

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with a Statement of Benefits (SB-1) for 2016 for 817 S. Calhoun, LLC at 817 South Calhoun Street under Confirming Resolution R-34-12 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 (SB-1) forms property for 817 S. Calhoun, LLC 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 Statement of Benefits (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 (CF-1) with the Allen County Auditor, the Allen County Assessor and the City of Fort Wayne showing information on the extent to which there has been compliance with the approved Statement of Benefits for the project; and

**WHEREAS**, 817 S. Calhoun, LLC has filed Compliance with Statement of Benefit Forms with the Allen County Auditor's Office and the City of Fort Wayne; and

**WHEREAS**, 817 S. Calhoun, LLC's approved Statement of Benefits (SB-1) form stated that **two** full-time and **four** part-time jobs would be created; and

**WHEREAS**, 817 S. Calhoun, LLC's approved Statement of Benefits (SB-1) form stated **\$160,000** in annual payroll would be generated from the **two** full-time and **four** part-time created jobs; and

**WHEREAS**, 817 S. Calhoun, LLC's 2016 Compliance with Statement of Benefits (CF-1) form filing stated that **six** jobs were created; and

**WHEREAS**, 817 S. Calhoun, LLC's 2016 Compliance with Statement of Benefits (CF-1) form filing stated **\$93,650** in annual payroll for the **six** 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

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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 to  
4 be created or retained as delineated in the original Statement of Benefits Form  
5 (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 **six** created jobs means creating **four** jobs; and

10                   **WHEREAS**, meeting 75% of the **\$160,000** in annual payroll to be created means  
11 **\$120,000** in annual payroll created; and

12                   **WHEREAS**, Common Council shall determine not later than forty-five (45) days after  
13 receipt of the Compliance of Statement of Benefits Form (CF-1) that 817 S. Calhoun, LLC  
14 has substantially complied with the original Statement of Benefits Form (SB-1) approved by  
15 Common Council; and

16                   **WHEREAS**, 817 S. Calhoun, LLC **appeared/failed to appear** before council to  
17 provide additional information on its compliance with statement of benefits.

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

20                   **SECTION 1.** That, Common Council finds that the Compliance with Statement of  
21 Benefits Form (CF-1) filed by 817 S. Calhoun, LLC with an approved economic revitalization  
22 area for 2016 is not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21  
23 of the Municipal Code of the City of Fort Wayne for failure to create 75% of the \$160,000 or  
24 \$120,000 in annual payroll from the six jobs that were stated that would be created.


25 **VOTE SECTION 2a.** 817 S. Calhoun, LLC appeared before council and provided  
26 additional information on its compliance with statement of benefits and from this information  
27 it was determined that notwithstanding 817 S. Calhoun, LLC's failure to substantially comply  
28 by its failure to create \$120,000 or more in annual payroll from the six jobs created, that 817  
29 S. Calhoun, LLC did make reasonable efforts to substantially comply with the statement of  
30 benefits and 817 S. Calhoun, LLC 's failure to substantially comply was caused by factors  
beyond the control of 817 S. Calhoun, LLC. Therefore, the continuation of 817 S. Calhoun,  
LLC's deduction/abatement under R-34-12 is hereby approved.

~~**SECTION 2b.** That 817 S. Calhoun, LLC appeared and provided additional  
information on its compliance with statement of benefits and from this information it was  
determined that notwithstanding 817 S. Calhoun, LLC's failure to substantially comply by its  
failure to create \$120,000 or more in annual payroll from the six jobs created, that 817 S.  
Calhoun, LLC did not make reasonable efforts to substantially comply with the statement of~~

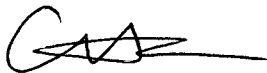
1 ~~benefits and 817 S. Calhoun, LLC's failure to substantially comply was not caused by factors~~  
2 ~~beyond the control of 817 S. Calhoun, LLC. Council therefore directs the Community~~  
3 ~~Development Division to mail written notice to 817 S. Calhoun, LLC explaining the reasons~~  
4 ~~for Council's determination and a date, time, place of a hearing to be conducted by Council~~  
5 ~~for the purpose of further considering 817 S. Calhoun, LLC's 2016 compliance with~~  
6 ~~statement of benefits.~~

7 ~~SECTION 2C. That 817 S. Calhoun, LLC failed to appear and otherwise provide~~  
8 ~~additional information on its compliance with statement of benefits and has caused Council to~~  
9 ~~conclude and find that 817 S. Calhoun, LLC is not in substantial compliance pursuant to I.C.~~  
10 ~~6-1-12.1 and Section 159.21 of the Municipal Code of the City of Fort Wayne on their 2016~~  
11 ~~filing. Council therefore directs the Community Development Division to mail written notice to~~  
12 ~~817 S. Calhoun, LLC explaining the reasons for Council's determination and a date, time,~~  
13 ~~place of a hearing to be conducted by Council for the purpose of further considering 817 S.~~  
14 ~~Calhoun, LLC's 2016 compliance with statement of benefits.~~

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

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18 \_\_\_\_\_  
19 Member of Council

20 APPROVED AS TO FORM A LEGALITY

21   
22 \_\_\_\_\_  
23 Carol Helton, City Attorney

Admn. Appr. \_\_\_\_\_

DIGEST SHEET

**TITLE OF ORDINANCE: Resolution determining substantial compliance with a Statement of Benefits (SB-1) for 2016**

**DEPARTMENT REQUESTING ORDINANCE: Community Development Division**

**SYNOPSIS OF ORDINANCE: This resolution determines whether Compliance with Statement of Benefits (CF-1) Form filings made by 817 S. Calhoun, LLC in May 2016 with an approved economic revitalization area are in substantial compliance pursuant to both Council policy and Indiana law.**

**EFFECT OF PASSAGE: Will allow property owners with existing economic revitalization area designation to continue to receive their economic revitalization area deduction (property tax abatement/phase-in) benefit if determined to be in substantial compliance or provide notice to company if determined to be in substantial non-compliance and a hearing will be scheduled**

**EFFECT OF NON-PASSAGE: Potential retention or loss of economic revitalization area deduction (property tax abatement/phase-in)**

**MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): No expenditures of public funds required.**

**ASSIGNED TO COMMITTEE (PRESIDENT): Glynn Hines and John Crawford**

**REPORT OF COMMITTEE ON FINANCE**

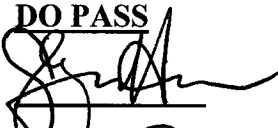
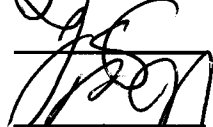
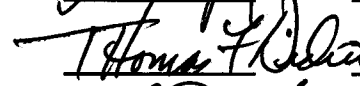


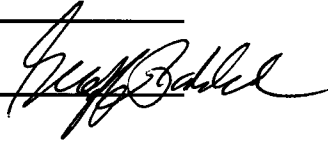

MOTION IS VOTED ON 2a  
(DO PASS - Compliant)

**June 21, 2016**

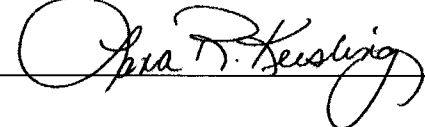
*Glynn Hines, Chair  
John Crawford, Co-Chair  
All Council Members*

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with a Statement of Benefits (SB-1) for 2016 for 817 S. Calhoun, LLC at 817 South Calhoun Street under Confirming Resolution R-34-12 with an "Economic Revitalization Area" approved under I.C. 6-1.1-12.1

**COMMITTEE ON FINANCE HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
			
			
			
			
			
			

**LANA R. KEESLING  
CITY CLERK**



**FORT WAYNE COMMON COUNCIL  
ROLL CALL (VOTE)  
REGULAR SESSION**

**Date:** 6/28/16  
**Bill #** R-16-06-Q3

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, MET IN ROOM 030, COUNCIL DISCUSSION ROOM, GARDEN LEVEL - CITIZENS SQUARE, TUESDAY EVENING, IN COMMITTEE SESSION. PRESIDENT RUSS JEHL IN THE CHAIR, COUNCIL ATTORNEY JOSEPH BONAHOOM AND LANA R. KEESLING, CITY CLERK, AT THE DESK, PRESENTS THE FOLLOWING MEMBERS

ARP	NO	BARRANDA	AB	CRAWFORD	yes
DIDIER	yes	ENSLEY	NO	FREISTROFFER	yes
HINES		JEHL		PADDOCK	yes

ABSENT: \_\_\_\_\_

<b>Final Vote Tally</b>		
In Favor	Against	Abstain
4	2	1



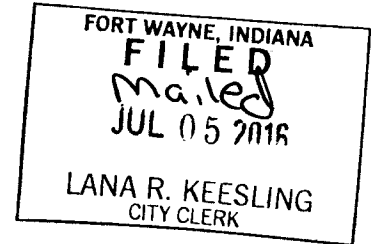
THE CITY OF FORT WAYNE  
OFFICE OF CITY CLERK  
CITIZENS SQUARE - 200 EAST BERRY STREET - SUITE 110  
FORT WAYNE, INDIANA 46802-2733

PHONE: 260-427-1221  
FAX: 260-427-1371

Lana R. Keesling, City Clerk

June 30, 2016

Allen County Auditor  
1 E. Main St.  
Rousseau Centre  
Ft. Wayne, IN 46802



**RE: Compliance with Statement of Benefits Determinations**

Dear Auditor:

Enclosed are 5 Resolutions determining substantial compliance for 2016. Please note that these following 5 Resolutions did not receive 5 votes in favor of compliance or non-compliance:

- R-16-06-03
- R-16-06-06
- R-16-06-10
- R-16-06-12
- R-16-06-18

Ind. Code § 6-1.1-12.1-5.9(b) states, "if the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner, the designating body shall mail written notice to the property owner." This determination must be made within forty-five (45) days, and the abatement can only be terminated after such notice is mailed and a second hearing is held.

Because the Resolutions listed above did not receive 5 votes for compliance or non-compliance, a finding of non-compliance within the meaning of Ind. Code § 6-1.1-12.1-5.9(b) has not been made. Without this finding, the requirement to mail notice to the property owner and conduct a second hearing has not been triggered. Because the abatement cannot be terminated without such notice and hearing, it follows that the abatement must be continued for another year when compliance can be reassessed.

Please feel free to contact me or the attorney for City Council, Joe Bonahoom, if you have any questions about these matters.

Sincerely,

Lana Keesling, City Clerk

**Resolution Number R-16-06-03**

This Resolution did not receive 5 votes in favor of substantial compliance or non-compliance. Accordingly, a determination that the applicant failed to substantially comply with its approved Statement of Benefits form under Ind. Code § 6-1.1-12.1-5.9(b) was not made. Under these circumstances, the abatement must be continued for another year, at which time the applicant's compliance with the approved Statement of Benefits form can be reassessed.