

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2017 for LH Carbide Corporation/Harbor Investments III, LLC for property at 4420 Clubview Drive, Fort Wayne, IN 46804 under Confirming Resolution R-21-14 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 Carbide Corporation/Harbor Investments III, 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 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 Carbide Corporation/Harbor Investments III, LLC has filed its Compliance with Statement of Benefit Forms with the Allen County Assessor's office and the City of Fort Wayne for 2017; 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**, Common Council has defined substantial compliance under Section 153.21 of the Municipal Code of the City of Fort Wayne as:

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

1                   **WHEREAS**, LH Carbide Corporation/Harbor Investments III, LLC **appeared/failed to**  
2 **appear** before council to provide additional information on its compliance with the approved  
3 Statement of Benefits.

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 Compliance with Statement of  
7 Benefits Form (CF-1) filed by LH Carbide Corporation/Harbor Investments III, LLC for an  
8 approved economic revitalization area for 2017 is not in substantial compliance pursuant to  
9 I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure  
10 to create 75% of the jobs that were stated to be created and/or 75% of the annual payroll  
11 stated to be generated by the created jobs on the approved Statement of Benefits form.

12                   **SECTION 2a.** LH Carbide Corporation/Harbor Investments III, LLC appeared  
13 before council and provided additional information on its compliance with the approved  
14 Statement of Benefits and from this information it was determined that notwithstanding LH  
15 Carbide Corporation/Harbor Investments III, LLC's failure to substantially comply with its  
16 approved Statement of Benefits form, LH Carbide Corporation/Harbor Investments III, LLC  
17 did make reasonable efforts to substantially comply with the approved Statement of Benefits  
18 and LH Carbide Corporation/Harbor Investments III, LLC's failure to substantially comply was  
19 caused by factors beyond the control of LH Carbide Corporation/Harbor Investments III, LLC.  
20 Therefore, the continuation of LH Carbide Corporation/Harbor Investments III, LLC's  
21 deduction/abatement under R-21-14 is hereby approved.

22                   **SECTION 2b.** That LH Carbide Corporation/Harbor Investments III, LLC appeared  
23 and provided additional information on its compliance with the approved Statement of  
24 Benefits and from this information it was determined that notwithstanding LH Carbide  
25 Corporation/Harbor Investments III, LLC's failure to substantially comply by its failure to  
26 create the requisite number of jobs and/or the amount of annual payroll stated to be created  
27 from those jobs, that LH Carbide Corporation/Harbor Investments III, LLC did not make  
28 reasonable efforts to substantially comply with the statement of benefits and LH Carbide  
29 Corporation/Harbor Investments III, LLC's failure to substantially comply was not caused by  
30 factors beyond the control of LH Carbide Corporation/Harbor Investments III, LLC. Council  
therefore directs the Community Development Division to mail written notice to LH Carbide  
Corporation/Harbor Investments III, 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 LH Carbide Corporation/Harbor Investments III, LLC's 2017 compliance with  
statement of benefits.

1                   **SECTION 2c.** That LH Carbide Corporation/Harbor Investments III, LLC failed to  
2 appear and otherwise provide additional information on its compliance with statement of  
3 benefits and has caused Council to conclude and find that LH Carbide Corporation/Harbor  
4 Investments III, LLC is not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section  
5 153.21 of the Municipal Code of the City of Fort Wayne on their 2017 filing. Council therefore  
6 directs the Community Development Division to mail written notice to LH Carbide  
7 Corporation/Harbor Investments III, LLC explaining the reasons for Council's determination  
8 and a date, time, place of a hearing to be conducted by Council for the purpose of further  
9 considering LH Carbide Corporation/Harbor Investments III, LLC's 2017 compliance with  
10 statement of benefits.

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

13 \_\_\_\_\_  
14 Member of Council

15  
16 APPROVED AS TO FORM A LEGALITY

17  
18 \_\_\_\_\_  
19 Carol Helton, City Attorney

Admn. Appr. \_\_\_\_\_

DIGEST SHEET

**TITLE OF ORDINANCE: Resolution determining substantial compliance with a Statement of Benefits (SB-1) for 2017**

**DEPARTMENT REQUESTING ORDINANCE: Community Development Division**

**SYNOPSIS OF ORDINANCE: This resolution determines whether Compliance with Statement of Benefits (CF-1) Form filings made by LH Carbide Corporation (Real Estate filed under Harbor Investments III, LLC) in May 2017 with an approved economic revitalization area are in substantial compliance pursuant to both Council policy and Indiana law.**

**EFFECT OF PASSAGE: Will allow property owners with existing economic revitalization area designation to continue to receive their economic revitalization area deduction (property tax abatement/phase-in) benefit if determined to be in substantial compliance or provide notice to company if determined to be in substantial non-compliance and a hearing will be scheduled**

**EFFECT OF NON-PASSAGE: Potential retention or loss of economic revitalization area deduction (property tax abatement/phase-in)**

**MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): No expenditures of public funds required.**

**ASSIGNED TO COMMITTEE (PRESIDENT): Geoff Paddock and Jason Arp**