

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2019 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, 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

WHEREAS, **JH Specialty, Inc./Hilltrans, LLC's 2019** CF-1 form filing stated that **23** jobs were retained and **nine** jobs were created; and

WHEREAS, **JH Specialty, Inc./Hilltrans, LLC's 2019** CF-1 form filing stated **\$1,086,800** in annual payroll for the **23** jobs retained and **\$959,552** in annual payroll for the **nine** 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 **19** full-time and **four** part-time jobs retained
14 means retaining **14** full-time and **three** part-time jobs; and

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

17 **WHEREAS**, meeting 75% of the **1,086,800** in retained annual payroll means
18 **\$959,552** in retained annual payroll; and

19 **WHEREAS**, meeting 75% of the **\$1,838,400** in annual payroll to be created
20 means **\$1,378,800** 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 **JH Specialty, Inc./Hilltrans, LLC** 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 **JH**
26 **Specialty, Inc./Hilltrans, LLC** was not in substantial compliance as a result of its failure
27 to retain at least **17** jobs with at least **\$815,100** in annual payroll and create at least **31**
28 jobs and at least **\$1,378,800** in annual payroll, and that the failure to substantially
29 comply was not caused by factors beyond the control of **JH Specialty, Inc./Hilltrans,**
30 **LLC**; and

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

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

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

3 **SECTION 1.** That, Common Council finds that the CF-1 form filed by **JH**
4 **Specialty, Inc./Hilltrans, LLC** with an approved Economic Revitalization Area for **2019**
5 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the
6 Municipal Code of the City of Fort Wayne for failure to create 75% of the **42** jobs or **31**
7 jobs that were stated that would be created and create 75% of the **\$1,838,400** in annual
8 payroll or **\$1,378,800** that was stated that would be generated by the created jobs.

9 **SECTION 2a.** **JH Specialty, Inc./Hilltrans, LLC** failed to appear and otherwise
10 testify and therefore Council confirms its determination of **June 25, 2019** that **JH**
11 **Specialty, Inc./Hilltrans, LLC** has failed to substantially comply pursuant to IC 6-1.1-
12 12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne as detailed in
13 Section 1 above. Council therefore finds that **JH Specialty, Inc./Hilltrans, LLC** has
14 failed to substantially comply and said failure was not caused by factors outside of **JH**
15 **Specialty, Inc./Hilltrans, LLC's** control. As a result of said failure, **JH Specialty,**
16 **Inc./Hilltrans, LLC's** deduction/abatement under **R-53-09** is hereby terminated

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

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