

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

IN THE MATTER OF THE REQUEST)
OF BEECH CREEK TOWNSHIP, CENTER)
TOWNSHIP, AND JACKSON TOWNSHIP,) IML23-006
GREENE 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 Beech Creek Township, Center Township, and Jackson Township, all in Greene 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 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 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 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 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 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.

RELEVANT PROCEDURAL HISTORY

6. On April 17, 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 "Eastern Greene Fire Territory Establishment – Uniform Rate" by Reedy Financial Group, financial advisor for the Units.
- Proposed 2024 budget.
- Proofs of publication of legal notice.
- Interlocal agreement to form the Territory.
- Beech Creek Township Resolution, dated March 20, 2023.
- Center Township Resolution, dated March 20, 2023.
- Jackson Township Resolution, dated March 20, 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 24, 2023, in the *Greene County Daily World*. The notice stated that the Units will hold public hearings on February 6, February 13, and March 8, 2023. The notices also state that the Units will vote on the establishment of the Territory on March 20, more than ten (10) days after the third and final public hearing. *Greene County Daily World's Claim for the January 24, 2023 public notice.*

8. The Units adopted their own resolutions on March 20, 2023, to establish the Territory. *Units' Resolutions.*

9. The resolutions state the following:

- The Territory is created under the terms of an interlocal agreement, incorporated by reference into the resolutions.
- The boundaries of the Territory will include the boundaries of Beech Creek Township, Center Township, and Jackson Township.
- Center Township 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.

Units' Resolutions.

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

- The Territory shall be served by an executive board.
- The Provider Unit shall prepare a budget necessary to meet operational expenses of the Territory, with an operating balance not to exceed one hundred twenty percent of 120% of the tax levy required to fund the budget.
- Upon withdrawal from or dissolution of the Territory, how capital assets are to be dispersed.

Interlocal Agreement.

11. The powerpoint presentation includes information regarding the following:

- The proposed Territory is an expansion of an existing fire territory consisting of Center Township and Jackson Township. The expansion was decided upon due to the shortage of volunteer firefighters.
- Personnel, assets, and run volumes of the Center-Jackson Fire Territory and the Beech Creek Fire Department.
- Current funding and equipment needs.
- Future plans to expand.
- The proposed 2024 budget.

Powerpoint presentation.

ANALYSIS

12. The Center Township Board approved a resolution to establish the Territory by a vote of 3-0. *Center Township Resolution.* The Beech Creek Township Board approved a resolution to establish the Territory by a vote of 2-0. *Beech Creek Township Resolution.* The Jackson

Township Board approved a resolution to establish the Territory by a vote of 3-0. *Jackson Township Resolution.*

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

Proposed Budget	2024	2025	2026
Fire Operating	\$475,000	\$283,500	\$492,170
Fire Territory Equipment and Replacement	\$75,000	\$75,000	\$75,000
Totals	\$550,000	\$558,500	\$567,170
Proposed Property Tax Levy	2024	2025	2026
Fire Operating	\$500,000	\$520,000	\$540,800
Fire Territory Equipment and Replacement	\$79,539	\$81,681	\$84,948
Totals	\$578,539	\$601,681	\$625,748
Proposed Uniform Property Tax Rate	2024	2025	2026
Fire Operating	\$0.2120	\$0.2120	\$0.2120
Fire Territory Equipment and Replacement	\$0.0333	\$0.0333	\$0.0333
Totals	\$0.2453	\$0.2453	\$0.2453
Assessed Value Levy Allocation	2024	2025	2026
Beech Creek Township	\$201,326	\$209,379	\$217,754
Jackson Township	\$138,373	\$143,907	\$149,664
Totals	\$578,539	\$601,681	\$625,748

Notices of public hearing. Indiana Code 36-8-19-6(d)(6) requires that the notice must state “[t]he proposed levies and tax rates for each participating unit, and whether a tax rate will be implemented over a number of years under [IC 36-8-19-7(c)].” The notice did not include an assessed value levy allocation for Center Township. Subtracting the allocations for Beech Creek and Jackson Townships from the total, the balance attributable to Center Township would be \$238,840 for 2024, \$248,395 for 2025, and \$258,330 for 2026. The notice did not expressly state whether the tax rate will be phased-in over a number of years, however the chart above shows that the rate is expected to be the same from 2024 through 2026. The Department interprets this to mean the tax rate will not be phased-in.

14. The Units did not provide a copy of Budget Form 1, 2, or 4B. Instead, the Units provide a document entitled “Estimated 2024 Fire Budget” and a fiscal impact statement entitled “Eastern Greene Fire Territory Establishment – Uniform Rate.” The proposed 2024 general fund budget is stated as follows:

Insurance	\$45,000
Vehicle Repairs & Fuel	\$50,000
Utilities & Building Maintenance	\$35,000
General OS&C	\$100,000
Clothing & Run Money	\$10,000
Wages	\$235,000

Total \$475,000
Estimated 2024 Fire Budget.

15. The proposed budget document then lists the projected revenues and expenses for 2024 through 2027. The Units purport the following revenues and expenses for 2024:

General Property Taxes	\$500,000
Circuit Breaker	(\$60,705)
General Property Taxes (after circuit breaker)	\$439,295
FIT Distribution	\$10,000
Vehicle/Aircraft Excise Tax Distribution	\$25,000
CVET Distribution	\$5,000
Total Revenues	\$479,295
Certified Budget	\$475,000
Additional Appropriations	\$0
Total Spending Authority	\$475,000
Personal Services	\$245,000
Supplies	\$50,000
Other Services and Charges	\$180,000
Capital Outlays	\$0
Total Budget	\$475,000

Estimated 2024 Fire Budget. Thus, the Units expect a circuit breaker impact for the Territory general fund of \$60,705, and \$40,000 in miscellaneous revenues. The property tax levy for the Territory general fund is expected to grow approximately 4% each year until 2027 (\$498,466 in 2025; \$518,405 in 2026; \$539,141 in 2027). The corresponding budget for each year is expected to grow by approximately 1.8% (\$483,500 in 2025; \$492,170 in 2026; and \$501,013 in 2027). The Units represent that by end of 2024, there will be a year-end general fund balance of \$4,295 (\$479,295 - \$475,000 = \$4,295). The year-end balance is expected to increase each year to \$19,261 in 2025; \$45,496 in 2026; and \$83,624 in 2027.

16. The “Eastern Greene Fire Territory Establishment – Uniform Rate” document states that the Territory general fund will be used for operational expenses while the equipment replacement fund will pay for ongoing capital expenses. This document reiterates the proposed initial general fund budget for the Territory will be \$475,000 and the initial levy to be \$500,000. *Fiscal Impact Analysis.*

17. Ind. 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 \$475,000 for the operating fund. Therefore, the Township can maintain an operating balance of \$570,000 ($\$475,000 * 1.2 = \$570,000$). Therefore, a proposed levy of \$500,000 would be less than what the law allows the provider unit to have as an operating balance. The projected 2024 operating balance is \$4,295. If the projected miscellaneous revenue (\$40,000) 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 (\$500,000 + \$40,000 = \$540,000). 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.

18. The Units apply the circuit breaker impact (\$60,705) to a pre-determined proposed levy of \$500,000 to arrive at a projected levy of \$439,295 which, when added to expected miscellaneous revenues of \$40,000, totals \$479,295. This is sufficient to produce funding for the proposed 2024 general fund budget (\$475,000), leaving a year-end balance of \$4,295. Therefore, an initial maximum levy of \$439,295 will be sufficient to fund the 2024 budget.

19. For purposes of IC 36-8-19-9 and 12, the certified 2023 Budget Order for Greene 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
Beech Creek Township	Township Fire	1111
	Cumulative Fire	1190
	Territory General	8604
Center Township	Equipment Replacement	8690

The general fund and equipment replacement fund listed under Center Township is for the Center-Jackson Fire Territory, for which Center Township is the provider unit. Pursuant to IC 36-8-19-9 and 12, the township fire fund and cumulative fire fund for Beech Creek Township will be eliminated and their levies reduced to \$0. The existing general fund and equipment replacement for Center-Jackson Fire Territory will be eliminated and considered replaced by the general fund and equipment replacement fund established by the Units for the new Territory.

CONCLUSION

20. 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. The Units, after publishing notices under IC 36-8-19-6(b) and within information required by IC 36-8-19-6(d), conducted the required number of public hearings and within the timeframe under IC 36-8-19-6(b). The Units showed at that they made the information required under IC 36-8-19-6(c) to available to the public. Finally, the Units also adopted identical ordinances within the timeframe required by IC 36-8-19-6(b) and that contain the information required under IC 36-8-19-6(e).

21. 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 \$439,295. Specifically, this figure reflects a projected operating balance (\$4,295); an estimated general fund budget (\$475,000); less non-property tax revenue (\$40,000) (\$475,000 + \$4,295 = \$479,295; \$479,295 - \$40,000 = \$439,295).

22. Therefore, the Department **APPROVES** an initial maximum levy for the Territory operating fund in the amount of \$439,295 for Pay-2024. This figure does not include any dollars attributable to an equipment replacement fund.

23. For purposes of Ind. Code § 36-8-19-9 and 12, the firefighting fund and cumulative fire fund for Beech Creek Township will be discontinued starting in 2024. Likewise, the general fund and equipment replacement fund for Center-Jackson Fire Territory will be discontinued starting in 2024, to be replaced by the Territory general fund.

24. 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 4 day of August, 2023.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

A handwritten signature in black ink, appearing to read 'D Shackle', is written over a horizontal line.

Daniel Shackle, Commissioner