

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2017 for DuCharme, McMillen & Associates, Inc. for property at 888 Harrison Street, Fort Wayne, IN 46802 under Confirming Resolution R-16-03-25 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 DuCharme, McMillen & Associates, Inc. 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**, DuCharme, McMillen & Associates, Inc. has filed its Compliance with Statement of Benefit Forms with the Allen County Assessor's office and the City of Fort Wayne for 2017; 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

1                   **WHEREAS**, DuCharme, McMillen & Associates, Inc. **appeared/failed to appear**  
2 before council to provide additional information on its compliance with the approved  
3 Statement of Benefits.

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

6                   **SECTION 1.** That, Common Council finds that the Compliance with Statement of  
7 Benefits Form (CF-1) filed by DuCharme, McMillen & Associates, Inc. for an approved  
8 economic revitalization area for 2017 is not in substantial compliance pursuant to I.C. 6-1.1-  
9 12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create  
10 75% of the jobs that were stated to be created and/or 75% of the annual payroll stated to be  
11 generated by the created jobs on the approved Statement of Benefits form.

12                   **SECTION 2a.** DuCharme, McMillen & Associates, Inc. appeared before council  
13 and provided additional information on its compliance with the approved Statement of  
14 Benefits and from this information it was determined that notwithstanding DuCharme,  
15 McMillen & Associates, Inc.'s failure to substantially comply with its approved Statement of  
16 Benefits form, DuCharme, McMillen & Associates, Inc. did make reasonable efforts to  
17 substantially comply with the approved Statement of Benefits and DuCharme, McMillen &  
18 Associates, Inc.'s failure to substantially comply was caused by factors beyond the control of  
19 DuCharme, McMillen & Associates, Inc. Therefore, the continuation of DuCharme, McMillen  
20 & Associates, Inc.'s deduction/abatement under R-16-03-25 is hereby approved.

21                   **SECTION 2b.** That DuCharme, McMillen & Associates, Inc. appeared and  
22 provided additional information on its compliance with the approved Statement of Benefits  
23 and from this information it was determined that notwithstanding DuCharme, McMillen &  
24 Associates, Inc.'s failure to substantially comply by its failure to create the requisite number  
25 of jobs and/or the amount of annual payroll stated to be created from those jobs, that  
26 DuCharme, McMillen & Associates, Inc. did not make reasonable efforts to substantially  
27 comply with the statement of benefits and DuCharme, McMillen & Associates, Inc.'s failure to  
28 substantially comply was not caused by factors beyond the control of DuCharme, McMillen &  
29 Associates, Inc. Council therefore directs the Community Development Division to mail  
30 written notice to DuCharme, McMillen & Associates, 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 DuCharme, McMillen & Associates, Inc.'s 2017 compliance  
with statement of benefits.

**SECTION 2c.** That DuCharme, McMillen & Associates, Inc. failed to appear and  
otherwise provide additional information on its compliance with statement of benefits and has  
caused Council to conclude and find that DuCharme, McMillen & Associates, Inc. is not in

1 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code  
2 of the City of Fort Wayne on their 2017 filing. Council therefore directs the Community  
3 Development Division to mail written notice to DuCharme, McMillen & Associates, Inc.  
4 explaining the reasons for Council's determination and a date, time, place of a hearing to be  
5 conducted by Council for the purpose of further considering DuCharme, McMillen &  
Associates, Inc.'s 2017 compliance with statement of benefits.

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

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Member of Council

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13 APPROVED AS TO FORM A LEGALITY

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15 \_\_\_\_\_  
16 Carol Helton, City Attorney

Admn. Appr. \_\_\_\_\_

DIGEST SHEET

**TITLE OF ORDINANCE: Resolution determining substantial compliance with a Statement of Benefits (SB-1) for 2017**

**DEPARTMENT REQUESTING ORDINANCE: Community Development Division**

**SYNOPSIS OF ORDINANCE: This resolution determines whether Compliance with Statement of Benefits (CF-1) Form filings made by DuCharme, McMillen & Associates, Inc. in May 2017 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): Geoff Paddock and Jason Arp**