

**A RESOLUTION Considering a Waiver of Non-Compliance
for a Late-Filed Compliance with Statement of Benefits
(Form CF-1/Real Property and Form CF-1/Personal Property)
and Considering a Determination of Substantial Compliance
or Non-Compliance with Statement of Benefits Approved
Under R-39-11 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-39-11 was for \$1,600,000 in real property improvements and \$1,725,000 in personal property improvements; and

WHEREAS, Pyromation, Inc.'s 2021 Compliance with Statement of Benefits (Form CF-1/Real Property) was not filed in a timely manner on, or prior to, May 17, 2021 with the City and Allen County Auditor; 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/Real Property) and Compliance with Statement of Benefits (Form CF-1/Personal Property) and to apply for a waiver of non-compliance for their late filed Statement of Benefits Forms CF-1/Real Property) and (CF-1/Personal Property); and

WHEREAS, Pyromation, Inc. has filed their Compliance with Statement of Benefits (Form CF-1/Real Property) with the Auditor and the City and filed their 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 Compliance with Statement of Benefits Forms (CF-1/Real Property) and (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 make real property improvements and purchase and install new personal property manufacturing and information technology equipment; and

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

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

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

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

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

13 **[OPTION 1]**

14 **SECTION 1.** That, Pyromation, Inc.'s request for a waiver of clerical and technical errors and
15 nonconformities with its Statement of Benefits Form CF-1/Real Property Statement of Benefits
16 Form CF-1/Personal Property requirements is hereby denied and as such the phase-in granted
17 under Confirming Resolution R-39-11 for Real and Personal property is terminated.

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

20 **[OPTION 2]**

21 **SECTION 1.** That all clerical and technical errors and nonconformities of Pyromation, Inc.'s
22 Compliance with Statement of Benefits (Form CF-1/Real Property) and Compliance with
23 Statement of Benefits (Form CF-1/Personal Property) requirements that are waivable under State
24 and local law, including without limitation those errors and nonconformities described in I.C. 6-
25 1.1-12.1-9.5 are hereby waived.

26 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 forms filed by
27 Pyromation, Inc. with an approved Economic Revitalization Area for 2021 are in substantial
28 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of
29 Fort Wayne by virtue of creating 75% of the 39 full-time jobs or 29 full-time jobs as were stated to
30 be created and creating 75% of \$1,118,000 in annual payroll or \$838,500 in annual payroll that
was stated to be created and retaining the 75% of the 172 full-time and two part-time or 129 full-
time jobs and one part-time job and retaining 75% of the \$8,504,868 or \$6,378,651 in annual

1 payroll to be retained. Therefore, the continuation of Pyromation, Inc.'s tax phase-in is hereby
2 approved. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of
3 this Resolution, upon passage, and is instructed to apply the tax phase-in.

4 **SECTION 2. [OPTION B]** That Common Council finds that the CF-1 forms filed by
5 Pyromation, Inc. with an approved Economic Revitalization Area with an approved Economic
6 Revitalization Area for 2021 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and
7 Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75% of the 39
8 full-time jobs or 29 full-time jobs as were stated to be created and creating 75% of \$1,118,000 in
9 annual payroll or \$838,500 in annual payroll that was stated to be created and retaining the 75%
10 of the 172 full-time and two part-time or 129 full-time jobs and one part-time job and retaining
11 75% of the \$8,504,868 or \$6,378,651 in annual payroll to be retained. Pyromation, Inc. did make
12 reasonable efforts to substantially comply with the statement of benefits and Pyromation, Inc.'s
13 failure to substantially comply was caused by factors beyond the control of Pyromation, Inc.
14 Therefore, the continuation of Pyromation, Inc.'s tax phase-in is hereby approved. The Allen
15 County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon
16 passage, and is instructed to apply the tax phase-in.

17 **SECTION 2. [OPTION C]** That Common Council finds that the CF-1 form filed by Pyromation,
18 Inc. with an approved Economic Revitalization Area for 2021 is not in substantial compliance
19 pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne
20 for failure to create 75% of the 39 full-time jobs or 29 full-time jobs as were stated to be created
21 and creating 75% of \$1,118,000 in annual payroll or \$838,500 in annual payroll that was stated to
22 be created and retaining the 75% of the 172 full-time and two part-time or 129 full-time jobs and
23 one part-time job and retaining 75% of the \$8,504,868 or \$6,378,651 in annual payroll to be
24 retained. Pyromation, Inc. did not make reasonable efforts to substantially comply with the
25 statement of benefits and Pyromation, Inc.'s failure to substantially comply was not caused by
26 factors beyond the control of Pyromation, Inc. As a result of said failure, the tax phase-in for
27 Pyromation, Inc. is hereby terminated by Common Council. The Allen County Auditor shall be
28 supplied with a copy of this Resolution, upon passage, and is instructed to terminate the tax
29 phase-in.
30

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 AND LEGALITY

Carol Helton, City Attorney

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/Real Property) and 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-39-11 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 real and 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 real and personal property economic revitalization area tax phase-ins.

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