

**A RESOLUTION determining SUBSTANTIAL
COMPLIANCE OR NON-COMPLIANCE with a Statement
of Benefits (SB-1) for 2016 for BioPoly, LLC at 3201
Stellhorn Road under Confirming Resolution R-86-12
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 BioPoly, 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, BioPoly, LLC has filed Compliance with Statement of Benefit Forms with the Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, BioPoly, LLC's approved Statement of Benefits (SB-1) form stated that **seven** full-time jobs would be retained and **three** full-time jobs would be created by December 2015; and

WHEREAS, BioPoly, LLC's approved Statement of Benefits (SB-1) form stated **\$837,000** in annual payroll would be generated from the **seven** full-time jobs retained and **\$104,000** in annual payroll would be generated by the **three** full-time created jobs; and

WHEREAS, BioPoly, LLC's 2016 Compliance with Statement of Benefits (CF-1) form filing stated that **seven** jobs were retained and **zero** jobs were created; and

WHEREAS, BioPoly, LLC's 2016 Compliance with Statement of Benefits (CF-1) form filing stated **\$615,310** in annual payroll for the **seven** jobs retained and **\$0** in annual payroll for the **zero** jobs created; and

WHEREAS, Common Council designated the City of Fort Wayne Community Development Division as the entity for the administration, application, processing and

1 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code of
2 the City of Fort Wayne; and

3 **WHEREAS**, Common Council has defined substantial compliance under Section
4 153.21 of the Municipal Code of the City of Fort Wayne as:

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

11 **WHEREAS**, meeting 75% of the **seven** retained jobs means retaining **five** jobs; and

12 **WHEREAS**, meeting 75% of the **three** created jobs means creating **two** jobs; and

13 **WHEREAS**, meeting 75% of the **\$837,000** in annual payroll to be retained means
14 **\$627,750** in annual payroll retained; and

15 **WHEREAS**, meeting 75% of the **\$104,000** in annual payroll to be created means
16 **\$78,000** in annual payroll created; and

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

21 **WHEREAS**, BioPoly, LLC **appeared/failed to appear** before council to provide
22 additional information on its compliance with statement of benefits.

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

25 **SECTION 1.** That, Common Council finds that the Compliance with Statement of
26 Benefits Forms (CF-1) filed by BioPoly, LLC with an approved economic revitalization area
27 for 2016 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of
28 the Municipal Code of the City of Fort Wayne for failure to create 75% of the three jobs or
29 two jobs that were stated that would be created and did not create 75% of the \$104,000 in
30 annual payroll or \$78,000 in annual payroll from the jobs that were stated that would be
created.

SECTION 2a. BioPoly, LLC appeared before council and provided additional
information on its compliance with statement of benefits and from this information it was
determined that notwithstanding BioPoly, LLC 's failure to substantially comply by its failure to
create two jobs or more and \$78,000 or more in annual payroll from the jobs created, that
BioPoly, LLC did make reasonable efforts to substantially comply with the statement of
benefits and BioPoly, LLC 's failure to substantially comply was caused by factors beyond the

1 control of BioPoly, LLC. Therefore, the continuation of BioPoly, LLC's deduction/abatement
2 under R-56-13 is hereby approved.

3 **SECTION 2b.** That BioPoly, LLC appeared and provided additional information on
4 its compliance with statement of benefits and from this information it was determined that
5 notwithstanding BioPoly, LLC's failure to substantially comply by its failure to create two jobs
6 or more and \$78,000 or more in annual payroll from the jobs created, that BioPoly, LLC did
7 not make reasonable efforts to substantially comply with the statement of benefits and
8 BioPoly, LLC's failure to substantially comply was not caused by factors beyond the control of
9 BioPoly, LLC. Council therefore directs the Community Development Division to mail written
10 notice to BioPoly, LLC explaining the reasons for Council's determination and a date, time,
11 place of a hearing to be conducted by Council for the purpose of further considering BioPoly,
12 LLC's 2016 compliance with statement of benefits.

13 **SECTION 2c.** That BioPoly, LLC failed to appear and otherwise provide additional
14 information on its compliance with statement of benefits and has caused Council to conclude
15 and find that BioPoly, LLC is not in substantial compliance pursuant to I.C. 6-1.1-12.1 and
16 Section 153.21 of the Municipal Code of the City of Fort Wayne on their 2016 filing. Council
17 therefore directs the Community Development Division to mail written notice to BioPoly, LLC
18 explaining the reasons for Council's determination and a date, time, place of a hearing to be
19 conducted by Council for the purpose of further considering BioPoly, LLC's 2016 compliance
20 with statement of benefits.

21 **SECTION 3.** That, this Resolution shall be in full force and effect from and after
22 its passage and any and all necessary approval by the Mayor.
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25 _____
26 Member of Council

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28 APPROVED AS TO FORM A LEGALITY
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Carol Helton, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution determining substantial compliance with a Statement of Benefits (SB-1) for 2016

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution determines whether Compliance with Statement of Benefits (CF-1) Form filings made by BioPoly, LLC in May 2016 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): Glynn Hines and John Crawford