BILL NO. R-23-07-15

RESOLUTION NO. R-____________

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2023 for CT Financial Berry St, LLC for property at 113 West Berry Street, Fort Wayne, IN 46802 under Confirming Resolution R-73-17 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 CT Financial Berry St, 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, CT Financial Berry St, LLC has filed CF-1 forms with the City of Fort Wayne, Allen County Auditor; and

WHEREAS, CT Financial Berry St, LLC's approved SB-1 form stated that 87 full-time jobs would be retained and 20 full-time jobs created by December 31, 2022; and

WHEREAS, CT Financial Berry St, LLC's approved SB-1 form stated $6,406,128 in annual payroll would be retained for the 87 full-time retained jobs and $1,495,000 in annual payroll created for the 20 full-time jobs to be created; and

WHEREAS, CT Financial Berry St, LLC's 2023 CF-1 form filing stated that 31 full-time jobs have been retained and no full-time jobs have been created; and

WHEREAS, CT Financial Berry St, LLC's 2023 CF-1 form filing stated $3,555,233 in annual payroll for the 31 full-time jobs retained and $0 in annual payroll for the 0 full-time 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

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

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

WHEREAS, meeting 75% of the 87 full-time jobs to be retained and 20 full-time jobs to be created means retaining 65 full-time jobs and creating 15 full-time jobs; and

WHEREAS, meeting 75% of the $6,406,128 retained annual payroll means $4,804,596 in retained annual payroll and 75% of the $1,495,000 in created annual payroll means $1,121,250 in created annual payroll; and

WHEREAS, Common Council will determine no later than forty-five (45) days after receipt of the CF-1 form that an approved business has either failed to substantially comply or has substantially complied with the original SB-1 form approved by Common Council; and

WHEREAS, Common Council made a determination on June 27, 2023 that CT Financial Berry St, LLC was not in substantial compliance as a result of its failure to retain at least 65 full-time jobs with a retained annual payroll of at least $4,804,596 and create at least 15 new full-time jobs with at least $1,121,250 in created annual payroll; and

WHEREAS, Council directed the Community Development Division to mail written notice to CT Financial Berry St, LLC explaining the reasons for Council's determination and a date, time, place of a hearing to be conducted by Council for the purpose of further considering CT Financial Berry St, LLC's compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon CT Financial Berry St, LLC to appear before Council on August 8, 2023 at 5:30pm in Room 030 at Citizen's Square 200 E. Berry Street Fort Wayne, IN; and

WHEREAS, CT Financial Berry St, LLC [appeared/failed to appear] before Common Council on August 8, 2023 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 CT Financial Berry St, LLC with an approved Economic Revitalization Area for 2023 is 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 retain 75% of the 87 full-time, or 65 full-time jobs, as stated and create 75% of the 20 full-time jobs, or 15 full-time jobs, as stated and retain 75% of the $6,406,128, or $4,804,596, in annual payroll or create 75% of the $1,495,000, or $1,121,250, in annual payroll that was stated that would be generated by the created jobs.

SECTION 2a. CT Financial Berry St, LLC failed to appear and otherwise testify and therefore Council confirms its determination of June 27, 2023 that CT Financial Berry St, LLC has failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore finds that CT Financial Berry St, LLC has failed to substantially comply and said failure was not caused by factors outside of CT Financial Berry St, LLC's control. As a result of said failure, CT Financial Berry St, LLC's deduction/abatement under R-73-17 is hereby terminated.

SECTION 2b. That CT Financial Berry St, LLC appeared and testified at the hearing and from its testimony it was determined that notwithstanding CT Financial Berry St, LLC's failure to substantially comply as detailed in Section 1 above that CT Financial Berry St, LLC did make reasonable efforts to substantially comply with the statement of benefits and CT Financial Berry St, LLC's failure to substantially comply was caused by factors beyond the control of CT Financial Berry St, LLC. Therefore, the continuation of CT Financial Berry St, LLC's deduction/abatement under R-73-17 is hereby approved.

SECTION 2c. That CT Financial Berry St, LLC appeared and testified at the hearing and from its testimony it was determined in addition to CT Financial Berry St, LLC's failure to substantially comply as detailed in Section 1 above, that CT Financial Berry St, LLC did not make reasonable efforts to substantially comply with the statement of benefits and CT Financial Berry St, LLC's failure to substantially comply was not caused by factors beyond the control of CT Financial Berry St, LLC. As a result of said failure, CT Financial Berry St, LLC's deduction/abatement under R-73-17 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.

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Member of Council

APPROVED AS TO FORM A LEGALITY

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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 CT Financial Berry St, 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**