

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-33-12 for 1515 Profit Drive, Fort Wayne, Indiana 46808 (Meijer Stores Limited Partnership)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 1515 Profit Drive for Meijer Stores Limited Partnership (Confirming Resolution R-101-13) 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 Meijer Stores Limited Partnership and approved under Confirming Resolution R-33-12 was for \$2,261,000 in real property improvements and \$8,080,000 in personal property improvements; and

WHEREAS, Meijer Stores Limited Partnership's 2020 Compliance with Statement of Benefits (Form CF-1/Real Property) was filed in a timely manner on, or prior to, June 15, 2020 with the City and Allen County Auditor; and

WHEREAS, Meijer Stores Limited Partnership's Compliance with Statement of Benefits (Form CF-1/Personal Property) was not filed in a timely manner on, or prior to, June 15, 2020 with the Allen County Assessor; and

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

WHEREAS, the Common Council acknowledges that Meijer Stores Limited Partnership 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, Meijer Stores Limited Partnership has fulfilled its pledge to complete the project to occupy and refurbish a vacant facility and purchase and install new personal property equipment; and

WHEREAS, Based on the CF-1 statement of benefits recently submitted, Meijer Stores Limited Partnership 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, Meijer Stores Limited Partnership's request for a waiver of clerical and
9 technical errors and nonconformities with its Statement of Benefits Form CF-1/Personal Property
10 requirements is hereby denied and as such the phase-in granted under Confirming Resolution R-
11 33-12 for 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 Meijer Stores Limited
16 Partnership's Compliance with Statement of Benefits (Form CF-1/Personal Property)
17 requirements that are waivable under State and local law, including without limitation those errors
18 and nonconformities 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 form filed by Meijer
20 Stores Limited Partnership with an approved Economic Revitalization Area for 2020 is in
21 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of
22 the City of Fort Wayne by virtue of creating 75% of the 33 full-time jobs or 24 full-time jobs as
23 were stated to be created and creating \$1,617,087 in annual payroll or \$1,212,815 in annual
24 payroll that was stated to be created. Therefore, the continuation of Meijer Stores Limited
25 Partnership's tax phase-in is hereby approved. The Allen County Auditor shall be supplied with a
26 copy of this Resolution, upon passage, and is instructed to apply the tax phase-in.

27 **SECTION 2. [OPTION B]** That Common Council finds that the CF-1 forms filed by Meijer
28 Stores Limited Partnership with an approved Economic Revitalization Area with an approved
29 Economic Revitalization Area for 2020 are not in substantial compliance pursuant to I.C. 6-1.1-
30 12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75%
of the 33 full-time jobs or 24 full-time jobs as were stated to be created and creating \$1,617,087
in annual payroll or \$1,212,815 in annual payroll that was stated to be created. Meijer Stores
Limited Partnership did make reasonable efforts to substantially comply with the statement of
benefits and Meijer Stores Limited Partnership's failure to substantially comply was caused by

factors beyond the control of Meijer Stores Limited Partnership. Therefore, the continuation of Meijer Stores Limited Partnership's tax phase-in is hereby approved. The Allen County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed to apply the tax phase-in.

SECTION 2. [OPTION C] That Common Council finds that the CF-1 form filed by Meijer Stores Limited Partnership with an approved Economic Revitalization Area for 2020 is 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 33 full-time jobs or 24 full-time jobs as were stated to be created and creating \$1,617,087 in annual payroll or \$1,212,815 in annual payroll that was stated to be created. Meijer Stores Limited Partnership did not make reasonable efforts to substantially comply with the statement of benefits and Meijer Stores Limited Partnership's failure to substantially comply was not caused by factors beyond the control of Meijer Stores Limited Partnership. As a result of said failure, the tax phase-in for Meijer Stores Limited Partnership is hereby terminated by Common Council. The Allen County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed to terminate the tax phase-in.

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