

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2020 for Live Wire-Fort Wayne, LLC for property at 7601 South Anthony Blvd., Fort Wayne, IN 46816 under Confirming Resolution R-34-16 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 **Live Wire- Fort Wayne, 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 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, **Live Wire- Fort Wayne, LLC** has filed CF-1 forms with the **City of Fort Wayne and the Allen County Auditor**; and

WHEREAS, **Live Wire- Fort Wayne, LLC’s** approved SB-1 form stated that **eight** full-time jobs would be created by September 30, 2017; and

WHEREAS, **Live Wire- Fort Wayne, LLC’s** approved SB-1 form stated **\$282,304** in annual payroll for the **eight** full-time jobs to be created; and

WHEREAS, **Live Wire- Fort Wayne, LLC’s 2020** CF-1 form filing stated that **one** job was created; and

WHEREAS, **Live Wire- Fort Wayne, LLC’s 2020** CF-1 form filing stated **\$120,000** in annual payroll for the **one** job created; 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

WHEREAS, meeting 75% of the **eight** full-time created means creating **six** full-time jobs; and

WHEREAS, meeting 75% of the **\$282,304** in annual payroll to be created means **\$211,728** in created annual payroll; and

WHEREAS, Common Council may determine not later than forty-five (45) days after receipt of the CF-1 form that **Live Wire- Fort Wayne, LLC** has either failed to substantially comply or has substantially complied with the original SB-1 form approved by Common Council; and

WHEREAS, Common Council made a determination on **July 28, 2020** that **Live Wire- Fort Wayne, LLC** was not in substantial compliance as a result of its failure to create at least **six** full-time jobs and at least **\$211,728** in annual payroll for the jobs created, and that the failure to substantially comply was not caused by factors beyond the control of **Live Wire- Fort Wayne, LLC**; and

WHEREAS, Council directed the Community Development Division to mail written notice to **Live Wire- Fort Wayne, 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 **Live Wire- Fort Wayne, LLC's** compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon **Live Wire- Fort Wayne, LLC**; and

WHEREAS, **Live Wire- Fort Wayne, LLC** [**appeared/failed to appear**] before Common Council to provide additional information concerning compliance.

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

SECTION 1. That, Common Council finds that the CF-1 form filed by **Live Wire- Fort Wayne, LLC** 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 **eight** full-time jobs or **six** jobs that were stated that would be created and create 75% of the **\$282,304** in annual payroll or **\$211,728** that was stated that would be generated by the created jobs.

SECTION 2a. Live Wire- Fort Wayne, LLC failed to appear and otherwise testify and therefore Council confirms its determination of **July 28, 2020** that **Live Wire- Fort Wayne, LLC** has failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore finds that **Live Wire- Fort Wayne, LLC** has failed to substantially comply and said failure was not caused by factors outside of **Live Wire- Fort Wayne, LLC's** control. As a result of said failure, **Live Wire- Fort Wayne, LLC's** deduction/abatement under **R-34-16** is hereby terminated

SECTION 2b. That **Live Wire- Fort Wayne, LLC** appeared and testified at the hearing and from its testimony it was determined that notwithstanding **Live Wire- Fort Wayne, LLC's** failure to substantially comply as detailed in Section 1 above that **Live Wire- Fort Wayne, LLC** did make reasonable efforts to substantially comply with the statement of benefits and **Live Wire- Fort Wayne, LLC's** failure to substantially comply was caused by factors beyond the control of **Live Wire- Fort Wayne, LLC**. Therefore, the continuation of **Live Wire- Fort Wayne, LLC's** deduction/abatement under **R-34-16** is hereby approved.

SECTION 2c. That **Live Wire- Fort Wayne, LLC** appeared and testified at the hearing and from its testimony it was determined in addition to **Live Wire- Fort Wayne, LLC's** failure to substantially comply as detailed in Section 1 above, that **Live Wire- Fort Wayne, LLC** did not make reasonable efforts to substantially comply with the statement of benefits and **Live Wire- Fort Wayne, LLC's** failure to substantially comply was not caused by factors beyond the control of **Live Wire- Fort Wayne, LLC**. As a result of said failure, **Live Wire- Fort Wayne, LLC's** deduction/abatement under **R-34-16** 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.

Member of Council

APPROVED AS TO FORM A LEGALITY