

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2019 for Deister Concentrator, LLC/AOA Realty, LLC for property at 9205 Aviation Drive Fort Wayne, IN 46809 under Confirming Resolution R-61-17 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 **Deister Concentrator, LLC/AOA Realty, 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 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, **Deister Concentrator, LLC/AOA Realty, LLC** has filed CF-1 forms with **the City of Fort Wayne and the Allen County Auditor**; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, LLC's** approved SB-1 form stated that **eight** full-time jobs would be retained and **five** full-time and **two** part-time jobs would be created by **June 30, 2018**; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, LLC's** approved SB-1 form stated **\$392,600** in annual payroll for the **eight** full-time retained jobs and **\$135,200** in annual payroll would be generated by the **five** full-time and **two** part-time jobs to be created; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, LLC's 2019** CF-1 form filing stated that **eight** jobs were retained and **four** jobs were created; and

WHEREAS, **Deister Concentrator, LLC/AOA Realty, LLC's 2019** CF-1 form filing stated **\$414,163** in annual payroll for the **8** jobs retained and **\$44,241** in annual payroll for the **four** jobs 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
2 Code 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 **eight** full-time jobs retained means retaining **six**
12 full-time jobs; and

13 **WHEREAS**, meeting 75% of the **five** full-time jobs and **two** part-time jobs to be
14 created means creating **four** full-time and **one** part-time job; and

15 **WHEREAS**, meeting 75% of the **\$392,600** in retained annual payroll means
16 **\$294,450** in retained annual payroll; and

17 **WHEREAS**, meeting 75% of the **\$135,200** in annual payroll to be created means
18 **\$101,400** in created annual payroll; and

19 **WHEREAS**, Common Council may determine not later than forty-five (45) days
20 after receipt of the CF-1 form that **Deister Concentrator, LLC/AOA Realty, LLC** has
21 either failed to substantially comply or has substantially complied with the original SB-1
22 form approved by Common Council; and

23 **WHEREAS**, Common Council made a determination on **June 25, 2019** that
24 **Deister Concentrator, LLC/AOA Realty, LLC** was not in substantial compliance as a
25 result of its failure to retain at least **six** full-time jobs with at least **\$294,450** in annual
26 payroll and create at least **four** full-time and **one** part-time job and at least **\$101,400** in
27 annual payroll, and that the failure to substantially comply was not caused by factors
28 beyond the control of **Deister Concentrator, LLC/AOA Realty, LLC**; and

29 **WHEREAS**, Council directed the Community Development Division to mail
30 written notice to **Deister Concentrator, LLC/AOA Realty, LLC** explaining the reasons
for Council's determination and a date, time, place of a hearing to be conducted by
Council for the purpose of further considering **Deister Concentrator, LLC/AOA Realty,
LLC's** compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon
Deister Concentrator, LLC/AOA Realty, LLC; and

1 **WHEREAS, Deister Concentrator, LLC/AOA Realty, LLC [appeared/failed to**
2 **appear]** before Common Council to provide additional information concerning
3 compliance.

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

6 **SECTION 1.** That, Common Council finds that the CF-1 form filed by **Deister**
7 **Concentrator, LLC/AOA Realty, LLC** with an approved Economic Revitalization Area
8 for 2019 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section
9 153.21 of the Municipal Code of the City of Fort Wayne for failure to retain 75% of the
10 **eight** full-time jobs or **five** full-time jobs to be retained and 75% of the **\$392,600** in
11 annual payroll or **\$294,450** in annual payroll stated to be retained and create 75% of the
12 **five** full-time and **two** part-time jobs or **four** full-time and **one** part-time jobs that were
13 stated that would be created and create 75% of the **\$135,200** in annual payroll or
14 **\$101,400** that was stated that would be generated by the created jobs.


15 ~~**SECTION 2a. Deister Concentrator, LLC/AOA Realty, LLC failed to appear**~~
16 ~~**and otherwise testify and therefore Council confirms its determination of June 25, 2019**~~
17 ~~**that Deister Concentrator, LLC/AOA Realty, LLC has failed to substantially comply**~~
18 ~~**pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort**~~
19 ~~**Wayne as detailed in Section 1 above. Council therefore finds that Deister**~~
20 ~~**Concentrator, LLC/AOA Realty, LLC has failed to substantially comply and said failure**~~
21 ~~**was not caused by factors outside of Deister Concentrator, LLC/AOA Realty, LLC's**~~
22 ~~**control. As a result of said failure, Deister Concentrator, LLC/AOA Realty, LLC's**~~
23 ~~**deduction/abatement under R-61-17 is hereby terminated**~~

24 **SECTION 2b.** That **Deister Concentrator, LLC/AOA Realty, LLC** appeared
25 and testified at the hearing and from its testimony it was determined that notwithstanding
26 **Deister Concentrator, LLC/AOA Realty, LLC's** failure to substantially comply as
27 detailed in Section 1 above that **Deister Concentrator, LLC/AOA Realty, LLC** did
28 make reasonable efforts to substantially comply with the statement of benefits and
29 **Deister Concentrator, LLC/AOA Realty, LLC's** failure to substantially comply was
30 caused by factors beyond the control of **Deister Concentrator, LLC/AOA Realty, LLC**.
Therefore, the continuation of **Deister Concentrator, LLC/AOA Realty, LLC's**
deduction/abatement under **R-61-17** is hereby approved.

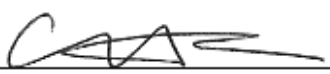
~~**SECTION 2c. That Deister Concentrator, LLC/AOA Realty, LLC appeared**~~
~~**and testified at the hearing and from its testimony it was determined in addition to**~~
~~**Deister Concentrator, LLC/AOA Realty, LLC's failure to substantially comply as**~~
~~**detailed in Section 1 above, that Deister Concentrator, LLC/AOA Realty, LLC did not**~~

1 ~~make reasonable efforts to substantially comply with the statement of benefits and~~
2 ~~Deister Concentrator, LLC/AGA Realty, LLC's failure to substantially comply was not~~
3 ~~caused by factors beyond the control of Deister Concentrator, LLC/AGA Realty, LLC.~~
4 ~~As a result of said failure, Deister Concentrator, LLC/AGA Realty, LLC's~~
5 ~~deduction/abatement under R-01-17 is hereby terminated.~~

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

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9 _____
10 Member of Council

11 APPROVED AS TO FORM A LEGALITY

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13 _____
14 Carol Helton, City Attorney

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BILL NO. R-19-07-20

REPORT OF COMMITTEE ON FINANCE

August 6, 2019

Russ Jehl Chair

Jason Arp Co-Chair

All Council Members

A Resolution determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2019 for Deister Concentrator, LLC/AOA Realty, LLC for property at ~~9205~~ Aviation Drive Fort Wayne, IN 46809 under Confirming Resolution R-61-17 with an "Economic Revitalization Area" approved under I.C. 6-1.1-12.1





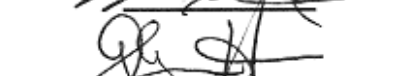
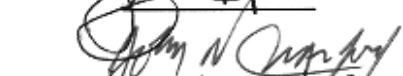
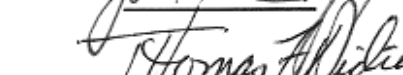
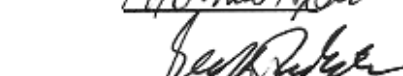
COMMITTEE ON FINANCE HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

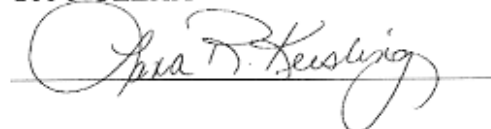
DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
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**LANA R. KEESLING
CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Jehl.

Read the second time by title and referred to the Finance Committee.

Read the third time in full and on motion by Councilman Jehl, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: August 13, 2019




 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
 Resolution No. R-19-07-20 on the 13th day of August, 2019



 LANA R. KEESLING
 CITY CLERK



 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th
 of August 2019, at the hour of 3:10 o'clock P.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 19TH day of August

FORWARDED AT THE HOUR OF
RECEIVED
 AUG 20 2019
 LANA R. KEESLING
 CITY CLERK

12:00 o'clock PM E.S.T.



 THOMAS C. HENRY, MAYOR