

**A RESOLUTION determining SUBSTANTIAL
COMPLIANCE OR NON-COMPLIANCE with Statement
of Benefits (CF-1) form filing for 2023 for ElringKlinger
Manufacturing of Indiana, Inc. for property at 2677
Persistence Drive, Fort Wayne, IN 46808 under
Confirming Resolution R-15-18 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 ElringKlinger Manufacturing of Indiana, Inc. 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, ElringKlinger Manufacturing of Indiana, Inc. has filed CF-1 forms with the City of Fort Wayne and the Allen County Assessor; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc.'s approved SB-1 form stated that 120 full-time jobs would be created by May 31, 2020; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc.'s approved SB-1 form stated \$5,179,697 in annual payroll for the 120 full-time created to be created; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc.'s 2023 CF-1 form filing stated that 65 jobs have been created; and

WHEREAS, ElringKlinger Manufacturing of Indiana, Inc.'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 ElringKlinger Manufacturing of Indiana, Inc. has either
15 failed to substantially comply or has substantially complied with the original SB-1 form
16 approved by Common Council; and

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

22 **WHEREAS**, Council directed the Community Development Division to mail written
23 notice to ElringKlinger Manufacturing of Indiana, Inc. 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 ElringKlinger Manufacturing of Indiana, Inc.'s compliance
26 with Statement of Benefits; and

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

30 **WHEREAS**, ElringKlinger Manufacturing of Indiana, Inc. [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
4 ElringKlinger Manufacturing of Indiana, Inc. with an approved Economic Revitalization
5 Area for 2023 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section
6 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75% of the
7 120 full-time or 90 full-time jobs stated and create 75% of the \$5,179,697 in annual payroll
8 or \$3,884,772 in annual payroll that was stated that would be generated by the created
9 jobs.

10 **SECTION 2a.** ElringKlinger Manufacturing of Indiana, Inc. failed to appear and
11 otherwise testify and therefore Council confirms its determination of July 27, 2023 that
12 ElringKlinger Manufacturing of Indiana, Inc. has failed to substantially comply pursuant to
13 IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne as
14 detailed in Section 1 above. Council therefore finds that ElringKlinger Manufacturing of
15 Indiana, Inc. has failed to substantially comply and said failure was not caused by factors
16 outside of ElringKlinger Manufacturing of Indiana, Inc.'s control. As a result of said failure,
17 ElringKlinger Manufacturing of Indiana, Inc.'s deduction/abatement under R-15-18 is
18 hereby terminated.

19 **SECTION 2b.** That ElringKlinger Manufacturing of Indiana, Inc. appeared and
20 testified at the hearing and from its testimony it was determined that notwithstanding
21 ElringKlinger Manufacturing of Indiana, Inc.'s failure to substantially comply as detailed in
22 Section 1 above that ElringKlinger Manufacturing of Indiana, Inc. did make reasonable
23 efforts to substantially comply with the statement of benefits and ElringKlinger
24 Manufacturing of Indiana, Inc.'s failure to substantially comply was caused by factors
25 beyond the control of ElringKlinger Manufacturing of Indiana, Inc. Therefore, the
26 continuation of ElringKlinger Manufacturing of Indiana, Inc.'s deduction/abatement under
27 R-15-18 is hereby approved.

28 **SECTION 2c.** That ElringKlinger Manufacturing of Indiana, Inc. appeared and
29 testified at the hearing and from its testimony it was determined in addition to ElringKlinger
30 Manufacturing of Indiana, Inc.'s failure to substantially comply as detailed in Section 1
above, that ElringKlinger Manufacturing of Indiana, Inc. did not make reasonable efforts
to substantially comply with the statement of benefits and ElringKlinger Manufacturing of
Indiana, Inc.'s failure to substantially comply was not caused by factors beyond the control
of ElringKlinger Manufacturing of Indiana, Inc. As a result of said failure, ElringKlinger
Manufacturing of Indiana, Inc.'s deduction/abatement under R-15-18 is hereby
terminated.

1 **SECTION 3.** That, this Resolution shall be in full force and effect from and after
2 its passage and any and all necessary approval by the Mayor.
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Member of Council

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7 APPROVED AS TO FORM A LEGALITY
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Malak Heiny, City Attorney
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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 ElringKlinger Manufacturing Indiana, Inc. 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