

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-25-19 for 6400 Brotherhood Way, Fort Wayne, Indiana 46825 (Brotherhood Mutual Insurance Company)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 6400 Brotherhood Way for Brotherhood Mutual Insurance Company(Confirming Resolution R-25-19) 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 Brotherhood Mutual Insurance Company and approved under Confirming Resolution R-25-19 was for \$21,500,000 in real property improvements and \$400,000 in personal property improvements; and

WHEREAS, Brotherhood Mutual Insurance Company's 2022 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, May 16, 2022 with the City; and

WHEREAS, Brotherhood Mutual Insurance Company'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, May 16, 2022 with the Allen County Auditor; and

WHEREAS, the City has given Brotherhood Mutual Insurance Company 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, Brotherhood Mutual Insurance Company 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

WHEREAS, the Common Council acknowledges that Brotherhood Mutual Insurance Company 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

1 **WHEREAS**, Brotherhood Mutual Insurance Company has fulfilled its pledge complete
2 the project and construct an approximately 88,000 square foot addition of class A office space to
3 existing buildings and purchase and install new personal property equipment; and

4 **WHEREAS**, Based on the CF-1 statement of benefits recently submitted, Brotherhood
5 Mutual Insurance Company has established that they have substantially complied with its
6 approved statement of benefits; and

7 **WHEREAS**, I.C. 6-1.1-12.1-9.5 permits tax abatement noncompliance events such as
8 the untimely filed Application for the Deduction from Assessed Valuation of Structures in
9 Economic Revitalization Areas (Form 322/RE) paperwork to be waived; and

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

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

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

17 **[OPTION 1]**

18 **SECTION 1.** That, Brotherhood Mutual Insurance Company's request for a waiver of clerical and
19 technical errors and nonconformities with its Application for the Deduction from Assessed
20 Valuation of Structures in Economic Revitalization Areas (Form 322/RE) requirements is hereby
21 denied and as such the phase-in granted under Confirming Resolution R-25-19 for real and
22 personal property is terminated.

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

25 **[OPTION 2]**

26 **SECTION 1.** That all clerical and technical errors and nonconformities of Brotherhood Mutual
27 Insurance Company's Application for the Deduction from Assessed Valuation of Structures in
28 Economic Revitalization Areas (Form 322/RE) requirements that are waivable under State and
29 local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-
30 12.1-9.5 are hereby waived.

SECTION 2. [OPTION A] That Common Council finds that the CF-1 forms filed by Brotherhood Mutual Insurance Company with an approved Economic Revitalization Area for 2022 are 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 441 full-time jobs and 14 part-time jobs or 330 full-time jobs and ten part-time jobs that were stated to be retained and retaining 75% of the \$28,411,365 in retained annual payroll or \$21,308,523 as well as 75% of the 100 additional full-time jobs or 75 additional full-time jobs that were stated to be created and creating 75% of the \$4,830,984 or \$3,623,238 in created annual payroll. Therefore, the continuation of Brotherhood Mutual Insurance Company'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 Brotherhood Mutual Insurance Company with an approved Economic Revitalization Area with an approved Economic Revitalization Area for 2022 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 retain 75% of the 441 full-time jobs and 14 part-time jobs or 330 full-time jobs and ten part-time jobs that were stated to be retained and retaining 75% of the \$28,411,365 in retained annual payroll or \$21,308,523 as well as 75% of the 100 additional full-time jobs or 75 additional full-time jobs that were stated to be created and creating 75% of the \$4,830,984 or \$3,623,238 in created annual payroll. Brotherhood Mutual Insurance Company did make reasonable efforts to substantially comply with the statement of benefits and Brotherhood Mutual Insurance Company's failure to substantially comply was caused by factors beyond the control of Therefore, the continuation of Brotherhood Mutual Insurance Company'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 forms filed by Brotherhood Mutual Insurance Company with an approved Economic Revitalization Area for 2022 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 retain 75% of the 441 full-time jobs and 14 part-time jobs or 330 full-time jobs and ten part-time jobs that were stated to be retained and retaining 75% of the \$28,411,365 in retained annual payroll or \$21,308,523 as well as 75% of the 100 additional full-time jobs or 75 additional full-time jobs that were stated to be created and creating 75% of the \$4,830,984 or \$3,623,238 in created annual payroll. Brotherhood Mutual Insurance Company did not make reasonable efforts to substantially comply with the statement of benefits and Brotherhood Mutual Insurance Company's failure to substantially comply was not caused by factors beyond the control of Brotherhood Mutual Insurance Company. As a result of said failure, the abatement for Brotherhood Mutual Insurance Company 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

Malak Heiny, City Attorney