevelopment funds for the rehabilitation of property consistent with the Economic Development Area Plan. In addition, we do not take audit exception to the provisions in the contract requiring Indiana University to bid the public works project as a state educational institution, engage the successful bidder, and initially pay the invoices submitted by the successful bidder. Further, the investigation did not disclose any of the events outlined in IC 5-11-6-1(e):

> "The state examiner shall file a report covering any examination or investigation that discloses:
>
> (1) fraud, collusion, misconduct, or negligence in the letting or the execution of any public contract or in the performance of any of the terms and conditions of any public contract; or
>
> (2) any failure to comply with the terms or conditions of any public contract in the construction of any public work, building, or structure or to perform, build, or construct it according to the plans and specifications, if any, provided in the contract;
>
> that causes loss, injury, waste, or damage to the state, the municipality, taxing or assessment district, other public entity, or to its citizens, if it is enforceable by assessment or taxation."

Subsequently, while not required by statute, this report is being issued in order to provide the City of Columbus officials, the petitioners, and citizens with the results of our investigation tests and inquiries. The issuance of this report concludes our engagement.