

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2017 for Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance for property at 7614 & 7720 Opportunity Drive, Fort Wayne, IN 46825 under Confirming Resolution R-67-13 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 Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance 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, Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance 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**, Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance
2 **appeared/failed to appear** before council to provide additional information on its compliance
3 with the approved 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 Shambaugh & Son, LP (MoMas Investments)/PNC Equipment
8 Finance for an approved economic revitalization area for 2017 is not in substantial
9 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City
10 of Fort Wayne for failure to create 75% of the jobs that were stated to be created and/or 75%
11 of the annual payroll stated to be generated by the created jobs on the approved Statement
12 of Benefits form.

13 **SECTION 2a.** Shambaugh & Son, LP (MoMas Investments)/PNC Equipment
14 Finance appeared before council and provided additional information on its compliance with
15 the approved Statement of Benefits and from this information it was determined that
16 notwithstanding Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance's
17 failure to substantially comply with its approved Statement of Benefits form, Shambaugh &
18 Son, LP (MoMas Investments)/PNC Equipment Finance did make reasonable efforts to
19 substantially comply with the approved Statement of Benefits and Shambaugh & Son, LP
20 (MoMas Investments)/PNC Equipment Finance's failure to substantially comply was caused
21 by factors beyond the control of Shambaugh & Son, LP (MoMas Investments)/PNC
22 Equipment Finance. Therefore, the continuation of Shambaugh & Son, LP (MoMas
23 Investments)/PNC Equipment Finance's deduction/abatement under R-67-13 is hereby
24 approved.

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

SECTION 2c. That Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance failed to appear and otherwise provide additional information on its compliance with statement of benefits and has caused Council to conclude and find that Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance 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 Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance 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 Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance's 2017 compliance with statement of benefits.

SECTION 3. 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

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 Shambaugh & Son, LP (MoMas Investments)/PNC Equipment Finance 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