

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

CITY OF ELWOOD

MADISON COUNTY, INDIANA

January 1, 2021 to December 31, 2022



FILED

10/12/2023

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Schedule of Officials	2
Transmittal Letter	3
Redevelopment Commission:	
Audit Result and Comment:	
Use of Tax Increment Financing (TIF) Funds	6-7
Official Response.....	8-13
Exit Conference	14

SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Allison Roby	01-01-21 to 12-31-23
Mayor	Todd Jones	01-01-21 to 12-31-23
President of the Board of Public Works and Safety	Todd Jones	01-01-21 to 12-31-23
President Pro Tempore of the Common Council	Timothy Roby	01-01-21 to 12-31-23



STATE OF INDIANA
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TO: THE OFFICIALS OF THE CITY OF ELWOOD, MADISON COUNTY, INDIANA

This report is supplemental to the audit report of the City of Elwood (City), for the period from January 1, 2021 to December 31, 2022. It has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the City. It should be read in conjunction with the Financial Statement Audit Report of the City, which provides our opinions on the City's financial statement. This report may be found at 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 Audit Result and Comment contained herein describes the identified reportable instance 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 Audit Result and Comment, incorporated within this report, was not verified for accuracy.

Beth Kelley, CPA, CFE
Deputy State Examiner

September 25, 2023

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REDEVELOPMENT COMMISSION
CITY OF ELWOOD

REDEVELOPMENT COMMISSION
CITY OF ELWOOD
AUDIT RESULT AND COMMENT

USE OF TAX INCREMENT FINANCING (TIF) FUNDS

The same comment also appeared in prior reports B53877 and B57629.

Condition and Context

The City established a TIF allocation fund (Economic Redevelopment Capital fund) as authorized in Indiana Code 36-7-4-39. We identified disbursements made during the audit period from the TIF allocation fund that were considered unallowable. The following is a schedule of those unallowable disbursements from the TIF allocation fund:

Description	Amount
Golf Course Expenses	\$ 251,346
City Capital Expenses	23,343
Building Commission Office Employee Salary	24,416
Redevelopment Commission Maintenance Expenses	44,500
Redevelopment Commission Operating Expenses	850
Total	<u><u>\$ 344,455</u></u>

Criteria

A Redevelopment Commission has the duties set forth in Indiana Code 36-7-14-11, which provides for the investigation, selection, acquisition development, and disposal of property in "areas needing redevelopment." The powers granted to a redevelopment commission in Indiana Code 36-7-14-12.2 allow the commission to develop property in the areas needing redevelopment and to carry out other activities "for redevelopment purposes." "Redevelopment" includes activities contained in Indiana Code 36-7-1-18.

The general operating costs of the City should be paid from the City's General Fund as set forth in the Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 4:

"GAAFR defines the General Fund as the fund used to account for all financial resources except those required to be accounted for in another fund. The General Fund is the general operating fund of the municipality. Tax revenues and other receipts that are not allocated by law or contractual agreement to another fund are accounted for in this fund. The general operating expenditures of the municipality are paid from the General Fund.

To summarize, the General Fund shall be used for current general operations of the city or town."

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

". . . property tax proceeds . . . 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:

- (A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

REDEVELOPMENT COMMISSION
CITY OF ELWOOD
AUDIT RESULT AND COMMENT
(Continued)

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under [IC 36-1-10](#).

(I) For property taxes first due and payable before January 1, 2009, . . .

(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.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance. . . .

(L) Pay the costs of carrying out an eligible efficiency project (as defined in [IC 36-9-41-1.5](#)) within the unit that established the redevelopment commission. . . .

(M) Expend money and provide financial assistance as authorized in section 12.2(a)(27) of this chapter.

The allocation fund may not be used for operating expenses of the commission."

The uses of TIF funds are restricted to those set forth in the Indiana Code. The power of a redevelopment commission to expend such funds is limited to the express statutory powers as set forth in Indiana Code 36-7-14. The use of TIF funds for ongoing maintenance of redeveloped property is not an expressly or impliedly permitted use, except as provided in Indiana Code 36-7-1-18(7) for repairing and maintaining buildings acquired before redevelopment is complete. (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) trans. denied, 34 N.E.3d 251)



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October 4, 2023

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and Mitch Wilson
Compliance Director
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Cities.Towns@sboa.in.gov

RE: City of Elwood's Response to Exit Conference

Dear Sir:

Please accept this Response to the September 25, 2023 Exit Conference with Respect to the Audit for the period January 1, 2021 to December 31, 2022.

The City respectfully disagrees with the Findings concerning certain Mowing and Salary Expenses. The City's explanation is set forth, together with Responses to other designated matters in the Corrective Action Plan (CAP), and the other materials set forth herein and filed herewith.

Accordingly, enclosed please find the following:

1. Form 4 indicating the intention to file an Official Response.
2. CAP Template, with Addenda 1, 2 & 3.

The City believes that the actions previously taken (based on the initial audit) reflect the intention to comply with all Laws of the State of Indiana, and the Rules and Regulations related thereto.

Sincerely,

GRAHAM, FARRER & WILSON, P.C.

BY: 
MICHAEL E. FARRER

CC: Mayor Todd Jones
CC: Allison Roby

EXIT CONFERENCE

Unit Examined: City of Elwood
 Period Examined: January 1, 2021 to December 31, 2022
 Date of Conference: September 25, 2023
 Office or Department (if applicable): _____

The exit conference is being held in accordance with 5-11-5-1 and except as provided in subsections (b), (d), and i person, before a report is made public, to make any disclosure of the result of any examination of any public accou

In accordance with Indiana Code 5-11-5-1, the Officer or the Chief Executive Officer of the unit examined is given 1 to the results and comments contained in the report. Your response, if any, will be bound in and become a part of you initial the option selected below, sign, and date this form. Your signature is not deemed to be a concurrence v comments but merely acknowledges that you understand that you have a right to respond to the report. Please nc prepared by the Field Examiners and is subject to editing by department directors and board members.

Identify the option selected by the officials:

Acknowledgement of Decision for Official Response

OPTION NO. 1: We do not wish to make an official response to the report.

OPTION NO. 2: We wish to file an official response to the results and comments in the form of a l bound in the report. We understand that the letter itself will be made part of the report and any attac included and referred to in our response may not be but will be held on file with SBOA and will be m upon request. We also understand that if such response is not received by the State Board of Acco this date, the State Board of Accounts cannot guarantee that the response will be included in the re received after the 10 day period, although there is no guarantee, may still be included in the report, filed at the time the response is received. The SBOA will provide an Official Response Template to by letter or electronically. Letters should be clearly marked "OFFICIAL RESPONSE" and sent to Sta West Washington Street, Room E 418, Indianapolis, Indiana 46204-2765. If submitted electronically, a PDF format. Electronic responses should be sent to officialresponse@sboa.in.gov.

Indicate acknowledgements by the officials:

Acknowledgement of Understanding of Requirements Concerning Repeat Fin

We understand that for the following result and comments an SBOA corrective action plan (CAP) m completed in accordance with IC 5-11-5-1.5 and submitted on the SBOA website (<http://www.in.gov>), acknowledge that failure to complete the CAP in accordance with statute will result in the inclusion c memorandum provided to the legislative audit subcommittee for consideration of further action (IC 5 Additionally, we acknowledge that we have been provided guidelines, instructions, and a CAP temp

We also understand that we must either submit the CAP or send an email to CAP@sboa.in.gov acknowledging that we are working on the CAP by:

October 5, 2023

CORRECTIVE ACTION PLAN FOR City of Elwood, Indiana

Report period:	01-01-2021 to 12-31-2022
Title of result and comment:	Use of TIF Funds
Contact person Responsible for Corrective Action:	Mayor Todd Jones
Contact's Phone Number:	765-552-5076
Contact's Email Address:	mayortoddjones@elwood.in.gov
Views of Responsible Official:	Disagree with Findings - Corrective Action has been taken with respect to the Golf Course, Capital Expense and Operation Expense. (see Addendum #1)
Description of Corrective Action Plan:	The city believes that mowing and the salary issues do NOT require Corrective Action. (see Addendum #2 & #3)
Anticipated Completion Date:	·See Addenda filed herein.
If applicable: Document reason issue will NOT be corrected within 6 months:	NA

ADDENDUM NO. 1
MISCELLANEOUS EXPENSES

I. GOLF COURSE. This was changed after the initial Audit. Expenses are now paid out of the General Fund.

II. Capital Expenses

- i. Bulldozer. This equipment was being utilized by ERC at the time it was damaged. The Repair Bill was paid by ERC.
- ii. Lawn Mower and Street Department Bill. These bills should not have been paid by ERC. The original Audit, these are now paid from the General Fund.

III. OPERATION EXPENSE. This was an Invoice for Commission Member Bonds. This is now paid from the General Fund #1.

ADDENDUM NO. 2 PAYMENT TO WILLIAM SAVAGE

It is customary for Redevelopment Commissions to pay professionals (eg, Attorneys, Real Estate Appraisers, etc.) and other individuals for performing contract services. Mr. Savage handles special projects for ERC, including administrating and managing the Blight Elimination Program (BEP) and other properties owned by the ERC.

In this capacity Mr. Savage is regularly engaged on a daily basis in coordinating the acquisition and demolition of properties, together with the marketing (eg. appraisals) and sale of the properties - including presentations to the Commissioners for each step of the process.

Mr. Savage happens to be the Executive Director for Economic Development for the City of Elwood for which is paid a regular salary. His work for the ERC is separate from and not directly related to the position with the City.

Mr. Savage is the only clerical, administrative or management personnel for ERC, and without this position the ERC could not operate.

ADDENDUM No. 3

PAYMENT FOR MOWING ERC OWNED PROPERTIES

The Redevelopment Commission has been an active and successful participant in the Blight Elimination Program (BEP), the Indiana Housing and Community Development Authority (IHCDA) and local demolition programs, pursuant to which the ERC and the City have demolished approximately between 150 to 200 houses within the Allocation Area. Many of these properties have already been sold (with new houses erected) and are now on the tax rolls.

Once ERC acquires the properties and demolished the buildings, the properties and the area around the demolished buildings, they must be kept mowed until they are sold. The mowing is not in the nature of regular maintenance of a building. It is a temporary procedure, without which the value of the properties would be substantially reduced for purposes of sale. As noted in the BEP Program, the goal is not simply to demolish abandoned homes, but to “stabilize property values”. A vacant lot with weeds and vegetation would not meet the requirements of the IHCDA.

In addition, I.C. 36-7-10.1-3 provides that a County and Municipality may adopt an Ordinance requiring the owner of the property to cut and remove weed and vegetation.

Both the City of Elwood and Madison County have enacted Vegetation Control Ordinances. The Redevelopment Commission is the Owner of the properties (unlike the situation in Munster) and is subject to both Ordinances.

REDEVELOPMENT COMMISSION
CITY OF ELWOOD
EXIT CONFERENCE

The contents of this report were discussed on September 25, 2023, with Allison Roby, Clerk-Treasurer; Todd Jones, Mayor; Timothy Roby, President Pro Tempore of the Common Council; Jeff Graham, City Attorney; and Shanna Croy, Court Administrator.