

BILL NO. R-18-07-16

RESOLUTION NO. R-_____

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2018 for JH Specialty, Inc./Hilltrans, LLC for property at 6030 Huguenard Road Fort Wayne, IN 46802 under Confirming Resolution R-53-09 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 **JH Specialty, Inc./Hilltrans, 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, **JH Specialty, Inc./Hilltrans, LLC** has filed CF-1 forms with the **City of Fort Wayne**, the **Allen County Auditor** and the **Allen County Assessor**; and

WHEREAS, **JH Specialty, Inc./Hilltrans, LLC** approved SB-1 form stated that **19** full-time and **four** part-time jobs would be retained and **30** full-time and 12 part-time jobs would be created by **December 31, 2015**; and

WHEREAS, **JH Specialty, Inc./Hilltrans, LLC's** approved SB-1 form stated **\$1,086,800** in annual payroll for the **19** full-time and **four** part-time retained jobs and **\$1,838,400** in annual payroll would be generated by the **30** full-time and 12 part-time jobs to be created; and

1 **WHEREAS, JH Specialty, Inc./Hilltrans, LLC's 2018 CF-1 form filing**
2 **stated that 23 jobs were retained and nine jobs were created; and**

3 **WHEREAS, JH Specialty, Inc./Hilltrans, LLC's 2018 CF-1 form filing**
4 **stated \$1,086,800 in annual payroll for the 23 jobs retained and \$929,409 in annual**
5 **payroll for the nine jobs created; and**

6 **WHEREAS, Common Council designated the City of Fort Wayne**
7 **Community Development Division as the entity for the administration, application,**
8 **processing and monitoring of Economic Revitalization Areas under Section 153.13**
9 **of the Municipal Code of the City of Fort Wayne; and**

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

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

18 **WHEREAS, meeting 75% of the 19 full-time and four part-time jobs retained**
19 **means retaining 14 full-time and three part-time jobs; and**

20 **WHEREAS, meeting 75% of the 30 full-time and 12 part-time jobs to be**
21 **created means creating 22 full-time and nine part-time jobs; and**

22 **WHEREAS, meeting 75% of the 1,086,800 in retained annual payroll means**
23 **\$929,409 in retained annual payroll; and**

24 **WHEREAS, meeting 75% of the \$1,838,400 in annual payroll to be created**
25 **means \$1,378,800 in created annual payroll; and**

26 **WHEREAS, Common Council may determine not later than forty-five (45)**
27 **days after receipt of the CF-1 form that JH Specialty, Inc./Hilltrans, LLC has**
28 **either failed to substantially comply or has substantially complied with the original**
29 **SB-1 form approved by Common Council; and**

30 **WHEREAS, Common Council made a determination on June 26, 2018 that**
31 **JH Specialty, Inc./Hilltrans, LLC was not in substantial compliance as a result of**
32 **its failure to retain at least 17 jobs with at least \$815,100 in annual payroll and**
33 **create at least 31 jobs and at least \$1,378,800 in annual payroll, and that the failure**

1 to substantially comply was not caused by factors beyond the control of JH
2 Specialty, Inc./Hilltrans, LLC; and

3 WHEREAS, the aforementioned notice was properly prepared and served
4 upon JH Specialty, Inc./Hilltrans, LLC; and

5 WHEREAS, JH Specialty, Inc./Hilltrans, LLC [appeared/failed to appear]
6 before Common Council to provide additional information concerning compliance.

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

9 SECTION 1. That, Common Council finds that the CF-1 form filed by JH
10 Specialty, Inc./Hilltrans, LLC with an approved Economic Revitalization Area for
11 2018 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section
12 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75% of
13 the 42 jobs or 31 jobs that were stated that would be created and create 75% of the
14 \$1,838,400 in annual payroll or \$1,378,800 that was stated that would be generated
15 by the created jobs.

16 SECTION 2a. JH Specialty, Inc./Hilltrans, LLC failed to appear and
17 otherwise testify and therefore Council confirms its determination of June 26, 2018
18 that JH Specialty, Inc./Hilltrans, LLC has failed to substantially comply pursuant to
19 IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne
20 as detailed in Section 1 above. Council therefore finds that JH Specialty,
21 Inc./Hilltrans, LLC has failed to substantially comply and said failure was not
22 caused by factors outside of JH Specialty, Inc./Hilltrans, LLC's control. As a
23 result of said failure, JH Specialty, Inc./Hilltrans, LLC's deduction/abatement
24 under R-53-09 is hereby terminated

25 SECTION 2b. That JH Specialty, Inc./Hilltrans, LLC appeared and
26 testified at the hearing and from its testimony it was determined that
27 notwithstanding JH Specialty, Inc./Hilltrans, LLC's failure to substantially comply
28 as detailed in Section 1 above that JH Specialty, Inc./Hilltrans, LLC did make
29 reasonable efforts to substantially comply with the statement of benefits and JH
30 Specialty, Inc./Hilltrans, LLC's failure to substantially comply was caused by
factors beyond the control of JH Specialty, Inc./Hilltrans, LLC. Therefore, the
continuation of JH Specialty, Inc./Hilltrans, LLC's deduction/abatement under R-
53-09 is hereby approved.

1 **SECTION 2c.** That **JH Specialty, Inc./Hilltrans, LLC** appeared and
2 testified at the hearing and from its testimony it was determined in addition to **JH**
3 **Specialty, Inc./Hilltrans, LLC's** failure to substantially comply as detailed in
4 Section 1 above, that **JH Specialty, Inc./Hilltrans, LLC** did not make reasonable
5 efforts to substantially comply with the statement of benefits and **JH Specialty,**
6 **Inc./Hilltrans, LLC's** failure to substantially comply was not caused by factors
7 beyond the control of **JH Specialty, Inc./Hilltrans, LLC** As a result of said failure,
8 **JH Specialty, Inc./Hilltrans, LLC's** deduction/abatement under **R-53-09** is hereby
terminated.

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

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13 Member of Council

14
15 APPROVED AS TO FORM A LEGALITY

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18 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 JH Specialty, Inc./Hilltrans, 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