

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2020 for LH Carbide Corporation/ for property at 4420 Clubview Drive, Fort Wayne, IN 46818 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 (hereinafter “SB-1”) forms, certain property for **LH Carbide 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 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 (hereinafter “CF-1”) with the City of Fort Wayne and in some cases either the Allen County Auditor, the Allen County Assessor, or both, showing information on the extent to which there has been compliance with the approved SB-1 form for the project; and

WHEREAS, **LH Carbide Corporation** has filed CF-1 forms with **the City of Fort Wayne, the Allen County Auditor and the Allen County Assessor**; and

WHEREAS, **LH Carbide Corporation’s** approved SB-1 form stated that **79** full-time jobs would be retained and **18** full-time jobs would be created by **December 31, 2019**; and

WHEREAS, **LH Carbide Corporation’s** approved SB-1 form stated **\$5,449,569** in annual payroll for the **79** full-time retained jobs and **\$1,197,500** in annual payroll would be generated by the **18** full-time jobs to be created; and

WHEREAS, **LH Carbide Corporation’s 2020 CF-1** form filing stated that **79** jobs were retained and **four** jobs were created; and

WHEREAS, **LH Carbide Corporation’s 2020 CF-1** form filing stated **\$5,449,569** in annual payroll for the **79** jobs retained and **\$859,721** in annual payroll for the **four** jobs created; and

1 **WHEREAS**, Common Council designated the City of Fort Wayne Community
2 Development Division as the entity for the administration, application, processing and
3 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code
4 of the City of Fort Wayne; and

5 **WHEREAS**, Common Council has defined substantial compliance under Section
6 153.21 of the Municipal Code of the City of Fort Wayne as:

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

13 **WHEREAS**, meeting 75% of the **79** full-time jobs retained means retaining **59** jobs;
14 and

15 **WHEREAS**, meeting 75% of the **18** full-time jobs to be created means creating **4**
16 full-time jobs; and

17 **WHEREAS**, meeting 75% of the **\$5,449,569** in retained annual payroll means
18 **\$4,087,176** in retained annual payroll; and

19 **WHEREAS**, meeting 75% of the **\$1,197,500** in annual payroll to be created means
20 **\$898,125** in created annual payroll; and

21 **WHEREAS**, Common Council may determine not later than forty-five (45) days
22 after receipt of the CF-1 form that **LH Carbide Corporation** has either failed to
23 substantially comply or has substantially complied with the original SB-1 form approved
24 by Common Council; and

25 **WHEREAS**, Common Council made a determination on **July 28, 2020** that **LH**
26 **Carbide Corporation** was not in substantial compliance as a result of its failure to create
27 at least **13** jobs and at least **\$898,125** in annual payroll created, and that the failure to
28 substantially comply was not caused by factors beyond the control of **LH Carbide**
29 **Corporation**; and

30 **WHEREAS**, Council directed the Community Development Division to mail written
notice to **LH Carbide Corporation** 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's** compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon
LH Carbide Corporation; and

1 **WHEREAS, LH Carbide Corporation [appeared/failed to appear]** before
2 Common Council to provide additional information concerning compliance.

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

5 **SECTION 1.** That, Common Council finds that the CF-1 forms filed by **LH**
6 **Carbide Corporation** with an approved Economic Revitalization Area for **2020** are not in
7 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal
8 Code of the City of Fort Wayne for failure to create 75% of the **18** full-time jobs or **13** full-
9 time jobs that were stated that would be created and create 75% of the **\$1,197,500** in
10 annual payroll or **\$898,125** that was stated that would be generated by the created jobs.

11 **SECTION 2a. LH Carbide Corporation** failed to appear and otherwise testify and
12 therefore Council confirms its determination of **July 28, 2020** that **LH Carbide**
13 **Corporation** has failed to substantially comply pursuant to IC 6-1.1-12.1 and Section
14 153.21 of the Municipal Code of the City of Fort Wayne as detailed in Section 1 above.
15 Council therefore finds that **LH Carbide Corporation** has failed to substantially comply
16 and said failure was not caused by factors outside of **LH Carbide Corporation's** control.
17 As a result of said failure, **LH Carbide Corporation's** deduction/abatement under **R-21-**
18 **14** is hereby terminated.

19 **SECTION 2b.** That **LH Carbide Corporation** appeared and testified at the
20 hearing and from its testimony it was determined that notwithstanding **LH Carbide**
21 **Corporation's** failure to substantially comply as detailed in Section 1 above that **LH**
22 **Carbide Corporation** did make reasonable efforts to substantially comply with the
23 statement of benefits and **LH Carbide Corporation's** failure to substantially comply was
24 caused by factors beyond the control of **LH Carbide Corporation**. Therefore, the
25 continuation of **LH Carbide Corporation's** deduction/abatement under **R-21-14** is hereby
26 approved.

27 **SECTION 2c.** That **LH Carbide Corporation** appeared and testified at the
28 hearing and from its testimony it was determined in addition to **LH Carbide Corporation's**
29 failure to substantially comply as detailed in Section 1 above, that **LH Carbide**
30 **Corporation** did not make reasonable efforts to substantially comply with the statement
of benefits and **LH Carbide Corporation's** failure to substantially comply was not caused
by factors beyond the control of **LH Carbide Corporation**. As a result of said failure, **LH**
Carbide Corporation's deduction/abatement under **R-21-14** is hereby terminated.

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.

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Member of Council

APPROVED AS TO FORM A LEGALITY

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 2020

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 Carbide Corporation in June 2020 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): Jason Arp and Sharon Tucker