

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2018 for 817 S. Calhoun LLC for property at 817 S. Calhoun Street under Confirming Resolution R-34-12 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 **817 S. Calhoun 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**, **817 S. Calhoun LLC** has filed CF-1 forms with **the City of Fort Wayne and the Allen County Auditor**, and

**WHEREAS**, **817 S. Calhoun LLC's** approved SB-1 form stated that **two** full-time and **four** part-time jobs would be created; and

**WHEREAS**, **817 S. Calhoun LLC's** approved SB-1 form stated **\$160,000** in annual payroll for the **two** full-time jobs and **four** part-time jobs to be created; and

**WHEREAS**, **817 S. Calhoun LLC's 2018 CF-1** form filing stated that **ten part-time** jobs were created; and

**WHEREAS**, **817 S. Calhoun LLC's 2018 CF-1** form filing stated **\$87,505** in annual payroll for the **ten** jobs created; 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                   1. Meeting 75% or more of the numbers of full-time and/or part-time jobs stated to
- 2                   be created or retained as delineated in the original Statement of Benefits Form
- 3                   (SB-1) approved by Common Council; and
- 4                   2. Meeting 75% or more of the total payroll stated to be created or retained as
- 5                   delineated in the original Statement of Benefits Form (SB-1) approved by
- 6                   Common Council; and

7                   **WHEREAS**, meeting 75% of the **two** full-time and **four** part-time jobs to be created

8                   means creating **one** full-time job **three** part-time jobs; and

9                   **WHEREAS**, meeting 75% of the **\$160,000** in annual payroll to be created means

10                  **\$120,000** in created annual payroll; and

11                  **WHEREAS**, Common Council may determine not later than forty-five (45) days after

12                  receipt of the CF-1 form that **817 S. Calhoun LLC** has either failed to substantially comply or

13                  has substantially complied with the original SB-1 form approved by Common Council; and

14                  **WHEREAS**, Common Council made a determination on **June 26, 2018** that **817 S.**

15                  **Calhoun LLC** was not in substantial compliance as a result of its failure to generate at least

16                  **four** jobs and at least **\$120,000** in annual payroll created, and that the failure to substantially

17                  comply was not caused by factors beyond the control of **817 S. Calhoun LLC**; and

18                  **WHEREAS**, Council directed the Community Development Division to mail written

19                  notice to **817 S. Calhoun LLC** explaining the reasons for Council's determination and a date,

20                  time, place of a hearing to be conducted by Council for the purpose of further considering

21                  **817 S. Calhoun LLC's** compliance with Statement of Benefits; and

22                  **WHEREAS**, the aforementioned notice was properly prepared and served upon **817**

23                  **S. Calhoun LLC**; and

24                  **WHEREAS**, **817 S. Calhoun LLC** [appeared/failed to appear] before Common

25                  Council to provide additional information concerning compliance.

26                  **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE**

27                  **CITY OF FORT WAYNE, INDIANA:**

28                  **SECTION 1.** That, Common Council finds that the CF-1 form filed by **817 S.**

29                  **Calhoun LLC** with an approved Economic Revitalization Area for **2018** are not in substantial

30                  compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City

of Fort Wayne for failure to create 75% of the **six** jobs or **four** jobs that were stated that

would be created and create 75% of the **\$160,000** in annual payroll or **\$120,000** that was

stated that would be generated by the created jobs.

**SECTION 2a.** **817 S. Calhoun LLC** failed to appear and otherwise testify and

therefore Council confirms its determination of **June 26, 2018** that **817 S. Calhoun LLC** has

failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal

Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore finds that

1       **817 S. Calhoun LLC** has failed to substantially comply and said failure was not caused by  
2 factors outside of **817 S. Calhoun LLC's** control. As a result of said failure, **817 S. Calhoun**  
3 **LLC's** deduction/abatement under **R-34-12** is hereby terminated

4       **SECTION 2b.** That **817 S. Calhoun LLC** appeared and testified at the hearing and  
5 from its testimony it was determined that notwithstanding **817 S. Calhoun LLC's** failure to  
6 substantially comply as detailed in Section 1 above that **817 S. Calhoun LLC** did make  
7 reasonable efforts to substantially comply with the statement of benefits and **817 S. Calhoun**  
8 **LLC's** failure to substantially comply was caused by factors beyond the control of **817 S.**  
9 **Calhoun LLC.** Therefore, the continuation of **817 S. Calhoun LLC's** deduction/abatement  
10 under **R-34-12** is hereby approved.

11       **SECTION 2c.** That **817 S. Calhoun LLC** appeared and testified at the hearing and  
12 from its testimony it was determined in addition to **817 S. Calhoun LLC's** failure to  
13 substantially comply as detailed in Section 1 above, that **817 S. Calhoun LLC** did not make  
14 reasonable efforts to substantially comply with the statement of benefits and **817 S. Calhoun**  
15 **LLC's** failure to substantially comply was not caused by factors beyond the control of **817 S.**  
16 **Calhoun LLC** As a result of said failure, **817 S. Calhoun LLC's** deduction/abatement under  
17 **R-34-12** is hereby terminated.

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

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23       Member of Council

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30       APPROVED AS TO FORM A LEGALITY

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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 817 S. Calhoun, 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**