

**A RESOLUTION Considering a Waiver of Non-Compliance
for a Late-Filed Compliance with Statement of Benefits
Form CF-1/Personal Property) and Considering a
Determination of Substantial Compliance or Non-
Compliance with Statement of Benefits Approved Under R-
17-14 for 5211 Industrial Road, Fort Wayne, Indiana 46808
(Pyromation, Inc.)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 5211 Industrial Road for (Confirming Resolution R-17-14) 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, The original Statement of Benefits and economic revitalization area designation application submitted by Pyromation, Inc. and approved under Confirming Resolution R-17-14 was for \$780,000 in real property improvements and \$70,000 in personal property improvements; and

WHEREAS, Following the approval of Confirming Resolution R-17-14 Pyromation, Inc. did not initiate or complete the Real Property portion of the project and has thus never filed a Compliance with Statement of Benefits (Form CF-1/Real Property) and;

WHEREAS, Pyromation, Inc.'s Compliance with Statement of Benefits (Form CF-1/Personal Property) was not filed in a timely manner on, or prior to, May 17, 2021 with the City and Allen County Assessor; and

WHEREAS, the City has given Pyromation, Inc. notice to file their Compliance with Statement of Benefits (Form CF-1/Personal Property) and to submit an application for a waiver of non-compliance for their late filed Statement of Benefits Form (CF-1/Personal Property); and

WHEREAS, Pyromation, Inc. has filed their Compliance with Statement of Benefits (Form CF-1/Personal Property) with the Assessor and the City and submitted an application for a waiver of non-compliance for their late filed (CF-1/Personal Property) with the City; and

WHEREAS, the Common Council acknowledges that Pyromation, Inc. has requested a waiver of non-compliance which the Common Council has the power and authority to approve, under I.C. 6-1.1-12.1-9.5); and

WHEREAS, Pyromation, Inc. has fulfilled its pledge to complete the project to purchase and install new personal property manufacturing and information technology equipment; and

WHEREAS, based on the CF-1 statement of benefits recently submitted, Pyromation, Inc. has established that they have substantially complied with its approved statement of benefits; and

WHEREAS, I.C. 6-1.1-12.1-9.5 permits tax abatement noncompliance events such as the untimely filing of statement of benefits (CF-1) paperwork to be waived; and

1 **WHEREAS**, if Common Council approves the waiver of non-compliance for the late filed
2 Compliance with Statement of Benefits (Form CF-1/Personal Property) then Common Council will
3 also determine substantial compliance or non-compliance with statement of benefits; and

4 **WHEREAS**, a public hearing of the Common Council has been held on the waiver.

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

7 **[OPTION 1]**

8 **SECTION 1.** That, Pyromation, Inc.'s request for a waiver of clerical and technical errors and
9 nonconformities with its Statement of Benefits Form CF-1/Personal Property requirements is
10 hereby denied and as such the phase-in granted under Confirming Resolution R-17-14 for
11 personal property is terminated.

12 **SECTION 2.** That this Resolution shall be in full force and effect from and after its passage and
13 any and all necessary approved by the Mayor.

14 **[OPTION 2]**

15 **SECTION 1.** That all clerical and technical errors and nonconformities of Pyromation, Inc.'s
16 Compliance with Statement of Benefits (Form CF-1/Personal Property) requirements that are
17 waivable under State and local law, including without limitation those errors and nonconformities
18 described in I.C. 6-1.1-12.1-9.5 are hereby waived.

19 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 forms filed by
20 Pyromation, Inc. with an approved Economic Revitalization Area for 2021 are in substantial
21 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of
22 Fort Wayne by virtue of creating 75% of the five full-time jobs or three full-time jobs as were
23 stated to be created and creating \$200,000 in annual payroll or \$150,000 in annual payroll that
24 was stated to be created and retaining the 75% of the 186 full-time or 139 full-time jobs and
25 retaining 75% of the \$10,537,797 or \$7,903,347 in annual payroll to be retained. Therefore, the
26 continuation of Pyromation, Inc.'s tax phase-in is hereby approved. The Allen County Auditor and
27 Allen County Assessor shall be supplied with a copy of this Resolution, upon passage, and is
28 instructed to apply the tax phase-in.

29 **SECTION 2. [OPTION B]** That Common Council finds that the CF-1 forms filed by
30 Pyromation, Inc. with an approved Economic Revitalization Area with an approved Economic
Revitalization Area for 2021 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and

1 Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75% of the
2 five full-time jobs or three full-time jobs as were stated to be created and creating \$200,000 in
3 annual payroll or \$150,000 in annual payroll that was stated to be created and retaining the 75%
4 of the 186 full-time or 139 full-time jobs and retaining 75% of the \$10,537,797 or \$7,903,347 in
5 annual payroll to be retained. Pyromation, Inc. did make reasonable efforts to substantially
6 comply with the statement of benefits and Pyromation, Inc.'s failure to substantially comply was
7 caused by factors beyond the control of Pyromation, Inc. Therefore, the continuation of
8 Pyromation, Inc.'s tax phase-in is hereby approved. The Allen County Auditor and Allen County
9 Assessor shall be supplied with a copy of this Resolution, upon passage, and is instructed to
10 apply the tax phase-in.

11 **SECTION 2. [OPTION C]** That Common Council finds that the CF-1 form filed by Pyromation,
12 Inc. with an approved Economic Revitalization Area for 2021 is not in substantial compliance
13 pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne
14 for failure to create 75% of the five full-time jobs or three full-time jobs as were stated to be
15 created and creating \$200,000 in annual payroll or \$150,000 in annual payroll that was stated to
16 be created and retaining the 75% of the 186 full-time or 139 full-time jobs and retaining 75% of
17 the \$10,537,797 or \$7,903,347 in annual payroll to be retained. Pyromation, Inc. did not make
18 reasonable efforts to substantially comply with the statement of benefits and Pyromation, Inc.'s
19 failure to substantially comply was not caused by factors beyond the control of Pyromation, Inc.
20 As a result of said failure, the tax phase-in for Pyromation, Inc. is hereby terminated by Common
21 Council. The Allen County Auditor shall be supplied with a copy of this Resolution, upon
22 passage, and is instructed to terminate the tax phase-in.

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

25 _____
26 Member of Council

27 APPROVED AS TO FORM AND LEGALITY

28 _____
29 Carol Helton, City Attorney
30

Admn. Appr. _____

DIGEST SHEET

TITLE OF RESOLUTION: Resolution Considering a Waiver of Non-Compliance for a Late-Filed Compliance with Statement of Benefits (Form CF-1/Personal Property) and Considering a Determination of Substantial Compliance or Non-Compliance with Statement of Benefits Approved Under R-17-14 for 5211 Industrial Court, Fort Wayne, IN 46808 (Pyromation, Inc.)

DEPARTMENT REQUESTING RESOLUTION: Community Development Division

SYNOPSIS OF RESOLUTION: This is to consider a waiver of non-compliance for late-filed personal property Statement of Benefits and to determine substantial compliance or non-compliance with Statement of Benefits for 2021 for Pyromation, Inc.

EFFECT OF PASSAGE: Approval of this resolution, granting of a waiver of non-compliance and a determination of substantial compliance will allow Pyromation, Inc. to retain their personal property economic revitalization area tax phase-in.

EFFECT OF NON-PASSAGE: Potential loss of future development by Pyromation, Inc.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): No expenditures of public funds required.

ASSIGNED TO COMMITTEE (CO-CHAIRS): Jason Arp and Glynn Hines