

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2024 for Applied Metals & Machine Works, Inc. for property at 1036 Saint Mary's Avenue, Fort Wayne, IN 46808 under Confirming Resolution R-33-13 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 Applied Metals & Machine Works, 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, Applied Metals & Machine Works, Inc. has filed CF-1 forms with the City of Fort Wayne, the Allen County Auditor and the Allen County Assessor; and

WHEREAS, Applied Metals & Machine Works, Inc.'s approved SB-1 form stated that 25 full-time jobs would be retained and six full-time jobs would be created by January 31, 2016; and

WHEREAS, Applied Metals & Machine Works, Inc.'s approved SB-1 form stated \$1,002,623 in annual payroll would be retained for the jobs stated to be retained and \$245,550 in annual payroll would be created for jobs stated to be created; and

WHEREAS, Applied Metals & Machine Works, Inc.'s 2024 CF-1 form filing stated that 18 full-time jobs were retained and two full-time jobs were created; and

WHEREAS, Applied Metals & Machine Works, Inc.'s 2024 CF-1 form filing stated \$1,158,817 in annual payroll was retained for the jobs stated to be retained and \$28,648 in annual payroll was created for jobs stated to be created; and

WHEREAS, Common Council designated the City of Fort Wayne Community Development Division as the entity for the administration, application, processing and

1 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code
2 of the City of Fort Wayne; and

3 **WHEREAS**, Common Council has defined substantial compliance under Section
4 153.21 of the Municipal Code of the City of Fort Wayne as:

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

11 **WHEREAS**, meeting 75% of the 25 full-time jobs to be retained means retaining
12 18 full-time jobs and meeting 75% of the six jobs to be created means creating four full-
13 time jobs; and

14 **WHEREAS**, meeting 75% of the \$1,002,623 in annual payroll to be retained
15 means \$751,967 in annual payroll and meeting 75% of the \$245,550 in annual payroll to
16 be created means \$184,162 in created annual payroll; and

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

21 **WHEREAS**, Common Council made a determination on June 25, 2024 that
22 Applied Metals & Machine Works, Inc. was not in substantial compliance as a result of its
23 failure to retain at least 18 full-time jobs with a retained annual payroll of at least \$751,967
24 and create at least four new full-time jobs with at least \$184,162 in created annual payroll;
25 and

26 **WHEREAS**, Council directed the Community Development Division to mail written
27 notice to Applied Metals & Machine Works, Inc. explaining the reasons for Council's
28 determination and a date, time, place of a hearing to be conducted by Council for the
29 purpose of further considering Applied Metals & Machine Works, Inc.'s compliance with
30 Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon
Applied Metals & Machine Works, Inc. to appear before Council on August 6, 2024 at
5:30pm in Room 030 at Citizen's Square 200 E. Berry Street Fort Wayne, IN; and

WHEREAS, Applied Metals & Machine Works, Inc. [appeared/failed to appear]
before Common Council on August 6, 2024 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 Applied
4 Metals & Machine Works, Inc. with an approved Economic Revitalization Area for 2024 is
5 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 retain 75% of the 25 full-time, or 18
7 full-time jobs, as stated and create 75% of the six full-time jobs, or four full-time jobs, as
8 stated and retain 75% of the \$1,002,623, or \$751,967, in annual payroll or create 75% of
the \$245,550, or \$184,162, in annual payroll that was stated that would be generated by
the created jobs.

9 **SECTION 2a.** Applied Metals & Machine Works, Inc. failed to appear and
10 otherwise testify and therefore Council confirms its determination of June 25, 2024 that
11 Applied Metals & Machine Works, Inc. has failed to substantially comply pursuant to IC 6-
12 1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne as detailed
13 in Section 1 above. Council therefore finds that Applied Metals & Machine Works, Inc. has
14 failed to substantially comply and said failure was not caused by factors outside of Applied
Metals & Machine Works, Inc.'s control. As a result of said failure, Applied Metals &
Machine Works, Inc.'s deduction/abatement under R-33-13 is hereby terminated.

15 **SECTION 2b.** That Applied Metals & Machine Works, Inc. appeared and testified
16 at the hearing and from its testimony it was determined that notwithstanding Applied
17 Metals & Machine Works, Inc.'s failure to substantially comply as detailed in Section 1
18 above that Applied Metals & Machine Works, Inc. did make reasonable efforts to
19 substantially comply with the statement of benefits and Applied Metals & Machine Works,
20 Inc.'s failure to substantially comply was caused by factors beyond the control of Applied
Metals & Machine Works, Inc. Therefore, the continuation of Applied Metals & Machine
Works, Inc.'s deduction/abatement under R-33-13 is hereby approved.

21 **SECTION 2c.** That Applied Metals & Machine Works, Inc. appeared and testified
22 at the hearing and from its testimony it was determined in addition to Applied Metals &
23 Machine Works, Inc.'s failure to substantially comply as detailed in Section 1 above, that
24 Applied Metals & Machine Works, Inc. did not make reasonable efforts to substantially
25 comply with the statement of benefits and Applied Metals & Machine Works, Inc.'s failure
26 to substantially comply was not caused by factors beyond the control of Applied Metals &
27 Machine Works, Inc. As a result of said failure, Applied Metals & Machine Works, Inc.'s
deduction/abatement under R-112-18 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.

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 2024

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings made by Applied Metals & Machine Works, Inc. in May 2024 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): Martin Bender and Rohli Booker