

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2026 for Markar Properties II, LLC for property at 2488 Persistence Drive, Fort Wayne, IN 46808 under Confirming Resolution R-72-23 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 Markar Properties II, 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, Markar Properties II, LLC has filed CF-1 forms with the City of Fort Wayne and the Allen County Auditor; and

WHEREAS, Markar Properties II, LLC's approved SB-1 form stated that 83 full-time jobs would be retained and 10 full-time jobs created by December 31, 2024; and

WHEREAS, Markar Properties II, LLC's approved SB-1 form stated \$5,148,228 in annual payroll would be retained for the 83 full-time retained jobs and \$624,200 in annual payroll created for the 10 full-time jobs to be created; and

WHEREAS, Markar Properties II, LLC's 2026 CF-1 form filing stated that 62 full-time jobs have been retained and five full-time jobs have been created; and

WHEREAS, Markar Properties II, LLC's 2026 CF-1 form filing stated \$4,531,435 in annual payroll for the 62 full-time jobs retained and \$485,640 in annual payroll for the five full-time jobs 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 83 full-time jobs to be retained and 10 full-time jobs to be created means retaining 62 full-time jobs and creating seven full-time jobs; and

WHEREAS, meeting 75% of the \$5,148,228 retained annual payroll means \$3,861,171 in retained annual payroll and 75% of the \$624,200 in created annual payroll

means \$468,150 in created annual payroll; and

WHEREAS, Common Council will determine no later than forty-five (45) days after receipt of the CF-1 form that an approved business 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 June 23, 2026 that Markar Properties II, LLC was not in substantial compliance as a result of its failure to retain at least 62 full-time jobs with a retained annual payroll of at least \$3,861,171 and create at least seven new full-time jobs with at least \$468,150 in created annual payroll; and

WHEREAS, Council directed the Community Development Division to mail written notice to Markar Properties II, 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 Markar Properties II, LLC's compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon Markar Properties II, LLC to appear before Council on August 25, 2026 at 5:30pm in Room 030 at Citizen's Square 200 E. Berry Street Fort Wayne, IN; and

WHEREAS, Markar Properties II, LLC [appeared/failed to appear] before Common Council on August 25, 2026 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 forms filed by Markar Properties II, LLC with an approved Economic Revitalization Area for 2026 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 83 full-time, or 62 full-time jobs, as stated and create 75% of the 10 full-time jobs, or seven full-time jobs, as stated and retain 75% of the \$5,148,228, or \$3,861,171, in annual payroll or create 75% of the \$624,200, or \$468,150 in annual payroll that was stated that would be generated by the created jobs.

SECTION 2a. Markar Properties II, LLC failed to appear and otherwise testify and therefore Council confirms its determination of June 23, 2026 that Markar Properties II, 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 Markar Properties II, LLC has failed to substantially comply and said failure was not caused by factors outside of Markar Properties II, LLC control. As a result of said failure, Markar Properties II, LLC deduction/abatement under R-72-23 is hereby terminated

SECTION 2b. That Markar Properties II, LLC appeared and testified at the hearing and from its testimony it was determined that notwithstanding Markar Properties II, LLC failure to substantially comply as detailed in Section 1 above that Markar Properties II, LLC did make reasonable efforts to substantially comply with the statement of benefits and Markar Properties II, LLC failure to substantially comply was caused by factors beyond the control of Markar Properties II, LLC Therefore, the continuation of Markar Properties II, LLC deduction/abatement under R-72-23 is hereby approved.

SECTION 2c. That Markar Properties II, LLC appeared and testified at the hearing and from its testimony it was determined in addition to Markar Properties II, LLC failure to substantially comply as detailed in Section 1 above, that Markar Properties II, LLC did not make reasonable efforts to substantially comply with the statement of

benefits and Markar Properties II, LLC failure to substantially comply was not caused by factors beyond the control of Markar Properties II, LLC As a result of said failure, Markar Properties II, LLC deduction/abatement under R-72-23 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

Malak Heiny, City Attorney