

**A RESOLUTION determining SUBSTANTIAL
COMPLIANCE OR NON-COMPLIANCE with Statement
of Benefits (CF-1) form filing for 2023 for 2677
Persistence Dr Investors, 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 2677 Persistence Dr Investors, 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, 2677 Persistence Dr Investors, LLC has filed CF-1 forms with the City of Fort Wayne and the Allen County Auditor; and

WHEREAS, 2677 Persistence Dr Investors, LLC's approved SB-1 form stated that 120 full-time jobs would be created by May 31, 2020; and

WHEREAS, 2677 Persistence Dr Investors, LLC's approved SB-1 form stated \$5,179,697 in annual payroll for the 120 full-time created to be created; and

WHEREAS, 2677 Persistence Dr Investors, LLC's 2023 CF-1 form filing stated that 65 jobs have been created; and

WHEREAS, 2677 Persistence Dr Investors, LLC's 2023 CF-1 form filing stated \$3,729,419 in annual payroll for the 65 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 no later than forty-five (45) days
14 after receipt of the CF-1 form that 2677 Persistence Dr Investors, LLC has either failed to
15 substantially comply or has substantially complied with the original SB-1 form approved
16 by Common Council; and

17 **WHEREAS**, Common Council made a determination on July 27, 2023 that 2677
18 Persistence Dr Investors, LLC was not in substantial compliance as a result of its failure
19 to create at least 90 full-time jobs and at least \$3,884,772 in annual payroll, and that the
20 failure to substantially comply was not caused by factors beyond the control of 2677
21 Persistence Dr Investors, LLC; and

22 **WHEREAS**, Council directed the Community Development Division to mail written
23 notice to 2677 Persistence Dr Investors, LLC explaining the reasons for Council's
24 determination and a date, time, place of a hearing to be conducted by Council for the
25 purpose of further considering 2677 Persistence Dr Investors, LLC's compliance with
26 Statement of Benefits; and

27 **WHEREAS**, the aforementioned notice was properly prepared and served upon
28 2677 Persistence Dr Investors, LLC to appear before Council on August 8, 2023 at
29 5:30pm in Room 030 at Citizen's Square 200 E. Berry Street Fort Wayne, IN; and

30 **WHEREAS**, 2677 Persistence Dr Investors, LLC [appeared/failed to appear]
before Common Council on August 8, 2023 to provide additional information concerning
compliance.

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

3 **SECTION 1.** That, Common Council finds that the CF-1 form filed by 2677
4 Persistence Dr Investors, LLC with an approved Economic Revitalization Area for 2023
5 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the
6 Municipal Code of the City of Fort Wayne for failure to create 75% of the 120 full-time or
7 90 full-time jobs stated and create 75% of the \$5,179,697 in annual payroll or \$3,884,772
in annual payroll that was stated that would be generated by the created jobs.

8 **SECTION 2a.** 2677 Persistence Dr Investors, LLC failed to appear and otherwise
9 testify and therefore Council confirms its determination of July 27, 2023 that 2677
10 Persistence Dr Investors, LLC has failed to substantially comply pursuant to IC 6-1.1-12.1
11 and Section 153.21 of the Municipal Code of the City of Fort Wayne as detailed in Section
12 1 above. Council therefore finds that 2677 Persistence Dr Investors, LLC has failed to
13 substantially comply and said failure was not caused by factors outside of 2677
Persistence Dr Investors, LLC's control. As a result of said failure, 2677 Persistence Dr
Investors, LLC's deduction/abatement under R-14-18 is hereby terminated.

14 **SECTION 2b.** That 2677 Persistence Dr Investors, LLC appeared and testified at
15 the hearing and from its testimony it was determined that notwithstanding 2677
16 Persistence Dr Investors, LLC's failure to substantially comply as detailed in Section 1
17 above that 2677 Persistence Dr Investors, LLC did make reasonable efforts to
18 substantially comply with the statement of benefits and 2677 Persistence Dr Investors,
19 LLC's failure to substantially comply was caused by factors beyond the control of 2677
Persistence Dr Investors, LLC. Therefore, the continuation of 2677 Persistence Dr
Investors, LLC's deduction/abatement under R-14-18 is hereby approved.

20 **SECTION 2c.** That 2677 Persistence Dr Investors, LLC appeared and testified at
21 the hearing and from its testimony it was determined in addition to 2677 Persistence Dr
22 Investors, LLC's failure to substantially comply as detailed in Section 1 above, that 2677
23 Persistence Dr Investors, LLC did not make reasonable efforts to substantially comply
24 with the statement of benefits and 2677 Persistence Dr Investors, LLC's failure to
25 substantially comply was not caused by factors beyond the control of 2677 Persistence
26 Dr Investors, LLC As a result of said failure, 2677 Persistence Dr Investors, LLC's
27 deduction/abatement under R-14-18 is hereby terminated.
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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

Malak Heiny, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution Confirming Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2023

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings made by 2677 Persistence Dr Investors, LLC in May 2023 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 (CHAIR & CO-CHAIR): Geoff Paddock and Jason Arp