

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2018 for Irwin Hudson Group LLC for property at 2980 Coliseum Boulevard Fort Wayne, IN 46805 under Confirming Resolution R-34-15 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 (hereinafter "SB-1") forms, certain property for **Irwin Hudson Group 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 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 (hereinafter "CF-1") with the City of Fort Wayne and in some cases either the Allen County Auditor, the Allen County Assessor, or both, showing information on the extent to which there has been compliance with the approved SB-1 form for the project; and

WHEREAS, **Irwin Hudson Group LLC** has filed CF-1 forms with the City of Fort Wayne and the Allen County Assessor; and

WHEREAS, **Irwin Hudson Group LLC's** approved SB-1 form stated that **10** full-time jobs would be created by **August 31, 2015**; and

WHEREAS, **Irwin Hudson Group LLC's** approved SB-1 form stated **\$435,000** in annual payroll would be generated by the **10** full-time jobs to be created; and

WHEREAS, **Irwin Hudson Group LLC's 2018 CF-1 form filing** stated that **eight** jobs were created; and

WHEREAS, **Irwin Hudson Group LLC's 2018 CF-1 form filing** stated **\$317,667** in annual payroll for the **eight** jobs created; and

1 **WHEREAS**, Common Council designated the City of Fort Wayne
2 Community Development Division as the entity for the administration, application,
3 processing and monitoring of Economic Revitalization Areas under Section 153.13
4 of the Municipal Code of the City of Fort Wayne; and

5 **WHEREAS**, Common Council has defined substantial compliance under
6 Section 153.21 of the Municipal Code of the City of Fort Wayne as:

- 7 1. Meeting 75% or more of the numbers of full-time and/or part-time jobs
8 stated to be created or retained as delineated in the original Statement
9 of Benefits Form (SB-1) approved by Common Council; and
- 10 2. Meeting 75% or more of the total payroll stated to be created or retained
11 as delineated in the original Statement of Benefits Form (SB-1) approved
12 by Common Council; and

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

15 **WHEREAS**, meeting 75% of the **\$435,000** in annual payroll to be created
16 means **\$326,250** in created annual payroll; and

17 **WHEREAS**, Common Council may determine not later than forty-five (45)
18 days after receipt of the CF-1 form that **Irwin Hudson Group LLC** has either failed
19 to substantially comply or has substantially complied with the original SB-1 form
20 approved by Common Council; and

21 **WHEREAS**, Common Council made a determination on **June 26, 2018** that
22 **Irwin Hudson Group LLC** was not in substantial compliance as a result of its
23 failure to create at least **seven** jobs and at least **\$326,250** in annual payroll created,
24 and that the failure to substantially comply was not caused by factors beyond the
25 control of **Irwin Hudson Group LLC**; and

26 **WHEREAS**, Council directed the Community Development Division to mail
27 written notice to **Irwin Hudson Group LLC** explaining the reasons for Council's
28 determination and a date, time, place of a hearing to be conducted by Council for
29 the purpose of further considering **Irwin Hudson Group LLC's** compliance with
30 Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served
upon **Irwin Hudson Group LLC**; and

1 **WHEREAS, Irwin Hudson Group LLC [appeared/failed to appear]** before
2 Common Council to provide additional information concerning compliance.

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

5 **SECTION 1.** That, Common Council finds that the CF-1 form filed by **Irwin**
6 **Hudson Group LLC** with an approved Economic Revitalization Area for **2018** are
7 not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the
8 Municipal Code of the City of Fort Wayne for failure to create 75% of the **10** full-
9 time jobs or **seven** jobs that were stated that would be created and create 75% of
10 the **\$435,000** in annual payroll or **\$326,250** that was stated that would be generated
11 by the created jobs.

12 **SECTION 2a. Irwin Hudson Group LLC** failed to appear and otherwise
13 testify and therefore Council confirms its determination of **June 26, 2018** that **Irwin**
14 **Hudson Group LLC** has failed to substantially comply pursuant to IC 6-1.1-12.1
15 and Section 153.21 of the Municipal Code of the City of Fort Wayne as detailed in
16 Section 1 above. Council therefore finds that **Irwin Hudson Group LLC** has failed
17 to substantially comply and said failure was not caused by factors outside of **Irwin**
18 **Hudson Group LLC's** control. As a result of said failure, **Irwin Hudson Group**
19 **LLC's** deduction/abatement under **R-34-15** is hereby terminated

20 **SECTION 2b.** That **Irwin Hudson Group LLC** appeared and testified at the
21 hearing and from its testimony it was determined that notwithstanding **Irwin**
22 **Hudson Group LLC's** failure to substantially comply as detailed in Section 1 above
23 that **Irwin Hudson Group LLC** did make reasonable efforts to substantially comply
24 with the statement of benefits and **Irwin Hudson Group LLC's** failure to
25 substantially comply was caused by factors beyond the control of **Irwin Hudson**
26 **Group LLC.** Therefore, the continuation of **Irwin Hudson Group LLC's**
27 deduction/abatement under **R-34-15** is hereby approved.

28 **SECTION 2c.** That **Irwin Hudson Group LLC** appeared and testified at the
29 hearing and from its testimony it was determined in addition to **Irwin Hudson**
30 **Group LLC's** failure to substantially comply as detailed in Section 1 above, that
Irwin Hudson Group LLC did not make reasonable efforts to substantially comply
with the statement of benefits and **Irwin Hudson Group LLC's** failure to
substantially comply was not caused by factors beyond the control of **Irwin Hudson**

Group LLC As a result of said failure, **Irwin Hudson Group LLC's** deduction/abatement under **R-34-15** is hereby terminated.

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

Joseph G. Bonahoom, Attorney for Common Council

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: **Resolution Confirming Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2016**

DEPARTMENT REQUESTING ORDINANCE: **Community Development Division**

SYNOPSIS OF ORDINANCE: **This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings made by Irwin Hudson Group, LLC in May 2018 with an approved economic revitalization area are either in substantial compliance or non-compliance pursuant to both Council policy and Indiana law.**

EFFECT OF PASSAGE: **Potential retention or loss of economic revitalization area deduction (property tax abatement/phase-in).**

EFFECT OF NON-PASSAGE:

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): **No expenditures of public funds required.**

ASSIGNED TO COMMITTEE (PRESIDENT): **Geoff Paddock and Jason Arp**