

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

**IN THE MATTER OF THE REQUEST)
OF CEDAR CREEK TOWNSHIP, SCIPIO)
TOWNSHIP, SPRINGFIELD TOWNSHIP,)
THE TOWN OF GRABILL, AND THE) IML22-009
TOWN OF LEO-CEDARVILLE, ALLEN)
COUNTY, FOR THE ESTABLISHMENT)
OF A NEW MAXIMUM LEVY FOR A FIRE)
PROTECTION TERRITORY)**

FINAL DETERMINATION

The Department of Local Government Finance (“Department”) has reviewed the request of Cedar Creek Township, Scipio Township, and Springfield Township (“Townships”) and the Town of Grabill and the Town of Leo-Cedarville (“Towns”), all in Allen County and hereafter referred to as “Units”, for a new operating maximum levy for the expansion of 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 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. The Town of Grabill and Springfield Township are currently participating units in the Northeast Allen Fire Protection Territory ("Territory"), and Cedar Creek Township is currently the provider unit of the Territory. The Town of Leo-Cedarville and Scipio Township are being added as a participating unit.

7. On May 3, 2022, the Units submitted to the Department a petition for a new maximum levy for the Territory. *Cover Letter; Record p. 1*. The petition included the following documents:

- Procedure Checklist.
- Financial impact analysis, prepared by Baker Tilly, financial advisor to Units.
- PowerPoint presentations by Baker Tilly and the Cedar Creek Township Fire Department.
- Town of Leo-Cedarville Ordinance No. 2022-04.

- Town of Grabill Ordinance No. 700-2022.
- Cedar Creek Township Resolution No. 22-002.
- Scipio Township Resolution No. 22-001.
- Springfield Township Resolution No. 2022-1.
- Interlocal Agreement.
- Proofs of publication of legal notices (collectively “Public Notices”).
- Drafts of Budget Forms 1, 2, and 4B for the pay-2023 tax year.

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

8. The notices of public hearings were published on February 1 and 8, 2022, in the *East Allen Courier* and the *Journal Gazette*. Both notices stated that a joint public hearing will be held by the Units on February 17, 2022, at 6:00 PM in Leo, Indiana to consider proposed ordinances and resolutions for the amendment of the existing Northeast Allen County Fire Protection Territory to include the Town of Leo-Cedarville and Scipio Township. The notices also state that the Units will hold an additional joint public hearing on March 10, 2022, at 6:00 PM in Grabill, Indiana, and on March 23, 2022, at 6:00 PM in Harlan, Indiana. *East Allen Courier Publisher’s Claim for the February 1 and 8, 2022, public notice, Record pp.102-103; Journal Gazette Publisher’s Claim for the February 1 and 8, 2022, public notice, Record 104-105.*

9. Subsequent to the publication of these notices, a revised public notice was published in the *East Allen Courier* and the *Journal Gazette* on March 1 and 8, 2022. This revised notice – published after the previously noticed February 17, 2022, public hearing – specified that a joint public hearing will be held by the Units on March 16, 2022, at 4:00 PM and 6:00 PM, both at the same location in Grabill, Indiana. The notices also state that the Units will hold a joint meeting to vote to adopt, reject, or table the establishment of the Territory on March 28, 2022, at 6:00 PM in Harlan, Indiana. *East Allen Courier Publisher’s Claim for the March 1 and 8, 2022, public notice, Record pp.106-107; Journal Gazette Publisher’s Claim for the March 1 and 8, 2022, public notice, Record 108-109.*

10. The notices also state the following:

- The Towns, Scipio Township, and Springfield Township are the participating units. Cedar Creek Township is the provider unit.
- There will be a uniform property tax rate within the territory.
- The proposed budget, rate, and levy for the Territory, and the share of the levy and budget for each of the participating units for the next three (3) years.
- 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 Townships’ trustees or the Towns’ clerk-treasurers.

Public Notices, Record pp. 100-109.

11. The Towns adopted an ordinance, and the Townships adopted a resolution, on March 28, 2022, to establish the Territory. *Town of Leo-Cedarville Ordinance, Record pp. 86-88; Springfield Township Resolution, Record pp. 89-91; Town of Grabill Ordinance, Record pp. 92-*

94; *Scipio Township Resolution, Record pp. 95-97; Cedar Creek Township Resolution, Record pp. 98-100.*

12. The ordinance and resolutions state the following:

- The Units agree to amend the existing Northeast Allen County Fire and EMS Territory to include the Town of Leo-Cedarville and Scipio Township.
- The area constituting the Territory includes the entire area of the Townships and the Towns.
- Cedar Creek Township is the provider unit. The Towns, Scipio Township, and Springfield Township 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.
- How the budget for the Territory will be approved each year.

Town of Leo-Cedarville Ordinance, Record pp. 86-88; Springfield Township Resolution, Record pp. 89-91; Town of Grabill Ordinance, Record pp. 92-94; Scipio Township Resolution, Record pp. 95-97; Cedar Creek Township Resolution, Record pp. 98-100.

13. The Units also provided 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 responsibilities of the provider unit, ordinance enforcement, changing of the provider unit, withdrawal from the territory, and the formation of an executive board to oversee the Territory. *Interlocal Agreement, Record pp. 64-85.*

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

- Current funding for fire services in the Territory, the Town of Leo-Cedarville, and Scipio Township.
- Estimated funding sources and requirements of the proposed territory.
- Estimated tax liability impact.
- Impact on selected revenues and circuit breaker credits.

Financial impact analysis; Record, pp. 5-26.

15. There were two PowerPoint presentations provided. One presentation was provided by Baker Tilly and includes information related to the need for the Territory, current and proposed funding sources, tax and circuit breaker credit impacts, the needed budget for the Territory, and the proposed tax rates. *Baker Tilly PowerPoint presentation; Record, pp. 28-53.* The second presentation was provided by the current Territory fire department and includes information about staffing needs and expected expansion in future years. *Territory Fire Department presentation; Record pp. 55-62.*

ANALYSIS

16. The Town of Leo-Cedarville’s ordinance establishing the Territory was adopted by a vote of 3-1. *Town of Leo-Cedarville Ordinance, Record pp. 86-88.* Springfield Township’s resolution was adopted a vote of 2-0. *Springfield Township Resolution, Record pp. 89-91.* The Town of Grabill’s ordinance establishing the Territory was adopted by a vote of 2-1. *Town of Grabill Ordinance, Record pp. 92-94.* Scipio Township’s resolution was adopted by a vote of 2-1. *Scipio Township Resolution, Record pp. 95-97.* Cedar Creek Township’s resolution was adopted by a vote of 2-1. *Cedar Creek Township Resolution, Record pp. 98-100.*

17. The notices of public hearings published in *East Allen Courier* state the proposed tax rates and levies as follows:

Proposed Budget	2023	2024	2025
Fire Operating	\$3,132,087	\$3,255,100	\$3,383,224
Fire Territory Equipment and Replacement	\$436,680	\$459,259	\$482,699
Totals	\$3,568,767	\$3,714,359	\$3,865,923
Proposed Property Tax Levy	2023	2024	2025
Fire Operating	\$3,093,075	\$2,850,932	\$2,967,976
Fire Territory Equipment and Replacement	\$398,431	\$419,032	\$440,419
Totals	\$3,491,706	\$3,269,964	\$3,408,395
Proposed Uniform Property Tax Rate	2023	2024	2025
Fire Operating	\$0.2585	\$0.2266	\$0.2244
Fire Territory Equipment and Replacement	\$0.0333	\$0.0333	\$0.0333
Totals	\$0.2918	\$0.2599	\$0.2577

Public Notices, Record pp. 102-103; 106-107.

18. The notices of public hearings published in *Journal Gazette* state the proposed tax rates and levies as follows:

Proposed Budget	2023	2024	2025
Fire Operating	\$3,132,087	\$3,254,800	\$3,383,100
Fire Territory Equipment and Replacement	\$436,681	\$459,263	\$482,707
Totals	\$3,568,768	\$3,714,063	\$3,865,807
Proposed Property Tax Levy	2023	2024	2025
Fire Operating	\$3,026,260	\$2,850,632	\$2,967,852
Fire Territory Equipment and Replacement	\$398,432	\$419,036	\$440,426
Totals	\$3,424,692	\$3,269,668	\$3,408,278
Proposed Uniform Property Tax Rate	2023	2024	2025
Fire Operating	\$0.2529	\$0.2265	\$0.2244
Fire Territory Equipment and Replacement	\$0.0333	\$0.0333	\$0.0333
Totals	\$0.2862	\$0.2598	\$0.2577

Public Notices, Record pp. 104-105; 108-109.

19. The Units' Budget Form 1 states the following totals for each budgeted category in the operating fund for 2023:

<u>Category</u>	<u>Proposed Amount</u>
Personal Services	\$2,697,674
Supplies	\$141,800
Services and Charges	\$242,613
Capital Outlays	\$50,000
Total	\$3,132,087

In addition, the Form 1 states the Units intend to budget \$436,681 in the equipment replacement fund for other capital outlays. *Budget Form 1, Record pp. 111-112.*

20. The Units' Budget Form 2 states the following estimated non-property tax revenues to be distributed into the operating fund for 2023:

<u>Revenue</u>	<u>Estimated Amount</u>
Vehicle Excise Tax	\$266,500
EMS Revenue	\$80,000
Total	\$346,500

Likewise, the Units anticipate \$38,249 from vehicle excise taxes to go into the equipment replacement fund. *Budget Form 2, Record pp. 113-114.*

21. The Budget Form 4B specifies for the operating fund a proposed tax levy for 2023 of \$2,785,587¹ and estimated non-property tax revenue of \$346,500. It also states that the Units anticipate a loss of \$40,112 due to circuit breaker credits. *Budget Form 4B, Record p. 115.*

22. 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 \$3,132,087 for the operating fund. Therefore, the Township can maintain an operating balance of \$3,758,504 ($\$3,132,087 * 1.2 = \$3,758,504$). Therefore, a levy of \$2,785,587 would be less than what the law allows the provider unit to have as an operating balance. If the projected miscellaneous revenue (\$346,500) is being dedicated to the Territory, the overall total – including the projected EMS revenue – would still be less than what the law allows the provider unit to have as an operating balance ($\$2,785,587 + \$266,500 + \$80,000 = \$3,132,087$). 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.

¹ Although the proposed 2023 operating fund tax levy included in the Territory new maximum petition (\$2,785,587) is different from the proposed levy amount in final public hearing notices, the proposed 2023 tax levy included in the petition is less than the proposed 2023 tax levy included in the *East Allen Courier* (\$3,093,075) and the *Journal Gazette* (\$3,026,260).

CONCLUSION

23. 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 expanding 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) available to the public. Finally, the Units also adopted identical ordinances and resolutions 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).

24. The Department also finds that the Units have provided the Department with information sufficient to account for the Units' calculation of a new maximum levy of \$2,785,587. Specifically, this figure reflects expenses for personal services (\$2,697,674); supplies (\$141,800); services and charges (\$242,613); and capital outlays (\$50,000) less non-property tax revenue (\$346,500) ($\$2,697,674 + \$141,800 + \$242,613 = \$3,132,087$; $\$3,132,087 - \$346,500 = \$2,785,587$).

25. The Department hereby approves a Territory operating maximum levy of \$2,785,587 for Pay 2023. This figure does not include any dollars attributable to an equipment replacement fund.

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

Participating Unit	Fund Name	DLGF Fund Number
Scipio Township	Township Fire	1111
Town of Leo-Cedarville	Cumulative Fire	1191

27. Pursuant to Ind. Code § 36-8-19-9 and 12, the township fire fund for Scipio Township and cumulative fire fund for the Town of Leo-Cedarville 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, Commissioner