

**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
Compliance or Non-Compliance with Statement of Benefits
Approved under R-35-18 for 9403 Avionics Drive, Fort
Wayne, Indiana 46802 (Vita Nonwovens, LLC/TWE
Nonwovens US, Inc.)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 9403 Avionics Drive for Vita Nonwovens, LLC/TWE Nonwovens US, Inc. (Confirming Resolution R-35-18) 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 Vita Nonwovens, LLC/TWE Nonwovens US, Inc. and approved under Confirming Resolution R-19-12 was for \$9,277,755 in real property improvements and \$9,746,043 in personal property improvements; and

WHEREAS, Vita Nonwovens, LLC/TWE Nonwovens US, Inc.'s 2020 CF-1 Statement of Benefits Form CF-1/Real Property and CF-1/Personal Property were filed in a timely manner on, or prior to, June 15, 2020 with the City, Allen County Auditor and Allen County Assessor; and

WHEREAS, Vita Nonwovens, LLC/TWE Nonwovens US, Inc.'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, June 15, 2020 with the Allen County Auditor; and

WHEREAS, the City has given Vita Nonwovens, LLC/TWE Nonwovens US, Inc. 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 Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE); and

WHEREAS, Vita Nonwovens, LLC/TWE Nonwovens US, Inc. has filed their Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) with the Auditor and filed 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 Vita Nonwovens, LLC/TWE Nonwovens US, Inc. 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, Vita Nonwovens, LLC/TWE Nonwovens US, Inc. has fulfilled its pledge complete the project and construct a 140,000 square foot addition to its existing facility and purchase and install new personal property manufacturing equipment; and

1 **WHEREAS**, Based on the CF-1 statement of benefits recently submitted, Vita
2 Nonwovens, LLC/TWE Nonwovens US, Inc. has established that they have substantially
3 complied with its approved statement of benefits; and

4 **WHEREAS**, I.C. 6-1.1-12.1-9.5 permits tax phase-in noncompliance events such as the
5 untimely filing of statement of benefits (CF-1) paperwork to be waived; and

6 **WHEREAS**, if Common Council approves the waiver of non-compliance for the late filed
7 Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization
8 Areas (Form 322/RE), then Common Council will also determine substantial compliance or non-

9 compliance with statement of benefits; and
10 **WHEREAS**, a public hearing of the Common Council has been held on the waiver.

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

13 **[OPTION 1]**

14 **SECTION 1.** That, Vita Nonwovens, LLC/TWE Nonwovens US, Inc.'s request for a waiver of
15 clerical and technical errors and nonconformities with its Application for the Deduction from
16 Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) requirements
17 is hereby denied and as such the phase-in granted under Confirming Resolution R-35-18 for real
18 property is terminated

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

21 **[OPTION 2]**

22 **SECTION 1.** That all clerical and technical errors and nonconformities of Vita Nonwovens,
23 LLC/TWE Nonwovens US, Inc.'s Application for the Deduction from Assessed Valuation of
24 Structures in Economic Revitalization Areas (Form 322/RE) requirements that are waivable under
25 State and local law, including without limitation those errors and nonconformities described in I.C.
26 6-1.1-12.1-9.5 are hereby waived.

27 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 form filed by Vita
28 Nonwovens, LLC/TWE Nonwovens US, Inc. with an approved Economic Revitalization Area for
29 2020 is in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal
30 Code of the City of Fort Wayne by virtue of retaining 75% of the 65 full-time jobs and 32 part-time
jobs as stated or 48 full-time jobs and 24 part-time jobs that were stated to be retained with an
annual payroll of \$4,678,855 or \$3,509,141 and creating 75% of the 22 full-time jobs or 16 full-
time jobs as stated to be created and \$920,635 in annual payroll or \$690,476 in annual payroll
that was stated that would be generated by the created jobs. Therefore, the continuation of Vita
Nonwovens, LLC/TWE Nonwovens US, Inc.'s tax phase-in 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 Vita Nonwovens, LLC/TWE Nonwovens US, Inc. with an approved Economic Revitalization Area with an approved Economic Revitalization Area for 2020 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 retaining 75% of the 65 full-time jobs and 32 part-time jobs as stated or 48 full-time jobs and 24 part-time jobs that were stated to be retained with an annual payroll of \$4,678,855 or \$3,509,141 and creating 75% of the 22 full-time jobs or 16 full-time jobs as stated to be created and \$920,635 in annual payroll or \$690,476 in annual payroll that was stated that would be generated by the created jobs. Vita Nonwovens, LLC/TWE Nonwovens US, Inc. did make reasonable efforts to substantially comply with the statement of benefits and Vita Nonwovens, LLC/TWE Nonwovens US, Inc. failure to substantially comply was caused by factors beyond the control of Vita Nonwovens, LLC/TWE Nonwovens US, Inc. Therefore, the continuation of Vita Nonwovens, LLC/TWE Nonwovens US, Inc. tax phase-in 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 form filed by Vita Nonwovens, LLC/TWE Nonwovens US, Inc. with an approved Economic Revitalization Area for 2020 is 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 65 full-time jobs and 32 part-time jobs as stated or 48 full-time jobs and 24 part-time jobs that were stated to be retained with an annual payroll of \$4,678,855 or \$3,509,141 and creating 75% of the 22 full-time jobs or 16 full-time jobs as stated to be created and \$920,635 in annual payroll or \$690,476 in annual payroll that was stated that would be generated by the created jobs. Vita Nonwovens, LLC/TWE Nonwovens US, Inc. did not make reasonable efforts to substantially comply with the statement of benefits and Vita Nonwovens, LLC/TWE Nonwovens US, Inc. failure to substantially comply was not caused by factors beyond the control of Vita Nonwovens, LLC/TWE Nonwovens US, Inc. As a result of said failure, the tax phase-in for Vita Nonwovens, LLC/TWE Nonwovens US, Inc. 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 tax phase-in 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

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APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney