

**A RESOLUTION CONFIRMING SUBSTANTIAL
COMPLIANCE/NON-COMPLIANCE with a Statement of
Benefits (SB-1) for 2014 for WAYNE PIPE & SUPPLY,
INC. for property at 6040 Innovation Boulevard under
Confirming Resolution R-78-08 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 Wayne Pipe & Supply, Inc. 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, Wayne Pipe & Supply, Inc. has filed Compliance with Statement of Benefit Forms with the Allen County Auditor's Office, Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, Wayne Pipe & Supply, Inc.'s approved Statement of Benefits (SB-1) forms stated that **52** full-time jobs would be retained and **two** full-time jobs would be created by October 2012; and

WHEREAS, Wayne Pipe & Supply, Inc.'s approved Statement of Benefits (SB-1) form stated **\$2,750,000** in annual payroll for the 52 full-time jobs retained and \$90,000 in annual payroll for the three jobs to be created would be generated; and

WHEREAS, Wayne Pipe & Supply, Inc.'s 2014 Compliance with Statement of Benefits (CF-1) form filing stated that **46** jobs had been retained; and

WHEREAS, Wayne Pipe & Supply, Inc.'s 2014 Compliance with Statement of Benefits (CF-1) form filings stated **\$2,218,062** in annual payroll for the 46 jobs retained; 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 52 full-time retained jobs means retaining **39** full-time jobs; and

WHEREAS, meeting 75% of the two full-time jobs to be created means creating **1.5** full-time jobs; and

WHEREAS, meeting 75% of the \$2,750,000 in retained annual payroll means **\$2,062,500** in annual payroll retained; and

WHEREAS, meeting 75% of the \$90,000 in annual payroll to be created means **\$67,500** in annual payroll created; and

WHEREAS, Common Council made a determination on June 10, 2014 that Wayne Pipe & Supply, Inc. was not in substantial compliance as a result of its failure to create 1.5 jobs of the two jobs that it stated would be created and create at least \$67,500 in annual payroll created, and that the failure to substantially comply was not caused by factors beyond the control of Wayne Pipe & Supply, Inc.; and

WHEREAS, Council directed the Community Development Division to mail written notice to Wayne Pipe & Supply, Inc. 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 Wayne Pipe & Supply, Inc.'s compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon Wayne Pipe & Supply, Inc. on July 7, 2014; and

WHEREAS, Council conducted a hearing on August 5, 2014 for the purpose of further considering Wayne Pipe & Supply, Inc.'s compliance with statement of benefits; and

WHEREAS, Wayne Pipe & Supply, Inc. **appeared/failed to appear** at the hearing.

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

SECTION 1. Wayne Pipe & Supply, Inc. failed to appear and otherwise testify and therefore Council confirms its determination of June 10, 2014 that Wayne Pipe & Supply, Inc. has failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the

Municipal Code of the City of Fort Wayne for its failure to create 75% of the two jobs or 1.5 jobs and create 75% of \$90,000 annual payroll or \$67,500 in that Wayne Pipe & Supply, Inc. did not create any jobs or annual payroll. Council therefore finds that Wayne Pipe & Supply, Inc. has failed to substantially comply and said failure was not caused by factors outside of Wayne Pipe & Supply, Inc.'s control. As a result of said failure, Wayne Pipe & Supply, Inc.'s deduction/abatement is hereby terminated.

Or

SECTION 1. That Wayne Pipe & Supply, Inc. appeared and testified at the hearing and from its testimony it was determined that notwithstanding Wayne Pipe & Supply, Inc.'s failure to substantially comply by its failure to create 75% of the two jobs or 1.5 jobs and create 75% of \$90,000 annual payroll or \$67,500, that Wayne Pipe & Supply, Inc. did make reasonable efforts to substantially comply with the statement of benefits and Wayne Pipe & Supply, Inc.'s failure to substantially comply was caused by factors beyond the control of Wayne Pipe & Supply, Inc. Therefore the continuation of Wayne Pipe & Supply, Inc.'s deduction/abatement under R-78-08 is hereby approved.

SECTION 2. 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 Helton, City Attorney