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

IN THE MATTER OF THE REQUEST OF SOUTHWEST ALLEN COUNTY FIRE PROTECTION DISTRICT, FOR AN EXCESS LEVY DUE TO AN EXTENSION OF SERVICES	)))))	**A23-003-A**

On November 21, 2023, the Department of Local Government Finance ("Department") approved an excess levy for Southwest Allen County Fire Protection District ("District") in the amounts of $1,658,542 for 2023-pay-2024 and $1,381,723 for 2024-pay-2025 for an extension of services. The excess levy was approved on the basis of an extension of services into Marion Township in Allen County.

Subsequently, the District provided the Department with a written response. The response included the following statements:

- The Allen County Board of Commissioners ("County Board") decided to create several new fire districts and expand the District with the goal "to have Fire and Paramedic service to all residents of Allen County not covered by the City of Fort Wayne." Expanding the District's services into Marion Township was part of this plan due to common geographic boundaries.

- The District is the largest of all the fire protection districts in Allen County by square miles covered. The District will have 3 staffed fire stations including one in Marion Township, in accordance with County Board guidelines.

- The District was told that it "would receive the same consideration given to the newly created districts when setting our levy" and "the newly created districts received a levy large enough to support the staffing as directed by the [County Board]."

- The District is expanding it service area into Marion Township as well as to its existing service area by "going from a Firefighter/EMT staff to a Firefighter/Paramedic staff)," as directed by the County Board.

- The approved excess levy makes it appear that the District is "being penalized for being an established fire district compared to the newly formed districts."

Subsequently, the Department received on January 3, 2024, a letter from the County Board requesting reconsideration. The Department also became aware between communications between the District and Department staff earlier in 2023, wherein Department staff advised the

District to submit an extension of services appeal under the fact scenario provided by the District.

Ind. Code § 36-8-11-11 provides that "[t]o add area to a fire protection district already established, the same procedure must be followed as is provided for the establishment of a district." In reliance on this, the Department has processed new maximum levy requests under Ind. Code § 6-1.1-18.5-7 for a fire protection district that has essentially been re-established as a result of adding new area to its jurisdiction.[1] However, the Department gave the District wrong information about the process that should have been pursued. The Department regrets this error. For any further expansion by a fire protection district, in Allen County or elsewhere in the state, the initial maximum levy process under Ind. Code § 6-1.1-18.5-7 and not the extension of services appeal should be used.

Therefore, in light of the foregoing, the Department amends its November 21 order as follows:

First, the Department finds that the District has demonstrated a levy adjustment of $6,538,189 based on the following budgeted expenses for pay-2024:

Category	**Budgeted Amount for 2024**	**Budgeted With Excess Levy**
Personal Services	$4,061,069	$7,108,436
Supplies	$232,300	$297,800
Other Services and Charges	$687,801	$861,564
Capital Outlays	$525,000	$525,000
Grand Total	**$5,506,170**	**$8,792,800**

As stated in the November 12 order, the District represents that it expects to receive $792,800 in miscellaneous revenue in pay-2024. Therefore, the requested excess levy is $8,000,000. Later, the District clarified that its actual excess levy request is the difference between the desired levy of $8,000,000 and the District's estimated 2024 maximum levy of $1,708,495[2]. Therefore, in order to have a maximum levy of $8,000,000 for pay-2024, the amount of revenue that would have to be generated is $6,291,505 ($8,000,000 - $6,291,505). This amount will be the starting point for the Department's amended approval of the District's excess levy appeal, to be further adjusted as follows.

Typically, the Department takes into account the fact that an increased maximum levy will generate additional excise tax revenue. The Department will not do so here because as noted

[1] See Department Order 14-004-ESTABLISHMENT, dated December 23, 2014 ("Exhibit A"); Department Order 18-004-ESTABLISHMENT, dated September 24, 2018 ("Exhibit B"); Department Order 20-002-ESTABLISHMENT, dated August 28, 2020 (amended September 24, 2020) ("Exhibit C").

[2] The November 12 order incorrectly stated the District's estimated 2023 maximum levy.

above the District has already accounted for miscellaneous revenue in its pay-2024 budget. Therefore, the excess levy for 2024 will remain at $6,291,505.

However, the Department will take into account the fact that an increased maximum levy will generate additional local income tax ("LIT") revenue for 2025. This includes the increase in attributable allocation and an increase to the District's distribution under IC 6-3.6-6-3(a)(2). Increasing the District's maximum levy by $6,291,505 for 2024 will increase the District's 2025 LIT attributed allocation to $8,568,335 ($2,276,830 plus $6,291,505) and the countywide LIT attributed allocation to $430,218,660 ($423,927,155 plus $6,291,505). The District's $8,568,335 attributed allocation will constitute approximately 1.9916% of the 2025 countywide attributed allocation of $430,218,660.

Since a unit's certified shares of LIT are affected by changes in the unit's property tax levy, a 276.3274% increase to the District's 2025 attributed allocation means the District is estimated to receive approximately $1,038,774 in additional LIT certified shares. Thus, adjusting the excess levy to $5,252,731 ($6,291,505 - $1,038,774) for 2025 will then provide the District with the levy it is seeking after taking into account additional revenues.

Therefore, the Department rescinds the amounts approved in the November 21 order, $1,658,542 in 2023-pay-2024 and $1,381,723 in 2024-pay-2025, and replaces them with the following approved amounts. First, for **2023-pay-2024**, the excess levy is approved for **$6,291,505**. When combined with the existing maximum levy adjusted by the MLGQ, this will total $8,000,000 ($1,708,495 + $6,291,505 = $8,000,000), the amount actually desired by the District. For **2024-pay-2025**, the excess levy is reduced to **$5,252,731**, to account for the additional LIT certified shares the District will receive in pay-2025.

This is a permanent increase and does not include an increase by the maximum levy growth quotient.

Dated this 5 day of January, 2024.

Daniel Shackle, Commissioner

EXHIBIT A
Department Order 14-004-ESTABLISHMENT

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

IN THE MATTER OF THE REQUEST OF NEW GOSHEN FIRE PROTECTION DISTRICT, VIGO COUNTY, FOR THE ESTABLISHMENT OF AN INITIAL MAXIMUM LEVY	)))))	**14-004-ESTABLISHMENT**

The Department of Local Government Finance ("Department") has reviewed the request of New Goshen Fire Protection District ("District") for an initial maximum levy in the amount of $214,384.

The District is already an existing civil taxing unit. It alleges that certain freeholders in Fayette Township petitioned the Vigo County Commissioners in 2012 pursuant to IC 36-8-11-5 to be added to the District's jurisdiction.

After a review of the petition, the Department, following IC 6-1.1-18.5-7 and IC 36-8-11, and in consideration of all evidence provided, finds as follows:

DENIED:

The Department cannot approve the requested maximum levy because the District has not substantiated that its re-establishment is legally valid.

Indiana Code 36-8-11-11 is explicitly clear that to add area to a fire protection district already established, "the same procedure must be followed as is provided for the establishment of a district." Freeholders who desire the establishment of a fire protection district must initiate proceedings by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition must be signed by "at least twenty percent (20%), with a minimum of five hundred (500), of the freeholders owning land **within the proposed district**" or "by a majority of those freeholders owning land **within the proposed district**," whichever number is less (IC 36-8-11-5; emphasis added). In other words, the petition must be signed by a requisite number of taxpayers owning land *within the proposed district*, not just the area to be added "to a fire protection district already established".

Here, the District has provided a copy of a "Petition to be Added to and Become a Part of an Existing Fire Protection District" and a copy of an "Amended Petition to be Added to and Become a Part of an Existing Fire Protection District." The petitions contain approximately 43 and 20 signatures, respectively. The petitions intimate that the signatories are Fayette Township residents seeking to be added to the District's jurisdiction.

The District has not substantiated that either petition satisfies the criteria under IC 36-8-11-5. Specifically, the District has not evidenced that either petition contains signatures of "at least twenty percent (20%), with a minimum of five hundred (500), of the freeholders owning land within the proposed district" or of "a majority of those freeholders owning land within the proposed district." It appears that the petitions contain signatures only from freeholders in the area seeking to be added to the District's jurisdiction. To be valid, a petition would have to include the requisite number signatures based on the population of freeholders in the *entire* proposed district, not just the area to be added to an existing district.

Even if statute permitted only those freeholders seeking to be added to the jurisdiction of an existing fire protection district to sign the petition, the District has not evidenced that either petition contains the requisite number of signatures of those freeholders.

The Department notes that it requested copies of any newspaper advertisements addressed to the entire jurisdiction of the District concerning the proposed expansion. The District was unable to locate any such advertisements.

In sum, the District has not substantiated that it satisfied both IC 36-8-11-11 and IC 36-8-11-5. Consequently, the Department is without legal authority to approve the requested maximum levy.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Courtney L. Schaafsma

Courtney L. Schaafsma, Commissioner

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

I, Michael E. Duffy, General Counsel for the Department of Local Government Finance, hereby certify that the above is an order of the Commissioner of the Department of Local Government Finance made this date in the above-entitled matter and that the Commissioner has personally signed the same under her statutory authority.

WITNESS MY HAND AND SEAL of this Department on this 23rd day of December, 2014.

Michael E. Duffy

Michael E. Duffy, General Counsel

EXHIBIT B
Department Order 18-004-ESTABLISHMENT

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

IN THE MATTER OF THE REQUEST OF PERRY-CLEAR CREEK TOWNSHIP FIRE PROTECTION DISTRICT, MONROE COUNTY, FOR THE ESTABLISHMENT OF AN INITIAL MAXIMUM LEVY	)))))	**18-004-ESTABLISHMENT**

The Department of Local Government Finance ("Department") has reviewed the request of Perry-Clear Creek Township Fire Protection District ("District") for an initial maximum levy in the amount of $1,586,788.

The District is already an existing civil taxing unit. It alleges that certain freeholders in Indian Creek Township, Monroe County, petitioned the Monroe County Commissioners in 2017 pursuant to IC 36-8-11-5 to be added to the District's jurisdiction. Effective January 1, 2019, the District will become known as the Monroe Fire Protection District.

After a review of the petition, the Department, following IC 36-8-11 and IC 6-1.1-18.5-7, and in consideration of all evidence provided, finds as follows:

APPROVED:

The Department recognizes that the District was established prior to January 1, 2018, therefore the District is eligible for a levy beginning in budget year 2019.

The Department approves a 2019 maximum levy for the District in the amount of $1,586,788. This figure reflects the District's pre-existing 2018 maximum property tax levy for the general fund of $1,339,879, adjusted by the 2019 assessed value growth quotient (1.034), and the anticipated cost of providing service to Indian Creek Township starting in 2019 ($201,353). This does not include the levy for a cumulative fire fund.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Dated this 24th day September, 2018.

Wesley R. Bennett, Commissioner

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

IN THE MATTER OF THE REQUEST	)	
OF MONROE FIRE PROTECTION	)	
DISTRICT, MONROE COUNTY, FOR THE	)	**20-002-ESTABLISHMENT**
ESTABLISHMENT OF AN INITIAL	)	
MAXIMUM LEVY	)	

The Department of Local Government Finance ("Department") has reviewed the request of Monroe Fire Protection District ("District") for an initial operating fund maximum levy in the amount of $8,124,480.

The District is a pre-existing taxing unit. The District is re-establishing pursuant to IC 36-8-11-11 by adding Bloomington Township and Van Buren Township. The Monroe County Board of Commissioners adopted an ordinance on September 18, 2019, to add the townships to the District, effective January 1, 2021. Currently, the District is composed of Perry Township, Clear Creek Township, and Indian Creek Township. Bloomington Township is currently part of the Northern Monroe Fire Protection Territory ("Territory") along with Washington Township. Under IC 36-8-19-13 and 36-8-19-15, the Territory is effectively dissolved as of July 1, 2020. Adjustments to the maximum levy of the participating units in the Territory pursuant to IC 36-8-19-13 shall be addressed in a separate order.

The District justifies its requested levy amount based on the following budget estimates:

Personal Services	$9,456,338
Supplies	$377,500
Other Services and Charges	$829,000
Total	$10,662,838

The District also represents that it will receive in 2021 estimated contractual payments from Washington, Benton, Salt Creek, and Polk Townships in the amount of $1,197,500, $732,930 in excise revenue, and $45,070 in CVET revenue. Certified shares is expected to be $2,025,400, to be first collected in 2022. Therefore, the District estimates $4,000,900 in miscellaneous revenue. The District will not raise a cash reserve.

The Department recognizes that the District was established prior to January 1, 2020, therefore the District is eligible for a levy beginning in budget year 2021. After a review of the petition, the Department, following IC 36-8-11 and IC 6-1.1-18.5-7, and in consideration of all evidence provided, finds as follows:

APPROVED WITH MODIFICATION:

The Department approves a 2021 re-established maximum levy for the District's operating fund in the amount of $7,970,010. This amount is derived from the estimated property tax levy needed for the first year of operations as represented in draft Budget Forms 1, 2, and 4-B. The District clarified that the $8,124,480 levy is based on a proposed plan to expand the District into other townships in Monroe County in 2021 and 2022.

The approved amount is the difference of the estimated 2021 budget ($10,662,838) less the estimated miscellaneous revenue but excluding certified shares ($1,197,500 + $732,930 + $45,070 = $1,197,500) and less the Department's estimate of certified shares for 2021 ($717,328) ($10,662,938 – $1,197,500 – $717,328 = $7,970,010). This reduction is subject to the estimate of local income tax revenue by the Department of Revenue, which has been postponed to September 15 by Executive Order #20-31, and therefore may be adjusted by an amendment to this Order by the Department.

In 2022, the maximum levy of the District will be reduced to $6,661,938. The District's estimate of $2,025,400 in certified shares will be first collected in 2022. This is an increase of $1,308,072 from the certified shares in 2021 ($2,025,400 – $717,328 = $1,308,072). The maximum levy will therefore be reduced by this amount ($7,970,010 – $1,308,072 = $6,661,938). This reduction is also subject to the Department of Revenue's estimate of local income tax revenue and therefore may also be adjusted by an amendment to this Order.

Pursuant to IC 36-8-11-19, the fire fund and cumulative firefighting building and equipment fund for Van Buren Township will be discontinued for 2021. As previously stated, the Territory operating and equipment replacement funds administered by Bloomington Township will be addressed in a separate order.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Dated this 28th day August, 2020.

Wesley R. Bennett

Wesley R. Bennett, Commissioner