

**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-33-20 for 8645 Aviation Drive,
Fort Wayne, Indiana 46809 (GH FTW II, LLC)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 8645 Aviation Drive 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 GW FTW II, LLC and approved under Confirming Resolution R-33-20 was for \$6,550,000 in real property improvements; and

WHEREAS, GW FTW II, LLC'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, GW FTW II, LLC'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 GW FTW II, LLC 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, GW FTW II, LLC 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 GW FTW II, 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, GW FTW II, LLC has fulfilled its pledge complete the project and construct an approximately 150,000 square foot speculative building; and

1 **WHEREAS**, Based on the CF-1 statement of benefits recently submitted, GW FTW II,
2 LLC has established that they have substantially complied with its approved statement of
3 benefits; and

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

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

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

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

14 **[OPTION 1]**

15 **SECTION 1.** That, GW FTW II, LLC's request for a waiver of clerical and technical errors and
16 nonconformities with its Application for the Deduction from Assessed Valuation of Structures in
17 Economic Revitalization Areas (Form 322/RE) requirements is hereby denied and as such the
18 phase-in granted under Confirming Resolution R-33-20 for real and personal property is
19 terminated.

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

22 **[OPTION 2]**

23 **SECTION 1.** That all clerical and technical errors and nonconformities of GW FTW II, LLC's
24 Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization
25 Areas (Form 322/RE) requirements that are waivable under State and local law, including without
26 limitation those errors and nonconformities described in I.C. 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 GW FTW II,
28 LLC with an approved Economic Revitalization Area for 2022 is in substantial compliance
29 pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne.
30 Therefore, the continuation of GW FTW II, LLC'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 form filed by GW FTW II, LLC with an approved Economic Revitalization Area with an approved Economic Revitalization Area for 2022 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. GW FTW II, LLC did make reasonable efforts to substantially comply with the statement of benefits and GW FTW II, LLC's failure to substantially comply was caused by factors beyond the control of Therefore, the continuation of GW FTW II, LLC'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 form filed by GW FTW II, LLC with an approved Economic Revitalization Area for 2022 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. GW FTW II, LLC did not make reasonable efforts to substantially comply with the statement of benefits and GW FTW II, LLC'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 GW FTW II, LLC 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