

**A RESOLUTION Considering a Waiver of Non-Compliance
for a Late-Filed Compliance with Statement of Benefits
(Form CF-1/Real Property) and Considering a Determination
of Substantial Compliance or Non-Compliance with
Statement of Benefits Approved Under R-43-18 for 3850
Concept Court, Fort Wayne, Indiana 46808 (Rogers Markets,
Inc.)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 5211 Industrial Road for (Confirming Resolution R-43-18) 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 Rogers Markets, Inc. and approved under Confirming Resolution R-43-18 was for \$3,800,000 in Real Property improvements in building a speculative building; and

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

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

WHEREAS, the Common Council acknowledges that Rogers Markets, 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, Rogers Markets, Inc. has fulfilled its pledge to complete the Real Property improvements and construct a 60,000 square foot multi-tenant speculative building; and

WHEREAS, based on the CF-1 statement of benefits recently submitted, Rogers Markets, 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 non-compliance 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/Real 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, Rogers Markets, Inc.'s request for a waiver of clerical and technical errors
9 and nonconformities with its Statement of Benefits Form CF-1/Real Property requirements is
10 hereby denied and as such the phase-in granted under Confirming Resolution R-43-18 for real
11 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 Rogers Markets, Inc.'s
16 Compliance with Statement of Benefits (Form CF-1/Real 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.** That Common Council finds that the CF-1 forms filed by Rogers Markets, Inc. with
20 an approved Economic Revitalization Area for 2021 are in substantial compliance pursuant to
21 I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne by virtue of
22 completing the construction of a 60,000 square foot multi-tenant speculative building. Therefore,
23 the continuation of Rogers Markets, Inc.'s tax phase-in is hereby approved. The Allen County
24 Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon
25 passage, and is instructed to apply the tax phase-in.
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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

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 Considering a Determination of Substantial Compliance or Non-Compliance with Statement of Benefits Approved Under R-43-18 for 3850 Concept Court, Fort Wayne, IN 46808 (Rogers Markets, Inc.)

DEPARTMENT REQUESTING RESOLUTION: Community Development Division

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

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

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

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

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