

**A RESOLUTION approving a Waiver of Noncompliance
for a Late-Filed Compliance with Statement of Benefits
Real Estate Improvements (Form CF-1/Real Property)
for 6707 Gabion Way, Fort Wayne, IN 46818 (Artek,
Inc./Dammeyer, LLC)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 6707 Gabion Way for Artek, Inc./Dammeyer, LLC (Confirming Resolution R-60-11) 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, the original Statement of Benefits forms (SB-1/Real Property and SB-1/PP) and economic revitalization area designation application submitted by Artek, Inc./Dammeyer, LLC and approved under Confirming Resolution R-60-11 was for \$256,000 in real property improvements and \$144,000 in personal property improvements; and

WHEREAS, construction of the real property improvements for Artek, Inc./Dammeyer, LLC was completed in 2011; and

WHEREAS, Artek, Inc./Dammeyer, LLC was required to file under I.C. 6-1.1-12.1 and Section 153.21 of the Fort Wayne Code of Ordinances, a Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) with the Allen County Auditor and the City of Fort Wayne; and

WHEREAS, Common Council has previously determined on July 14, 2015 under resolution R-60-11 that Artek, Inc./Dammeyer, LLC failed to substantially comply with I.C. 6-1.1-12.1 et seq. and Section 153.21 of the Fort Wayne Code of Ordinances for not filing a Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) or a corrective filing due May 15, 2015; and

WHEREAS, Common Council pursuant to I.C. 6-1.1-12.-5.9, directed the Fort Wayne Community Development Division to prepare and mail written notice to Artek, Inc./Dammeyer, LLC stating the reasons for council's determination of substantial non-compliance and a date, time and place of the hearing for the purpose of further consideration of each owner's circumstances; and

WHEREAS, said hearing was held by Common Council on September 1, 2015 for further consideration of each owner's circumstances and whether the economic revitalization area deduction should be terminated; and

1 **WHEREAS**, representatives of Artek, Inc./Dammeyer, LLC have informed the City of
2 Fort Wayne that their Compliance with Statement of Benefits Real Estate Improvements
3 (Form CF-1/Real Property) due May 15, 2015 was not filed in a timely manner; and

4 **WHEREAS**, this oversight was an unusual occurrence for Artek, Inc./Dammeyer,
5 LLC; and

6 **WHEREAS**, the Common Council finds that Artek, Inc./Dammeyer, LLC has fulfilled
7 its pledge to construct the real property improvements and install new manufacturing,
8 logistical distribution and information technology equipment; and

9 **WHEREAS**, Artek, Inc./Dammeyer, LLC has created at least 75% of the jobs which
10 were to be created and retained as reported on the approved Statement of Benefits forms;
11 and

12 **WHEREAS**, the Common Council acknowledges that Artek, Inc./Dammeyer, LLC
13 has requested a waiver of noncompliance which the Common Council has the power and
14 authority to approve, under I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3; and

15 **WHEREAS**, the Common Council intends that Artek, Inc./Dammeyer, LLC receive
16 the tax abatement benefits to which they would have been entitled had no non compliance
17 event occurred, so long as the waiver of non compliance and the granting of those benefits
18 does not prejudice the City of Fort Wayne; and

19 **WHEREAS**, the Common Council has concluded that granting of the ERA deduction
20 for 2015 payable 2016 tax year would not create a strain on the City of Fort Wayne's fiscal
21 budget; and

22 **WHEREAS**, I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3 permit noncompliance
23 events such as the untimely filing of an application, statement of benefits, or another
24 document required to be filed under I.C. 6-1.1-12.1; and

25 **WHEREAS**, the noncompliance event has been corrected and a public hearing of
26 the Common Council has been held on the waiver.

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

30 **SECTION 1.** That, Common Council hereby waives all clerical and technical errors
and nonconformities that are waiveable under State and local law, including without limitation
those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

SECTION 2. As authorized by I.C. 6-1.1-12.1-9.5(d), the Common Council will
permit Artek, Inc./Dammeyer, LLC to continue to receive the economic revitalization area real
property deductions remaining under R-60-11.

Admn. Appr. _____

DIGEST SHEET

TITLE OF RESOLUTION: Resolution Approving a Waiver of Noncompliance for a Late-Filed Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) for 6707 Gabion Way (Artek, Inc./Dammeyer, LLC)

DEPARTMENT REQUESTING RESOLUTION: Community Development Division

SYNOPSIS OF RESOLUTION: This is to approve a waiver of noncompliance for a late-filed compliance with benefits forms for Artek, Inc./Dammeyer, LLC on real property improvements at 6707 Gabion Way. Fort Wayne Common Council designated and confirmed 6707 Gabion Way as an economic revitalization area for tax abatement purposes under Confirming Resolution R-60-11.

EFFECT OF PASSAGE: Approval of this resolution and granting of a waiver of noncompliance will allow Artek, Inc./Dammeyer, LLC to continue to receive their remaining real property economic revitalization area deductions.

EFFECT OF NON-PASSAGE: Potential loss of future development by Artek, Inc./Dammeyer, LLC

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

ASSIGNED TO COMMITTEE (CO-CHAIRS): Russ Jehl and Tom Didier