

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2019 for Heritage Food Service Group for property at 5130 Executive Blvd. Fort Wayne, IN 46809 under Confirming Resolution R-12-10 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 **Heritage Food Service Group** 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, **Heritage Food Service Group** has filed CF-1 forms with the **City of Fort Wayne, the Allen County Auditor, and the Allen County Assessor**; and

WHEREAS, **Heritage Food Service Group's** approved SB-1 form stated that **203** full-time jobs would be retained and **150** full-time jobs would be created by **December 31, 2013**; and

WHEREAS, **Heritage Food Service Group's** approved SB-1 form stated **\$7,033,000** in annual payroll for the **203** full-time retained jobs and **\$5,000,000** in annual payroll would be generated by the **150** full-time jobs to be created; and

WHEREAS, **Heritage Food Service Group's 2019** CF-1 form filing stated that **203** jobs were retained and **68** jobs were created; and

WHEREAS, **Heritage Food Service Group's 2019** CF-1 form filing stated **\$10,721,809** in annual payroll for the **203** jobs retained and **\$4,179,754** in annual payroll for the **68** jobs created; and

1 **WHEREAS**, Common Council designated the City of Fort Wayne Community
2 Development Division as the entity for the administration, application, processing and
3 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal
4 Code of the City of Fort Wayne; and

5 **WHEREAS**, Common Council has defined substantial compliance under Section
6 153.21 of the Municipal Code of the City of Fort Wayne as:

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

13 **WHEREAS**, meeting 75% of the **203** full-time jobs retained means retaining **152**
14 full-time jobs; and

15 **WHEREAS**, meeting 75% of the **150** full-time jobs to be created means creating
16 **112** full-time jobs; and

17 **WHEREAS**, meeting 75% of the **\$7,033,000** in retained annual payroll means
18 **\$5,274,750** in retained annual payroll; and

19 **WHEREAS**, meeting 75% of the **\$5,000,000** in annual payroll to be created
20 means **\$3,750,000** in created annual payroll; and

21 **WHEREAS**, Common Council may determine not later than forty-five (45) days
22 after receipt of the CF-1 form that **Heritage Food Service Group** has either failed to
23 substantially comply or has substantially complied with the original SB-1 form approved
24 by Common Council; and

25 **WHEREAS**, Common Council made a determination on **June 25, 2019** that
26 **Heritage Food Service Group** was not in substantial compliance as a result of its
27 failure to retain at least **152** jobs with at least **\$5,274,750** in annual payroll and create at
28 least **112** jobs and at least **\$3,750,000** in annual payroll, and that the failure to
29 substantially comply was not caused by factors beyond the control of **Heritage Food**
30 **Service Group**; and

WHEREAS, Council directed the Community Development Division to mail
written notice to **Heritage Food Service Group** 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 **Heritage Food Service Group's** compliance with
Statement of Benefits; and

1 **WHEREAS**, the aforementioned notice was properly prepared and served upon
2 **Heritage Food Service Group**; and

3 **WHEREAS**, **Heritage Food Service Group** [appeared/failed to appear] before
4 Common Council to provide additional information concerning compliance.

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

7 **SECTION 1.** That, Common Council finds that the CF-1 form filed by **Heritage**
8 **Food Service Group** with an approved Economic Revitalization Area for **2019** are not in
9 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal
10 Code of the City of Fort Wayne for failure to create 75% of the **150** full-time jobs or **112**
11 jobs that were stated that would be created and 75% of the **\$5,000,000** or **\$3,750,000** in
12 annual payroll.

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

21 **SECTION 2b.** That **Heritage Food Service Group** appeared and testified at the
22 hearing and from its testimony it was determined that notwithstanding **Heritage Food**
23 **Service Group's** failure to substantially comply as detailed in Section 1 above that
24 **Heritage Food Service Group** did make reasonable efforts to substantially comply with
25 the statement of benefits and **Heritage Food Service Group's** failure to substantially
26 comply was caused by factors beyond the control of **Heritage Food Service Group**.
27 Therefore, the continuation of **Heritage Food Service Group's** deduction/abatement
28 under **R-12-10** is hereby approved.

29 **SECTION 2c.** That **Heritage Food Service Group** appeared and testified at the
30 hearing and from its testimony it was determined in addition to **Heritage Food Service**
Group's failure to substantially comply as detailed in Section 1 above, that **Heritage**
Food Service Group did not make reasonable efforts to substantially comply with the
statement of benefits and **Heritage Food Service Group's** failure to substantially
comply was not caused by factors beyond the control of **Heritage Food Service Group**

1 As a result of said failure, **Heritage Food Service Group's** deduction/abatement under
2 **R-12-10** is hereby terminated.

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

5 _____
6 Member of Council

7 APPROVED AS TO FORM A LEGALITY

8
9 _____
10 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 Heritage Food Service Group 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