

A RESOLUTION determining SUBSTANTIAL NON-COMPLIANCE with a Statement of Benefits (SB-1) for 2014 for Conestoga, LLC for property at 3404 Conestoga Drive under Confirming Resolution R-44-12 with an "Economic Revitalization Area" approved under I.C. 6-1.1-12.1

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution with approved Statement of Benefits (SB-1) forms property for Conestoga, LLC as an "Economic Revitalization Area" under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1; and

WHEREAS, property owners whose Statement of Benefits (SB-1) form was approved after July 1, 1991 who file a deduction application under Sections 3 and 4.5 of I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne, Indiana, must file a Compliance with Statement of Benefits Form (CF-1) with the Allen County Auditor, the Allen County Assessor and the City of Fort Wayne showing information on the extent to which there has been compliance with the approved Statement of Benefits for the project; and

WHEREAS, Conestoga, LLC has filed Compliance with Statement of Benefit Forms with the Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, Conestoga, LLC's approved Statement of Benefits (SB-1) form stated that 20 full-time jobs would be retained and two full-time jobs would be created by December 2013; and

WHEREAS, Conestoga, LLC's approved Statement of Benefits (SB-1) form stated \$622,601 in annual payroll for retained jobs and \$52,000 in annual payroll would be generated by the created jobs; and

WHEREAS, Conestoga, LLC's 2014 Compliance with Statement of Benefits (CF-1) form filing stated that 19 jobs were retained and two jobs were created; and

WHEREAS, Conestoga, LLC's 2014 Compliance with Statement of Benefits (CF-1) form filing stated \$569,992 in annual payroll for the 19 jobs retained and \$13,000 in annual payroll for the two jobs created; and

WHEREAS, Common Council designated the City of Fort Wayne Community Development Division as the entity for the administration, application, processing and monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code of the City of Fort Wayne; and

WHEREAS, Common Council has defined substantial compliance under Section 153.21 of the Municipal Code of the City of Fort Wayne as:

1. Meeting 75% or more of the numbers of full-time and/or part-time jobs stated to be created or retained as delineated in the original Statement of Benefits Form (SB-1) approved by Common Council; and
2. Meeting 75% or more of the total payroll stated to be created or retained as delineated in the original Statement of Benefits Form (SB-1) approved by Common Council; and

WHEREAS, meeting 75% of the 20 retained jobs means retaining 15 jobs; and

WHEREAS, meeting 75% of the two jobs to be created means creating two jobs; and

WHEREAS, meeting 75% of the \$622,601 in retained annual payroll means \$466,951 in annual payroll retained; and

WHEREAS, meeting 75% of the \$52,000 in annual payroll to be created means \$39,000 in annual payroll created; and

WHEREAS, Common Council shall determine not later than forty-five (45) days after receipt of the Compliance of Statement of Benefits Form (CF-1) that Conestoga, LLC has substantially complied with the original Statement of Benefits Form (SB-1) approved by Common Council; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That, the Compliance with Statement of Benefits Forms (CF-1) filed by Conestoga, LLC with an approved economic revitalization area for 2014 is in not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75% of the \$52,000 in payroll that was stated that would be created.

SECTION 2. That, the failure to substantially comply was not caused by factors beyond the control of Conestoga, LLC.

SECTION 3. That, Council directs the Community Development Division to mail written notice to Conestoga, LLC explaining the reasons for Council's determination and a date, time, place of a hearing to be conducted by Council for the purpose of further considering Conestoga, LLC's compliance with Statement of Benefits.

SECTION 4. That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Member of Council

APPROVED AS TO FORM A LEGALITY

Carol Taylor, City Attorney