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BILL NO. R-11-07-18

RESOLUTION NO. R- 51-11

**A RESOLUTION approving a Waiver of Noncompliance for a Late-Filed Application for the Economic Revitalization Area Deduction on Personal Property Improvements (Form 103 ERA and Form 103 EL) for D&M Enterprises, LLC d/b/a Custom Poly Packaging**

**WHEREAS**, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 3216 Congressional Parkway for D&M Enterprises, LLC (R-14-08 and R-19-09) 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 D&M Enterprises, LLC d/b/a Custom Poly Packaging and approved under R-14-08 was for \$223,772 in personal property improvements; and

**WHEREAS**, the original Statement of Benefits and economic revitalization area designation application submitted by D&M Enterprises, LLC d/b/a Custom Poly Packaging and approved under R-19-09 was for \$280,000 in personal property improvements; and

**WHEREAS**, representatives of D&M Enterprises, LLC d/b/a Custom Poly Packaging have informed the City of Fort Wayne that their schedule of deduction from assessed valuation of personal property in economic revitalization areas (Form 103-ERA) and the equipment list for new additions to ERA deduction personal property in an economic revitalization area (Form 103-EL) was not filed in a timely manner; and

**WHEREAS**, this oversight was an unusual occurrence for D&M Enterprises, LLC d/b/a Custom Poly Packaging which has made diligent efforts in good faith to make all required Indiana tax abatement filings on a timely basis; and

**WHEREAS**, the Common Council finds that D&M Enterprises, LLC d/b/a Custom Poly Packaging has fulfilled its pledge to install new information technology equipment; and

**WHEREAS**, D&M Enterprises, LLC d/b/a Custom Poly Packaging has retained jobs and invested in personal property as reported on the approved statement of benefits forms; and

**WHEREAS**, the Common Council acknowledges that D&M Enterprises, LLC d/b/a Custom Poly Packaging 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 I.C. 6-1.1-12.1-11.3; and

**WHEREAS**, the Common Council intends that D&M Enterprises, LLC d/b/a Custom Poly Packaging receive the tax abatement benefits to which they would have been entitled

1 had no non compliance event occurred, so long as the waiver of non compliance and the  
2 granting of those benefits does not prejudice the City of Fort Wayne; and

3 **WHEREAS**, the Common Council has concluded that granting of the ERA deduction  
4 for 2011 payable 2012 tax year will not create a strain on the City of Fort Wayne fiscal  
5 budget; and

6 **WHEREAS**, I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3 permit tax abatement non  
7 compliance events such as the untimely filing of deduction application paperwork to be  
8 waived; and

9 **WHEREAS**, the noncompliance event has been corrected and a public hearing of  
10 the Common Council has been held on the waiver.

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

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17 **SECTION 1.** That, Common Council hereby waives all clerical and technical errors and  
18 nonconformities that are waivable under State and local law, including without limitation those  
19 errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

20 **SECTION 2.** As authorized by I.C. 6-1.1-12.1-9.5(d), the Common Council will permit  
21 Inquest Health System, PC d/b/a Upright MRI to receive the lost ERA deduction amount in  
22 accordance with the following schedule:

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Tax Year	Personal Property Deduction Amount
2011 pay 2012	\$237,090
TOTAL	\$237,090

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25 The foregoing numbers represent deductions from assessed valuation of personal property,  
26 not tax liability. The total deduction amounts set forth in the preceding table represent  
27 deductions D&M Enterprises, LLC d/b/a Custom Poly Packaging will lose in 2011 payable  
28 2012. The Allen County Assessor shall be supplied with a copy of this Resolution, upon

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passage, and instructed to apply the deduction amounts in accordance with this schedule.  
This resolution shall have no effect on the assessed value or taxes payable with respect to  
D&M Enterprises, LLC d/b/a Custom Poly Packaging real property.

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

  
Carol Helton, City Attorney  
by LES

Read the first time in full and on motion by Didier, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on Tuesday the 9<sup>th</sup> day of August, 2011, at 5:30 o'clock P M.E.S.T.

DATED: 7-26-11

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Didier, and duly adopted, placed on its passage. PASSED LOST  
by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____
<u>BENDER</u>	<u>✓</u>	_____	_____	_____
<u>BROWN</u>	<u>✓</u>	_____	_____	_____
<u>DIDIER</u>	<u>✓</u>	_____	_____	_____
<u>GOLDNER</u>	<u>✓</u>	_____	_____	_____
<u>HARPER</u>	<u>✓</u>	_____	_____	_____
<u>HINES</u>	<u>✓</u>	_____	_____	_____
<u>PAPE</u>	<u>✓</u>	_____	_____	_____
<u>SHOAFF</u>	<u>✓</u>	_____	_____	_____
<u>SMITH</u>	<u>✓</u>	_____	_____	_____

DATED: 8-9-11

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~ ~~(SPECIAL)~~ ~~(ZONING)~~ ORDINANCE (RESOLUTION) NO. R-51-11 on the 9<sup>th</sup> day of August, 2011

ATTEST:  
Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

SEAL  
Matthew Henry  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11<sup>th</sup> day of August, 2011, at the hour of 12 o'clock P M.E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 11<sup>th</sup> day of August, 2011, at the hour of 5:30 o'clock P M.E.S.T.

Thomas C. Henry  
THOMAS C. HENRY, MAYOR