

**STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE
Room 1058, IGCN – 100 North Senate
Indianapolis, IN 46204**

**IN THE MATTER OF THE REQUEST)
OF MAUMEE TOWNSHIP, ADAMS)
TOWNSHIP, MILAN TOWNSHIP,)
JEFFERSON TOWNSHIP, THE CITY OF)
NEW HAVEN, AND THE CITY OF) IML21-009
WOODBURN, ALLEN COUNTY, FOR THE)
ESTABLISHMENT OF AN INITIAL)
MAXIMUM LEVY FOR THE WOODBURN-)
NEW HAVEN FIRE PROTECTION)
TERRITORY)**

FINAL DETERMINATION

The Department of Local Government Finance (“Department”) has reviewed the request of Maumee Township, Adams Township, Milan Township, Jefferson Township, the City of New Haven, and the City of Woodburn (“Townships” and “Cities,” respectively, collectively “Units”), for an initial operating maximum levy for the Woodburn-New Haven Fire Protection Territory (“Territory”). Having considered the issues, the Department now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. Indiana Code 36-8-19-5 allows the legislative bodies of at least two contiguous units to establish a fire protection territory for any of the following purposes:
 - (A) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the territory.
 - (B) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
 - (C) Other purposes or functions related to fire protection and fire prevention.

2. Per IC 36-8-19-6, to establish a fire protection territory, the legislative bodies of each unit desiring to become a part of the proposed territory must:
 - i. Adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:

- (A) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other units desiring to become a part of the proposed territory.
 - (B) The ordinance or resolution is adopted after January 1 but before April 1.
 - (C) The ordinance or resolution authorizes the unit to become a party to an agreement for the establishment of a fire protection territory.
 - (D) The ordinance or resolution is adopted after the legislative body holds a public hearing to receive public comment on the proposed ordinance or resolution. The legislative body must give notice of the hearing under IC 5-3-1.
 - (E) The ordinance or resolution includes at least the following:
 - (1) The boundaries of the proposed territory.
 - (2) The identity of the provider unit and all other participating units desiring to be included within the territory.
 - (3) An agreement to impose:
 - (A) a uniform tax rate upon all of the taxable property within the territory for fire protection services; or
 - (B) different tax rates for fire protection services for the units desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.
 - (4) The contents of the agreement to establish the territory.
- ii. Hold a public hearing, at least 30 days before adopting the ordinance or resolution, at which the legislative body makes available to the public the following information:
- (A) The property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the proposed territory for each of the units that would participate in the proposed territory.
 - (B) The estimated effect of the proposed reorganization in the following years on taxpayers in each of the units that would participate in the proposed territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments.
 - (C) The estimated effect of the proposed reorganization on other units in the county in the following years and on local option income taxes, excise taxes, and property tax circuit breaker credits.
 - (D) A description of the planned services and staffing levels to be provided in the proposed territory.
 - (E) A description of any capital improvements to be provided in the proposed territory.
- iii. Hold at least one additional public hearing before adopting an ordinance or a resolution to form a territory, to receive public comment on the proposed ordinance or resolution. The notice required for this hearing must include all of the following:
- (A) A list of the provider unit and all participating units in the proposed territory.
 - (B) The date, time, and location of the hearing.
 - (C) The location where the public can inspect the proposed ordinance or resolution.
 - (D) A statement as to whether the proposed ordinance or resolution requires uniform tax rates or different tax rates within the territory.
 - (E) The name and telephone number of a representative of the unit who may be contacted for further information.

(F) The proposed levies and tax rates for each participating unit.

3. According to IC 36-8-19-8, upon the adoption of identical ordinances or resolutions, or both, by the participating units, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. The provider unit, with the assistance of each of the other participating units, must annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory. The provider unit may maintain a reasonable balance, not to exceed 120% of the budgeted expenses. Except as provided in IC 6-1.1-18.5-10.5, after estimating expenses and receipts of money, the provider unit must establish the tax levy required to fund the estimated budget. The amount budgeted must be considered a part of each of the participating unit's budget.

4. Pursuant to IC 36-8-19-8.5, participating units may agree to establish an equipment replacement fund to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory.

5. The Department, when approving a rate and levy fixed by the provider unit under IC 36-8-19-9, must verify that a duplication of tax levies does not exist within participating units, so that taxpayers do not bear two levies for the same service. Indiana Code 36-8-19-12 also provides that, in the same year that a levy is imposed for the Territory, each respective participating unit's tax levies attributable to providing fire services within the unit shall be reduced by an amount equal to the amount levied for fire protection services in the immediately preceding the year the unit joined the Territory.

RELEVANT PROCEDURAL HISTORY

6. On April 15, 2021, the Units submitted a petition with supporting documentation ("Record") to the Department requesting an initial operating maximum levy for the Territory in the amount of \$5,112,204 for 2022. The Record contains the following documents:

- Cover letter & Information Sheet.
- Financial Solutions Group, Inc. Financial Impact Analysis
- New Haven Fire Department Presentation
- Publisher's Claims from the *Fort Wayne Journal Gazette*
- Adopting Ordinances and Resolutions to Establish the Territory
 - City of Woodburn Ordinance 21-1395
 - City of New Haven Ordinance G-21-06
 - Maumee Township Resolution 3-1-21A
 - Jefferson Township Resolution 3-1-21B (regarding joining Territory)
 - Milan Township Resolution (regarding joining Territory)
 - Adams Township Resolution R-21-1
- Ordinances and Resolutions to Establish an Equipment Replacement Fund
 - City of Woodburn Ordinance 21-1396

- City of New Haven Ordinance G-21-07
- Maumee Township Resolution 3-1-21B
- Jefferson Township Resolution 3-1-21B (regarding equipment replacement fund)
- Milan Township Resolution (regarding equipment replacement fund)
- Adams Township Resolution R-21-2
- Woodburn – New Haven Fire & EMS Protection Territory Agreement
- June 17, 2020 Meeting Minutes.
- Proposed Budget Forms 1, 2, and 4B.

Cover Letter; Information Sheet.

7. According to the Record, the Territory is being formed “to provide increased funding for fire services which could not continue to be offered at current levels going forward to address increasing fire and EMS run demand and reduced volunteer service.” *Cover Letter*. The Units also state in their adopting ordinances and resolutions that “each of the Units believe that fire protection and emergency medical services can be more efficiently provided at the levels they believe to be appropriate for the citizens and property of those Units involved.” *Adopting Ordinances and Resolutions*.

8. On January 21, 2021, the Units conducted a public hearing that was advertised on January 9, 2021, in the *Journal Gazette*. *Fort Wayne Journal Gazette Publisher’s Claim*. At this public hearing, a powerpoint presentation was shown detailing the impact on property tax and miscellaneous revenues due to the establishment of the Territory. *New Haven Fire Department Presentation*.

9. On February 8, 2021, the Units held a second public hearing that was also advertised on January 9, 2021, in the *Journal Gazette*. *Fort Wayne Journal Gazette Publisher’s Claim*.

10. On March 1, 2021, the Cities adopted respective ordinances and the Townships respective resolutions, all identical, following a public hearing that same day, which was advertised on January 9, 2021, in the *Journal Gazette*. *Fort Wayne Journal Gazette Publisher’s Claim*. The ordinances and resolution provide that “the area constituting the Territory shall include the entire area of [Maumee Township] which includes the entire area of [City of Woodburn], the entire area of [Jefferson Township], the entire area of [City of New Haven], and the unincorporated areas of [Adam and Milan Townships].” They also provide that the City of New Haven is the provider unit, the remaining Units are participating units. An Interlocal Agreement is incorporated into the ordinances and resolutions. The ordinances and resolutions do not state that there shall be a uniform tax rate, however it is stated in the Interlocal Agreement. *Adopting Ordinances and Resolutions; Interlocal Agreement*. Finally, the ordinances and resolutions also establish an equipment replacement fund at a rate not to exceed three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed value. *Adopting Ordinances and Resolutions*. The equipment replacement fund will be addressed in a separate order from the Department. This order will only pertain to the maximum levy for the Territory’s operating fund.

11. In support of their request for an initial maximum levy of \$5,112,204, the Units provide budget documentation reflecting anticipated expenses for 2022 to total \$4,820,022 for the operating fund. This includes expenses for personal services (\$4,089,052); supplies (\$201,800);

other services and charges (\$529,170). *Financial Solutions Group 2022 Draft Budget Form 1 – Budget Estimate for Territory*. The Units also propose to establish an initial operating balance of \$538,514 for the operating fund which accounts for approximately 13% of estimated expenses. *Financial Solutions Group 2022 Draft Form 4B*.

12. The Units anticipate receiving as revenue for its operating fund in 2022 \$54,400 in CVET, \$277,000 in Excise Tax revenue, \$18,600 in FIT, and \$500,000 in other miscellaneous revenues. *Financial Solutions Group 2022 Draft Budget; Budget Form 2 – Estimates of Miscellaneous Revenues*.

13. The Units also report circuit breaker credits in the amount of \$184,489 for the operating fund. This amount was added as expenses (that is, represented as a positive integer and then added to the expense amount). *Financial Solutions Group 2022 Draft Form 4B*.

14. For purposes of the levy adjustments required by IC 36-8-19-12, the Units provided calculations showing that the City of New Haven will have a reduced levy by an amount of \$1,952,977, as applied to both the City’s general fund and cumulative fire fund. This amount is based on the budgeted pay-2021 expense for the City for fire protection and EMS. The City of Woodburn will not have a reduced levy as it does not have expenses attributable to fire services. *E-mail from Jeffrey M. Bellamy to David Marusarz, June 8, 2021, at 2:38 p.m., with attachment; Financial Solutions Group Document “Calculation of Property Tax Levy Used for Allocation of LIT Distributions for Territory”; Financial Solutions Group Document “Estimated Tax Rates for Fire Protection and EMS – City of New Haven”; e-mail from Jeffrey M. Bellamy to David Marusarz, June 11, 2021, at 12:11 p.m.*

ANALYSIS

15. In reliance on the Record as documented above, the Department finds that the Units complied with the procedural obligations under IC 36-8-19 in establishing the Territory.

16. The Department also finds that the Units have provided the Department with information sufficient to account for the Units’ calculation of an initial maximum levy of \$4,508,536 for the operating fund. Specifically, this figure reflects expenses for personal services (\$4,089,052); supplies (\$201,800); and other services and charges (\$529,170); less the following: CVET revenue (\$54,400); Excise revenue (\$277,000); FIT revenue (\$18,600); and other miscellaneous revenue (\$500,000).

17. The Department declines to add in the circuit breaker impact. Circuit breaker credits represent a loss of revenue to funds supported by a property tax levy. In addition, units are prohibited from increasing a property tax levy to make up for a reduction. See IC 6-1.1-20.6-9.5. Therefore, the estimated circuit breaker credits of \$184,489 will not be factored into the initial maximum levy calculation.

18. Thus, expenses totaling \$4,820,022, minus miscellaneous revenue of \$850,000, plus an operating balance of \$538,514 ($\$4,820,022 - \$850,000 + \$538,514$) equals a property tax levy of

\$4,508,536. The initial maximum levy for the Territory’s operating fund, therefore, is \$4,508,536.

19. For purposes of IC 36-8-19-9 and 12, the certified 2021 Budget Order for Allen County indicates that the Units each have the following funds from which fire protection services can be paid:

| Participating Unit | Fund Name | DLGF Fund Number |
|--------------------|-----------------|------------------|
| Adams Township | Township Fire | 1111 |
| Jefferson Township | Township Fire | 1111 |
| | Cumulative Fire | 1190 |
| Maumee Township | Township Fire | 1111 |
| | Cumulative Fire | 1190 |
| Milan Township | Township Fire | 1111 |
| | Cumulative Fire | 1190 |
| City of New Haven | General | 0101 |
| | Cumulative Fire | 1191 |
| City of Woodburn | General | 0101 |

Pursuant to IC 36-8-19-9 and 12, the township fire funds for each of the Townships will be eliminated and their levies reduced to \$0. Likewise, the cumulative fire funds for Jefferson, Maumee, and Milan Townships will be eliminated and their levies reduced to \$0. For the City of New Haven, the cumulative fire fund will be eliminated and its levy reduced to \$0. The City of New Haven’s civil maximum levy will be reduced by \$1,952,977. No adjustment will be applied to the funds or levies of the City of Woodburn, as the Units reported that the City has not made expenses out of its general fund and the City does not have a cumulative fire fund.

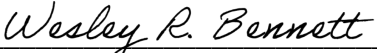
CONCLUSION

20. The Department hereby approves a Territory operating maximum levy of \$4,508,536 for Pay 2022. For Pay 2023, the maximum levy is reduced by \$538,514, as the Department does not allow a levy for an operating balance after the first year.

21. To ensure there is no double taxation as prohibited by IC 36-8-19-9, the Townships’ fire funds, including the cumulative fire fund, will be discontinued for 2022. The City of New Haven’s civil maximum levy will be reduced by \$1,952,977 and its cumulative fire fund discontinued for 2022.

Dated this 16th day of June, 2021.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE



Wesley R. Bennett, Commissioner