

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2021 for ElringKlinger Manufacturing of Indiana, Inc. for property at 2677 Persistence Drive, Fort Wayne, IN 46808 under Confirming Resolution R-15-18 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 ElringKlinger Manufacturing of Indiana, Inc. 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, ElringKlinger Manufacturing of Indiana, Inc. has filed CF-1 forms with the City of Fort Wayne and the Allen County Assessor; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc.'s approved SB-1 form stated that 120 full-time jobs would be created by May 31, 2020; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc.'s approved SB-1 form stated \$5,179,697 in annual payroll for the 120 full-time created to be created; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc.'s 2021 CF-1 form filing stated that 77 jobs have been created; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc.'s 2021 CF-1 form filing stated \$3,732,020 in annual payroll for the 77 jobs created; and

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

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

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

WHEREAS, meeting 75% of the 120 full-time jobs to be created means creating 90 full-time jobs; and

WHEREAS, meeting 75% of the \$5,179,697 in created annual payroll means \$3,884,772 in retained annual payroll; and

WHEREAS, Common Council may determine no later than forty-five (45) days after receipt of the CF-1 form that ElringKlinger Manufacturing of Indiana, Inc. has either failed to substantially comply or has substantially complied with the original SB-1 form approved by Common Council; and

WHEREAS, Common Council made a determination on July 13, 2021 that ElringKlinger Manufacturing of Indiana, Inc. was not in substantial compliance as a result of its failure to create at least 90 full-time jobs and at least \$3,884,772 in annual payroll, and that the failure to substantially comply was not caused by factors beyond the control of ElringKlinger Manufacturing of Indiana, Inc.; and

WHEREAS, Council directed the Community Development Division to mail written notice to ElringKlinger Manufacturing of Indiana, Inc. 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 ElringKlinger Manufacturing of Indiana, Inc.'s compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon ElringKlinger Manufacturing of Indiana, Inc.; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc. [appeared/failed to appear] before Common Council to provide additional information concerning compliance.

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

SECTION 1. That, Common Council finds that the CF-1 form filed by ElringKlinger Manufacturing of Indiana, Inc. with an approved Economic Revitalization Area for 2021 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75 % of the 120 full-time or 90 full-time jobs stated and create 75% of the \$5,179,697 in annual payroll or \$3,884,772 in annual payroll that was stated that would be generated by the created jobs.

SECTION 2a. ElringKlinger Manufacturing of Indiana, Inc. failed to appear and otherwise testify and therefore Council confirms its determination of July 28, 2021 that ElringKlinger Manufacturing of Indiana, Inc. has failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore finds that ElringKlinger Manufacturing of Indiana, Inc. has failed to substantially comply and said failure was not caused by factors outside of ElringKlinger Manufacturing of Indiana, Inc.'s control. As a result of said failure, ElringKlinger Manufacturing of Indiana, Inc.'s deduction/abatement under R-15-18 is hereby terminated

SECTION 2b. That ElringKlinger Manufacturing of Indiana, Inc. appeared and testified at the hearing and from its testimony it was determined that notwithstanding ElringKlinger Manufacturing of Indiana, Inc.'s failure to substantially comply as detailed in Section 1 above that ElringKlinger Manufacturing of Indiana, Inc. did make reasonable efforts to substantially comply with the statement of benefits and ElringKlinger Manufacturing of Indiana, Inc.'s failure to substantially comply was caused by factors beyond the control of ElringKlinger Manufacturing of Indiana, Inc. Therefore, the continuation of ElringKlinger Manufacturing of Indiana, Inc.'s deduction/abatement under R-15-18 is hereby approved.

SECTION 2c. That ElringKlinger Manufacturing of Indiana, Inc. appeared and testified at the hearing and from its testimony it was determined in addition to ElringKlinger Manufacturing of Indiana, Inc.'s failure to substantially comply as detailed in Section 1 above, that ElringKlinger Manufacturing of Indiana, Inc. did not make reasonable efforts to substantially comply with the statement of benefits and ElringKlinger Manufacturing of Indiana, Inc.'s failure to substantially comply was not caused by factors beyond the control of ElringKlinger Manufacturing of Indiana, Inc. As a result of said failure, ElringKlinger Manufacturing of Indiana, Inc.'s deduction/abatement under R-15-18 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 Considering Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2021

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution confirms that the Compliance with Statement of Benefits (CF-1) Form filing made by ElringKlinger Manufacturing of Indiana, Inc. in May 2021 with an approved economic revitalization area approved under Confirming Resolution R-15-18 is either in substantial compliance or non-compliance pursuant to both City of Fort Wayne Code and Indiana Code.

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): Jason Arp and Glynn Hines