

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2020 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 2020** CF-1 form filing stated that **67** jobs created; and

WHEREAS, **ElringKlinger Manufacturing of Indiana, Inc.'s 2020** CF-1 form filing stated **\$3,626,600** in annual payroll for the **67** 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

1 **WHEREAS**, Common Council has defined substantial compliance under Section
2 153.21 of the Municipal Code of the City of Fort Wayne as:

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

9 **WHEREAS**, meeting 75% of the **120** full-time jobs to be created means creating
10 **90** full-time jobs; and

11 **WHEREAS**, meeting 75% of the **\$5,179,697** in created annual payroll means
12 **\$3,884,772** in retained annual payroll; and

13 **WHEREAS**, Common Council may determine not later than forty-five (45) days
14 after receipt of the CF-1 form that **ElringKlinger Manufacturing of Indiana, Inc.** has
15 either failed to substantially comply or has substantially complied with the original SB-1
16 form approved by Common Council; and

17 **WHEREAS**, Common Council made a determination on **July 28, 2020** that
18 **ElringKlinger Manufacturing of Indiana, Inc.** was not in substantial compliance as a
19 result of its failure to create at least **90** full-time jobs and at least **\$3,884,772** in annual
20 payroll, and that the failure to substantially comply was not caused by factors beyond the
21 control of **ElringKlinger Manufacturing of Indiana, Inc.**; and

22 **WHEREAS**, Council directed the Community Development Division to mail written
23 notice to **ElringKlinger Manufacturing of Indiana, Inc.** explaining the reasons for
24 Council's determination and a date, time, place of a hearing to be conducted by Council
25 for the purpose of further considering **ElringKlinger Manufacturing of Indiana, Inc.'s**
26 compliance with Statement of Benefits; and

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

29 **WHEREAS**, **ElringKlinger Manufacturing of Indiana, Inc. [appeared/failed to**
30 **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 **2020** are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section

1 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75 % of the
2 **120** full-time or **90** full-time jobs stated and create 75% of the **\$5,179,697** in annual payroll
3 or **\$3,884,772** in annual payroll that was stated that would be generated by the created
4 jobs.

5 **SECTION 2a. ElringKlinger Manufacturing of Indiana, Inc.** failed to appear and
6 otherwise testify and therefore Council confirms its determination of **July 28, 2020** that
7 **ElringKlinger Manufacturing of Indiana, Inc.** has failed to substantially comply pursuant
8 to IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne as
9 detailed in Section 1 above. Council therefore finds that **ElringKlinger Manufacturing of**
10 **Indiana, Inc.** has failed to substantially comply and said failure was not caused by factors
11 outside of **ElringKlinger Manufacturing of Indiana, Inc.’s** control. As a result of said
12 failure, **ElringKlinger Manufacturing of Indiana, Inc.’s** deduction/abatement under **R-**
13 **15-18** is hereby terminated

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

23 **SECTION 2c.** That **ElringKlinger Manufacturing of Indiana, Inc.** appeared and
24 testified at the hearing and from its testimony it was determined in addition to
25 **ElringKlinger Manufacturing of Indiana, Inc.’s** failure to substantially comply as
26 detailed in Section 1 above, that **ElringKlinger Manufacturing of Indiana, Inc.** did not
27 make reasonable efforts to substantially comply with the statement of benefits and
28 **ElringKlinger Manufacturing of Indiana, Inc.’s** failure to substantially comply was not
29 caused by factors beyond the control of **ElringKlinger Manufacturing of Indiana, Inc.**
30 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 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 ElringKlinger Manufacturing of Indiana, Inc. in May 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