



MEMORANDUM

DATE: 7/25/2024
TO: Elkhart Common Council
FROM: Corporation Counsel John M. Espar
RE: Proposed Resolution No. 24-R-35

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DETERMINING THAT BIG DOG ADHESIVES, LLC \ 435 PROPERTIES, LLC AND 615 PROPERTIES, LLC FAILED TO MAKE REASONABLE EFFORTS TO COMPLY WITH ITS STATEMENTS OF BENEFITS, WARRANTING THE TERMINATION OF THE ECONOMIC REVITALIZATION AREA AND CORRESPONDING TAX ABATEMENT BENEFITS

This Council found at the annual compliance review meeting that Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC was not in compliance with the company's STATEMENT OF BENEFITS. A company that fails to substantially comply with its STATEMENT OF BENEFITS may have the Economic Revitalization Area (ERA) terminated, together with the corresponding tax phase-in benefits.

However, under Indiana law, before the Council can terminate the tax deduction benefits awarded to Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC, the Council must conduct a public hearing and afford Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC the opportunity to present information which may demonstrate that the company made reasonable efforts to comply with its STATEMENT OF BENEFITS and the company's failure to comply was due to factors beyond the company's control.

Proposed Resolution No. 24-R-35 finds Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC failed to make reasonable efforts to comply with its STATEMENT OF BENEFITS, and therefore terminates the ERA and the corresponding the tax phase-in benefits.

RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DETERMINING THAT BIG DOG ADHESIVES, LLC \ 435 PROPERTIES, LLC AND 615 PROPERTIES, LLC FAILED TO MAKE REASONABLE EFFORTS TO COMPLY WITH ITS STATEMENT OF BENEFITS, WARRANTING THE TERMINATION OF THE ECONOMIC REVITALIZATION AREA AND CORRESPONDING TAX ABATEMENT BENEFITS

WHEREAS, previously the Common Council of the City of Elkhart, Indiana (“Common Council”) designated the property located at 435 W. Harrison Street, Elkhart, IN 46516, and particularly described in Exhibit A, an economic revitalization area (the “Area”) under Resolution Numbers R-19-21 and R-23-21, as authorized by Indiana Code 6.1-1.1-12.1; and

WHEREAS, previously the Common Council adopted Resolution No. R-24-21 approving the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, granting Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC certain tax abatement benefits, in exchange for certain investments and other commitments by Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC, as described in the agreement, and the STATEMENT OF BENEFITS – PERSONAL PROPERTY (FORM SB-1 \PP); and

WHEREAS, on July 10, 2024, the Common Council adopted Resolution No. R-22-24, determining that Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC is not in substantial compliance with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PERSONAL PROPERTY, and scheduled a public hearing to be conducted on July 29, 2024, to further consider the matter; and

WHEREAS, pursuant to the requirements of Indiana Code § 6-1.1-12.1-5.9 (b), the Administrative Assistant to the Common Council sent Big Dog Adhesives, LLC \ 435 Properties,

LLC and 615 Properties, LLC written notice which: (i) explained that the Common Council had determined that that Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC was not in substantial compliance with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PP), and (ii) that the Council had scheduled a public hearing to be held on July 29, 2024 in the Common Council Chambers (“Hearing”) to further consider the company’s non-compliance; and

WHEREAS, after considering information presented at the public hearing, by Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC, the public, and all interested parties, the Common Council has fully considered whether Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC made reasonable efforts to substantially comply with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PP) and whether its failure to comply was caused by factors beyond its control.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. **PERSONAL PROPERTY.** The Common Council having considered the information presented at the public hearing held on July 29, 2024, hereby determines that Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC failed to make reasonable efforts to comply with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/ PP).

- A. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the Common Council hereby terminates Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC’s deductions under Indiana Code § 6-1.1-12.1-4.5; and
- B. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the deduction heretofore authorized shall not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

Section 2. The Common Council's Administrative Assistant shall immediately mail a *certified copy* of this Resolution to:

- A. Big Dog Adhesives, LLC \ 435 Properties, LLC and 615 Properties, LLC;
- B. The Elkhart County Auditor; and
- C. The Elkhart County Assessor.

Section 3. Pursuant to Indiana Code § 6-1.1-12.1-4.9(d), the Elkhart County Auditor shall remove the deduction from the tax duplicate and shall notify the Elkhart County Treasurer of the termination of the deduction.

Section 4. If the Elkhart County Treasurer has mailed the statement required by Indiana Code § 6-1.1-22-8.1, the Treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

Section 5. This Resolution shall be in effect from and after its passage by the Common Council and approval by the Mayor, according to law.

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Exhibit A

Description of Real Property

Property Address:

435 W. Harrison Street, Elkhart, IN 46516

Parcel Identification Numbers:

20-06-08-130-031.000-012

20-06-08-130-028.000-012

Legal Description:

TRACT L: PARCEL I: A PART OF THE NORTH HALF (N 1/2) OF SECTION EIGHT (8), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST, IN THE CITY OF ELKHART, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEASTERLY CORNER OF LOT 297 AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF BEARDSLEY'S THIRD ADDITION TO SAID CITY; THENCE SOUTH SEVENTY (70) DEGREES WEST ALONG THE SOUTHERLY LINE OF HARRISON STREET, ONE HUNDRED FIFTY-TWO (152) FEET FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE SOUTH SEVENTY (70) DEGREES WEST ALONG THE SOUTHERLY LINE OF HARRISON STREET THIRTY-THREE AND TWENTY-SIX HUNDREDTHS (33.26) FEET TO AN IRON STAKE; THENCE SOUTH FIFTY-THREE (53) DEGREES TWENTY-TWO (22) MINUTES WEST ALONG THE NORTHERLY LINE OF LAND OWNED BY MORRIS M. AND ELEANOR A. WOLFF (ELKHART COUNTY DEED RECORD 275, PAGES 20-22) AND THE EXTENSION THEREOF, THREE HUNDRED SEVEN AND FOUR TENTHS (307.4) FEET; THENCE SOUTH THIRTY-SIX (36) DEGREES THIRTY-EIGHT (38) MINUTES EAST, ONE HUNDRED (100) FEET; THENCE SOUTH FIFTY-THREE (53) DEGREES TWENTY-TWO (22) MINUTES WEST, ONE HUNDRED (100) FEET; THENCE SOUTH THIRTY-SIX (36) DEGREES THIRTY-EIGHT (38) MINUTES EAST, SIXTY AND SEVENTEEN HUNDREDTHS (60.17) FEET; THENCE NORTH FIFTY-SIX (56) DEGREES TWO (2) MINUTES EAST, FORTY AND FIVE HUNDREDTHS (40.05) FEET; THENCE SOUTH THIRTY-THREE (33) DEGREES FIFTY-EIGHT (58) MINUTES EAST FIVE AND THREE TENTHS (5.3) FEET; THENCE NORTH FIFTY-SIX (56) DEGREES TWO (02) MINUTES EAST, TWO HUNDRED FORTY-ONE AND THREE TENTHS (241.3) FEET; THENCE NORTH SIXTY-THREE (63) DEGREES TWENTY (20) MINUTES EAST, ONE HUNDRED FOUR AND TWENTY-TWO HUNDREDTHS (104.22) FEET TO THE WESTERLY LINE OF FIFTH STREET; THENCE NORTH TWENTY (20) DEGREES WEST ALONG THE WESTERLY LINE OF FIFTH STREET, ONE HUNDRED NINETY-FIVE AND FORTY-EIGHT HUNDREDTHS (195.48) FEET TO THE PLACE OF BEGINNING. EXCEPT A PART OF THE NORTH HALF (N 1/2) OF SECTION EIGHT (8), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST, CITY OF ELKHART, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A REBAR WITH

CAP MARKING THE NORTHWESTERLY CORNER OF LOT TWO HUNDRED NINETY-SEVEN (297) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF BEARDSLEY'S THIRD ADDITION TO SAID CITY; THENCE SOUTH 70 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTHERLY LINE OF HARRISON STREET, A DISTANCE OF THIRTY-THREE AND THIRTY-TWO HUNDREDTHS (33.32) FEET TO A REBAR WITH CAP; THENCE SOUTH 53 DEGREES 22 MINUTES 00 SECONDS WEST, A DISTANCE OF TWO HUNDRED SIXTY AND TWENTY HUNDREDTHS (260.20) FEET TO A RAILROAD SPIKE AND THE BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH 53 DEGREES 22 MINUTES 00 SECONDS WEST, A DISTANCE OF 47.20 FEET TO A RAILROAD SPIKE; THENCE SOUTH 36 DEGREES 38 MINUTES 00 SECONDS EAST, A DISTANCE OF ONE HUNDRED (100) FEET TO A RAILROAD SPIKE; THENCE SOUTH 53 DEGREES 22 MINUTES 00 SECONDS WEST, A DISTANCE OF ONE HUNDRED (100) FEET TO A RAILROAD SPIKE; THENCE SOUTH 36 DEGREES 38 MINUTES 00 SECONDS EAST, A DISTANCE OF SIXTY AND SEVENTEEN HUNDREDTHS (60.17) FEET TO A RAILROAD SPIKE; THENCE NORTH 56 DEGREES 02 MINUTES 00 SECONDS EAST, A DISTANCE OF FORTY AND FIVE HUNDREDTHS (40.05) FEET TO AN IRON PIPE; THENCE SOUTH 33 DEGREES 58 MINUTES 00 SECONDS EAST, A DISTANCE OF FIVE AND THIRTY HUNDREDTHS (5.30) FEET TO A RAILROAD SPIKE; THENCE NORTH 56 DEGREES 02 MINUTES 00 SECONDS EAST, A DISTANCE OF FIFTY-SIX AND TWENTY-ONE HUNDREDTHS (56.21) FEET TO A REBAR WITH CAP; THENCE NORTH 19 DEGREES 50 MINUTES 27 SECONDS WEST, A DISTANCE OF ONE HUNDRED SEVENTY-SEVEN AND FIFTY-ONE HUNDREDTH (177.51) FEET TO THE BEGINNING. PARCEL II: A PART OF THE NORTH HALF (N 1/2) OF SECTION EIGHT (8), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST, CITY OF ELKHART, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A REBAR WITH CAP MARKING THE NORTHWESTERLY CORNER OF LOT TWO HUNDRED NINETY-SEVEN (297) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF BEARDSLEY'S THIRD ADDITION TO SAID CITY; THENCE SOUTH SEVENTY (70) DEGREES ZERO (00) MINUTES ZERO (00) SECONDS WEST ALONG THE SOUTHERLY LINE OF HARRISON STREET, A DISTANCE OF THIRTY-THREE AND THIRTY-TWO HUNDREDTHS (33.32) FEET TO A REBAR WITH CAP AND THE PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH FIFTY-THREE (53) DEGREES TWENTY-TWO (22) MINUTES ZERO (00) SECONDS WEST, A DISTANCE OF TWO HUNDRED SIXTY AND TWENTY HUNDREDTHS (260.20) FEET TO A RAILROAD SPIKE; THENCE NORTH NINETEEN (19) DEGREES FIFTY (50) MINUTES TWENTY-SEVEN (27) SECONDS WEST, A DISTANCE OF SEVENTY-FOUR AND FORTY-EIGHT HUNDREDTHS (74.48) FEET TO A REBAR WITH CAP; THENCE NORTH SEVENTY (70) DEGREES ZERO (00) MINUTES ZERO (00) SECONDS EAST, A DISTANCE OF TWO HUNDRED FORTY-NINE AND ELEVEN HUNDREDTHS (249.11) FEET TO THE BEGINNING.

TRACT II: A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR THE

BENEFIT OF TRACT I AS SET FORTH IN A DEED OF EASEMENT BY AND BETWEEN ALBERT DAVIDSON AND DOMINIC IEMMA, AS CO-PARTNERS, AND MORRIS M. WOLF AND ELEANOR A. WOLFF, HUSBAND AND WIFE, AND ALLEN E. SCHRAGER AND CAROLYN E. SCHRAGER, HUSBAND AND WIFE, RECORDED DECEMBER 20, 1973 AS INSTRUMENT NUMBER 579955 IN DEED RECORD 339, PAGE 704 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

TRACT III: A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF TRACT I AS SET FORTH IN A DEED OF EASEMENT BY AND BETWEEN ALBERT DAVIDSON AND DOMINIC IEMMA, AS CO-PARTNERS, AND MORRIS M. WOLF AND ELEANOR A. WOLFF, HUSBAND AND WIFE, RECORDED DECEMBER 20, 1973 AS INSTRUMENT NUMBER 579956 IN DEED RECORD 339, PAGE 706 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

Property Address:

615 S. 4th Street, Elkhart, IN 46516

Parcel Identification Numbers:

20-06-08-130-026.000-012

Legal Description:

A PART OF THE NORTH HALF (N 1/2) OF SECTION EIGHT (8), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST, IN THE CITY OF ELKHART, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF LOT TWO HUNDRED NINETY-SEVEN (297) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF BEARDSLEY'S THIRD ADDITION TO SAID CITY; THENCE SOUTH SEVENTY (70) DEGREES WEST ALONG THE SOUTHERLY LINE OF HARRISON STREET, ONE HUNDRED TWELVE (112) FEET; THENCE SOUTH TWENTY (20) DEGREES EAST ALONG THE EASTERLY LINE OF FIFTH STREET (ELKHART COUNTY DEED RECORD 390, PAGE 179), THREE HUNDRED TWENTY AND FIFTEEN HUNDREDTHS (320.15) FEET; THENCE SOUTH THIRTY (30) DEGREES FIFTY-FOUR (54) MINUTES EAST ALONG THE EASTERLY LINE OF SAID FIFTH STREET, FORTY-NINE HUNDREDTHS (.49) FEET FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE NORTH SEVENTY (70) DEGREES EAST, THREE HUNDRED FOUR AND TWENTY-SEVEN HUNDREDTHS (304.27) FEET; THENCE SOUTH NINETEEN (19) DEGREES FORTY (40) MINUTES EAST PARALLEL WITH AND TWENTY (20) FEET (MEASURED AT RIGHT ANGLES) WESTERLY FROM THE SOUTHERLY EXTENSION OF THE CENTERLINE OF FOURTH STREET, ONE HUNDRED SEVENTY AND FIFTY-FIVE HUNDREDTHS (170.55) FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE FORMER PENN CENTRAL RAILROAD; THENCE SOUTHWESTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID RAILROAD PARALLEL AND/OR CONCENTRIC WITH AND FORTY-FOUR (44) FEET (MEASURED AT RIGHT ANGLES) NORTHERLY FROM THE CENTERLINE OF A MAIN TRACK, TWO HUNDRED SIXTY-FIVE AND FIFTY-ONE HUNDREDTHS (265.51) FEET TO THE SOUTHEASTERLY CORNER OF SAID AFOREMENTIONED FIFTH STREET; THENCE NORTH THIRTY (30) DEGREES FIFTY-FOUR (54) MINUTES WEST ALONG THE EASTERLY LINE OF SAID FIFTH STREET, TWO HUNDRED TWENTY-THREE AND NINETY-FOUR HUNDREDTHS (223.94) FEET TO THE PLACE OF BEGINNING.

PASSED AND ADOPTED this ____ day of _____, _____.

Arvis Dawson
President of the Common Council

ATTEST:

Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____ day of _____, _____, at
_____ a.m./p.m.

Debra D. Barrett, City Clerk

APPROVED by me this _____ day of _____, _____.

Rod Roberson, Mayor

ATTEST:

Debra D. Barrett, City Clerk



MEMORANDUM

DATE: 7/25/2024
TO: Elkhart Common Council
FROM: Corporation Counsel John M. Espar
RE: Proposed Resolution No. 24-R-36

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DETERMINING THAT FF US ACQUISITION CORPORATION, DBA TUSCANY MOTOR COMPANY \ TLMTG PROPERTIES, LLC FAILED TO MAKE REASONABLE EFFORTS TO COMPLY WITH ITS STATEMENTS OF BENEFITS, WARRANTING THE TERMINATION OF THE ECONOMIC REVITALIZATION AREA AND CORRESPONDING TAX ABATEMENT BENEFITS

This Council found at the annual compliance review meeting that FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC was not in compliance with the company’s STATEMENT OF BENEFITS. A company that fails to substantially comply with its STATEMENT OF BENEFITS may have the Economic Revitalization Area (ERA) terminated, together with the corresponding tax phase-in benefits.

However, under Indiana law, before the Council can terminate the tax deduction benefits awarded to FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC, the Council must conduct a public hearing and afford FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC the opportunity to present information which may demonstrate that the company made reasonable efforts to comply with its STATEMENT OF BENEFITS and the company’s failure to comply was due to factors beyond the company’s control.

Proposed Resolution No. 24-R-36 finds FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC failed to make reasonable efforts to comply with its STATEMENT OF BENEFITS, and therefore terminates the ERA and the corresponding the tax phase-in benefits.

RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DETERMINING THAT FF US ACQUISITION CORPORATION, DBA TUSCANY MOTOR COMPANY \ TLMTG PROPERTIES, LLC FAILED TO MAKE REASONABLE EFFORTS TO COMPLY WITH ITS STATEMENT OF BENEFITS, WARRANTING THE TERMINATION OF THE ECONOMIC REVITALIZATION AREA AND CORRESPONDING TAX ABATEMENT BENEFITS

WHEREAS, previously the Common Council of the City of Elkhart, Indiana (“Common Council”) designated the property located at 811 Tuscany Drive & 2500 Banks Court, Elkhart, IN 46514, and particularly described in Exhibit A, an economic revitalization area (the “Area”) under Resolution Numbers R-50-18 and R-53-18, as authorized by Indiana Code 6.1-1.1-12.1; and

WHEREAS, previously the Common Council adopted Resolution No. R-54-18 approving the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, granting FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC certain tax abatement benefits, in exchange for certain investments and other commitments by FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC, as described in the agreement, and the STATEMENT OF BENEFITS – PERSONAL PROPERTY (FORM SB-1 \PP); and

WHEREAS, on July 10, 2024, the Common Council adopted Resolution No. R-33-24, determining that FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC is not in substantial compliance with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PERSONAL PROPERTY), and scheduled a public hearing to be conducted on July 29, 2024, to further consider the matter; and

WHEREAS, pursuant to the requirements of Indiana Code § 6-1.1-12.1-5.9 (b), the Administrative Assistant to the Common Council sent FF US Acquisition Corporation, dba

Tuscany Motor Company \ TLMTG Properties, LLC written notice which: (i) explained that the Common Council had determined that that FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC was not in substantial compliance with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PP), and (ii) that the Council had scheduled a public hearing to be held on July 29, 2024 in the Common Council Chambers (“Hearing”) to further consider the company’s non-compliance; and

WHEREAS, after considering information presented at the public hearing, by FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC, the public, and all interested parties, the Common Council has fully considered whether FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC made reasonable efforts to substantially comply with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PP) and whether its failure to comply was caused by factors beyond its control.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. PERSONAL PROPERTY. The Common Council having considered the information presented at the public hearing held on July 29, 2024, hereby determines that FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC failed to make reasonable efforts to comply with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PP).

- A. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the Common Council hereby terminates FF US Acquisition Corporation, dba Tuscany Motor Company \ TLMTG Properties, LLC’s deductions under Indiana Code § 6-1.1-12.1-4.5; and

B. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the deduction heretofore authorized shall not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

Section 2. The Common Council's Administrative Assistant shall immediately mail a *certified copy* of this Resolution to:

- A. FF US Acquisition Corporation, dba Tuscan Motor Company \ TLMTG Properties, LLC;
- B. The Elkhart County Auditor; and
- C. The Elkhart County Assessor.

Section 3. Pursuant to Indiana Code § 6-1.1-12.1-4.9(d), the Elkhart County Auditor shall remove the deduction from the tax duplicate and shall notify the Elkhart County Treasurer of the termination of the deduction.

Section 4. If the Elkhart County Treasurer has mailed the statement required by Indiana Code § 6-1.1-22-8.1, the Treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

Section 5. This Resolution shall be in effect from and after its passage by the Common Council and approval by the Mayor, according to law.

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Exhibit A

Description of Real Property

The real property comprising the Economic Revitalization Area is described as follows:

Property Address:

811 Tuscany Drive & 2500 Banks Court, Elkhart, IN 46514

Parcel Number(s):

20-02-27-251-002.000-027

20-02-27-251-004.000-027

Legal Description:

Banks Industrial Park, Phase V, Lot 19A, Part of NW 1/4 of Section 27, Township 38 North, Range 5 East, Osolo Township, Elkhart, County, City of Elkhart, State of Indiana.

Banks Industrial Park, Phase V, Lot 17 A, Part of NW 1/4 of Section 27, Township 38 North, Range 5 East, Osolo Township, Elkhart, County, City of Elkhart, State of Indiana,

PASSED AND ADOPTED this ____ day of _____, _____.

Arvis Dawson
President of the Common Council

ATTEST:

Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____ day of _____, _____, at
_____ a.m./p.m.

Debra D. Barrett, City Clerk

APPROVED by me this _____ day of _____, _____.

Rod Roberson, Mayor

ATTEST:

Debra D. Barrett, City Clerk



MEMORANDUM

DATE: 7/17/2024
TO: Common Council
FROM: Corporation Counsel John Espar
RE: Proposed Resolution No. 24-R-37

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, TERMINATING BY AGREEMENT, THE ECONOMIC REVITALIZATION AREA AND MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF ELKHART AND TRIM-LOK, INC.\ 5400 BECK DRIVE-ELKHART, LLC FOR WHICH NO TAX ABATEMENT BENEFITS HAVE BEEN RECEIVED OR WILL BE CLAIMED

This resolution relates to the personal property tax phase-in benefits which were awarded to TRIM-LOK, INC.\ 5400 BECK DRIVE-ELKHART, LLC under Resolution Nos. R-63-21, R-68-21, and R-69-21.

TRIM-LOK, INC. intended to complete the personal project as the operating entity within the economic revitalization area. 5400 BECK DRIVE-ELKHART, LLC was named as a party to the *Memorandum of Agreement*, as the named real property owner. Subsequently however, the true owner was identified as 5540 BECK DRIVE-ELKHART LLC, and for that reason 5540 BECK DRIVE-ELKHART LLC is joined in the prosed resolution.

TRIM-LOK, INC. has determined that the personal property project for which the company entered into the *Memorandum of Agreement* is no-longer commercially reasonable and will not move forward. The project and has not received any benefits under the *Memorandum of Agreement*.

All parties have agreed to terminate the agreement, waivie any claim to benefits, even if the project is subsequently completed.

RESOLUTION NO. R-

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, TERMINATING BY AGREEMENT, THE ECONOMIC REVITALIZATION AREA AND MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF ELKHART AND TRIM-LOK, INC. \ 5400 BECK DRIVE-ELKHART, LLC FOR WHICH NO TAX ABATEMENT BENEFITS HAVE BEEN AWARDED OR WILL BE CLAIMED

WHEREAS, the Common Council of the City of Elkhart, Indiana (“Common Council”) designated the property located at 5540 Beck Drive, Elkhart, Indiana 46516, and particularly described in Exhibit A, an economic revitalization area (the “Area”) under Resolution Numbers R-63-21 and R-68-21, as authorized by Indiana Code 6.1-1.1-12.1; and

WHEREAS, the Common Council adopted Resolution No. R-66-21 and approved the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, granting Trim-Lok, Inc.\ 5400 Beck Drive-Elkhart, LLC certain tax abatement benefits, in exchange for certain investments and other commitments by Trim-Lok, Inc.\ 5400 Beck Drive-Elkhart, LLC, as described in the agreement, the STATEMENT OF BENEFITS – PERSONAL PROPERTY (FORM SB-1 \PP); and

WHEREAS, Trim-Lok, Inc.\ 5400 Beck Drive-Elkhart, LLC has since determined that the investments and other commitments arising under the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, are no longer financially viable, notwithstanding the opportunity for tax phase-in benefits; and

WHEREAS, Trim-Lok, Inc.\ 5400 Beck Drive-Elkhart, LLC requests that the City of Elkhart terminate the ERA and terminate the MEMORANDUM OF AGREEMENT –PERSONAL PROPERTY, and by its request, consents to said terminations; and

WHEREAS, Trim-Lok, Inc. \ 5400 Beck Drive-Elkhart, LLC has neither claimed, nor received, any tax abatement benefits under the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, has waived any tax abatement benefits under said agreement, and has disclaimed any rights to tax abatement arising therefrom;

WHEREAS, 5540 Beck Drive-Elkhart, LLC, is the true owner of the real property which form the basis of the economic revitalization area, and is therefore joined in the “Consent to Termination and Waiver of Tax Abatement Benefits” below, as the true party in interest, duly authorized to provide the consent and waiver.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The designation of the property located at 5540 Beck Drive, Elkhart, Indiana 46516, and particularly described in Exhibit A, as an economic revitalization area under Resolution Nos. R-63-21 and R-68-21 be, and the same hereby is, terminated.

Section 2. The MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, approved by the Common Council of the City of Elkhart, under R-66-21, be, and the same hereby is, terminated.

Section 3. The rights of Trim-Lok, Inc. \ 5400 Beck Drive-Elkhart, LLC and/or 5540 Beck Drive-Elkhart LLC to receive tax phase-in benefits under Resolution No. R-66-21, and the corresponding MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY with the City of Elkhart, be, and hereby is, rescinded.

Section 4. No right or claim of Trim-Lok, Inc. \ 5400 Beck Drive-Elkhart, LLC and/or 5540 Beck Drive-Elkhart LLC for tax deduction benefits under section 3, 4.5, or 4.8

of Indiana Code 6-5.1-12.1, shall survive the adoption of this Resolution, regardless of when such right or claim may have accrued.

Section 5. This Resolution is effective from and upon its passage by the Common Council and approval by the Mayor, according to law.

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EXHIBIT A

Legal Description

Lot 7 of Beck Industrial Park Minor Subdivision No. 3 as recorded in Plat Book 40, page 52, records of the Recorder of Elkhart County, and part of Beck Industrial Park Subdivision, Phase II, as recorded in Plat Book 31, page 14, records of the Recorder of Elkhart County, Indiana, and within the North Fractional Half of the Northeast Quarter of Section 6, Township 37 North, Range 6 East, Jefferson Township, Elkhart County, Indiana, and being more particularly described as follows:

Commencing at the Northeast corner of the Northeast Quarter of said Section 6; thence South 89 degrees 44 minutes 07 seconds West, on an assumed bearing with all other bearings herein relative thereto, along the north line of said Northeast Quarter 60.00 feet to the point of beginning of this description: thence South 0 degrees 29 minutes 07 seconds East 1,020.05 feet along the west boundary line of C.R. 19 to a bar and cap at the southeast corner of Lot 7 in said Beck Industrial Park Minor Subdivision No. 3; thence South 88 degrees 40 minutes 37 seconds West 462.35 feet along the south line of said Lot to the southeast corner of Lot 6 in said Minor Subdivision No. 3; thence North 0 degrees 00 minutes 00 seconds West 276.88 feet along the east line of said Lot to a bar and cap on said east line; thence North 41 degrees 22 minutes 48 seconds West 113.58 feet along said east line of said Lot to the northeast corner thereof and further being on the south boundary line of Beck Drive; thence northerly 215.90 feet along a non-tangent arc to the left having a radius of 80.00 feet and subtended by a long chord having a bearing of North 11 degrees 41 minutes 03 seconds East and a length of 156.09 feet and further being the eastern boundary of Beck Drive; thence westerly along said boundary 98.56 feet along an arc to the left having a radius of 80.00 feet and subtended by a long chord having a bearing of South 79 degrees 04 minutes 29 seconds West and a length of 92.45 feet; thence southwesterly along said boundary 40.31 feet along an arc to the right having a radius of 50.00 feet and subtended by a long chord having a bearing of South 66 degrees 52 minutes 22 seconds West and a length of 39.22 feet; thence South 89 degrees 57 minutes 59 seconds West 125.22 feet along the north line of Beck Drive to a bar and cap marking the southeast corner of Lot 5 of Beck Industrial park Minor Subdivision No. 2, the plat of which is recorded in Plat Book 37, page 28 in the Office of the Recorder of Elkhart County, Indiana; thence North 0 degrees 15 minutes 53 seconds West 545.25 feet along the east line of said Lot to a bar end cap marking the northeast corner thereof and further being the north line of said Beck Industrial Park Subdivision Phase II; thence North 89 degrees 44 minutes 07 seconds East 371.65 feet along said north line to a bar and cap marking the northwest corner of Lot 7 in said Beck Industrial Park Minor Subdivision No. 3; thence North 89 degrees 44 minutes 07 seconds East 380.00 feet along the north line of said Lot to the point of beginning and containing 14.49 acres, more or less.

CONSENT TO TERMINATION AND WAIVER OF TAX ABATEMENT BENEFITS

The undersigned duly authorized representatives of 5400 Beck Drive-Elkhart, LLC and 5540 Beck Drive-Elkhart, LLC, as set forth below, do, by execution of this instrument, consent to the termination of the economic revitalization area, the corresponding memorandum of agreement, and the rescission of the tax abatement benefits arising therefrom.

5400 Beck Drive-Elkhart, LLC
5540 Beck Drive-Elkhart, LLC
53149 Discovery Drive
Elkhart, IN 46514-7007


Amit P. Shah
Manager\Registered Agent

CONSENT TO TERMINATION AND WAIVER OF TAX ABATEMENT BENEFITS

The undersigned duly authorized representatives of Trim-Lok, Inc., as set forth below, do, by execution of this instrument, consent to the termination of the economic revitalization area, the corresponding memorandum of agreement, and the rescission of the tax abatement benefits arising therefrom.

Trim-Lok, Inc.
6855 Hermosa Circle
Buena Park, CA 90620



Jack Hetherington
Chief Financial Officer

7-17-24

RESOLVED this _____ day of _____, _____.

ATTEST:

Arvis Dawson
President of the Common Council

Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____ day of _____, _____, at _____
a.m./p.m.

Debra D. Barrett, City Clerk

APPROVED by me this _____ day of _____, _____.

Rod Roberson, Mayor

ATTEST:

Debra D. Barrett, City Clerk



MEMORANDUM

DATE: 7/25/2024
TO: Elkhart Common Council
FROM: Corporation Counsel John M. Espar
RE: Proposed Resolution No. 24-R-38

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DETERMINING THAT CTS CORPORATION FAILED TO MAKE REASONABLE EFFORTS TO COMPLY WITH ITS STATEMENTS OF BENEFITS, WARRANTING THE TERMINATION OF THE ECONOMIC REVITALIZATION AREA AND CORRESPONDING TAX ABATEMENT BENEFITS

This Council found at the annual compliance review meeting that CTS Corporation was not in compliance with the company’s STATEMENT OF BENEFITS. A company that fails to substantially comply with its STATEMENT OF BENEFITS may have the Economic Revitalization Area (ERA) terminated, together with the corresponding tax phase-in benefits.

However, under Indiana law, before the Council can terminate the tax deduction benefits awarded to CTS Corporation, the Council must conduct a public hearing and afford CTS Corporation the opportunity to present information which may demonstrate that the company made reasonable efforts to comply with its STATEMENT OF BENEFITS and the company’s failure to comply was due to factors beyond the company’s control.

Proposed Resolution No. 24-R-38 finds CTS Corporation failed to make reasonable efforts to comply with its STATEMENT OF BENEFITS, and therefore terminates the ERA and the corresponding the tax phase-in benefits.

RESOLUTION NO. _____

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART,
INDIANA, DETERMINING THAT CTS CORPORATION FAILED TO MAKE
REASONABLE EFFORTS TO COMPLY WITH ITS STATEMENTS OF BENEFITS,
WARRANTING THE TERMINATION OF THE ECONOMIC REVITALIZATION
AREA AND CORRESPONDING TAX ABATEMENT BENEFITS**

WHEREAS, previously the Common Council of the City of Elkhart, Indiana (“Common Council”) designated the property located at 905 West Boulevard North, Elkhart, IN 46514, and particularly described in Exhibit A, an economic revitalization area (the “Area”) under Resolution Numbers R-03-19 and R-04-19, as authorized by Indiana Code 6.1-1.1-12.1; and

WHEREAS, previously the Common Council adopted Resolution No. R-05-19 approving the MEMORANDUM OF AGREEMENT – REAL PROPERTY and the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, respectively, granting CTS Corporation certain tax abatement benefits, in exchange for certain investments and other commitments by CTS Corporation, as described in the agreements, the STATEMENT OF BENEFITS – REAL PROPERTY (FORM SB-1 \RP) and the STATEMENT OF BENEFITS – PERSONAL PROPERTY (FORM SB-1 \PP); and

WHEREAS, on July 10, 2024, the Common Council adopted Resolution No. , determining that CTS Corporation is not in substantial compliance with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PERSONAL PROPERTY and STATEMENT OF BENEFITS REAL PROPERTY IMPROVEMENTS (FORM SB-1/REAL PROPERTY), and scheduled a public hearing to be conducted on July 29, 2024, to further consider the matter; and

WHEREAS, pursuant to the requirements of Indiana Code § 6-1.1-12.1-5.9 (b), the Administrative Assistant to the Common Council sent CTS Corporation written notice which: (i) explained that the Common Council had determined that that CTS Corporation was not in

substantial compliance with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PP) and STATEMENT OF BENEFITS REAL PROPERTY IMPROVEMENTS (FORM SB-1/RP), and (ii) that the Council had scheduled a public hearing to be held on July 29, 2024 in the Common Council Chambers (“Hearing”) to further consider the company’s non-compliance; and

WHEREAS, after considering information presented at the public hearing, by CTS Corporation, the public, and all interested parties, the Common Council has fully considered whether CTS Corporation made reasonable efforts to substantially comply with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/PP) and STATEMENT OF BENEFITS REAL PROPERTY IMPROVEMENTS (FORM SB-1/RP) and whether its failure to comply was caused by factors beyond its control.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. **PERSONAL PROPERTY.** The Common Council having considered the information presented at the public hearing held on July 29, 2024, hereby determines that CTS Corporation failed to make reasonable efforts to substantially comply with its STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM SB-1/ PP).

- A. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the Common Council hereby terminates CTS Corporation’s deductions under Indiana Code § 6-1.1-12.1-4.5; and
- B. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the deduction heretofore authorized shall not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

Section 2. **REAL PROPERTY.** The Common Council having considered the information

presented at the public hearing held on July 29, 2024, hereby determines that CTS Corporation failed to make reasonable efforts to substantially comply with its STATEMENT OF BENEFITS REAL PROPERTY (FORM SB-1/ RP).

- A. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the Common Council hereby terminates CTS Corporation's deductions under Indiana Code § 6-1.1-12.1-3; and
- B. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the deduction heretofore authorized shall not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

Section 3. The Common Council's Administrative Assistant shall immediately mail a *certified copy* of this Resolution to:

- A. CTS Corporation;
- B. The Elkhart County Auditor; and
- C. The Elkhart County Assessor.

Section 4. Pursuant to Indiana Code § 6-1.1-12.1-4.9(d), the Elkhart County Auditor shall remove the deduction from the tax duplicate and shall notify the Elkhart County Treasurer of the termination of the deduction.

Section 5. If the Elkhart County Treasurer has mailed the statement required by Indiana Code § 6-1.1-22-8.1, the Treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

Section 6. This Resolution shall be in effect from and after its passage by the Common Council and approval by the Mayor, according to law.

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Exhibit A

Description of Real Property

The real property comprising the Economic Revitalization Area is described as follows:

Property Address:

905 West Boulevard North, Elkhart, IN 46514

Parcel Number(s):

20-06-06-126-002.000-012

Legal Description:

PARCEL II

A part of the Northwest Quarter (NW ¼) of Section 6, Township 37 North, Range 5 East, more particularly described as follows:

Beginning at the Northwest corner of said Section 6; thence East along the North line of said section, 1414.05 feet to the center of West Boulevard; thence South along the center of said West Boulevard to the North line of the right of way of the Elkhart and Western Railway Company; thence Westerly along said North line of said right of way to the West line of said Section 6; thence North along the West line of said section to the place of beginning.

EXCEPT therefrom the following tract:

Commencing at a P.K. nail at the intersection of Nappanee Street and Mishawaka Street said P.K. nail also marking the Northwest corner of said Northwest Quarter (NW ¼) of Section 6, the point of beginning of this description; thence South 89 degrees 10 minutes 30 seconds East along the North line of said Northwest Quarter (NW ¼) and the centerline of Mishawaka Street, 959.95 feet to a P.K. nail; thence South 00 degrees 19 minutes 15 seconds West parallel with and 454.10 feet West of the centerline of West Boulevard, 696.51 feet to a rebar on the Northerly right of way of the Conrail (previously the New York Central Railroad and formerly the Elkhart and Western Railroad) Railroad; thence South 84 degrees 56 minutes 45 seconds West along said Northerly right of way, 960.96 feet to the West line of said Northwest Quarter (NW ¼) and the centerline of Nappanee Street; thence North 00 degrees 05 minutes 30 seconds East along said West line and said centerline, 794.98 feet to the point of beginning of this description

PASSED AND ADOPTED this ____ day of _____, _____.

Arvis Dawson
President of the Common Council

ATTEST:

Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____ day of _____, _____, at
_____ a.m./p.m.

Debra D. Barrett, City Clerk

APPROVED by me this _____ day of _____, _____.

Rod Roberson, Mayor

ATTEST:

Debra D. Barrett, City Clerk



MEMORANDUM

DATE: 7/25/2024
TO: Elkhart Common Council
FROM: Corporation Counsel John M. Espar
RE: Proposed Resolution No. 24-R-39

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DETERMINING THAT CHAMPION MANUFACTURING INC. \ C.R. 17 LAND DEVELOPMENT, LLC FAILED TO MAKE REASONABLE EFFORTS TO COMPLY WITH ITS STATEMENTS OF BENEFITS, WARRANTING THE TERMINATION OF THE ECONOMIC REVITALIZATION AREA AND CORRESPONDING TAX ABATEMENT BENEFITS

This Council found at the annual compliance review meeting that Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC was not in compliance with the company’s STATEMENT OF BENEFITS. A company that fails to substantially comply with its STATEMENT OF BENEFITS may have the Economic Revitalization Area (ERA) terminated, together with the corresponding tax phase-in benefits.

However, under Indiana law, before the Council can terminate the tax deduction benefits awarded to Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC, the Council must conduct a public hearing and afford Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC the opportunity to present information which may demonstrate that the company made reasonable efforts to comply with its STATEMENT OF BENEFITS and the company’s failure to comply was due to factors beyond the company’s control.

Proposed Resolution No. 24-R-39 finds Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC failed to make reasonable efforts to comply with its STATEMENT OF BENEFITS, and therefore terminates the ERA and the corresponding the tax phase-in benefits.

RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DETERMINING THAT CHAMPION MANUFACTURING INC. \ C.R. 17 LAND DEVELOPMENT, LLC FAILED TO MAKE REASONABLE EFFORTS TO COMPLY WITH ITS STATEMENTS OF BENEFITS, WARRANTING THE TERMINATION OF THE ECONOMIC REVITALIZATION AREA AND CORRESPONDING TAX ABATEMENT BENEFITS

WHEREAS, previously the Common Council of the City of Elkhart, Indiana (“Common Council”) designated the property located at 5100 Hoffman Street, Elkhart, IN 46516, and particularly described in Exhibit A, an economic revitalization area (the “Area”) under Resolution Numbers R-41-19 and R-42-19, as authorized by Indiana Code 6.1-1.1-12.1; and

WHEREAS, previously the Common Council adopted Resolution No. R-43-19 approving the MEMORANDUM OF AGREEMENT – REAL PROPERTY, granting Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC certain tax abatement benefits, in exchange for certain investments and other commitments by Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC, as described in the agreement, and the STATEMENT OF BENEFITS – REAL PROPERTY (FORM SB-1 \RP); and

WHEREAS, on July 10, 2024, the Common Council adopted Resolution No. R-27-24, determining that Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC is not in substantial compliance with its STATEMENT OF BENEFITS REAL PROPERTY IMPROVEMENTS (FORM SB-1/REAL PROPERTY), after the company ceased operations at the Economic Revitalization Area. The Council scheduled a public hearing to be conducted on July 29, 2024, to further consider the matter; and

WHEREAS, pursuant to the requirements of Indiana Code § 6-1.1-12.1-5.9 (b), the

Administrative Assistant to the Common Council sent Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC written notice which: (i) explained that the Common Council had determined that that Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC was not in substantial compliance with its STATEMENT OF BENEFITS REAL PROPERTY IMPROVEMENTS (FORM SB-1/RP), and (ii) that the Council had scheduled a public hearing to be held on July 29, 2024 in the Common Council Chambers (“Hearing”) to further consider the company’s non-compliance; and

WHEREAS, after considering information presented at the public hearing, by Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC, the public, and all interested parties, the Common Council has fully considered whether Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC made reasonable efforts to substantially comply with its STATEMENT OF BENEFITS REAL PROPERTY IMPROVEMENTS (FORM SB-1/RP) and whether its failure to comply was caused by factors beyond its control.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. REAL PROPERTY. The Common Council having considered the information presented at the public hearing held on July 29, 2024, hereby determines that Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC ceased operation at the location of the Economic Revitalization Area, contrary to the STATEMENT OF BENEFITS REAL PROPERTY (FORM SB-1/ RP).

- A. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the Common Council hereby terminates Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC’s deductions under Indiana Code § 6-1.1-12.1-3; and

- B. Pursuant to Indiana Code § 6-1.1-12.1-4.9(c), the deduction heretofore authorized shall not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.
- C. Pursuant to the Memorandum of Agreement – Real Property, Corporation Council is authorized to initiate such action as necessary to recover any tax benefits received by Champion Manufacturing Inc. and/or C.R. 17 Land Development, LLC, measured by its level of noncompliance.

Section 2. The Common Council’s Administrative Assistant shall immediately mail a *certified copy* of this Resolution to:

- A. Champion Manufacturing Inc. \ C.R. 17 Land Development, LLC;
- B. The Elkhart County Auditor; and
- C. The Elkhart County Assessor.

Section 3. Pursuant to Indiana Code § 6-1.1-12.1-4.9(d), the Elkhart County Auditor shall remove the deduction from the tax duplicate and shall notify the Elkhart County Treasurer of the termination of the deduction.

Section 4. If the Elkhart County Treasurer has mailed the statement required by Indiana Code § 6-1.1-22-8.1, the Treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

Section 5. This Resolution shall be in effect from and after its passage by the Common Council and approval by the Mayor, according to law.

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Exhibit A

Description of Real Property

The real property comprising the Economic Revitalization Area is described as follows:

Property Address:

5100 Hoffman Street, Elkhart, IN 46516

Parcel Number(s):

20-06-01-277-004.000-011

Legal Description:

Lot Numbered 34 as the said Lot is known and designated on the recorded Plat of Elkhart Industrial Park Phase V; said Plat being recorded in Plat Book 23, page 79 in the Office of Recorded of Elkhart County, Indiana.

PASSED AND ADOPTED this ____ day of _____, _____.

Arvis Dawson
President of the Common Council

ATTEST:

Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____ day of _____, _____, at
_____ a.m./p.m.

Debra D. Barrett, City Clerk

APPROVED by me this _____ day of _____, _____.

Rod Roberson, Mayor

ATTEST:

Debra D. Barrett, City Clerk



MEMORANDUM

DATE: 7/25/2024
TO: Common Council
FROM: Corporation Counsel John Espar
RE: Proposed Resolution No. 24-R-40

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, TERMINATING BY AGREEMENT, THE ECONOMIC REVITALIZATION AREA AND MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF ELKHART AND AMERICANA DEVELOPMENT, INC. D/B/A: DEXSTAR WHEEL FOR WHICH NO TAX ABATEMENT BENEFITS WILL BE CLAIMED

This resolution relates to Resolution Nos. R-51-20, R-52-20, and R-53-20 which granted tax phase-in benefits to AMERICANA DEVELOPMENT, INC. D/B/A: DEXSTAR WHEEL for a real property and personal property investment project planned for an area designated as an economic revitalization area (ERA) in the City of Elkhart.

AMERICANA DEVELOPMENT, INC. D/B/A: DEXSTAR WHEEL has since determined that the real and personal property projects for which the company entered into the *Memorandum of Agreement – Real Property and Memorandum of Agreement – Personal Property* are no-longer commercially reasonable and will not move forward.

AMERICANA DEVELOPMENT, INC. D/B/A: DEXSTAR WHEEL has not started the project and has no right to claim tax benefits under either *Memorandum of Agreement*.

AMERICANA DEVELOPMENT, INC. D/B/A: DEXSTAR WHEEL has agreed to terminate the ERA, terminate the agreements, and waive any claim to benefits, R-51-20, R-52-20, and R-53-20 and the two agreements.

RESOLUTION NO. R-

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, TERMINATING BY AGREEMENT, THE ECONOMIC REVITALIZATION AREA AND MEMORANDA OF AGREEMENT BETWEEN THE CITY OF ELKHART AND AMERICANA DEVELOPMENT, INC. D/B/A: DEXSTAR WHEEL FOR WHICH NO TAX ABATEMENT BENEFITS WILL BE CLAIMED

WHEREAS, the Common Council of the City of Elkhart, Indiana (“Common Council”) designated the property located at 400 Collins Road, Elkhart, IN 46516, and particularly described in Exhibit A, an economic revitalization area (the “Area”) under Resolution Numbers R-51-20 and R-52-20, as authorized by Indiana Code 6.1-1.1-12.1; and

WHEREAS, the Common Council adopted Resolution No. R-53-20 and approved the MEMORANDUM OF AGREEMENT – REAL PROPERTY and the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, respectively, granting Americana Development, Inc. d/b/a: Dexstar Wheel certain tax abatement benefits, in exchange for certain investments and other commitments by Americana Development, Inc. d/b/a: Dexstar Wheel, as described in the agreements, the STATEMENT OF BENEFITS – REAL PROPERTY (FORM SB-1 \RP) and the STATEMENT OF BENEFITS – PERSONAL PROPERTY (FORM SB-1 \PP); and

WHEREAS, Americana Development, Inc. d/b/a: Dexstar Wheel has since determined that the investments and other commitments arising under the MEMORANDUM OF AGREEMENT – REAL PROPERTY and the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, are no longer financially viable, notwithstanding the opportunity for tax phase-in benefits; and

WHEREAS, Americana Development, Inc. d/b/a: Dexstar Wheel requests that the City of Elkhart terminate the ERA and terminate the MEMORANDUM OF AGREEMENT – REAL PROPERTY

and the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, and consents to said terminations;
and

WHEREAS, Americana Development, Inc. d/b/a: Dexstar Wheel has not received tax abatement benefits under the MEMORANDUM OF AGREEMENT – REAL PROPERTY and has not received tax abatement benefits under the MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, for which the City may demand repayment and has waived any tax abatement benefits under said agreements, and has disclaimed any rights to tax abatement arising therefrom;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The designation of the property located at 400 Collins Road, Elkhart, IN 46516, and particularly described in Exhibit A, as an economic revitalization area under Resolution Nos. R-51-20 and R-52-20 be, and the same hereby is, terminated.

Section 2. The MEMORANDUM OF AGREEMENT – REAL PROPERTY and MEMORANDUM OF AGREEMENT – PERSONAL PROPERTY, approved by the Common Council of the City of Elkhart, under R-53-20, be, and the same hereby are, terminated.

Section 3. The rights of Americana Development, Inc. d/b/a: Dexstar Wheel to comply and receive tax phase-in benefits under Resolution No. R-53-20, and the corresponding agreements with the City of Elkhart, are rescinded.

Section 4. No claim of Americana Development, Inc. d/b/a: Dexstar Wheel for tax deduction benefits under section 3, 4.5, or 4.8 of Indiana Code 6-5.1-12.1, shall survive the adoption of this resolution, regardless of when such right or claim may have accrued.

Section 5. This Resolution is effective from and after its passage by the Common

Council and approval by the Mayor, according to law.

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EXHIBIT A

Legal Description

A part of the West Half (W ½) of Section Two (2), Township Thirty-seven (37) North, Range Five (5) East, in Concord Township, Elkhart County, Indiana, more particularly described as follows:

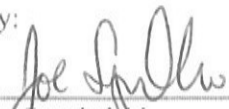
Beginning at the northeast corner of Lot Numbered Two (2) of the recorded plat of Middleton Run Industrial Acres, Section One (1), a subdivision in said section; thence due North parallel with the East line of the West Half (W ½) of said section, Four Hundred Seventeen and EightySix Hundredths (417.86) feet; thence due West parallel with the North line of said Lot, Seven Hundred Twenty-One and Seventy-Eight Hundredths (721.78) feet; thence due South Four Hundred Seventeen and Eighty-six Hundredths (417.86) feet to the North line of said lot extended westwardly; thence due East along the North line of said lot, Seven Hundred Twenty-One and Seventy-Eight Hundredths (721.78) feet to the place of beginning, containing approximately Six and Ninety-two Hundredths (6.92) acres.

CONSENT TO TERMINATION OF TAX ABATEMENT

The undersigned duly authorized representative of the entity set forth below, does, by execution of this instrument, represent that I have read the above and foregoing proposed resolution of the Common Council of the City of Elkhart, Indiana, agree with the representations set forth therein, and do hereby consent to the termination of the economic revitalization area, the corresponding memoranda of agreement, and the rescission of the tax abatement benefits arising therefrom.

Americana Development, Inc. d/b/a: Dexstar
Wheel
400 Collins Road
Elkhart, IN 46516

By:

 7/25/24

Joe Spychalski
Controller

**Robin
Pickard**

Digitally signed
by Robin Pickard
Date: 2024.07.25
11:08:28 -04'00'

RESOLVED this _____ day of _____, _____.

ATTEST:

Arvis Dawson
President of the Common Council

Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____ day of _____, _____, at _____
a.m./p.m.

Debra D. Barrett, City Clerk

APPROVED by me this _____ day of _____, _____.

Rod Roberson, Mayor

ATTEST:

Debra D. Barrett, City Clerk