

A RESOLUTION Considering a Waiver of Non-Compliance for Late-Filed Compliance with Statement of Benefits (Form CF-1/Real Property and Form CF-1/Personal Property) and 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-3-21 for 918 West Cook Road, Fort Wayne, Indiana 46825 (CWSW, LLC dba Dirig Sheet Metal)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 918 West Cook Road for CWSW, LLC dba Dirig Sheet Metal (Confirming Resolution R-3-21) 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 CWSW, LLC dba Dirig Sheet Metal and approved under Confirming Resolution R-3-21 was for \$695,767 in real property improvements and \$748,000 in personal property improvements; and

WHEREAS, CWSW, LLC dba Dirig Sheet Metal's 2022 Compliance with Statement of Benefits (Form CF-1/Real Property and CF-1/Personal Property) were not filed in a timely manner on, or prior to, May 16, 2022 with the City; and

WHEREAS, CWSW, LLC dba Dirig Sheet Metal's Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) were not filed in a timely manner on, or prior to, May 16, 2022 with the Allen County Auditor; and

WHEREAS, the City has given CWSW, LLC dba Dirig Sheet Metal notice to file their Compliance with Statement of Benefits (Form CF-1/Real Property and CF-1/Personal Property) and 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 Compliance with Statement of Benefits (Form CF-1/Real Property and CF-1/Personal Property) and Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE); and

WHEREAS, CWSW, LLC dba Dirig Sheet Metal has filed their Compliance with Statement of Benefits (Form CF-1/Real Property and CF-1/Personal Property) and 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 Compliance with Statement of Benefits (Form CF-1/Real Property and CF-1/Personal Property) and 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 CWSW, LLC dba Dirig Sheet Metal
2 has requested a waiver of non-compliance which the Common Council has the power and
3 authority to approve, under I.C. 6-1.1-12.1-9.5); and

4 **WHEREAS**, CWSW, LLC dba Dirig Sheet Metal has fulfilled its pledge complete the
5 project and construct an approximately 7,800 square foot addition to its existing facility and
6 purchase and install new personal property equipment; and

7 **WHEREAS**, Based on the CF-1 statement of benefits recently submitted, CWSW, LLC
8 dba Dirig Sheet Metal has established that they have substantially complied with its approved
9 statement of benefits; and

10 **WHEREAS**, I.C. 6-1.1-12.1-9.5 permits tax abatement noncompliance events such as
11 the untimely filed Compliance with Statement of Benefits (Form CF-1/Real Property and CF-
12 1/Personal Property) and Application for the Deduction from Assessed Valuation of Structures in
13 Economic Revitalization Areas (Form 322/RE) paperwork to be waived; and

14 **WHEREAS**, if Common Council approves the waiver of non-compliance for the late filed
15 Compliance with Statement of Benefits (Form CF-1/Real Property and CF-1/Personal Property)
16 and Application for the Deduction from Assessed Valuation of Structures in Economic
17 Revitalization Areas (Form 322/RE), then Common Council will also determine substantial
18 compliance or non-compliance with statement of benefits; and

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

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

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24 **[OPTION 1]**

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26 **SECTION 1.** That, CWSW, LLC dba Dirig Sheet Metal's request for a waiver of clerical and
27 technical errors and nonconformities with its Compliance with Statement of Benefits (Form CF-
28 1/Real Property and CF-1/Personal Property) and Application for the Deduction from Assessed
29 Valuation of Structures in Economic Revitalization Areas (Form 322/RE) requirements is hereby
30 denied and as such the phase-in granted under Confirming Resolution R-3-21 for real and
personal 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 approved by the Mayor.

[OPTION 2]

SECTION 1. That all clerical and technical errors and nonconformities of CWSW, LLC dba Dirig
Sheet Metal's Compliance with Statement of Benefits (Form CF-1/Real Property and CF-

1 1/Personal Property) and Application for the Deduction from Assessed Valuation of Structures in
2 Economic Revitalization Areas (Form 322/RE) requirements that are waivable under State and
3 local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-
4 12.1-9.5 are hereby waived.

5 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 forms filed by CWSW,
6 LLC dba Dirig Sheet Metal with an approved Economic Revitalization Area for 2022 are in
7 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of
8 the City of Fort Wayne by virtue of retaining 75% of the 117 full-time jobs and two part-time jobs
9 or 87 full-time jobs and one part-time job that were stated to be retained and retaining 75% of the
10 \$3,837,798 in retained annual payroll or \$3,787,348 as well as 75% of the three additional full-
11 time jobs or two additional full-time jobs that were stated to be created and creating 75% of the
12 \$270,000 or \$205,500 in created annual payroll. Therefore, the continuation of CWSW, LLC dba
Dirig Sheet Metal'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.

13 **SECTION 2. [OPTION B]** That Common Council finds that the CF-1 forms filed by CWSW,
14 LLC dba Dirig Sheet Metal with an approved Economic Revitalization Area with an approved
15 Economic Revitalization Area for 2022 are not in substantial compliance pursuant to I.C. 6-1.1-
16 12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to retain 75%
17 of the 117 full-time jobs and two part-time jobs or 87 full-time jobs and one part-time job that were
18 stated to be retained and retaining 75% of the \$3,837,798 in retained annual payroll or
19 \$3,787,348 as well as 75% of the three additional full-time jobs or two additional full-time jobs
20 that were stated to be created and creating 75% of the \$270,000 or \$205,500 in created annual
21 payroll. CWSW, LLC dba Dirig Sheet Metal did make reasonable efforts to substantially comply
22 with the statement of benefits and CWSW, LLC dba Dirig Sheet Metal's failure to substantially
23 comply was caused by factors beyond the control of Therefore, the continuation of CWSW, LLC
24 dba Dirig Sheet Metal's abatement is hereby approved. The Allen County Auditor shall be
25 supplied with a copy of this Resolution, upon passage, and is instructed to apply the tax phase-
26 in.

27 **SECTION 2. [OPTION C]** That Common Council finds that the CF-1 forms filed by CWSW,
28 LLC dba Dirig Sheet Metal with an approved Economic Revitalization Area for 2022 are not in
29 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of
30 the City of Fort Wayne for failure to retain 75% of the 117 full-time jobs and two part-time jobs or
87 full-time jobs and one part-time job that were stated to be retained and retaining 75% of the
\$3,837,798 in retained annual payroll or \$3,787,348 as well as 75% of the three additional full-
time jobs or two additional full-time jobs that were stated to be created and creating 75% of the

1 \$270,000 or \$205,500 in created annual payroll. CWSW, LLC dba Dirig Sheet Metal did not
2 make reasonable efforts to substantially comply with the statement of benefits and CWSW, LLC
3 dba Dirig Sheet Metal's failure to substantially comply was not caused by factors beyond the
4 control of Brotherhood Mutual Insurance Company. As a result of said failure, the abatement for
5 CWSW, LLC dba Dirig Sheet Metal is hereby terminated by Common Council. The Allen County
6 Auditor shall be supplied with a copy of this Resolution, upon passage, and is instructed to
7 terminate the abatement for real property improvements.

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

10 _____
11 Member of Council

12 APPROVED AS TO FORM AND LEGALITY

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14 Malak Heiny, City Attorney
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