

A RESOLUTION CONFIRMING SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2016 for EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) for property at 4429 Allen Martin Drive under Confirming Resolution R-41-13 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 EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, 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, EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) has filed Compliance with Statement of Benefit Forms with the Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) approved Statement of Benefits (SB-1) form stated that **27** full-time jobs would be retained and **14** full-time jobs would be created by April 2013; and

WHEREAS, EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) approved Statement of Benefits (SB-1) form stated **\$1,135,000** in annual payroll for the **27** full-time retained jobs and **\$517,813** in annual payroll would be generated by the **14** full-time jobs to be created; and

WHEREAS, EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC); 2016 Compliance with Statement of Benefits (CF-1) form filing stated that **31** jobs were retained and **three** jobs were created; and

WHEREAS, EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC); 2016 Compliance with Statement of Benefits (CF-1) form filing stated **\$1,426,398** in annual payroll for the **31** jobs retained and **\$138,039** in annual payroll for the **three** jobs created; 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 **27** full-time jobs retained means retaining **20** jobs; and

WHEREAS, meeting 75% of the **14** full-time jobs to be created means creating **10** full-time jobs; and

WHEREAS, meeting 75% of the **\$1,135,000** in retained annual payroll means **\$851,250** in annual payroll; and

WHEREAS, meeting 75% of the **\$517,813** in annual payroll to be created means **\$388,360**; and

WHEREAS, Common Council made a determination on June 28, 2016 that EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) was not in substantial compliance as a result of its failure to generate at least 10 jobs and at least \$388,360 in annual payroll created, and that the failure to substantially comply was not caused by factors beyond the control of EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC); and

WHEREAS, Council directed the Community Development Division to mail written notice to EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) 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 EFTT

Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) on August 1, 2016; and

WHEREAS, Council conducted a hearing on August 23, 2016 for the purpose of further considering EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) compliance with statement of benefits; and

WHEREAS, EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) **appeared/failed to appear** at the hearing.

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

SECTION 1a. EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) failed to appear and otherwise testify and therefore Council confirms its determination of June 28, 2016 that EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) 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 14 full-time jobs or 10 jobs that were stated that would be created and create 75% of the \$517,813 in annual payroll or \$388,360 that was stated that would be generated by the created jobs. Council therefore finds that EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) has failed to substantially comply and said failure was not caused by factors outside of EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) control. As a result of said failure, EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) deduction/abatement under R-41-13 is hereby terminated.

SECTION 1b. That EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) appeared and testified at the hearing and from its testimony it was determined that notwithstanding EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) failure to substantially comply by its failure to create 75% of the 14 full-time jobs or 10 jobs that were stated that would be created and create 75% of the \$517,813 in annual payroll or \$388,360 that was stated that would be generated by the created jobs, that EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) did make reasonable efforts to substantially comply with the statement of benefits and EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) failure to substantially comply was caused by factors beyond the control of EFTT Equities, LLC dba

Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC). Therefore the continuation of EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) deduction/abatement under R-41-13 is hereby approved.

SECTION 1c. That EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) appeared and testified at the hearing and from its testimony it was determined that notwithstanding EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) failure to substantially comply by its failure to create 75% of the 14 full-time jobs or 10 jobs that were stated that would be created and create 75% of the \$517,813 in annual payroll or \$388,360 that was stated that would be generated by the created jobs, that EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) did not make reasonable efforts to substantially comply with the statement of benefits and EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) failure to substantially comply was not caused by factors beyond the control of EFTT Equities, LLC dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC). As a result of said failure, EFTT Equities, LLC's dba Earth First (now under Advanced Disposal Services Solid Waste Midwest, LLC) deduction/abatement under R-41-13 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