

A RESOLUTION Considering a Waiver of Non-Compliance for Late-Filed Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and Late Filed Compliance with Statement of Benefits (Form CF-1/Real Property) and Determination of Substantial Compliance or Non-Compliance with Statement of Benefits Approved under R-34-20 for 4051 Kraft Parkway, Fort Wayne, Indiana 46808 (Clear Choice Glass/Don Saylor Investments LLC)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 4051 Kraft Parkway for Clear Choice Glass/Don Saylor Investments LLC (Confirming Resolution R-34-20) 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 Clear Choice Glass/Don Saylor Investments LLC and approved under Confirming Resolution R-34-20 was for \$1,100,000 in real property improvements; and

WHEREAS, Clear Choice Glass/Don Saylor Investments LLC's 2023 Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) was not filed in a timely manner on, or prior to, May 10, 2023 with the Allen County Auditor's Office; and

WHEREAS, Clear Choice Glass/Don Saylor Investments LLC's 2023 Compliance with Statement of Benefits (Form CF-1/Real 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 Clear Choice Glass/Don Saylor Investments LLC notice to file their Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) with the Allen County Auditor's Office; and

WHEREAS, the City has given Clear Choice Glass/Don Saylor Investments LLC notice to file their Compliance with Statement of Benefits (Form CF-1/Real Property); and

WHEREAS, the City has given Clear Choice Glass/Don Saylor Investments LLC notice to submit an application for a waiver of non-compliance for a late filed Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and a late filed Compliance with Statement of Benefits (Form CF-1/Real Property); and

WHEREAS, Clear Choice Glass/Don Saylor Investments LLC has filed their Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and Compliance with Statement of Benefits (Form CF-1/Real Property) with the City of Fort Wayne and Allen County Auditor and submitted an application for a waiver of non-compliance for failure to file their Application for Deduction from Assessed Valuation of

Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and Compliance with Statement of Benefits (Form CF-1/Real Property) in a timely manner; and

WHEREAS, the Common Council acknowledges that Clear Choice Glass/Don Saylor Investments 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, Clear Choice Glass/Don Saylor Investments LLC has fulfilled its pledge to complete the project to construct a new 12,600 square foot masonry and steel structure with glass front, concrete and asphalt paving via improvements made between August 1, 2020 and December 21, 2023; and

WHEREAS, Based on the CF-1 statement of benefits submitted, Clear Choice Glass/Don Saylor Investments LLC has established that they have substantially complied with its approved statement of benefits; and

WHEREAS, I.C. 6-1.1-12.1-9.5 permits tax abatement non-compliance events such as the untimely filed Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and untimely filed Compliance with Statement of Benefits (Form CF-1/Real Property) paperwork to be waived; and

WHEREAS, if Common Council approves the waiver of non-compliance for the late filed Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and late filed Compliance with Statement of Benefits (Form CF-1/Real Property) then Common Council will also determine substantial compliance or non-compliance with statement of benefits; and

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

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

[OPTION 1]

SECTION 1. That, Clear Choice Glass/Don Saylor Investments LLC's request for a waiver of clerical and technical errors and nonconformities with its Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and Compliance with Statement of Benefits (Form CF-1/Real Property) requirements is hereby denied and as such the phase-in granted under Confirming Resolution R-34-20 for real property is terminated.

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

1 **[OPTION 2]**

2 **SECTION 1.** That all clerical and technical errors and nonconformities of Clear Choice Glass/Don
3 Saylor Investments LLC's Application for Deduction from Assessed Valuation of Structures in
4 Economic Revitalization Areas (ERA) (Form 322/RE) and Compliance with Statement of Benefits
5 (Form CF-1/Real Property) requirements that are waivable under State and local law, including
6 without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 are hereby
7 waived.

8 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 form filed by Clear
9 Choice Glass/Don Saylor Investments LLC with an approved Economic Revitalization Area for
10 2023 is in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal
11 Code of the City of Fort Wayne by virtue of retaining 75% of the one full-time job, or one full-time
12 job, that was stated to be retained and retaining 75% of the \$70,200 in retained annual payroll, or
13 \$52,650, as well as 75% of the five additional full-time jobs and two additional part-time jobs, or
14 four additional full-time jobs and one additional part-time job, that were stated to be created and
15 creating 75% of the \$166,000, or \$124,500, in created annual payroll. Therefore, the continuation
16 of Clear Choice Glass/Don Saylor Investments LLC's abatement is hereby approved. The Allen
17 County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed
18 to apply the tax phase-in.

19 **SECTION 2. [OPTION B]** That Common Council finds that the CF-1 form filed by Clear
20 Choice Glass/Don Saylor Investments LLC with an approved Economic Revitalization Area with
21 an approved Economic Revitalization Area for 2023 is not in substantial compliance pursuant to
22 I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to
23 retain 75% of the \$70,200 in retained annual payroll, or \$52,650, as well as 75% of the five
24 additional full-time jobs and two additional part-time jobs, or four additional full-time jobs and one
25 additional part-time job, that were stated to be created and creating 75% of the \$166,000, or
26 \$124,500, in created annual payroll. Clear Choice Glass/Don Saylor Investments LLC did make
27 reasonable efforts to substantially comply with the statement of benefits and Pro Seal & Plastics,
28 LLC/PSP Seals, LLC's failure to substantially comply was caused by factors beyond the control
29 of Clear Choice Glass/Don Saylor Investments LLC. Therefore, the continuation of Clear Choice
30 Glass/Don Saylor Investments LLC's abatement is hereby approved. The Allen County Auditor
shall be supplied with a copy of this Resolution, upon passage, and is instructed to apply the tax
phase-in.

SECTION 2. [OPTION C] That Common Council finds that the CF-1 form filed by Clear
Choice Glass/Don Saylor Investments 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

1 Municipal Code of the City of Fort Wayne for failure to retain 75% of the \$70,200 in retained
2 annual payroll, or \$52,650, as well as 75% of the five additional full-time jobs and two additional
3 part-time jobs, or four additional full-time jobs and one additional part-time job, that were stated to
4 be created and creating 75% of the \$166,000, or \$124,500, in created annual payroll. Clear
5 Choice Glass/Don Saylor Investments LLC did not make reasonable efforts to substantially
6 comply with the statement of benefits and Clear Choice Glass/Don Saylor Investments LLC's
7 failure to substantially comply was not caused by factors beyond the control of Clear Choice
8 Glass/Don Saylor Investments LLC and as a result of said failure, the abatement for Clear
9 Choice Glass/Don Saylor Investments LLC is hereby terminated by Common Council. The Allen
County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed
to terminate the abatement for real property improvements.

10 **SECTION 3.** That, this Resolution shall be in full force and effect from and after its passage and
11 any and all necessary approval by the Mayor.

12 _____
13 Member of Council

14 APPROVED AS TO FORM AND LEGALITY

15
16 _____
17 Malak Heiny, City Attorney
18
19
20
21
22
23
24
25
26
27
28
29
30

NOTICE OF PUBLIC HEARING
FORT WAYNE COMMON COUNCIL
(RESOLUTION NO.)

ON APRIL 23, 2024 AT 5:30 P.M., IN THE CONFERENCE ROOM 030, CITIZENS SQUARE, FORT WAYNE, INDIANA, A PUBLIC HEARING WILL BE HELD ON THE MATTER OF A WAIVER OF NONCOMPLIANCE WITH THE PROCEDURAL REQUIREMENTS OF I.C. 6-1.1-12.1, RELATING TO THE REAL PROPERTY DEDUCTION OF PROPERTY AT 4051 KRAFT PARKWAY AND APPROVED UNDER RESOLUTION R-34-20 FOR CLEAR CHOICE GLASS/DON SAYLOR INVESTMENTS LLC.

THE PUBLIC HEARING ON THE WAIVER WILL BE HELD PURSUANT TO I.C. 6-1.1-12.1-9.5 AND I.C. 6-1.1-12.1-11.3.

ALL INTERESTED PERSONS ARE INVITED TO ATTEND AND BE HEARD AT THE PUBLIC HEARING.

“REASONABLE ACCOMMODATIONS” FOR PERSONS WITH A KNOWN DISABLING CONDITION WILL BE CONSIDERED IN ACCORDANCE WITH STATE AND FEDERAL LAW. ANY PERSON NEEDING A “REASONABLE ACCOMMODATION” SHOULD NOTIFY THE CITY OF FORT WAYNE PUBLIC INFORMATION OFFICE (260) 427-1120 AT LEAST (72) HOURS PRIOR TO THE PUBLIC HEARING.

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution Considering a Waiver of Non-Compliance for Late-Filed Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and a Late-Filed Compliance with Benefits (Form CF-1/Real Property) and a Determination of Substantial Compliance or Non-Compliance with Statement of Benefits approved under R-34-20 for 4051 Kraft Parkway, Fort Wayne, Indiana 46808 (Clear Choice Glass/Don Saylor Investments 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 or non-compliance with statement of benefits for filings made in February 2024 for Clear Choice Glass/Don Saylor Investments 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): Sharon Tucker & Marty Bender