

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2020 for Indiana Oxygen Company, Inc./Fort Brant Limited Partnership for property at 3806 Option Pass, Fort Wayne, IN 46818 under Confirming Resolution R-5-16 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 **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership** 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, **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership** has filed CF-1 forms with **the City of Fort Wayne, the Allen County Auditor and the Allen County Assessor**; and

WHEREAS, **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership's** approved SB-1 form stated that **six** full-time jobs would be created by **December 31, 2018**; and

WHEREAS, **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership's** approved SB-1 form stated **\$368,160** in annual payroll would be retained for the **six** full-time jobs to be created; and

WHEREAS, **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership's** **2020** CF-1 form filing stated that **four** jobs were created; and

WHEREAS, **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership's** **2020** CF-1 form filing stated **\$179,456** in annual payroll for the **four** jobs created; and

1 **WHEREAS**, Common Council designated the City of Fort Wayne Community
2 Development Division as the entity for the administration, application, processing and
3 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code
4 of the City of Fort Wayne; and

5 **WHEREAS**, Common Council has defined substantial compliance under Section
6 153.21 of the Municipal Code of the City of Fort Wayne as:

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

13 **WHEREAS**, meeting 75% of the **six** jobs to be created means creating **four** full-
14 jobs; and

15 **WHEREAS**, meeting 75% of the **\$368,160** in annual payroll to be created means
16 **\$276,120** in created annual payroll; and

17 **WHEREAS**, Common Council may determine not later than forty-five (45) days
18 after receipt of the CF-1 form that **Indiana Oxygen Company, Inc./Fort Brant Limited**
19 **Partnership** has either failed to substantially comply or has substantially complied with
20 the original SB-1 form approved by Common Council; and

21 **WHEREAS**, Common Council made a determination on **July 28, 2020** that
22 **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership** was not in substantial
23 compliance as a result of its failure to create at at least **\$276,120** in annual payroll, and
24 that the failure to substantially comply was not caused by factors beyond the control of
25 **Indiana Oxygen Company, Inc.**; and

26 **WHEREAS**, Council directed the Community Development Division to mail written
27 notice to **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership** explaining
28 the reasons for Council's determination and a date, time, place of a hearing to be
29 conducted by Council for the purpose of further considering **Indiana Oxygen Company,**
30 **Inc./Fort Brant Limited Partnership's** compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon
Indiana Oxygen Company, Inc.; and

WHEREAS, **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership**
[appeared/failed to appear] before Common Council 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 **Indiana**
4 **Oxygen Company, Inc./Fort Brant Limited Partnership** with an approved Economic
5 Revitalization Area for **2020** are not in substantial compliance pursuant to I.C. 6-1.1-12.1
6 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create
7 75% of the **\$368,160** in annual payroll or **\$276,120** that was stated that would be
8 generated by the created jobs.


9 ~~**SECTION 2a.** **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership**~~
10 ~~failed to appear and otherwise testify and therefore Council confirms its determination of~~
11 ~~**July 26, 2020** that **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership** has~~
12 ~~failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the~~
13 ~~Municipal Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore~~
14 ~~finds that **Indiana Oxygen Company, Inc./Fort Brant Limited Partnership** has failed to~~
15 ~~substantially comply and said failure was not caused by factors outside of **Indiana**~~
16 ~~**Oxygen Company, Inc.'s** control. As a result of said failure, **Indiana Oxygen Company,**~~
17 ~~**Inc.'s** deduction/abatement under **R-5-16** is hereby terminated.~~

18 **SECTION 2b.** That **Indiana Oxygen Company, Inc./Fort Brant Limited**
19 **Partnership** appeared and testified at the hearing and from its testimony it was
20 determined that notwithstanding **Indiana Oxygen Company, Inc./Fort Brant Limited**
21 **Partnership's** failure to substantially comply as detailed in Section 1 above that **Indiana**
22 **Oxygen Company, Inc./Fort Brant Limited Partnership** did make reasonable efforts to
23 substantially comply with the statement of benefits and **Indiana Oxygen Company,**
24 **Inc./Fort Brant Limited Partnership's** failure to substantially comply was caused by
25 factors beyond the control of **Indiana Oxygen Company, Inc./Fort Brant Limited**
26 **Partnership.** Therefore, the continuation of **Indiana Oxygen Company, Inc./Fort Brant**
27 **Limited Partnership's** deduction/abatement under **R-5-16** is hereby approved.


28 ~~**SECTION 2c.** That **Indiana Oxygen Company, Inc./Fort Brant Limited**~~
29 ~~**Partnership** appeared and testified at the hearing and from its testimony it was~~
30 ~~determined in addition to **Indiana Oxygen Company, Inc./Fort Brant Limited**~~
31 ~~**Partnership's** failure to substantially comply as detailed in Section 1 above, that **Indiana**~~
32 ~~**Oxygen Company, Inc./Fort Brant Limited Partnership** did not make reasonable efforts~~
33 ~~to substantially comply with the statement of benefits and **Indiana Oxygen Company,**~~
34 ~~**Inc./Fort Brant Limited Partnership's** failure to substantially comply was not caused by~~
35 ~~factors beyond the control of **Indiana Oxygen Company, Inc./Fort Brant Limited**~~

1 ~~Partnership. As a result of said failure, Indiana Oxygen Company, Inc./Fort Brant~~
2 ~~Limited Partnership's deduction/abatement under R-5-16 is hereby terminated.~~

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

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7 _____
8 Member of Council

9 APPROVED AS TO FORM A LEGALITY

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13 Carol Helton, City Attorney

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<i>Bill #</i>	<i>Company</i>	<i>A Didn't appear &failed</i>	<i>B Appeared & continue</i>	<i>C Appeared & failed</i>
R-20-08-01	817 S Calhoun LLC		X	
R-20-08-02	CK Products LLC			X
R-20-08-03	Conestoga LLC		X	
R-20-08-04	Craftline Graphics, Inc		X	
R-20-08-05	David M Allen DDS & Associates dba Afdent	X		
R-20-08-07	Edy's/Dreyers		X	
R-20-08-08	Edy's/Dreyers		X	
R-20-08-09	Edy's/Dreyers		X	
R-20-08-10	ElringKlinger Manufacturing		X	
R-20-08-11	WC Holdings II ,LLC		X	
R-20-08-12	Hightech Signs/Castleton Village Center Inc		X	
R-20-08-13	Indiana Oxygen Company Inc		X	
R-20-08-14	LH Carbide Corporation		X	

DIGEST SHEET

TITLE OF ORDINANCE: Resolution Confirming Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2020

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings made by Indiana Oxygen Company, Inc./Fort Brant Limited Partnership in May 2020 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 (PRESIDENT): Jason Arp and Sharon Tucker

REPORT OF COMMITTEE ON FINANCE

August 18, 2020

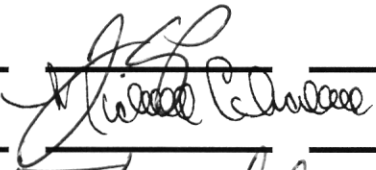
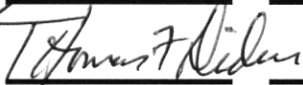


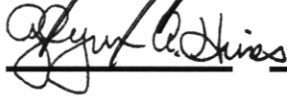
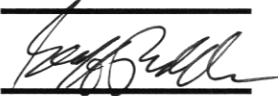
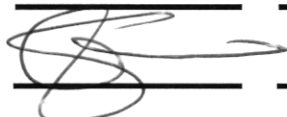
Jason Arp Chair

Sharon Tucker Co-Chair

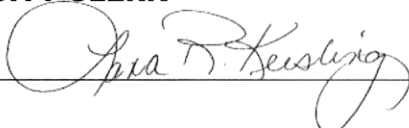
All Council Members

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

<u>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
ARP			
CHAMBERS			
DIDIER			
ENSLEY			
FREISTROFFER			
HINES			
JEHL			
PADDOCK			
TUCKER			

**LANA R. KEESLING
CITY CLERK**



Public Hearing Date: N/A

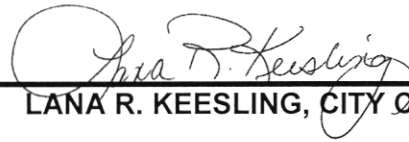
Read the first time in full and on motion by Councilperson Arp.

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

Read the third time in full and on motion by Councilperson Arp, 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHAMBERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TUCKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: August 25, 2020



LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Resolution No. R-20-08-13 on the 25th day of August, 2020

ATTEST:



LANA R. KEESLING
CITY CLERK



PRESIDING OFFICER

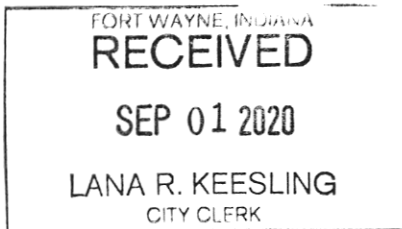
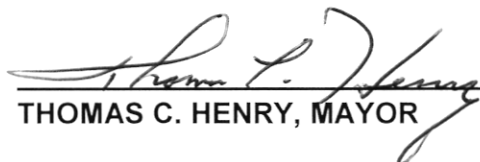
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th of August 2020, at the hour of 11:00 o'clock A.M. E.S.T.



LANA R. KEESLING, CITY CLERK

Approved and signed by me this 28TH day of August

2020, at the hour of 3:30 o'clock Pm . E.S.T.

THOMAS C. HENRY, MAYOR