

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 for with Statement of Benefits Approved Under R-22-15 for 2980 E. Coliseum Boulevard, Fort Wayne, Indiana 46805 (Intellectual Technology, Inc./2980 Coliseum, LLC)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 2980 E. Coliseum Boulevard for Intellectual Technology, Inc./2980 Coliseum, LLC (Confirming Resolution R-22-15) 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 Intellectual Technology, Inc./2980 Coliseum, LLC and approved under Confirming Resolution R-22-15 was for \$1,200,000 in real property improvements and \$450,000 in personal property improvements; and

WHEREAS, Intellectual Technology, Inc./2980 Coliseum, LLC's 2020 CF-1 Compliance with Statement of Benefits (Form CF-1/Personal Property) was filed in a timely manner on, or prior to, June 15, 2020 with the City and Allen County Assessor; and

WHEREAS, Intellectual Technology, Inc./2980 Coliseum, LLC's Compliance with Statement of Benefits (Form CF-1/Real Property) was not filed in a timely manner on, or prior to, June 15, 2020 with the Allen County Auditor; and

WHEREAS, the City has given Intellectual Technology, Inc./2980 Coliseum, LLC notice to file their Compliance Statement of Benefits Form CF-1/Real Property and to submit an application for a waiver of non-compliance for their late filed Compliance with Statement of Benefits (Form CF-1/Real Property); and

WHEREAS, Intellectual Technology, Inc./2980 Coliseum, LLC has filed their Compliance with Statement of Benefits (Form CF-1/Real Property) with Auditor and submitted an application for a waiver of non-compliance for their late filed Compliance with Statement of Benefits Form (CF-1/Real Property) with the City; and

WHEREAS, the Common Council acknowledges that Intellectual Technology, Inc./2980 Coliseum, LLC 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, Intellectual Technology, Inc./2980 Coliseum, LLC has fulfilled its pledge to complete the project and construct a new 12,000 square foot addition and 1,200 square foot research facility. New personal property was also purchased and installed; and

WHEREAS, Based on the CF-1 statement of benefits recently submitted, Intellectual Technology, Inc./2980 Coliseum, LLC 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/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, Intellectual Technology, Inc./2980 Coliseum, LLC's request for a waiver of
9 clerical and technical errors and nonconformities with its Statement of Benefits Form CF-1/Real
10 Property requirements is hereby denied and as such the phase-in granted under Confirming
11 Resolution R-22-15 for real 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 Intellectual Technology,
16 Inc./2980 Coliseum, LLC's Compliance with Statement of Benefits (Form CF-1/Real 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 Intellectual
20 Technology, Inc./2980 Coliseum, LLC with an approved Economic Revitalization Area for 2020 is
21 in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code
22 of the City of Fort Wayne by virtue of retaining 75% of the 64 full-time jobs and three part-time
23 jobs or 48 full-time jobs and two part-time jobs that were stated to be retained and retaining 75%
24 of the \$3,642,800 in annual payroll or \$2,732,100 in annual payroll that were stated that would be
25 generated by the jobs retained and creating 10 full-time and three part-time jobs or seven full-
26 time and two part-time jobs that were stated to be created and creating \$436,000 in annual
27 payroll or \$327,000 in annual payroll that was stated to be created. Therefore, the continuation of
Intellectual Technology, Inc./2980 Coliseum, LLC'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.

28 **SECTION 2. [OPTION B].** That Common Council finds that the CF-1 forms filed by Intellectual
29 Technology, Inc./2980 Coliseum, LLC with an approved Economic Revitalization Area with an
30 approved Economic Revitalization Area for 2020 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

1 retain 75% of the 64 full-time jobs and three part-time jobs or 48 full-time jobs and two part-time
2 jobs that were stated to be retained and retaining 75% of the \$3,642,800 in annual payroll or
3 \$2,732,100 in annual payroll that were stated that would be generated by the jobs retained and
4 creating 10 full-time and three part-time jobs or seven full-time and two part-time jobs that were
5 stated to be created and creating \$436,000 in annual payroll or \$327,000 in annual payroll that
6 was stated to be created.. Intellectual Technology, Inc./2980 Coliseum, LLC did make reasonable
7 efforts to substantially comply with the statement of benefits and Intellectual Technology,
8 Inc./2980 Coliseum, LLC's failure to substantially comply was caused by factors beyond the
9 control of Intellectual Technology, Inc./2980 Coliseum, LLC. Therefore, the continuation of
10 Intellectual Technology, Inc./2980 Coliseum, LLC's tax phase-in is hereby approved. The Allen
11 County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed
12 to apply the tax phase-in.

13 **SECTION 2. [OPTION C]** That Common Council finds that the CF-1 form filed by Intellectual
14 Technology, Inc./2980 Coliseum, LLC with an approved Economic Revitalization Area for 2020 is
15 not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal
16 Code of the City of Fort Wayne for failure to retain 75% of the 64 full-time jobs and three part-
17 time jobs or 48 full-time jobs and two part-time jobs that were stated to be retained and retaining
18 75% of the \$3,642,800 in annual payroll or \$2,732,100 in annual payroll that was stated that
19 would be generated by the jobs retained and creating 10 full-time and three part-time jobs or
20 seven full-time and two part-time jobs that were stated to be created and creating \$436,000 in
21 annual payroll or \$327,000 in annual payroll that was stated to be created. Intellectual
22 Technology, Inc./2980 Coliseum, LLC did not make reasonable efforts to substantially comply
23 with the statement of benefits and Intellectual Technology, Inc./2980 Coliseum, LLC's failure to
24 substantially comply was not caused by factors beyond the control of Intellectual Technology,
25 Inc./2980 Coliseum, LLC. As a result of said failure, the tax phase-in for Intellectual Technology,
26 Inc./2980 Coliseum, LLC is hereby terminated by Common Council. The Allen County Auditor
27 shall be supplied with a copy of this Resolution, upon passage, and is instructed to terminate the
28 abatement for real property improvements.

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

Member of Council

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney