

**A RESOLUTION determining SUBSTANTIAL
COMPLIANCE OR NON-COMPLIANCE with a Statement
of Benefits (SB-1) for 2015 for Chuck Bivens Services
dba States Engineering at 10216 Airport Drive under
Confirming Resolution R-32-12 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 Chuck Bivens Services dba States Engineering 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, Chuck Bivens Services dba States Engineering has filed Compliance with Statement of Benefit Forms with the Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, Chuck Bivens Services dba States Engineering's approved Statement of Benefits (SB-1) form stated that **14** full-time jobs would be retained and **four** full-time jobs would be created by December 2014; and

WHEREAS, Chuck Bivens Services dba States Engineering's approved Statement of Benefits (SB-1) form stated **\$607,738** in annual payroll would be generated from the **14** full-time jobs retained and **\$168,000** in annual payroll would be generated by the **four** full-time created jobs; and

WHEREAS, Chuck Bivens Services dba States Engineering's 2015 Compliance with Statement of Benefits (CF-1) form filing stated that **14** jobs were retained and **two** jobs were created; and

WHEREAS, Chuck Bivens Services dba States Engineering's 2015 Compliance with Statement of Benefits (CF-1) form filing stated **\$607,738** in annual payroll for the **14** jobs retained and **\$148,827** in annual payroll for the **two** jobs created; and

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

5 **WHEREAS**, Common Council has defined substantial compliance under Section
6 153.21 of the Municipal Code of the City of Fort Wayne as:

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

13 **WHEREAS**, meeting 75% of the **14** retained jobs means retaining **10** jobs; and

14 **WHEREAS**, meeting 75% of the **four** created jobs means creating **three** jobs; and

15 **WHEREAS**, meeting 75% of the **\$607,738** in annual payroll to be retained means
16 **\$455,803** in annual payroll retained; and

17 **WHEREAS**, meeting 75% of the **\$168,000** in annual payroll to be created means
18 **\$126,000** in annual payroll created; and

19 **WHEREAS**, Common Council shall determine not later than forty-five (45) days after
20 receipt of the Compliance of Statement of Benefits Form (CF-1) that Chuck Bivens Services
21 dba States Engineering has substantially complied with the original Statement of Benefits
22 Form (SB-1) approved by Common Council; and

23 **WHEREAS**, Chuck Bivens Services dba States Engineering **appeared/failed to**
24 **appear** before council to provide additional information on its compliance with statement of
25 benefits.

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

28 **SECTION 1.** That, Common Council finds that the Compliance with Statement of
29 Benefits Forms (CF-1) filed by Chuck Bivens Services dba States Engineering with an
30 approved economic revitalization area for 2015 are 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 four jobs or three jobs that were stated that would be created.

SECTION 2a. Chuck Bivens Services dba States Engineering appeared before
council and provided additional information on its compliance with statement of benefits and
from this information it was determined that notwithstanding Chuck Bivens Services dba
States Engineering 's failure to substantially comply by its failure to create three jobs or more
and \$126,000 or more in annual payroll from the jobs created, that Chuck Bivens Services

1 dba States Engineering did make reasonable efforts to substantially comply with the
2 statement of benefits and Chuck Bivens Services dba States Engineering 's failure to
3 substantially comply was caused by factors beyond the control of Chuck Bivens Services dba
4 States Engineering. Therefore, the continuation of Chuck Bivens Services dba States
Engineering 's deduction/abatement under R-32-12 is hereby approved.

5 OR

6 **SECTION 2b.** That Chuck Bivens Services dba States Engineering failed to appear
7 and otherwise provide additional information on its compliance with statement of benefits and
8 has caused Council to conclude and find that Chuck Bivens Services dba States Engineering
9 is not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the
10 Municipal Code of the City of Fort Wayne on their 2015 filing. Council therefore directs the
11 Community Development Division to mail written notice to Chuck Bivens Services dba States
12 Engineering 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 Chuck Bivens
Services dba States Engineering's 2015 compliance with statement of benefits.

13 **SECTION 3.** That, this Resolution shall be in full force and effect from and after
14 its passage and any and all necessary approval by the Mayor.

15
16 _____
Member of Council

17
18 APPROVED AS TO FORM A LEGALITY

19
20 _____
Carol Helton, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution determining substantial compliance with a Statement of Benefits (SB-1) for 2015

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution determines whether Compliance with Statement of Benefits (CF-1) Form filings made by Chuck Bivens Services dba States Engineering in May 2015 with an approved economic revitalization area are in substantial compliance pursuant to both Council policy and Indiana law.

EFFECT OF PASSAGE: Will allow property owners with existing economic revitalization area designation to continue to receive their economic revitalization area deduction (property tax abatement/phase-in) benefit if determined to be in substantial compliance or provide notice to company if determined to be in substantial non-compliance and a hearing will be scheduled

EFFECT OF NON-PASSAGE: Potential retention or loss of economic revitalization area deduction (property tax abatement/phase-in)

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): No expenditures of public funds required.

ASSIGNED TO COMMITTEE (PRESIDENT): Thomas Didier and Russ Jehl