

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE Statement of Benefits (CF-1) form filing for 2022 for Indiana Oxygen Company, Inc./Fort Brant Limited Partnership for property at 3806 Option Pass, Fort Wayne, IN 46818 under Confirming Resolution R-5-16 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 Indiana Oxygen Company, Inc./Fort Brant Limited Partnership 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**, Indiana Oxygen Company, Inc./Fort Brant Limited Partnership has filed CF-1 forms with the City of Fort Wayne, the Allen County Auditor and the Allen County Assessor; and

**WHEREAS**, Indiana Oxygen Company, Inc./Fort Brant Limited Partnership's approved SB-1 form stated that six full-time jobs would be created by December 31, 2018; and

**WHEREAS**, Indiana Oxygen Company, Inc./Fort Brant Limited Partnership's approved SB-1 form stated \$368,160 in annual payroll would be created for the six full-time jobs to be created; and

**WHEREAS**, Indiana Oxygen Company, Inc./Fort Brant Limited Partnership's 2022 CF-1 form filing stated that four jobs were created; and

**WHEREAS**, Indiana Oxygen Company, Inc./Fort Brant Limited Partnership's 2022 CF-1 form filing stated \$315,758 in annual payroll for the four jobs created; and

1           **WHEREAS**, Common Council designated the City of Fort Wayne Community  
2 Development Division as the entity for the administration, application, processing and  
3 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code  
4 of the City of Fort Wayne; and

5           **WHEREAS**, Common Council has defined substantial compliance under Section  
6 153.21 of the Municipal Code of the City of Fort Wayne as:

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

13           **WHEREAS**, meeting 75% of the six jobs to be created means creating four full-  
14 jobs; and

15           **WHEREAS**, meeting 75% of the \$368,160 in annual payroll to be created means  
16 \$276,120 in created annual payroll; and

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

21           **WHEREAS**, Common Council made a determination on July 28, 2022 that Indiana  
22 Oxygen Company, Inc./Fort Brant Limited Partnership was not in substantial compliance;  
23 and

24           **WHEREAS**, Council directed the Community Development Division to mail written  
25 notice to Indiana Oxygen Company, Inc./Fort Brant Limited Partnership explaining the  
26 reasons for Council's determination and a date, time, place of a hearing to be conducted  
27 by Council for the purpose of further considering Indiana Oxygen Company, Inc./Fort  
28 Brant Limited Partnership's compliance with Statement of Benefits; and

29           **WHEREAS**, the aforementioned notice was properly prepared and served upon  
30 Indiana Oxygen Company, Inc.; and

**WHEREAS**, Community Development staff, in preparing documents for the  
abovementioned hearing, discovered that Indiana Oxygen Company, Inc./Fort Brant  
Limited Partnership had incorrectly completed their 2022 CF-1 filings indicating that per  
the approved SB-1, eight jobs were to be created instead of six jobs being created; and

**WHEREAS**, Community Development staff has notified Common Council and  
Indiana Oxygen Company, Inc./Fort Brant Limited Partnership and of this error and that

1 Indiana Oxygen Company, Inc./Fort Brant Limited Partnership is in fact compliant with  
2 statement of benefits; and

3 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE**  
4 **CITY OF FORT WAYNE, INDIANA:**

5 **SECTION 1.** That, Common Council finds that the CF-1 form filed by Indiana  
6 Oxygen Company, Inc./Fort Brant Limited Partnership with an approved Economic  
7 Revitalization Area for 2022 are in substantial compliance pursuant to I.C. 6-1.1-12.1 and  
8 Section 153.21 of the Municipal Code of the City of Fort Wayne.

9 **SECTION 2.** That, this Resolution shall be in full force and effect from and after  
10 its passage and any and all necessary approval by the Mayor.

11 \_\_\_\_\_  
12 Member of Council

13  
14 APPROVED AS TO FORM A LEGALITY

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17 Malak Heiny, City Attorney  
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Admn. Appr. \_\_\_\_\_

DIGEST SHEET

**TITLE OF ORDINANCE: Resolution determining Substantial Compliance with a Statement of Benefits (SB-1) for 2022**

**DEPARTMENT REQUESTING ORDINANCE: Community Development Division**

**SYNOPSIS OF ORDINANCE: This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings made by Indiana Oxygen Company, Inc./Fort Brant Limited Partnership in May 2022 with an approved economic revitalization area are either in substantial 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): Russ Jehl and Sharon Tucker**