

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2018 for Conestoga, LLC for property at 3404 Conestoga Drive, Fort Wayne, IN 46808 under Confirming Resolution R-44-12 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 **Conestoga, 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, **Conestoga, LLC** has filed CF-1 forms with **the City of Fort Wayne and the Allen County Auditor**; and

WHEREAS, **Conestoga, LLC** approved SB-1 form stated that **20** full-time and **[Insert PTR Number]** part-time jobs would be retained and **two** full-time jobs would be created by **December 31, 2013**; and

WHEREAS, **Conestoga, LLC** approved SB-1 form stated **\$622,601** in annual payroll for the **20** full-time retained jobs and **\$52,000** in annual payroll would be generated by the **two** full-time jobs to be created; and

WHEREAS, **Conestoga, LLC's 2018** CF-1 form filing stated that **13** jobs were retained and **3** jobs were created; and

WHEREAS, **Conestoga, LLC 2018** CF-1 form filing stated **\$388,627** in annual payroll for the **13** jobs retained and **\$97,208** 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

1 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code of
2 the City of Fort Wayne; and

3 **WHEREAS**, Common Council has defined substantial compliance under Section
4 153.21 of the Municipal Code of the City of Fort Wayne as:

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

11 **WHEREAS**, meeting 75% of the **20** full-time jobs retained means retaining **15** jobs;
12 and

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

15 **WHEREAS**, meeting 75% of the **\$622,601** in retained annual payroll means
16 **\$466,950** in retained annual payroll; and

17 **WHEREAS**, meeting 75% of the **\$52,000** in annual payroll to be created means
18 **\$39,000** in annual payroll; and

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

22 **WHEREAS**, Common Council made a determination on **June 26, 2018** that
23 **Conestoga, LLC** was not in substantial compliance as a result of its failure to retain at least
24 **15** jobs and at least in **\$466,950** in annual payroll retained, and that the failure to substantially
25 comply was not caused by factors beyond the control of **Conestoga, LLC**; and

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

30 **WHEREAS**, the aforementioned notice was properly prepared and served upon
Conestoga, LLC; and

WHEREAS, **Conestoga, LLC** [appeared/failed to appear] before Common Council
to provide additional information concerning compliance.

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

SECTION 1. That, Common Council finds that the CF-1 form filed by **Conestoga, LLC** with an approved Economic Revitalization Area for [Insert Year] are not in substantial

1 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City
2 of Fort Wayne for failure to retain 75% of the **20** full-time jobs or **15** jobs that were stated that
3 would be retained and retain 75% of the **\$622,601** in annual payroll or **\$466,950** that was
4 stated that would be generated by the retained jobs.

5 **SECTION 2a.** **Conestoga, LLC** failed to appear and otherwise testify and
6 therefore Council confirms its determination of **June 26, 2018** that **Conestoga, LLC** has
7 failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal
8 Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore finds that
9 **Conestoga, LLC** has failed to substantially comply and said failure was not caused by
factors outside of **Conestoga, LLC's** control. As a result of said failure, **Conestoga, LLC's**
deduction/abatement under **R-44-12** is hereby terminated

10 **SECTION 2b.** That **Conestoga, LLC** appeared and testified at the hearing and from
11 its testimony it was determined that notwithstanding **Conestoga, LLC's** failure to
12 substantially comply as detailed in Section 1 above that **Conestoga, LLC** did make
13 reasonable efforts to substantially comply with the statement of benefits and **Conestoga,**
14 **LLC's** failure to substantially comply was caused by factors beyond the control of
Conestoga, LLC. Therefore, the continuation of **Conestoga, LLC's** deduction/abatement
under **R-44-12** is hereby approved.

15 **SECTION 2c.** That **Conestoga, LLC** appeared and testified at the hearing and
16 from its testimony it was determined in addition to **Conestoga, LLC's** failure to substantially
17 comply as detailed in Section 1 above, that **Conestoga, LLC** did not make reasonable
18 efforts to substantially comply with the statement of benefits and **Conestoga, LLC's** failure to
19 substantially comply was not caused by factors beyond the control of **Conestoga, LLC** As a
20 result of said failure, **Conestoga, LLC's** deduction/abatement under **R-44-12** is hereby
terminated.

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

23 _____
24 Member of Council

25
26 APPROVED AS TO FORM A LEGALITY

Joseph G. Bonahoom, Attorney for Common Council

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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 Conestoga, 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