

A RESOLUTION CONFIRMING SUBSTANTIAL COMPLIANCE/NON COMPLIANCE with Statement of Benefits (CF-1) form filings for 2016 for LTHS, LLC (Abra Cadabra) for property at Lot 15 in Huegenard Industrial Park (3506 Metro Drive North) under Confirming Resolution R-75-06 with an "Economic Revitalization Area" approved under I.C. 6-1.1-12.1 (Non-Filer)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution with approved Statement of Benefits (SB-1) forms property for LTHS, LLC (Abra Cadabra) as an "Economic Revitalization Area" under Sections 153.13-153.24 of the Fort Wayne Code of Ordinances, 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 Fort Wayne Code of Ordinances, Indiana, must file a Compliance with Statement of Benefits Form (CF-1/PP and/or CF-1/Real Property) with the Allen County Auditor, the Allen County Assessor and the City of Fort Wayne showing there has been compliance with the approved Statement of Benefits for the project; 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

WHEREAS, LTHS, LLC (Abra Cadabra) did not file Compliance with Statement of Benefits Form CF-1/Real Property; and

WHEREAS, Common Council made a determination on June 28, 2016, that LTHS, LLC (Abra Cadabra) was not in substantial compliance by failing to comply with I.C. 6-1.1-12.1 et seq. and Section 153.21(A) of the Fort Wayne Code of Ordinances by **failing to file** their Compliance with Statement of Benefits pertaining to their deductions and subsequently failed to file a Waiver of Non-Compliance pursuant to I.C. 6-1.1-12.1-9.5, or I.C. 6-1.1-12.1-11.3(a)(5); and

WHEREAS, Common Council directed the Community Development Division to mail written notice to LTHS, LLC (Abra Cadabra) 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 LTHS, LLC (Abra Cadabra)'s Compliance with Statement of Benefits; and

WHEREAS, in said notice to LTHS, LLC (Abra Cadabra), Common Council directed LTHS, LLC (Abra Cadabra) to apply for and file a Waiver of Non-Compliance pursuant to either I.C. 6-1.1-12.1-9.5 or I.C. 6-1.1-12.1-11.3(a)(5) as may be applicable, and request a waiver by Common Council, for said non-compliance, which request and resolutions and forms were to be submitted to Common Council prior to the subsequent hearing that will be afforded to LTHS, LLC (Abra Cadabra); and

WHEREAS, the aforementioned notice was properly prepared and served upon LTHS, LLC (Abra Cadabra) on August 1, 2016; and

WHEREAS, a Waiver of Non-Compliance **has/has not** been requested and otherwise applied for by LTHS, LLC (Abra Cadabra); and

WHEREAS, Common Council conducted a hearing on August 23, 2016 for the purpose of further considering LTHS, LLC (Abra Cadabra)'s Compliance with Statement of Benefits; and

WHEREAS, LTHS, LLC (Abra Cadabra) **APPEARED AND TESTIFIED/DID NOT APPEAR** at the hearing.

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

SECTION 1a. LTHS, LLC (Abra Cadabra) has properly filed its waiver of non-compliance with the Community Development Division of the City of Fort Wayne, therefore Common Council shall allow the waiver of non-compliance process to proceed and will make a compliance or non-compliance determination and otherwise consider abatement termination issues at a subsequent hearing as part of its determination of LTHS, LLC (Abra Cadabra)'s waiver request and application.

SECTION 1b. LTHS, LLC (Abra Cadabra) has failed to file a waiver of non-compliance and has otherwise failed to make any reasonable efforts to substantially comply as is required, as such Common Council finds and resolves that LTHS, LLC (Abra Cadabra)'s real property deduction under R-75-06 is hereby terminated.

SECTION 2. That this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Member of Council

APPROVED AS TO FORM A LEGALITY

Carol Helton, City Attorney