

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2017 for Tom Enterprises, LLC for property at 1135 West Dupont Road, Fort Wayne, IN 46825 under Confirming Resolution R-18-06 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 Tom Enterprises, 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, Tom Enterprises, LLC 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**, Tom Enterprises, LLC **appeared/failed to appear** before council to
2 provide additional information on its compliance with the approved Statement of Benefits.

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

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

11 **SECTION 2a.** Tom Enterprises, LLC appeared before council and provided
12 additional information on its compliance with the approved Statement of Benefits and from
13 this information it was determined that notwithstanding Tom Enterprises, LLC 's failure to
14 substantially comply with its approved Statement of Benefits form, Tom Enterprises, LLC did
15 make reasonable efforts to substantially comply with the approved Statement of Benefits and
16 Tom Enterprises, LLC's failure to substantially comply was caused by factors beyond the
17 control of Tom Enterprises, LLC. Therefore, the continuation of Tom Enterprises, LLC's
18 deduction/abatement under R-18-06 is hereby approved.

19 **SECTION 2b.** That Tom Enterprises, LLC appeared and provided additional
20 information on its compliance with the approved Statement of Benefits and from this
21 information it was determined that notwithstanding Tom Enterprises, LLC's failure to
22 substantially comply by its failure to create the requisite number of jobs and/or the amount of
23 annual payroll stated to be created from those jobs, that Tom Enterprises, LLC did not make
24 reasonable efforts to substantially comply with the statement of benefits and Tom
25 Enterprises, LLC's failure to substantially comply was not caused by factors beyond the
26 control of Tom Enterprises, LLC. Council therefore directs the Community Development
27 Division to mail written notice to Tom Enterprises, LLC explaining the reasons for Council's
28 determination and a date, time, place of a hearing to be conducted by Council for the
29 purpose of further considering Tom Enterprises, LLC's 2017 compliance with statement of
30 benefits.

SECTION 2c. That Tom Enterprises, LLC failed to appear and otherwise provide
additional information on its compliance with statement of benefits and has caused Council to
conclude and find that Tom Enterprises, LLC is not in substantial compliance pursuant to I.C.
6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne on their 2017
filing. Council therefore directs the Community Development Division to mail written notice to
Tom Enterprises, LLC explaining the reasons for Council's determination and a date, time,

1 place of a hearing to be conducted by Council for the purpose of further considering Tom
2 Enterprises, LLC's 2017 compliance with statement of benefits.

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

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8 _____
Member of Council

9
10 APPROVED AS TO FORM A LEGALITY

11
12 _____
13 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 Tom Enterprises, LLC 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