

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2020 for Conestoga, LLC for property at 3404 Conestoga Drive Fort Wayne, IN 46808 under Confirming Resolution R-44-12 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 **Conestoga, LLC** 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, **Conestoga, LLC** has filed CF-1 forms with **the City of Fort Wayne and the Allen County Auditor**; and

WHEREAS, **Conestoga, LLC's** approved SB-1 form stated that **20** full-time jobs would be retained and **two** full-time jobs would be created by **December 31, 2013**; and

WHEREAS, **Conestoga, LLC's** approved SB-1 form stated **\$622,601** in annual payroll for the **20** full-time retained jobs and **\$52,000** in annual payroll would be generated by the **two** full-time jobs to be created; and

WHEREAS, **Conestoga, LLC's 2020** CF-1 form filing stated that **12** jobs were retained and **two** jobs were created; and

WHEREAS, **Conestoga, LLC's 2020** CF-1 form filing stated **\$396,409** in annual payroll for the **12** jobs retained and **\$59,382** in annual payroll for the **two** jobs created; and

WHEREAS, Common Council designated the City of Fort Wayne Community Development Division as the entity for the administration, application, processing and

1 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code
2 of the City of Fort Wayne; and

3 **WHEREAS**, Common Council has defined substantial compliance under Section
4 153.21 of the Municipal Code of the City of Fort Wayne as:

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

11 **WHEREAS**, meeting 75% of the **20** full-time jobs retained means retaining **15** full-
12 time jobs; and

13 **WHEREAS**, meeting 75% of the **two** full-time jobs to be created means creating
14 **one** full-time job; and

15 **WHEREAS**, meeting 75% of the **\$622,601** in retained annual payroll means
16 **\$466,950** in retained annual payroll; and

17 **WHEREAS**, meeting 75% of the **\$52,000** in annual payroll to be created means
18 **\$39,000** in created annual payroll; and

19 **WHEREAS**, Common Council may determine not later than forty-five (45) days
20 after receipt of the CF-1 form that **Conestoga, LLC** has either failed to substantially
21 comply or has substantially complied with the original SB-1 form approved by Common
22 Council; and

23 **WHEREAS**, Common Council made a determination on **July 28, 2020** that
24 **Conestoga, LLC** was not in substantial compliance as a result of its failure to retain at
25 least **15** jobs with at least **\$466,950** in annual payroll and that the failure to substantially
26 comply was not caused by factors beyond the control of **Conestoga, LLC**; and

27 **WHEREAS**, Council directed the Community Development Division to mail written
28 notice to **Conestoga, LLC** explaining the reasons for Council's determination and a date,
29 time, place of a hearing to be conducted by Council for the purpose of further considering
30 **Conestoga, LLC's** compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon
Conestoga, LLC; and

WHEREAS, **Conestoga, LLC** [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:**

1 **SECTION 1.** That, Common Council finds that the CF-1 form filed by
2 **Conestoga, LLC** with an approved Economic Revitalization Area for **2020** are not in
3 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal
4 Code of the City of Fort Wayne for failure to retain 75% of the **20** full-time jobs or **15** jobs
5 that were stated that would be retained.

6 **SECTION 2a. Conestoga, LLC** failed to appear and otherwise testify and
7 therefore Council confirms its determination of **July 28, 2020** that **Conestoga, LLC** has
8 failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the
9 Municipal Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore
10 finds that **Conestoga, LLC** has failed to substantially comply and said failure was not
11 caused by factors outside of **Conestoga, LLC's** control. As a result of said failure,
12 **Conestoga, LLC's** deduction/abatement under **R-44-12** is hereby terminated

13 **SECTION 2b.** That **Conestoga, LLC** appeared and testified at the hearing and
14 from its testimony it was determined that notwithstanding **Conestoga, LLC's** failure to
15 substantially comply as detailed in Section 1 above that **Conestoga, LLC** did make
16 reasonable efforts to substantially comply with the statement of benefits and **Conestoga,**
17 **LLC's** failure to substantially comply was caused by factors beyond the control of
18 **Conestoga, LLC** Therefore, the continuation of **Conestoga, LLC's** deduction/abatement
19 under **R-44-12** is hereby approved.

20 **SECTION 2c.** That **Conestoga, LLC** appeared and testified at the hearing and
21 from its testimony it was determined in addition to **Conestoga, LLC's** failure to
22 substantially comply as detailed in Section 1 above, that **Conestoga, LLC** did not make
23 reasonable efforts to substantially comply with the statement of benefits and **Conestoga,**
24 **LLC's** failure to substantially comply was not caused by factors beyond the control of
25 **Conestoga, LLC** As a result of said failure, **Conestoga, LLC's** deduction/abatement
26 under **R-44-12** is hereby terminated.

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

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Member of Council

APPROVED AS TO FORM A LEGALITY

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Carol Helton, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution Confirming Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2020

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings made by Conestoga, LLC in April 2020 with an approved economic revitalization area are either in substantial compliance or non-compliance pursuant to both Council policy and Indiana law.

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 Sharon Tucker