

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2023 for Accugear, Inc. for property at 6710 Innovation Boulevard, Fort Wayne, IN 46818 under Confirming Resolution R-10-19 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 Accugear, Inc. 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, Accugear, Inc. has filed CF-1 forms with the City of Fort Wayne, Allen County Auditor and the Allen County Assessor; and

WHEREAS, Accugear, Inc.'s approved SB-1 form stated that 101 full-time jobs would be retained and 60 full-time jobs created by December 31, 2020; and

WHEREAS, Accugear, Inc.'s approved SB-1 form stated \$4,773,703 in annual payroll would be retained for the 101 full-time retained jobs and \$2,373,000 in annual payroll created for the sixty full-time jobs to be created; and

WHEREAS, Accugear, Inc.'s 2023 CF-1 form filing stated that 101 full-time jobs have been retained and one full-time job has been created; and

WHEREAS, Accugear, Inc.'s 2023 CF-1 form filing stated \$4,773,703 in annual payroll for the 101 full-time jobs retained and \$510,434 in annual payroll for the one full-time job created; and

WHEREAS, Common Council designated the City of Fort Wayne Community Development Division as the entity for the administration, application, processing and

1 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code
2 of the City of Fort Wayne; and

3 **WHEREAS**, Common Council has defined substantial compliance under Section
4 153.21 of the Municipal Code of the City of Fort Wayne as:

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

11 **WHEREAS**, meeting 75% of the 101 full-time jobs to be retained and 60 full-time
12 jobs to be created means retaining 76 full-time jobs and creating 45 full-time job; and

13 **WHEREAS**, meeting 75% of the \$4,773,703 retained annual payroll means
14 \$3,580,277 in retained annual payroll and 75% of the \$2,373,000 in created annual payroll
15 means \$1,779,750 in created annual payroll; and

16 **WHEREAS**, Common Council will determine no later than forty-five (45) days after
17 receipt of the CF-1 form that an approved business has either failed to substantially
18 comply or has substantially complied with the original SB-1 form approved by Common
19 Council; and

20 **WHEREAS**, Common Council made a determination on June 27, 2023 that
21 Accugear, Inc. was not in substantial compliance as a result of its failure to retain at least
22 76 full-time jobs with a retained annual payroll of at least \$3,580,227 and create at least
23 45 new full-time jobs with at least \$1,779,750 in created annual payroll; and

24 **WHEREAS**, Council directed the Community Development Division to mail written
25 notice to Accugear, Inc. explaining the reasons for Council's determination and a date,
26 time, place of a hearing to be conducted by Council for the purpose of further considering
27 Accugear, Inc.'s compliance with Statement of Benefits; and

28 **WHEREAS**, the aforementioned notice was properly prepared and served upon
29 Accugear, Inc. to appear before Council on August 8, 2023 at 5:30pm in Room 030 at
30 Citizen's Square 200 E. Berry Street Fort Wayne, IN; and

WHEREAS, Accugear, Inc. [appeared/failed to appear] before Common Council
on August 8, 2023 to provide additional information concerning compliance.

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

4 **SECTION 1.** That, Common Council finds that the CF-1 form filed by Accugear,
5 Inc. with an approved Economic Revitalization Area for 2023 is not in substantial
6 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the
7 City of Fort Wayne for failure to retain 75% of the 101 full-time, or 76 full-time jobs, as
8 stated and create 75% of the 60 full-time jobs, or 45 full-time jobs, as stated and retain
9 75% of the \$4,773,703, or \$3,580,227, in annual payroll or create 75% of the \$2,373,000,
or \$1,779,750 in annual payroll that was stated that would be generated by the created
jobs.

10 **SECTION 2a.** Accugear, Inc. failed to appear and otherwise testify and therefore
11 Council confirms its determination of June 27, 2023 that Accugear, Inc. has failed to
12 substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal Code
13 of the City of Fort Wayne as detailed in Section 1 above. Council therefore finds that
14 Accugear, Inc. has failed to substantially comply and said failure was not caused by
factors outside of Accugear, Inc.'s control. As a result of said failure, Accugear, Inc.'s
deduction/abatement under R-10-19 is hereby terminated

15 **SECTION 2b.** That Accugear, Inc. appeared and testified at the hearing and from
16 its testimony it was determined that notwithstanding Accugear, Inc.'s failure to
17 substantially comply as detailed in Section 1 above that Accugear, Inc. did make
18 reasonable efforts to substantially comply with the statement of benefits and Accugear,
19 Inc.'s failure to substantially comply was caused by factors beyond the control of
20 Accugear, Inc. Therefore, the continuation of Accugear, Inc.'s deduction/abatement under
R-10-19 is hereby approved.

21 **SECTION 2c.** That Accugear, Inc. appeared and testified at the hearing and from
22 its testimony it was determined in addition to Accugear, Inc.'s failure to substantially
23 comply as detailed in Section 1 above, that Accugear, Inc. did not make reasonable efforts
24 to substantially comply with the statement of benefits and Accugear, Inc.'s failure to
25 substantially comply was not caused by factors beyond the control of Accugear, Inc. As a
26 result of said failure, Accugear, Inc.'s deduction/abatement under R-10-19 is hereby
27 terminated.
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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

Malak Heiny, City Attorney