

**A RESOLUTION CONFIRMING SUBSTANTIAL
COMPLIANCE OR NON-COMPLIANCE with Statement of
Benefits (CF-1) form filing for 2016 for LH Medical
Corporation for property at 6932 Gettysburg Pike under
Confirming Resolution R-02-11 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 LH Medical Corporation 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, LH Medical Corporation has filed Compliance with Statement of Benefit Forms with the Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, LH Medical Corporation's approved Statement of Benefits (SB-1) form stated that **54** full-time and one part-time job would be retained and **65** full-time jobs would be created by December 2015; and

WHEREAS, LH Medical Corporation's approved Statement of Benefits (SB-1) form stated **\$3,534,000** in annual payroll for the **54** full-time and one part-time retained jobs and **\$4,176,000** in annual payroll would be generated by the **65** full-time jobs to be created; and

WHEREAS LH Medical Corporation; 2016 Compliance with Statement of Benefits (CF-1) form filing stated that **55** jobs were retained and **six** jobs were created; and

WHEREAS LH Medical Corporation's 2016 Compliance with Statement of Benefits (CF-1) form filing stated **\$3,339,121** in annual payroll for the **55** jobs retained and **\$0** 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

1 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code of
2 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 to
6 be created or retained as delineated in the original Statement of Benefits Form
7 (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 54 full-time and one part-time jobs retained means
12 retaining 41 jobs; and

13 **WHEREAS**, meeting 75% of the 65 full-time jobs to be created means creating 48
14 full-time jobs; and

15 **WHEREAS**, meeting 75% of the \$3,534,000 in retained annual payroll means
16 \$2,650,500 in annual payroll; and

17 **WHEREAS**, meeting 75% of the \$4,176,000 in annual payroll to be created means
18 \$3,132,000; and

19 **WHEREAS**, Common Council made a determination on June 28, 2016 that LH
20 Medical Corporation was not in substantial compliance as a result of its failure to generate at
21 least 48 jobs and at least \$3,132,000 in annual payroll created, and that the failure to
22 substantially comply was not caused by factors beyond the control of LH Medical
23 Corporation; and

24 **WHEREAS**, Council directed the Community Development Division to mail written
25 notice to LH Medical Corporation explaining the reasons for Council's determination and a
26 date, time, place of a hearing to be conducted by Council for the purpose of further
27 considering LH Medical Corporation's compliance with Statement of Benefits; and

28 **WHEREAS**, the aforementioned notice was properly prepared and served upon LH
29 Medical Corporation on August 26, 2016; and

30 **WHEREAS**, Council conducted a hearing on September 27, 2016 for the purpose of
further considering LH Medical Corporation's compliance with statement of benefits; and

WHEREAS, LH Medical Corporation **appeared/failed to appear** at the hearing.

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

SECTION 1a. LH Medical Corporation failed to appear and otherwise testify and
therefore Council confirms its determination of June 28, 2016 that LH Medical Corporation
has failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the

1 Municipal Code of the City of Fort Wayne for its failure to create 75% of the 54 full-time and
2 one part-time jobs or 48 jobs that were stated that would be created and create 75% of the
3 \$4,176,000 in annual payroll or \$3,132,000 that was stated that would be generated by the
4 created jobs. Council therefore finds that LH Medical Corporation has failed to substantially
5 comply and said failure was not caused by factors outside of LH Medical Corporation's
6 control. As a result of said failure, LH Medical Corporation's deduction/abatement under R-
02-11 is hereby terminated.

7 **SECTION 1b.** That LH Medical Corporation appeared and testified at the hearing
8 and from its testimony it was determined that LH Medical Corporation's failure to substantially
9 comply by its failure to create 75% of the 54 full-time and one part-time jobs or 48 jobs that
10 were stated that would be created and create 75% of the \$4,176,000 in annual payroll or
11 \$3,132,000 that was stated that would be generated by the created jobs, that LH Medical
12 Corporation did make reasonable efforts to substantially comply with the statement of
benefits an LH Medical Corporation's failure to substantially comply was caused by factors
beyond the control of LH Medical Corporation. Therefore the continuation of LH Medical
Corporation's deduction/abatement under R-02-11 is hereby approved.

13 **SECTION 1c.** That LH Medical Corporation appeared and testified at the hearing
14 and from its testimony it was determined that LH Medical Corporation's failure to substantially
15 comply by its failure to create 75% of the 54 full-time jobs or 48 jobs that were stated that
16 would be created and create 75% of the \$4,176,000 in annual payroll or \$3,132,000 that was
17 stated that would be generated by the created jobs and that LH Medical Corporation did not
18 make reasonable efforts to substantially comply with the statement of benefits and LH
19 Medical Corporation's failure to substantially comply was not caused by factors beyond the
20 control of LH Medical Corporation. As a result of said failure, LH Medical Corporation's
21 deduction/abatement under R-02-11 is hereby terminated.

22 **SECTION 2.** That, this Resolution shall be in full force and effect from and after
23 its passage and any and all necessary approval by the Mayor.
24

25 _____
26 Member of Council
27

28 APPROVED AS TO FORM A LEGALITY
29

30 _____
Carol Helton, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: **Resolution Confirming Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2016**

DEPARTMENT REQUESTING ORDINANCE: **Community Development Division**

SYNOPSIS OF ORDINANCE: **This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings made by LH Medical Corporation in May 2016 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): **Glynn Hines and John Crawford**