

**A RESOLUTION considering a Waiver of Noncompliance for
a Late-Filed Statement of Benefits Real Estate
Improvements (Form CF-1/Real Property) for 7601 South
Anthony Boulevard, Fort Wayne, Indiana 46805 (Live Wire-
Fort Wayne, LLC)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 7601 South Anthony for Live Wire-Fort Wayne, LLC (Confirming Resolution R-34-16) 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, the original Statement of Benefits and economic revitalization area designation application submitted by Live Wire-Fort Wayne, LLC and approved under Confirming Resolution R-34-16 was for a vacant building deduction and \$9,000,000 in real property improvements; and

WHEREAS, Live Wire-Fort Wayne, LLC's of Benefits Real Estate Improvements (Form CF-1/Real Property) for 2019 was not filed in a timely manner with the Allen County Auditor; and

WHEREAS, the City has given Live Wire-Fort Wayne, LLC notice to file their CF-1 and to file a waiver of non-compliance of a late-filed CF-1; and

WHEREAS, Live Wire-Fort Wayne, LLC has filed their CF-1 along with a waiver of non-compliance for failure to file their CF-1 with the City; and

WHEREAS, the Common Council acknowledges that Live Wire-Fort Wayne, LLC has requested a waiver of non-compliance which the Common Council has the power and authority to approve, under I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3; and

WHEREAS, Live Wire-Fort Wayne, LLC has not fulfilled its pledge to construct the real property improvements; and

WHEREAS, Based on the CF-1 recently submitted, Live Wire-Fort Wayne, LLC has not established that they have substantially complied with its approved statement of benefits; and

WHEREAS, I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3 permits tax abatement non-compliance events such as the untimely filing of statement of benefits (CF-1) paperwork to be waived; and

WHEREAS, if Common Council approves the waiver of non-compliance for the late filed CF-1 compliance paperwork, then Common Council will also determine substantial compliance or non-compliance with statement of benefits; and

WHEREAS, a public hearing of the Common Council has been held on the waiver.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:
[OPTION 1]

SECTION 1. That Live Wire-Fort Wayne, LLC's request for a waiver of clerical and technical errors and nonconformities with its annual CF-1 abatement compliance filing requirements is hereby denied and as such the abatement granted under Confirming Resolution R-34-16 for real property is 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.

[OPTION 2]

SECTION 1. That all clerical and technical errors and nonconformities of Live Wire-Fort Wayne, LLC's annual CF-1 abatement filing requirements that are waivable under State and local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5, are hereby waived.

1 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 form filed by Live Wire-
2 Fort Wayne, LLC with an approved Economic Revitalization Area for 2019 is in substantial
3 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of
4 Fort Wayne by virtue of creating 75% of the 14 full-time or 10 full-time that were stated that would
5 be created and creating 75% of the \$338,000 in annual payroll or \$253,500 that was stated that
6 would be generated by the created jobs. Therefore, the continuation of Live Wire-Fort Wayne,
7 LLC's abatement is hereby approved. The Allen County Auditor shall be supplied with a copy of
8 this Resolution, upon passage, and is instructed to apply the abatement.

9 **SECTION 2. [OPTION B].** That Common Council finds that the CF-1 form filed by Live Wire-
10 Fort Wayne, LLC with an approved Economic Revitalization Area for 2019 is not in substantial
11 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of
12 Fort Wayne by virtue of creating 75% of the eight full-time jobs or six full-time jobs that were
13 stated that would be created and creating 75% of the \$282,304 in annual payroll or \$211,728 that
14 was stated that would be generated by the created jobs. Live Wire-Fort Wayne, LLC did make
15 reasonable efforts to substantially comply with the statement of benefits and Live Wire-Fort
16 Wayne, LLC's failure to substantially comply was caused by factors beyond the control of Live
17 Wire-Fort Wayne, LLC. Therefore, the continuation of Live Wire-Fort Wayne, LLC's abatement is
18 hereby approved. The Allen County Auditor shall be supplied with a copy of this Resolution, upon
19 passage, and is instructed to apply the abatement.

20 **SECTION 2. [OPTION C]** That Common Council finds that the CF-1 form filed by Live Wire-
21 Fort Wayne, LLC with an approved Economic Revitalization Area for 2019 is not in substantial
22 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of
23 Fort Wayne by virtue of creating 75% of the eight full-time jobs or six full-time jobs that were
24 stated that would be created and creating 75% of the \$282,304 in annual payroll or \$211,728 that
25 was stated that would be generated by the created jobs. Live Wire-Fort Wayne, LLC did not
26 make reasonable efforts to substantially comply with the statement of benefits and Live Wire-Fort
27 Wayne, LLC's failure to substantially comply was not caused by factors beyond the control of
28 Live Wire-Fort Wayne, LLC. As a result of said failure, the abatement for Live Wire-Fort Wayne,
29 LLC is hereby terminated by Common Council. The Allen County Auditor shall be supplied with a
30 copy of this Resolution, upon passage, and is instructed to terminate the abatement for real
property.

SECTION 3. 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 AND LEGALITY

Carol Helton, City Attorney