

A RESOLUTION Considering a Waiver of Non-Compliance for a Late-Filed Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) and Determination of Substantial Compliance or Non-Compliance with Statement of Benefits Approved under R-2-18 for 223 W. Jefferson Boulevard, Fort Wayne, Indiana 46802 (Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 223 W. Jefferson Boulevard for Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation (Confirming Resolution R-2-18) 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 Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation and approved under Confirming Resolution R-19-12 was for \$17,553,000 in real property improvements and \$236,500 in personal property improvements; and

WHEREAS, Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation's 2020 Compliance with Statement of Benefits (Form CF-1/Real Property and CF-1/Personal Property) were filed in a timely manner on, or prior to, June 15, 2020 with the City; and

WHEREAS, Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation's Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) was not filed in a timely manner on, or prior to, June 15, 2020 with the Allen County Auditor; and

WHEREAS, the City has given Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation notice to file their Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) and to submit an application for a waiver of non-compliance for a late filed Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE); and

WHEREAS, Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation has filed their Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) with the Auditor and submitted an application for a waiver of non-compliance for failure to file their Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) with the City; and

1 **WHEREAS**, the Common Council acknowledges that Hampton Inn & Suites Downtown
2 Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation has requested a waiver
3 of non-compliance which the Common Council has the power and authority to approve, under
4 I.C. 6-1.1-12.1-9.5); and

5 **WHEREAS**, Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White
6 Lodging Services Corporation has fulfilled its pledge complete the project and construct a 130+
7 room Hampton Inn & Suites by Hilton Hotel with roof top food and beverage venue and ground
8 level retail; and

9 **WHEREAS**, Based on the CF-1 statement of benefits recently submitted, Hampton Inn &
10 Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation has
11 established that they have substantially complied with its approved statement of benefits; and

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

14 **WHEREAS**, if Common Council approves the waiver of non-compliance for the late filed
15 Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization
16 Areas (Form 322/RE), then Common Council will also determine substantial compliance or non-
17 compliance with statement of benefits; and

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

19
20 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT**
21 **WAYNE, INDIANA:**

22 **[OPTION 1]**

23 **SECTION 1.** That, Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White
24 Lodging Services Corporation's request for a waiver of clerical and technical errors and
25 nonconformities with its Application for the Deduction from Assessed Valuation of Structures in
26 Economic Revitalization Areas (Form 322/RE) requirements is hereby denied and as such the
27 phase-in granted under Confirming Resolution R-2-18 for real property is terminated.

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

30 **[OPTION 2]**

SECTION 1. That all clerical and technical errors and nonconformities of Hampton Inn & Suites
Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation's Application
for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form
322/RE) 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.

SECTION 2. [OPTION A] That Common Council finds that the CF-1 form filed by Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation with an approved Economic Revitalization Area for 2020 is in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne by virtue of retaining 75% of the 23 full-time jobs and six part-time jobs or 17 full-time jobs six of the part-time and that were stated to be created and creating 75% of the \$772,000 in annual payroll or \$579,000 in annual payroll that was stated that would be generated by the created jobs. Therefore, the continuation of Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation's abatement is hereby approved. The Allen County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed to apply the tax phase-in.

SECTION 2. [OPTION B] That Common Council finds that the CF-1 forms filed by Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation with an approved Economic Revitalization Area with an approved Economic Revitalization Area for 2020 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75% of the 23 full-time jobs and six part-time jobs or 17 full-time jobs and six part-time jobs that were stated to be created and creating 75% of the \$772,000 in annual payroll or \$579,000 in annual payroll. Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation did make reasonable efforts to substantially comply with the statement of benefits and Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation's failure to substantially comply was caused by factors beyond the control of Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation. Therefore, the continuation of Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation's abatement is hereby approved. The Allen County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed to apply the tax phase-in.

SECTION 2. [OPTION C] That Common Council finds that the CF-1 form filed by Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation with an approved Economic Revitalization Area for 2019 is not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75% of the 23 full-time jobs and six part-time jobs or 17 full-time jobs and six part-time jobs that were stated to be created and creating 75% of the \$772,000 in annual payroll or \$579,000 in annual payroll. Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation did not make reasonable efforts to substantially comply with the statement of benefits and Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation's failure to substantially comply was not caused by factors beyond the control of Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White Lodging Services Corporation. As a result of said failure, the abatement for Hampton Inn & Suites Downtown Fort Wayne Hotel/HIWAYNE, LLC/White

Lodging Services Corporation is hereby terminated by Common Council. The Allen County Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed to terminate the abatement for real property improvements.

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