

**A RESOLUTION CONFIRMING SUBSTANTIAL
COMPLIANCE/NON COMPLIANCE with Statement of
Benefits (CF-1) form filings for 2016 for Rogers Markets,
Inc. for property at 521 West Washington Boulevard
under Confirming Resolution R-93-05 with an
“Economic Revitalization Area” approved under I.C. 6-
1.1-12.1 (Non-Filer)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution with approved Statement of Benefits (SB-1) forms property for Rogers Markets, Inc. as an “Economic Revitalization Area” under Sections 153.13-153.24 of the Fort Wayne Code of Ordinances, 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 Fort Wayne Code of Ordinances, Indiana, must file a Compliance with Statement of Benefits Form (CF-1/PP and/or CF-1/Real Property) with the Allen County Auditor, the Allen County Assessor and the City of Fort Wayne showing there has been compliance with the approved Statement of Benefits for the project; 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, Rogers Markets, Inc. did not file Compliance with Statement of Benefits Form CF-1/Real Property; and

WHEREAS, Common Council made a determination on June 28, 2016, that Rogers Markets, Inc. was not in substantial compliance by failing to comply with I.C. 6-1.1-12.1 et seq. and Section 153.21(A) of the Fort Wayne Code of Ordinances by **failing to file** their Compliance with Statement of Benefits pertaining to their deductions and subsequently failed to file a Waiver of Non-Compliance pursuant to I.C. 6-1.1-12.1-9.5, or I.C. 6-1.1-12.1-11.3(a)(5); and

WHEREAS, Common Council directed the Community Development Division to mail written notice to Rogers Markets, 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 Rogers Markets, Inc.'s Compliance with Statement of Benefits; and

WHEREAS, in said notice to Rogers Markets, Inc., Common Council directed Rogers Markets, Inc. to apply for and file a Waiver of Non-Compliance pursuant to either I.C.

6-1.1-12.1-9.5 or I.C. 6-1.1-12.1-11.3(a)(5) as may be applicable, and request a waiver by Common Council, for said non-compliance, which request and resolutions and forms were to be submitted to Common Council prior to the subsequent hearing that will be afforded to Rogers Markets, Inc.; and

WHEREAS, the aforementioned notice was properly prepared and served upon Rogers Markets, Inc. on August 1, 2016; and

WHEREAS, a Waiver of Non-Compliance **has/has not** been requested and otherwise applied for by Rogers Markets, Inc.; and

WHEREAS, Common Council conducted a hearing on August 23, 2016 for the purpose of further considering Rogers Markets, Inc.'s Compliance with Statement of Benefits; and

WHEREAS, Rogers Markets, Inc. **APPEARED AND TESTIFIED/DID NOT APPEAR** at the hearing.

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

SECTION 1a. Rogers Markets, Inc. has properly filed its waiver of non-compliance with the Community Development Division of the City of Fort Wayne, therefore Common Council shall allow the waiver of non-compliance process to proceed and will make a compliance or non-compliance determination and otherwise consider abatement termination issues at a subsequent hearing as part of its determination of Rogers Markets, Inc. waiver request and application.

SECTION 1b. Rogers Markets, Inc. has failed to file a waiver of non-compliance and has otherwise failed to make any reasonable efforts to substantially comply as is required; as such Common Council finds and resolves that Rogers Markets, Inc.'s real property deduction under R-93-05 is hereby terminated.

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