

**A RESOLUTION Considering a Waiver of Non-Compliance for Late Filed Compliance with Statement of Benefits (Form CF-1/Real Property) and Determination of Substantial Compliance or Non-Compliance with Statement of Benefits Approved under R-94-23 for 5002 Speedway Drive, Fort Wayne, Indiana 46825 (Koch Air, LLC)**

**WHEREAS**, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 5002 Speedway Drive for Koch Air, LLC. (Confirming Resolution R-94-23) 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 Koch Air, LLC and approved under Confirming Resolution R-94-23 was for \$2,900,00 in real property improvements; and

**WHEREAS**, Koch Air, LLC's 2026 Compliance with Statement of Benefits (Form CF-1/Real Property) was not filed in a timely manner on, or prior to, May 15, 2026 with the City of Fort Wayne nor the Allen County Auditor's Office; and

**WHEREAS**, the City has given Koch Air, LLC notice to file their Compliance with Statement of Benefits (Form CF-1/Real Property) with the City of Fort Wayne and the Allen County Auditor's Office; and

**WHEREAS**, the City has given Koch Air, LLC notice 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

**WHEREAS**, Koch Air, LLC has filed their Compliance with Statement of Benefits (Form CF-1/Real Property) with the City of Fort Wayne and the Allen County Auditor's Office 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

**WHEREAS**, the Common Council acknowledges that Koch Air, LLC 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

**WHEREAS**, Koch Air, LLC has fulfilled its pledge to complete the project to construct an approximately 25,000 square foot warehouse addition to their existing facility; and

**WHEREAS**, Based on the Compliance with Statement of Benefits (Form CF-1/Real Property) statement of benefits submitted, Koch Air, LLC has established that they have substantially complied with its approved statement of benefits; and

**WHEREAS**, I.C. 6-1.1-12.1-9.5 permits tax abatement non-compliance events such as the untimely filed Compliance with Statement of Benefits (Form CF-1/Real Property) paperwork to be waived; and

**WHEREAS**, if Common Council approves the waiver of non-compliance for the late filed Compliance with Statement of Benefits (Form CF-1/Real Property) then Common Council will also determine substantial compliance or non-compliance with statement of benefits.

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

**[OPTION 1]**

**SECTION 1.** That, Koch Air, LLC's request for a waiver of clerical and technical errors and nonconformities with its Compliance with Statement of Benefits (Form CF-1/Real Property) requirements is hereby denied and as such the tax phase-in granted under Confirming Resolution R-94-23 for real 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 Koch Air, LLC's Compliance with Statement of Benefits (Form CF-1/Real Property) requirements that are waivable under State and local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 are hereby waived.

**SECTION 2. [OPTION A]** That Common Council finds that the Compliance with Statement of Benefits (Form CF-1/Real Property) form filed by Koch Air, LLC. with an approved Economic Revitalization Area for 2026 is 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. Therefore, the continuation of Koch Air, LLC's tax phase-in is hereby approved. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage, and are instructed to apply the tax phase-in.

**SECTION 2. [OPTION B]** That Common Council finds that the Compliance with Statement of Benefits (Form CF-1/Real Property) forms filed by Koch Air, LLC. with an approved Economic Revitalization Area 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. Therefore, Koch Air, LLC's tax phase-in is hereby terminated. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage, and are instructed to terminate the tax phase-in for real and personal property.

**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.

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Member of Council

APPROVED AS TO FORM AND LEGALITY

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Malak Heiny, City Attorney