

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

**IN THE MATTER OF THE REQUEST)
OF BLUFFTON CIVIL CITY, HARRISON)
TOWNSHIP, AND LANCASTER)
TOWNSHIP, WELLS COUNTY, FOR THE)
ESTABLISHMENT OF AN INITIAL)
MAXIMUM LEVY FOR A FIRE) IML23-007
PROTECTION TERRITORY, AND)
IN THE MATTER OF AN ADJUSTMENT)
TO THE MAXIMUM LEVY OF THE)
TOWN OF VERA CRUZ, WELLS COUNTY,)
PURSUANT TO IC 36-8-19-13(b))**

FINAL DETERMINATION

The Department of Local Government Finance (“Department”) has reviewed the request of the City of Bluffton (“City”), Harrison Township, and Lancaster Township, all in Wells County and hereafter referred to as “Units”, for an initial operating maximum levy for a 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 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 August 2 (for an ordinance or resolution adopted in 2023).
 - (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 Ind. Code § 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 twenty-five (25) days before adopting an ordinance or a resolution to form a territory (for an ordinance or resolution adopted in 2023).
 - (B) At least two (2) public hearings must be held after the first public hearing, with the last public hearing held not later than five (5) days before adopting an ordinance or a resolution to form a territory (for an ordinance or resolution adopted in 2023).
- 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 27, 2023, the Units submitted to the Department a petition for an initial maximum levy for the Territory. *Cover Letter*. The petition included the following documents:

- Procedure Checklist.
- Financial impact analysis entitled "Proposed Bluffton Fire Territory Fire Protection Funding – Financial Impact Analysis" by Financial Solutions Group, Inc., financial advisor for the Units.

- Proofs of publication of legal notice.
- Interlocal agreement to form the Territory.
- City of Bluffton Ordinance No. 1589, dated March 23, 2023.
- Harrison Township Resolution, dated March 23, 2023.
- Lancaster Township Resolution, dated March 23, 2023.
- PowerPoint presentation on the proposed Territory.

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

7. The notice of public hearings was published on January 19, 2023, in the *Bluffton News-Banner*. The notice stated the following:

- The Units will hold public hearings on January 30, February 20, and March 13, 2023. The public hearings will be held at the Bluffton City Hall located at 128 East Market Street, Bluffton, Indiana 46714.
- The Units will vote on the establishment of the Territory after the third and final public hearing.
- The Townships are the participating units. The City is the provider unit.
- There will be a uniform property tax rate within the Territory.
- The first-year proposed budget, rate, and levy for the Territory, and the share of the levy and budget for each of the participating units.
- A copy of the proposed ordinance and proposed resolutions were made available for public inspection at Bluffton City Hall.
- Persons seeking additional information may contact the Mayor of the City's office or the Township trustees' office.

Bluffton News-Banner's Claim for the January 19, 2023 public notice.

8. The City adopted its ordinance on March 23, 2023, and the Townships adopted their resolutions on March 23, 2023, to establish the Territory. *City Ordinance No. 1589 and Townships' Resolutions.*

9. The ordinance and the resolutions state the following:

- The Territory is created under the terms of an interlocal agreement, incorporated by reference into the ordinance and the resolutions.
- The boundaries of the Territory will include the municipal boundaries of the City of Bluffton and extend to the boundaries of unincorporated Harrison Township and Lancaster Township.
- The City of Bluffton is identified as the provider unit.
- The participating units include all of the Units.
- The Territory shall have a uniform rate upon all taxable property in the Territory.

- A joint executive board shall be established for the purpose of performing “certain administrative, planning, and operating business of the Territory with the involvement of all the Participating Units subject to the terms of the Interlocal Agreement.”
- The participating units may delegate budget and fiscal responsibilities of the Territory to the joint executive board of the Territory.

City Ordinance No. 1589 and Townships’ Resolutions.

10. The interlocal agreement reiterates statements of the resolutions, but also includes the following:

- The creation and purpose of the Territory.
- The Territory shall be served by an executive board.
- The responsibilities of the executive board.
- The reorganization of the Bluffton Fire Department to serve the Territory.
- The Provider Unit shall prepare and submit to the executive board a proposed budget containing all proposed fees, salaries, depreciation, rents, supplies, equipment maintenance and repairs, contingencies, and all other expenses to be paid for fire protection necessary to meet operational expenses of the Territory. The proposed budget may not to exceed one hundred twenty percent of 120% of the budgeted expenses for fire services as allowed by Ind. Code § 36-8-19-8(c).
- The establishment of the Fire Protection Territory Fund.
- The incurrence of indebtedness, including approval by the Units and the Department in accordance with Ind. Code § 36-8-19-8 and Ind. Code § 36-8-19-9.
- Duration of agreement, expansion of Territory by participating units, and conditions of withdrawal from Territory.

Interlocal Agreement.

11. The PowerPoint presentation includes information regarding the following:

- Planned services and staffing levels.
- The projected five (5) year capital improvement needs.
- Financial impact analysis.
- Dates of other public hearings.
- The proposed 2025 budget.

PowerPoint Presentation.

ANALYSIS

12. The Harrison Township Board approved a resolution to establish the Territory by a vote of 2-0. *Harrison Township Resolution.* The Lancaster Township Board approved a resolution to establish the Territory by a vote of 3-0. *Lancaster Township Resolution.* The City of Bluffton Common Council approved an ordinance to establish the Territory by a vote of 3-0. *City Ordinance No. 1589.*

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

Proposed Budget	2024	2025	2026
Fire Operating	\$1,897,566	\$1,962,796	\$2,035,601
Fire Territory Equipment and Replacement	\$335,000	\$335,000	\$335,000
Debt Payment	\$200,000	\$200,00	\$200,000
Cash Balance	\$284,635	\$0.00	\$0.00
Totals	\$2,717,201	\$2,497,796	\$2,570,601

Proposed Property Tax Levy	2024	2025	2026
Fire Operating	\$2,427,862	\$1,774,268	\$1,842,916
Territory Debt Service	\$185,938	\$185,938	\$185,938
Fire Territory Equipment and Replacement	\$308,519	\$308,519	\$308,519
Totals	\$2,922,319	\$2,268,725	\$2,337,373

Proposed Uniform Property Tax Rate	2024	2025	2026
Fire Operating	\$0.2193	\$0.1969	\$0.2048
Debt Service Fund	\$0.0201	\$0.0201	\$0.0201
Fire Territory Equipment and Replacement	\$0.0333	\$0.0333	\$0.0333
Totals	\$0.2727	\$0.2503	\$0.2582

Assessed Value Levy Allocation	2024	2025	2026
City of Bluffton [Provider]	\$1,860,933	\$1,444,724	\$1,488,439
Lancaster Township	\$565,861	\$462,593	\$476,590
Harrison Township	\$465,525	\$361,408	\$372,344
Totals	\$2,992,319	\$2,268,725	\$2,337,373

Notices of Public Hearing.

14. The Units did not provide a copy of Budget Form 1, 2, or 4B. Instead, the Units provide an exhibit in the fiscal impact analysis entitled “Estimated Budget for 2024 to 2028 [Fire Protection]” The proposed 2024 to 2028 general fund budget is stated as follows:

	2024	2025	2026	2027	2028
Salaries & Wages	\$1,147,769	\$1,184,203	\$1,228,729	\$1,270,091	\$1,308,193
Personal Services	\$593,846	\$621,435	\$647,276	\$673,037	\$698,731
Supplies	\$47,250	\$47,724	\$48,677	\$49,649	\$50,643
Other Services & Charges	\$73,500	\$74,235	\$75,719	\$77,235	\$78,779
Capital Outlays	\$35,200	\$35,200	\$35,200	\$35,200	\$35,200
Debt Payments	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
Total	\$2,097,565	\$2,162,797	\$2,235,601	\$2,305,212	\$2,371,546

Estimated 2024 Fire Budget.

15. The fiscal impact documents then lists the projected revenues and estimated circuit breaker impact for 2024 through 2026. The included projected revenues estimate auto excise, financial institutions tax, and commercial vehicle excise tax at 7.5% of the levy. The Units purport the following revenues and circuit breaker impacts for 2024:

<u>Fire Territory Operating Fund</u>	
Estimated Levy	\$2,032,201
Miscellaneous Revenue	\$150,000
Total Revenues	\$2,182,201
<u>Fire Territory Debt Service Fund</u>	
Estimated Levy	\$185,938.43
Miscellaneous Revenue	\$14,062
Total Revenues	\$200,000.43
<u>Fire Territory Equipment Replacement Fund</u>	
Estimated Levy	\$308,519
Miscellaneous Revenue	\$26,481
Total Revenues	\$335,000
Total Revenues – All Funds	\$2,717,201.43
<u>Estimated Circuit Breaker Impact – Fire Funding</u>	
Harrison Township	\$1,098
Lancaster Township	\$162
Bluffton Civil City	\$11,695
Total Circuit Breaker Impact	\$12,955

Calculation of Estimated Fire Territory Tax Rate; Estimated Impact to Circuit Breaker Tax Credits. Thus, the Units expect a circuit breaker impact for the Territory of \$12,955, and \$190,543 in miscellaneous revenues. The property tax levy for the Territory for all funds is expected to decrease by approximately 22.4% for 2025 and then increase by approximately 3.0% in 2026. (\$2,268,725 in 2025; and \$2,337,373 in 2026). The corresponding budget is expected to decrease by 8.1% in 2025 and then increase by 2.9% in 2026. (\$2,497,796 in 2025; and \$2,570,601 in 2026).

16. The fiscal impact analysis states that the Territory requests operating fund maximum levy beginning with taxes payable in 2024 of \$2,032,201. *Territory Submission Letter.*

17. 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 2024, the Units represent that the Territory will have a budget of \$1,897,566 for the operating fund. Therefore, the Territory can maintain an operating balance of \$2,277,079.20 ($\$1,897,566 * 1.2 = \$2,277,079.20$). Therefore, a proposed levy of \$2,032,201 would be less than what the law

allows the provider unit to have as an operating balance. If the projected operating fund miscellaneous revenue (\$150,000) is being dedicated to the Territory, the overall total would still be less than what the law allows the provider unit to have as an operating balance ($\$2,032,201 + \$150,000 = \$2,182,201$). While the Territory's fiscal impact analysis includes the estimated LIT revenue for 2024 through 2026, the analysis does not indicate that any LIT revenue would not be dedicated to the Territory. The dedication of LIT revenue in excess of $\$94,878.20$ ($\$2,277,079.20 - \$2,182,201 = \$94,878.20$) may bring the operating balance for the Territory above what is allowed by statute when added to the levy.

18. For purposes of Ind. Code § 36-8-19-9 and 12, the certified 2023 Budget Order for Wells 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
Harrison Township	Territory General	8604
	Equipment Replacement	8692

The general fund and equipment replacement fund listed under Harrison Township is for the pre-existing Harrison-Lancaster Fire Territory, for which Harrison Township was the provider unit. The existing general fund and equipment replacement for Harrison-Lancaster Territory will be eliminated and considered replaced by the general fund and equipment replacement fund established by the Units for the new Territory.

19. The Department also recognizes that the Town of Vera Cruz, located in Harrison Township, is a participating unit of the Harrison-Lancaster Territory but will not be a participating unit of the new Territory. The Department has not been provided evidence that the Town of Vera Cruz withdrew from the Harrison-Lancaster Territory pursuant to Ind. Code § 36-8-19-13. However, to implement Ind. Code §§ 36-8-19-9 and 12, the Department shall consider the exclusion of the Town of Vera Cruz from the new Territory as a withdrawal of the Town from the former Harrison-Lancaster Territory. Therefore, although the Town does not appear to have formally withdrawn or the territory dissolved under Ind. Code § 36-8-19-13, the Department shall apply the adjustment to the Town's civil maximum levy under Ind. Code § 36-8-19-13(b).

20. Ind. Code § 36-8-19-13(b) provides that the maximum levy adjustment for a former participating unit shall equal the percentage of the assessed valuation that the participating unit contributed to the territory in the year in which the participating unit withdrew from the Territory. The Department estimated the maximum levy of the Harrison-Lancaster Territory for taxes payable in 2024 (including application of the maximum levy growth quotient) to be \$252,060. The Wells County Auditor certified the combined CNAVs of the former participating units of the Harrison-Lancaster Territory to be \$369,449,986. The Town of Vera Cruz contributed \$2,489,286, or approximately 0.67%, to this territory's CNAV. Multiplying the maximum levy of the territory (\$252,060) by the percentage contribution from the Town of Vera Cruz (0.67% or 0.0067) yields a result of \$1,689 ($\$252,060 * 0.0067 = \$1,689$). Pursuant to Ind. Code §§ 36-8-19-13(b), the Town of Vera Cruz shall remain liable for its share of any preexisting debt incurred for the Harrison-Lancaster Territory.

CONCLUSION

21. 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).

22. The Department also finds that the Units have provided the Department with information sufficient to account for the Units' calculation of an operating fund initial maximum levy of \$2,032,201.

23. Therefore, the Department **APPROVES** an initial maximum levy for the Territory operating fund in the amount of \$2,032,201 for Pay-2024. This figure does not include any dollars attributable to an equipment replacement fund or the fire territory debt service fund.

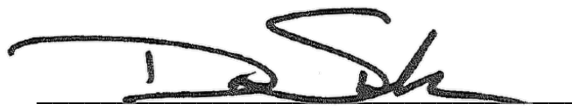
24. The general fund and equipment replacement fund for Harrison-Lancaster Fire Territory will be discontinued starting in 2024, to be replaced by the Territory general fund.

25. Pursuant to Ind. Code § 36-8-19-13(b), the civil maximum levy of the Town of Vera Cruz will be increased by \$1,689 for taxes first due and payable in 2024, including an adjustment by the maximum levy growth quotient. This shall be a one-time, permanent increase.

26. The Units have also submitted an equipment replacement fund for certification under Ind. Code § 6-1.1-41. The equipment replacement fund will be disposed of in a separate order.

Dated this 15 day of September, 2023.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE



Daniel Shackle, Commissioner