

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE
OR NON-COMPLIANCE with Statement of Benefits (CF-1)
form filing for 2019 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 2019 CF-1** form filing stated that **ten part-time** jobs were created; and

WHEREAS, **817 S. Calhoun LLC's 2019 CF-1** form filing stated **\$102,223** 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. 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

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

WHEREAS, meeting 75% of the **\$160,000** in annual payroll to be created means **\$120,000** in created annual payroll; and

WHEREAS, Common Council may determine not later than forty-five (45) days after receipt of the CF-1 form that **817 S. Calhoun LLC** has either failed to substantially comply or has substantially complied with the original SB-1 form approved by Common Council; and

WHEREAS, Common Council made a determination on **June 25, 2019** that **817 S. Calhoun LLC** was not in substantial compliance as a result of its failure to generate at least **four** jobs and at least **\$120,000** in annual payroll created, and that the failure to substantially comply was not caused by factors beyond the control of **817 S. Calhoun LLC**; and

WHEREAS, Council directed the Community Development Division to mail written notice to **817 S. Calhoun LLC** 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 **817 S. Calhoun LLC's** compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon **817 S. Calhoun LLC**; and

WHEREAS, **817 S. Calhoun 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 **817 S. Calhoun LLC** with an approved Economic Revitalization Area for **2019** are 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 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 25, 2019** 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 **817 S. Calhoun LLC** has failed to substantially comply and said failure was not caused by factors outside of **817 S. Calhoun LLC's** control. As a result of said failure, **817 S. Calhoun LLC's** deduction/abatement under **R-34-12** is hereby terminated

SECTION 2b. That **817 S. Calhoun LLC** appeared and testified at the hearing and from its testimony it was determined that notwithstanding **817 S. Calhoun LLC's** failure to

1 substantially comply as detailed in Section 1 above that **817 S. Calhoun LLC** did make
2 reasonable efforts to substantially comply with the statement of benefits and **817 S. Calhoun**
3 **LLC's** failure to substantially comply was caused by factors beyond the control of **817 S.**
4 **Calhoun LLC**. Therefore, the continuation of **817 S. Calhoun LLC's** deduction/abatement under
R-34-12 is hereby approved.

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

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

12 _____
13 Member of Council

14 APPROVED AS TO FORM A LEGALITY

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16 Carol Helton, City Attorney
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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 2019

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 April 2019 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): Russ Jehl and Jason Arp