

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2019 for Deister Concentrator, LLC/AOA Realty, LLC for property at 8825 Aviation Drive Fort Wayne, IN 46809 under Confirming Resolution R-61-17 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 **Deister Concentrator, LLC/AOA Realty, 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, **Deister Concentrator, LLC/AOA Realty, LLC** has filed CF-1 forms with the City of Fort Wayne and the Allen County Auditor; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, LLC's** approved SB-1 form stated that **eight** full-time jobs would be retained and **five** full-time and **two** part-time jobs would be created by **June 30, 2018**; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, LLC's** approved SB-1 form stated **\$392,600** in annual payroll for the **eight** full-time retained jobs and **\$135,200** in annual payroll would be generated by the **five** full-time and **two** part-time jobs to be created; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, LLC's 2019** CF-1 form filing stated that **eight** jobs were retained and **four** jobs were created; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, LLC's 2019** CF-1 form filing stated **\$414,163** in annual payroll for the **8** jobs retained and **\$44,241** in annual payroll for the **four** 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

1 **WHEREAS**, Common Council has defined substantial compliance under Section
2 153.21 of the Municipal Code of the City of Fort Wayne as:

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

9 **WHEREAS**, meeting 75% of the **eight** full-time jobs retained means retaining **six**
10 full-time jobs; and

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

13 **WHEREAS**, meeting 75% of the **\$392,600** in retained annual payroll means
14 **\$294,450** in retained annual payroll; and

15 **WHEREAS**, meeting 75% of the **\$135,200** in annual payroll to be created means
16 **\$101,400** in created annual payroll; and

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

21 **WHEREAS**, Common Council made a determination on **June 25, 2019** that
22 **Deister Concentrator, LLC/AOA Realty, LLC** was not in substantial compliance as a
23 result of its failure to retain at least **six** full-time jobs with at least **\$294,450** in annual
24 payroll and create at least **four** full-time and **one** part-time job and at least **\$101,400** in
25 annual payroll, and that the failure to substantially comply was not caused by factors
26 beyond the control of **Deister Concentrator, LLC/AOA Realty, LLC**; and

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

WHEREAS, the aforementioned notice was properly prepared and served upon
Deister Concentrator, LLC/AOA Realty, LLC; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, 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:**

1. **SECTION 1.** That, Common Council finds that the CF-1 form filed by **Deister**
2 **Concentrator, LLC/AOA Realty, LLC** with an approved Economic Revitalization Area
3 for **2019** are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section
4 153.21 of the Municipal Code of the City of Fort Wayne for failure to retain 75% of the
5 **eight** full-time jobs or **five** full-time jobs to be retained and 75% of the **\$392,600** in
6 annual payroll or **\$294,450** in annual payroll stated to be retained and create 75% of the
7 **five** full-time and **two** part-time jobs or **four** full-time and **one** part-time jobs that were
8 stated that would be created and create 75% of the **\$135,200** in annual payroll or
9 **\$101,400** that was stated that would be generated by the created jobs.

10 **SECTION 2a.** **Deister Concentrator, LLC/AOA Realty, LLC** failed to appear
11 and otherwise testify and therefore Council confirms its determination of **June 25, 2019**
12 that **Deister Concentrator, LLC/AOA Realty, LLC** has failed to substantially comply
13 pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort
14 Wayne as detailed in Section 1 above. Council therefore finds that **Deister**
15 **Concentrator, LLC/AOA Realty, LLC** has failed to substantially comply and said failure
16 was not caused by factors outside of **Deister Concentrator, LLC/AOA Realty, LLC's**
17 control. As a result of said failure, **Deister Concentrator, LLC/AOA Realty, LLC's**
18 deduction/abatement under **R-61-17** is hereby terminated

19 **SECTION 2b.** That **Deister Concentrator, LLC/AOA Realty, LLC** appeared
20 and testified at the hearing and from its testimony it was determined that notwithstanding
21 **Deister Concentrator, LLC/AOA Realty, LLC's** failure to substantially comply as
22 detailed in Section 1 above that **Deister Concentrator, LLC/AOA Realty, LLC** did
23 make reasonable efforts to substantially comply with the statement of benefits and
24 **Deister Concentrator, LLC/AOA Realty, LLC's** failure to substantially comply was
25 caused by factors beyond the control of **Deister Concentrator, LLC/AOA Realty, LLC**.
26 Therefore, the continuation of **Deister Concentrator, LLC/AOA Realty, LLC's**
27 deduction/abatement under **R-61-17** is hereby approved.

28 **SECTION 2c.** That **Deister Concentrator, LLC/AOA Realty, LLC** appeared
29 and testified at the hearing and from its testimony it was determined in addition to
30 **Deister Concentrator, LLC/AOA Realty, LLC's** failure to substantially comply as
detailed in Section 1 above, that **Deister Concentrator, LLC/AOA Realty, LLC** did not
make reasonable efforts to substantially comply with the statement of benefits and
Deister Concentrator, LLC/AOA Realty, LLC's failure to substantially comply was not
caused by factors beyond the control of **Deister Concentrator, LLC/AOA Realty, LLC**.
As a result of said failure, **Deister Concentrator, LLC/AOA Realty, LLC's**
deduction/abatement under **R-61-17** 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

Carol Helton, City Attorney

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 Deister Concentrator LLC/AOA Realty, 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