

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

**IN THE MATTER OF THE REQUEST)
OF GREEN TOWNSHIP, LIBERTY)
TOWNSHIP, AND THE TOWN)
OF NORTH LIBERTY, ST. JOSEPH) IML22-006
COUNTY, FOR THE ESTABLISHMENT)
OF AN INITIAL MAXIMUM LEVY FOR)
A FIRE PROTECTION TERRITORY)**

FINAL DETERMINATION

The Department of Local Government Finance (“Department”) has reviewed the request of Green Township and Liberty Township (“Townships”) and the Town of North Liberty (“Town”), all in St. Joseph County and hereafter referred to as “Units”, for an initial operating maximum levy for the Liberty – Green 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 Ind. Code § 36-8-19-6, to establish or expand a fire protection territory, the legislative bodies of each unit desiring to become a part of the proposed territory, or expand an existing fire protection 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 at least three (3) public hearings 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) An agreement as to how the property that is held by the territory will be disposed of if:
 - (A) a participating unit withdraws from the territory; or
 - (B) the territory is dissolved.
 - (5) The contents of the agreement to establish the territory.
- ii. Hold at least three (3) public hearings to receive public comment on the proposed ordinance or resolution, as follows:
 - (A) The first public hearing must be held at least thirty (30) days before adopting an ordinance or a resolution to form a territory.
 - (B) At least two (2) public hearings must be held after the first public hearing, with the last public hearing held not later than ten (10) days before adopting an ordinance or a resolution to form a territory.
 - iii. The legislative body must make 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.
 - iv. The notice required for the hearings 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 Ind. Code § 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 Ind. Code § 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 Ind. Code § 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 Ind. Code § 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.

RELEVANT PROCEDURAL HISTORY

6. On April 7, 2022, the Units submitted to the Department a petition for an initial maximum levy for the Territory. *Record, Cover Letter*. The petition included the following documents:

- Procedure Checklist.
- Budget and financial impact analysis, prepared by Cender | Dalton Municipal Advisors, financial advisor to Units.
- Town of North Liberty Ordinance.
- Greene Township Resolution.
- Liberty Township Resolution.
- Interlocal Agreement.
- Proofs of publication of legal notices (collectively "Public Notices").
- Proposed budgets for 2023 through 2025.

All of the documents referenced above are included in the Record.

Township Public Hearings

7. The notices of Township public hearings were first published on January 27, 2022, in the *Mishawaka Enterprise* and *South Bend Tribune*. Both notices stated that the Greene Township board and Liberty Township board will hold a public hearing on February 10, 2022, at 7:00 PM to consider the formation of a fire protection territory. *Mishawaka Enterprise Publisher's Claim for the January 27, 2022, public notice; South Bend Tribune Publisher's Claim for the January 27, 2022, public notice.*

8. Subsequent to the publication of the first notices, a second notice was published in the *Mishawaka Enterprise* and *South Bend Tribune* on February 10, 2022. This notice included the same information as in the prior notice, but added that there would be an additional public hearing held on February 24, 2022, at 7:00 PM in both North Liberty, Indiana and South Bend, Indiana. *Mishawaka Enterprise Publisher's Claim for the February 10, 2022, public notice; South Bend Tribune Publisher's Claim for the February 10, 2022, public notice.*

9. These notices also state the following:

- The Town of North Liberty and Greene Township would act as the participating units. Liberty Township would act as the provider unit.
- There will be a uniform property tax rate within the territory.
- A copy of the proposed ordinance and resolution was made available for public inspection at the public hearing locations.
- Persons seeking additional information may contact the Liberty Township trustee or Greene Township trustee.

Public Notices – Record, pp. 22-24; 26; 28.

10. Subsequent to the publication of the first and second notices, a third notice was published in the *Walkerton Area Shopper* on March 7, 2022. This notice specified that the third public hearing for Liberty Township and Greene Township would be held on March 17, 2022, at 7:00 PM in North Liberty, Indiana. Additionally, this notice specified that after this third public hearing, the two township boards would meet again on March 28, 2022, at 7:00 PM in South Bend, Indiana to either adopt, reject, or table the ordinance and interlocal agreement establishing the Liberty – Greene Fire Protection Territory. If enacted, the established Territory would include one of two proposed structures:

- (1) The territory would only include Liberty and Greene Townships, with Liberty Township acting as the provider unit; or
- (2) The territory would include Liberty Township, Greene Township, and the Town of North Liberty, with Liberty Township acting as the provider unit.

Record, p. 31.

11. This notice also stated the following:

- The proposed budget for 2023-2025 for both territory structures under discussion.
- The proposed property tax rate and levy for 2023-2025 for both territory structures under discussion.

- The Unit's share of levy based on net assessed value for 2023-2025 for both territory structures under discussion.
- A copy of the proposed ordinance and resolution was made available for public inspection at either township trustee's office.
- Persons seeking additional information may contact the Liberty Township trustee or Greene Township trustee.

Record, p. 31.

12. The Townships adopted a resolution, on March 28, 2022, to establish the Territory. *Greene Township Resolution; Liberty Township Resolution.*

Town Public Hearings

13. The notice of Town public hearings was first published on February 15, 2022, in the *South Bend Tribune*. The notice stated that the Units will hold a public hearing on February 25, 2022, at 5:00 PM in North Liberty, Indiana to consider the formation of a fire protection territory. *South Bend Tribune Publisher's Claim for the February 15, 2022, public notice.*

14. This notice also states the following:

- The Town of North Liberty and Greene Township would act as the participating units. Liberty Township would act as the provider unit.
- There will be a uniform property tax rate within the territory.
- A copy of the proposed ordinance and resolution was made available for public inspection at the public hearing locations.
- Persons seeking additional information may contact the Town of North Liberty Clerk's Office.

Public Notice – Record, p. 74.

15. Subsequent to the publication of the first notice, a second notice was published in the *South Bend Tribune* on March 3, 2022. This notice stated that the North Liberty Town Council will hold a second public hearing on March 15, 2022, at 5:00 PM in North Liberty, Indiana. Additionally, the notice stated that the North Liberty Town Council will hold a third public hearing on March 16, 2022, at 7:00 PM in North Liberty, Indiana. Additionally, the notice stated that the North Liberty Town Council would meet on March 31, 2022, at 5:00 PM to either adopt, reject, or table the ordinance and interlocal agreement establishing the Liberty – Greene Fire Protection Territory. *Public Notice – Record, p. 76.*

16. This notice also states the following:

- The proposed Territory budget for 2023-2025.
- The proposed Territory property tax rate and levy for 2023-2025.
- The Unit's share of levy based on net assessed value for 2023-2025.
- A copy of the proposed ordinance and resolution was made available for public inspection at either township trustee's office.

- Persons seeking additional information may contact the Liberty Township trustee or Greene Township trustee.

Public Notice – Record, p. 76.

17. The Town adopted an ordinance on March 31, 2022, to establish the Territory. *Town Ordinance.*

18. The ordinance and resolutions state the following:

- The Territory is established under the terms and conditions set forth in the Interlocal Agreement, attached to the ordinance and resolutions.
- The boundaries of the Territory include the unincorporated areas within the Townships, as well as the incorporated area of the Town.
- Liberty Township is the provider unit. The Town and the Townships are the participating units.
- There will be a uniform tax rate within the territory for both the Territory operating fund and the equipment replacement fund.
- There will be a Territory operating fund and equipment replacement fund maintained by the provider unit.

Town Ordinance; Greene Township Resolution; Liberty Township Resolution.

19. The Units also provide an Interlocal Agreement, pursuant IC 36-8-19-6(e)(5). The Interlocal Agreement reiterates several provisions of the ordinance and resolutions, but also includes other administrative matters concerning the Territory, such as:

- The establishment of the Liberty Township Fire Department.
- The responsibilities of the provider unit.
- The formation of a fire territory board to oversee the Territory.
- How the property used for the Territory will be disposed of in the event of withdrawal from the Territory.

Interlocal Agreement.

20. The financial impact analysis includes statements regarding the following:

- Detail of the proposed Territory operating budget for 2023-2025.
- Estimated tax levy and tax rate for the Territory for 2023-2025.
- Estimated property tax rate impact to other units within St. Joseph County, as if the Territory were in existence for 2022 Pay 2023.
- Estimated tax liability impact.
- Impact on selected revenues and circuit breaker credits.

Financial impact analysis.

21. Subsequent to the adoption of the ordinances and resolutions to establish the Territory, the Units adopted resolutions to establish an equipment replacement fund. This fund was advertised in the *South Bend Tribune* on March 18, 21, 25, and 28, 2022. These notices included similar information that was provided in the public hearing notice, but also included the date and time each township would meet to consider the establishment of a Fire Equipment Replacement Fund under Ind. Code § 36-8-19-8.5. *Public Notices*.

The Department will dispose of the equipment replacement fund in a separate and subsequent order.

ANALYSIS

22. The Town’s ordinance establishing the Territory was adopted by a vote of 4-0. *Town Ordinance*. Greene Township’s resolution by was adopted a vote of 2-0. *Greene Township Resolution*. Liberty Township’s resolution by was adopted a vote of 3-0. *Liberty Township Resolution*.

23. The notices of public hearings state the proposed tax rates and levies as follows:

Proposed Budget	2023	2024	2025
Fire Operating	\$1,236,200	\$1,262,471	\$1,300,345
Fire Territory Equipment and Replacement	\$136,064	\$140,195	\$144,198
Totals	\$1,372,264	\$1,402,666	\$1,444,543

Proposed Property Tax Levy	2023	2024	2025
Fire Operating	\$1,202,105	\$1,238,168	\$1,275,313
Fire Territory Equipment and Replacement	\$133,564	\$137,695	\$141,698
Totals	\$1,335,669	\$1,375,863	\$1,417,011

Proposed Uniform Property Tax Rate	2023	2024	2025
Fire Operating	\$0.2997	\$0.2997	\$0.2997
Fire Territory Equipment and Replacement	\$0.0333	\$0.0333	\$0.0333
Totals	\$0.3330	\$0.3330	\$0.3330

Public Notices.

24. The Units’ Detail of Proposed Operating Budget states the following totals for each budgeted category in the operating fund for 2023-2025:

Category	Proposed Amount		
	2023	2024	2025
Personal Services	\$690,975	\$711,704	\$733,055
Supplies	\$35,300	\$36,359	\$37,450
Services & Charges	\$484,425	\$498,958	\$513,926
Capital Outlays	\$25,500	\$15,450	\$15,914
Total	\$1,236,200	\$1,262,471	\$1,300,345

In addition, the Estimated Tax Levy and Tax Rate for Proposed Fire Protection Territory states the Units intend to budget in the equipment replacement fund for 2023-2025 to be as follows:

	Proposed Amount		
	2023	2024	2025
Equipment Replacement Fund	\$136,064	\$140,195	\$144,198

Record, pp. 4-5.

25. The notices of public hearings also state the Unit’s share of the proposed levy based on net assessed value for 2023-2025 as follows:

Unit	2023	2024	2025
Liberty Township	\$562,559	\$579,488	\$596,818
Greene Township	\$598,253	\$616,257	\$634,687
Town of North Liberty	\$174,857	\$180,119	\$185,506
Total	\$1,335,669	\$1,375,863	\$1,417,011

Public Notices.

26. The Estimated Tax Levy and Tax Rate for Proposed Fire Protection Territory states the Units intend to receive \$65,000 each year (2023-2025) from miscellaneous revenue, including estimated financial institutions tax, vehicle excise, CVET, and EMS revenue. *Record, p. 5.*

27. The Estimated Tax Levy and Tax Rate for Proposed Fire Protection Territory also states that the Territory will have the following projected operating balance for 2023-2025:

2023	\$30,905
2024	\$63,124
2025	\$130,034

Record, p. 5.

28. Indiana Code § 36-8-19-8(c) allows the provider unit to “maintain a reasonable balance, not to exceed one hundred twenty percent (120%) of the budgeted expensed.” For 2023, the Units represent that the Territory will have a budget of \$1,236,200 for the operating fund. Therefore, the Township can maintain an operating balance of \$1,483,440 ($\$1,236,200 \times 1.2 = \$1,483,440$). Therefore, a levy of \$1,202,105 would be less than what the law allows the provider unit to have as an operating balance. The projected 2023 operating balance is \$30,905. If the projected miscellaneous revenue (\$65,000) is being dedicated to the Territory, the overall total – including the projected operating balance – would still be less than what the law allows the provider unit to have as an operating balance ($\$1,202,105 + \$30,905 + \$65,000 = \$1,298,010$). The Department assumes that any LIT revenue would not be dedicated to the Territory, as doing so may bring the operating balance for the Territory above what is allowed by statute when added to the levy.

CONCLUSION

29. In reliance on the Record as documented above, the Department finds that the Units complied with the procedural obligations under Ind. Code § 36-8-19 in establishing the Territory. The Units, after publishing notices under Ind. Code § 36-8-19-6(b) and within information required by Ind. Code § 36-8-19-6(d), conducted the required number of public hearings and within the timeframe under Ind. Code § 36-8-19-6(b). The Units showed at that they made the information required under Ind. Code § 36-8-19-6(c) to available to the public. Finally, the Units also adopted identical ordinances within the timeframe required by Ind. Code § 36-8-19-6(b) and that contain the information required under Ind. Code § 36-8-19-6(e).

30. 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 \$1,202,105. Specifically, this figure reflects a projected operating balance (\$30,905); expenses for personal services (\$690,975); supplies (\$35,300); services and charges (\$484,425); and capital outlays (\$25,500); less non-property tax revenue (\$65,000) ($\$30,905 + \$690,975 + \$35,300 + \$484,425 + \$25,500 = \$1,267,105$; $\$1,267,105 - \$65,000 = \$1,202,105$).

31. The Department hereby approves a Territory operating maximum levy of \$1,202,105 for Pay 2023. This figure does not include any dollars attributable to an equipment replacement fund.

32. For purposes of Ind. Code § 36-8-19-9 and 12, the certified 2022 Budget Order for St. Joseph County indicates that Greene Township has the following fund from which fire protection services can be paid:

Participating Unit	Fund Name	DLGF Fund Number
Greene Township	Township Fire	1111

33. Pursuant to Ind. Code § 36-8-19-9 and 12, the township fire fund for Greene Township will be eliminated and its levy reduced to \$0.

Dated this 2nd day of August, 2022.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Wesley R. Bennett

Wesley R. Bennett, Commissioner