

**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, 2017 to December 31, 2018



**FILED**  
12/04/2019



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### SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Allison M. Roby	01-01-16 to 12-31-19
Mayor	Todd Jones	01-01-16 to 12-31-19
President of the Board of Public Works and Safety	Todd Jones	01-01-16 to 12-31-19
President Pro Tempore of the Common Council	Timothy A. Roby	01-01-17 to 12-31-19
Utility Office Manager	Lenora R. Tomlinson	01-01-17 to 13-31-19



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

This report is supplemental to our audit report of the City of Elwood (City), for the period from January 1, 2017 to December 31, 2018. 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 our Financial Statement Audit Report of the City, which provides our opinion on the City'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 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.

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

October 23, 2019

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ECONOMIC REDEVELOPMENT COMMISSION  
CITY OF ELWOOD

ECONOMIC REDEVELOPMENT COMMISSION  
CITY OF ELWOOD  
AUDIT RESULT AND COMMENT

**USE OF TAX INCREMENT FINANCING (TIF) FUNDS**

*Condition and Context*

The City established a TIF allocation fund (Economic Redevelopment Commission Fund) as authorized in Indiana Code 36-7-4-39. We identified expenditures paid during the audit period from the TIF allocation fund that were considered unallowable, such as the acquisition of police vehicles and payments for golf course management. The following is a schedule of those unallowable disbursements from the fund:

<u>Description</u>	<u>Amount</u>
Police Vehicles	\$ 61,436
Golf Course Management Fees	<u>903,184</u>
Total	<u>\$ 964,620</u>

*Criteria*

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.

(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.

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

(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, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area: . . .

(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: . . .

(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. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following: . . .

(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. (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 30, 2019

State Board of Accounts  
302 Washington Street, Room E 418  
Indianapolis, IN 46204-2765  
ldavid@sboa.in.gov

RE: City of Elwood's Response to October 19, 2019 SBOA Audit

Dear Sir:

I am in receipt of the Indiana State Board of Accounts ("SBOA") October 19, 2019 Audit Results and Comments from an audit of the City of Elwood's ("ERC"). The SBOA's audit focused on what it deemed unallowable disbursements from the ERC's Tax Increment Financing Fund, namely the expenditures for "police vehicles" and "golf course management fees."

The City of Elwood respectfully disagrees with the findings and in support of the City's position, states the following:

## **POLICE CARS**

The Elwood Economic Development Plan includes multiple goals, such as "to stimulate growth in municipal property tax revenues", "to stimulate Neighborhood Revitalization and to stabilize residential property values", to "develop . . . strategies necessary to make Elwood more competitive in attracting and capturing investment by new industries . . . ."

Implicit in its determination to apply TIF revenues to the purchase of the police cars is the ERC's conclusion that the enhancement of public safety in the City is a vital factor in the accomplishment of the ERC's economic development and redevelopment goals. The ERC is aware that other cities have similarly concluded that the enhancement of public safety is critical to meeting such goals. The purchase of the police cars in 2018 served the goals of the economic plan and, therefore, payment from TIF funds was proper and in compliance with Indiana statutes.

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SBOA  
City of Elwood  
October 30, 2019  
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## **GOLF COURSE MANAGEMENT**

On March 3, 2016, the ERC determined that “the exclusive method to redevelop the Cattails Subdivision is for (the land) . . . to be restored to a condition allowing for the operation of a public golf course.” To that end, the ERC entered into a lease agreement with a local charitable organization, and a golf course management agreement with a private company so that the subdivision could be redeveloped. Unlike the facts in the Town of Munster Redevelopment Commission vs. State Board of Accounts, the project being undertaken in this situation—i.e., the redevelopment of the subdivision—has not yet been completed. (See attached a draft copy of Resolution 2016-RDC-01 which was passed by the ERC on March 16, 2016).

Although the ERC’s determination has already borne fruit in the way of a \$20,000,000+ housing project, the subdivision is still in need of further redevelopment as contemplated by the ERC in 2016.

As such, the expenditure of TIF funds for the management of the golf course, which is the exclusive method to redevelop the surrounding area, is a proper use of TIF funding and is distinguishable from the facts in the Munster case because the project has not yet been completed. Upon completion of the project, will need to discontinue using TIF for payments under the management agreement.

## **REMEDY**

Despite the above, the City of Elwood currently explored and likely identified an alternate payment source for the ongoing reconstruction costs related to the operation of the Golf Course in the Cattails subdivision. These changes will be implemented with all due speed, to prevent further expenditures which may be deemed unallowable in future audits.

Sincerely,

GRAHAM, HOPPER, FARRER & WILSON, P.C.

  
\_\_\_\_\_  
JEFFREY K. GRAHAM

JKG:sb  
Enclosure

**RESOLUTION NO. 2016-RDC-01**

**RESOLUTION CONTINGENTLY AUTHORIZING THE  
BORROWING OF MONIES AND THE LEASE OF REAL ESTATE  
AND PERSONAL PROPERTY FROM THE ELWOOD  
COMMUNITY DEVELOPMENT CORPORATION  
IN ORDER TO REDEVELOP CATTAILS SUBDIVISION**

WHEREAS, the Elwood Redevelopment Commission ("ERC"), after extensive investigation and study, has determined that the area in the City of Elwood containing approximately eighty-four (84) vacant residential lot and two (2) commercial lots in Cattails Subdivision is an area in need of redevelopment; and,

WHEREAS, the ERC has determined the exclusive method to redevelop the Cattails Subdivision is for the real estate on which the north nine (9) holes of the golf course formerly known as Cattails Golf Course (the "Real Estate") to be restored to a condition allowing for the operation of a public golf course; and,

WHEREAS, the Elwood Community Development Corporation ("ECDC"), a 501(c)(4) organization, has informed the ERC of its willingness to purchase the Real Estate and all personal property currently being stored at the Real Estate including but not limited to mowers, tractors and other equipment, computer, water system, and associated with the Golf Course, miscellaneous tools and lawn equipment, (collectively the "Personal Property"), for the sum of up to Two Hundred Fifty Thousand Dollars (\$250,000.00); and

WHEREAS, the ECDC has also informed the ERC that it will lease the Real Estate and Personal Property to the ERC for the sum of up to Two Hundred Fifty Thousand Dollars (\$250,000.00), payable at the rate of Fifty Thousand Dollars (\$50,000.00) per year at a maximum interest rate of 4.75% over a maximum term of five (5) years; and

WHEREAS, the ECDC has further informed the ERC its willingness to, for a period of five (5) years, extend a line of credit to ERC for the sum of up to Two Hundred Fifty Thousand Dollars, to be used to cover the expenses of redevelopment of the Real Estate, to be repaid at the same time and interest rate as the lease payments described above; and

WHEREAS, after properly noticed public hearing on March 16, 2016, the ERC finds that the services to be provided throughout the terms of the lease described above will serve the public purpose of the ERC and is in the best interests of the residents of the City of Elwood, and

WHEREAS, on March 3, 2016, the Common Council of the City of Elwood unanimously determined pursuant to Resolution #2016-02 that the ERC could enter into the transaction described above so that the presently vacant lots on the Real Estate may be converted into tax paying residential property.

NOW, THEREFORE IT IS HEREBY RESOLVED BY THE ELWOOD REDEVELOPMENT COMMISSION that, contingent on the ECDC purchasing the real estate on which the Golf Course is located together with the approximately five (5) acres of Real Estate on the South side of the County Road on which the old cart barn is located (which is part of the Golf Course) and Personal Property described above, that the ERC may enter into a lease of the Real Estate and Personal Property for a price of no greater than Two Hundred Fifty Thousand Dollars (\$250,000.00) payable at the rate of Fifty Thousand Dollars (\$50,000.00) per year at a maximum interest rate of 4.75% over a maximum term of five (5) years; and

BE IT FURTHER RESOLVED, that contingent on the ECDC purchasing the Real Estate and Personal Property described above, the ERC may execute a line of credit with the ECDC for the sum of up to Two Hundred Fifty Thousand Dollars (\$250,000.00), to be used to cover the expenses of redevelopment of the Real Estate, to be repaid over a period of ten (10) years at the interest rate as the lease payments described above.

SO RESOLVED this 16<sup>th</sup> day of March, 2016, by the Redevelopment Commission of Elwood, Madison County, Indiana.

/s/Thomas Austin  
THOMAS AUSTIN, PRESIDENT  
ELWOOD REDEVELOPMENT COMMISSION

ATTEST:

/s/ Diana Dunham  
DIANA DUNHAM, SECRETARY

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ECONOMIC REDEVELOPMENT COMMISSION  
CITY OF ELWOOD  
EXIT CONFERENCE

The contents of this report were discussed on October 23, 2019, with Todd Jones, Mayor; Kyle Noone, City Court Judge; Allison M. Roby, Clerk-Treasurer; Marnie Leonard, Deputy Clerk-Treasurer; Denise Kessinger, Court Administrator; Jeff Graham, City Attorney; and John K. Wright, Vice President of the Common Council.