

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

**IN THE MATTER OF THE REQUEST)
OF UNION TOWNSHIP AND RICHLAND)
TOWNSHIP, MADISON COUNTY, FOR) IML21-005
THE ESTABLISHMENT OF AN INITIAL)
MAXIMUM LEVY FOR THE EAST)
MADISON FIRE PROTECTION)
TERRITORY)**

FINAL DETERMINATION

The Department of Local Government Finance (“Department”) has reviewed the request of Union Township and Richland Township (“Units”), for an initial operating maximum levy for the East Madison 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 \$2,697,396 for 2022. The Record contains the following documents:

- Cover letter.
- Public Presentation by Chesterton-Union Township and Richland Township Fire Departments.
- Baker Tilly Financial Impact Analysis.
- Public Presentation by Baker Tilly.
- Richland Township Board Resolution 3.14.2021A.
- Union Township Board Resolution 04-2021.
- East Madison Fire Protection Territory Agreement
- Proofs of publication of legal notices.
- Proposed Budget Forms 1, 2, and 4B.

The petition had also stated that the Units adopted an equipment replacement fund. *Cover Letter; Information Sheet.*

7. According to the Record, the Territory is being formed "to provide an alternative funding source for fire services and to spread the costs of the service more equitably throughout the Territory." *Cover Letter.* The Units also state in their adopting ordinances and resolutions that the Units "for not have the independent financial ability to provide fire protection and emergency

medical services at the levels they believe to be appropriate for the citizens and property of those entities,” such that it is in their best interest to for the Territory. *Adopting Resolutions.*

8. On February 2, 2021, the Units conducted a public hearing that was advertised on January 20 and 27, 2021, in the *Anderson Herald Bulletin* and the *Alexandria Times Tribune*. *Anderson Herald Bulletin Publisher’s Claim; Alexandria Times Tribune Publisher’s Claim.* At this public hearing, a powerpoint presentation was given detailing the need for the Territory and the goals in forming the Territory. *Fire Department Presentation.* Another presentation was given by Baker Tilly showing the fiscal impact analysis of forming the Territory. *Baker Tilly Presentation.*

9. On February 23, 2021, the Units conducted a second public hearing that that was also advertised on January 20 and 27, 2021, in the *Anderson Herald Bulletin* and the *Alexandria Times Tribune*. *Anderson Herald Bulletin Publisher’s Claim; Alexandria Times Tribune Publisher’s Claim.*

10. On March 4, 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 20 and 27, 2021, in the *Anderson Herald Bulletin* and the *Alexandria Times Tribune*. *Anderson Herald Bulletin Publisher’s Claim; Alexandria Times Tribune Publisher’s Claim.* The ordinances and resolution provide that “the area constituting the [Territory] shall include the unincorporated areas of Union Township and Richland Township” They also provide that Union Township is the provider unit. *Adopting Resolutions.* An Interlocal Agreement is incorporated into the ordinances and resolutions. The Interlocal Agreement states that there shall be a uniform tax rate. *Interlocal Agreement.*

11. In support of their request for an initial maximum levy of \$2,697,396, the Units provide budget documentation reflecting anticipated expenses for 2022 to total \$2,999,269 for the operating fund. This includes expenses for personal services (\$2,307,269); supplies (\$279,000); other services and charges (\$413,000). *Baker Tilly 2022 Draft Budget Form 1 – Budget Estimate for Territory.*

12. The Units anticipate receiving as revenue for its operating fund in 2022 \$199,200 in Excise Tax revenue, \$17,100 in LIT Certified Shares, \$270,500 in EMS fees, and \$115,000 from a contract with the Town of Chesterfield. *Baker Tilly 2022 Draft Budget; Budget Form 2 – Estimates of Miscellaneous Revenues.*

ANALYSIS

13. 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.

14. 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 \$2,697,396 for the operating fund. Specifically, this figure reflects expenses for personal services (\$2,307,269); supplies (\$279,000); and other services and charges (\$413,000); less the following: Excise revenue (\$199,200); LIT revenue (\$17,100); EMS fees (\$270,500); and a fire services contract

(\$115,000). Thus, expenses totaling \$2,999,269, minus miscellaneous revenue of \$601,800, plus an operating balance of \$299,927 ($\$2,999,269 - \$601,800 + \$299,927$) equals a property tax levy of \$2,697,396.

15. For purposes of IC 36-8-19-9 and 12, the certified 2021 Budget Order for Madison 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
Richland Township	Township Fire	1111
	Cumulative Fire	1190
Union Township	Township Fire	1111
	Cumulative Fire	1190

Pursuant to IC 36-8-19-9 and 12, the township fire funds and cumulative fire funds for each of the Townships will be eliminated and their levies reduced to \$0.

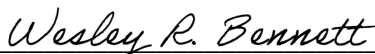
CONCLUSION

16. The Department hereby approves a Territory operating maximum levy of \$2,697,396 for Pay 2022. This figure does not include an amount for the equipment replacement fund. For Pay 2023, the maximum levy is reduced by \$299,927, as the Department does not allow a levy for an operating balance after the first year.

17. 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 2021.

Dated this 16th day of June, 2021.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE



Wesley R. Bennett, Commissioner