

A RESOLUTION Considering a Waiver of Non-Compliance for Late-Filed Compliance with Statement of Benefits (Form CF-1/Real Property and Form CF-1/Personal Property) and Determination of Substantial Compliance or Non-Compliance with Statement of Benefits Approved under R-49-18 for 3702 Vanguard Drive, Fort Wayne, Indiana 46809 (Pro Seal & Plastics, LLC/PSP Seals, LLC)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 9403 Avionics Drive for Pro Seal & Plastics, LLC/PSP Seals, LLC (Confirming Resolution R-49-18) 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, The original Statement of Benefits and economic revitalization area designation application submitted by Pro Seal & Plastics, LLC/PSP Seals, LLC and approved under Confirming Resolution R-49-18 was for \$1,073,000 in real property improvements and \$872,000 in personal property improvements; and

WHEREAS, Pro Seal & Plastics, LLC/PSP Seals, LLC's 2023 Compliance with Statement of Benefits (Form CF-1/Real Property and Form CF-1/Personal Property) was not filed in a timely manner on, or prior to, May 15, 2023 with the City of Fort Wayne; and

WHEREAS, the City has given Pro Seal & Plastics, LLC/PSP Seals, LLC notice to file their Compliance with Statement of Benefits (Form CF-1/Real Property and Form CF-1/Personal Property) and to submit an application for a waiver of non-compliance for a late filed Compliance with Statement of Benefits (Form CF-1/Real Property and Form CF-1/Personal Property); and

WHEREAS, Pro Seal & Plastics, LLC/PSP Seals, LLC has filed their Compliance with Statement of Benefits (Form CF-1/Real Property and Form CF-1/Personal Property) with the City of Fort Wayne and submitted an application for a waiver of non-compliance for failure to file their Compliance with Statement of Benefits (Form CF-1/Real Property and Form CF-1/Personal Property) in a timely manner; and

WHEREAS, the Common Council acknowledges that Pro Seal & Plastics, LLC/PSP Seals, LLC has requested a waiver of non-compliance which the Common Council has the power and authority to approve, under I.C. 6-1.1-12.1-9.5); and

WHEREAS, Pro Seal & Plastics, LLC/PSP Seals, LLC has fulfilled its pledge complete the project to expand its existing facility and purchase and install new personal property equipment; and

WHEREAS, Based on the CF-1 statement of benefits recently submitted, Pro Seal & Plastics, LLC/PSP Seals, LLC has established that they have substantially complied with its approved statement of benefits; and

1 **WHEREAS**, I.C. 6-1.1-12.1-9.5 permits tax abatement noncompliance events such as
2 the untimely filed Compliance with Statement of Benefits (Form CF-1/Real Property and Form
3 CF-1/Personal Property) paperwork to be waived; and

4 **WHEREAS**, if Common Council approves the waiver of non-compliance for the late filed
5 Compliance with Statement of Benefits (Form CF-1/Real Property and Form CF-1/Personal
6 Property) then Common Council will also determine substantial compliance or non-compliance
7 with statement of benefits; and

8 **WHEREAS**, a public hearing of the Common Council has been held on the waiver.

9
10 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT
11 WAYNE, INDIANA:**

12 **[OPTION 1]**

13 **SECTION 1.** That, Pro Seal & Plastics, LLC/PSP Seals, LLC's request for a waiver of clerical
14 and technical errors and nonconformities with its Compliance with Statement of Benefits (Form
15 CF-1/Real Property and Form CF-1/Personal Property) requirements is hereby denied and as
16 such the phase-in granted under Confirming Resolution R-49-18 for real and personal property is
17 terminated.

18 **SECTION 2.** That this Resolution shall be in full force and effect from and after its passage and
19 any and all necessary approved by the Mayor.

20 **[OPTION 2]**

21 **SECTION 1.** That all clerical and technical errors and nonconformities of Pro Seal & Plastics,
22 LLC/PSP Seals, LLC's Compliance with Statement of Benefits (Form CF-1/Real Property and
23 Form CF-1/Personal Property) requirements that are waivable under State and local law,
24 including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 are
25 hereby waived.

26 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 forms filed by Pro Seal &
27 Plastics, LLC/PSP Seals, LLC with an approved Economic Revitalization Area for 2023 are in
28 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of
29 the City of Fort Wayne by virtue of retaining 75% of the 13 full-time jobs, or nine full-time jobs,
30 that were stated to be retained and retaining 75% of the \$1,111,000 in retained annual payroll, or
\$833,250, as well as 75% of the 13 additional full-time jobs, or nine additional full-time jobs, that
were stated to be created and creating 75% of the \$1,041,000, or \$465,780,750, in created
annual payroll. Therefore, the continuation of Pro Seal & Plastics, LLC/PSP Seals, LLC's

1 abatement is hereby approved. The Allen County Auditor and Allen County Assessor shall be
2 supplied with a copy of this Resolution, upon passage, and is instructed to apply the tax phase-
3 in.

4 **SECTION 2. [OPTION B]** That Common Council finds that the CF-1 forms filed by Pro Seal &
5 Plastics, LLC/PSP Seals, LLC with an approved Economic Revitalization Area with an approved
6 Economic Revitalization Area for 2023 are not in substantial compliance pursuant to I.C. 6-1.1-
7 12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to retain 75%
8 of the 13 full-time jobs, or nine full-time jobs, that were stated to be retained and failing to retain
9 75% of the \$1,111,000 in retained annual payroll, or \$833,250, as well as failure to create 75% of
10 the 13 additional full-time jobs, or nine additional full-time jobs, that were stated to be created and
11 failing to create 75% of the \$1,041,000, or \$780,750, in created annual payroll. Pro Seal &
12 Plastics, LLC/PSP Seals, LLC did make reasonable efforts to substantially comply with the
13 statement of benefits and Pro Seal & Plastics, LLC/PSP Seals, LLC's failure to substantially
14 comply was caused by factors beyond the control of Pro Seal & Plastics, LLC/PSP Seals, LLC.
15 Therefore, the continuation of Pro Seal & Plastics, LLC/PSP Seals, LLC's abatement is hereby
16 approved. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of
17 this Resolution, upon passage, and is instructed to apply the tax phase-in.

18 **SECTION 2. [OPTION C]** That Common Council finds that the CF-1 forms filed by Pro Seal &
19 Plastics, LLC/PSP Seals, LLC with an approved Economic Revitalization Area for 2023 are not in
20 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of
21 the City of Fort Wayne for failure to retain 75% of the 13 full-time jobs, or nine full-time jobs, that
22 were stated to be retained and failing to retain 75% of the \$1,111,000 in retained annual payroll,
23 or \$833,250, as well as failing to create 75% of the 13 additional full-time jobs, or nine additional
24 full-time jobs, that were stated to be created and failing to create 75% of the \$1,041,000, or
25 \$780,750, in created annual payroll. Pro Seal & Plastics, LLC/PSP Seals, LLC did not make
26 reasonable efforts to substantially comply with the statement of benefits and Pro Seal & Plastics,
27 LLC/PSP Seals, LLC's failure to substantially comply was not caused by factors beyond the
28 control of Pro Seal & Plastics, LLC/PSP Seals, LLC as a result of said failure, the abatement for
29 Pro Seal & Plastics, LLC/PSP Seals, LLC is hereby terminated by Common Council. The Allen
30 County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed
to terminate the abatement for real property improvements.

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 AND LEGALITY

Malak Heiny, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution Considering a Waiver of Non-Compliance for Late-Filed Compliance with Benefits (Form CF-1/Real Property and CF-1/Personal Property) and a Determination of Substantial Compliance or Non-Compliance with Statement of Benefits approved under R-49-18 for 3702 Vanguard Drive, Fort Wayne, Indiana 46809 (Pro Seal & Plastics, LLC/PSP Seals, LLC)

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution considers a waiver of non-compliance for late filed documents and a determination of compliance with statement of benefits for filings made in May 2023 for Pro Seal & Plastics, LLC/PSP Seals, LLC.

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