

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2020 for W.C. Holdings II, LLC for property at 2677 Persistence Drive, Fort Wayne, IN 46808 under Confirming Resolution R-14-18 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 **W.C. Holdings II, 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, **W.C. Holdings II, LLC** has filed CF-1 forms with the **City of Fort Wayne and the Allen County Auditor**; and

WHEREAS, **W.C. Holdings II, LLC’s** approved SB-1 form stated that **120** full-time jobs would be created by May 31, 2020; and

WHEREAS, **W.C. Holdings II, LLC’s** approved SB-1 form stated **\$5,179,697** in annual payroll for the **120** full-time created to be created; and

WHEREAS, **W.C. Holdings II, LLC’s 2020** CF-1 form filing stated that **67** jobs created; and

WHEREAS, **W.C. Holdings II, LLC’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 **W.C. Holdings II, LLC** has either failed to substantially
15 comply or has substantially complied with the original SB-1 form approved by Common
16 Council; and

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

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

26 **WHEREAS**, the aforementioned notice was properly prepared and served upon
27 **W.C. Holdings II, LLC**; and

28 **WHEREAS**, **W.C. Holdings II, LLC [appeared/failed to appear]** before Common
29 Council to provide additional information concerning compliance.

30 **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 **W.C.**
Holdings II, LLC with an 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 create 75% of the **120** full-time or **90** full-time

1 jobs stated and create 75% of the \$5,179,697 in annual payroll or \$3,884,772 in annual
2 payroll that was stated that would be generated by the created jobs.

3 **SECTION 2a. W.C. Holdings II, LLC** failed to appear and otherwise testify and
4 therefore Council confirms its determination of **July 28, 2020** that **W.C. Holdings II, LLC**
5 has failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the
6 Municipal Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore
7 finds that **W.C. Holdings II, LLC** has failed to substantially comply and said failure was
8 not caused by factors outside of **W.C. Holdings II, LLC's** control. As a result of said
9 failure, **W.C. Holdings II, LLC's** deduction/abatement under **R-14-18** is hereby
10 terminated

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

18 **SECTION 2c.** That **W.C. Holdings II, LLC** appeared and testified at the hearing
19 and from its testimony it was determined in addition to **W.C. Holdings II, LLC's** failure to
20 substantially comply as detailed in Section 1 above, that **W.C. Holdings II, LLC** did not
21 make reasonable efforts to substantially comply with the statement of benefits and **W.C.**
22 **Holdings II, LLC's** failure to substantially comply was not caused by factors beyond the
23 control of **W.C. Holdings II, LLCAs** a result of said failure, **W.C. Holdings II, LLC's**
24 deduction/abatement under **R-14-18** is hereby terminated.

25 **SECTION 3.** That, this Resolution shall be in full force and effect from and after
26 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 W.C. Holdings II, LLC 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