

**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-35-18 for 9403 Avionics Drive, Fort
Wayne, Indiana 46809 (TWE Nonwovens US, Inc.)**

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

WHEREAS, TWE Nonwovens US, Inc.'s 2023 Compliance with Statement of Benefits (Form CF-1/Personal Property) was filed in a timely manner on, or prior to, May 15, 2023 with the City of Fort Wayne and Allen County Assessor's Office; and

WHEREAS, TWE Nonwovens US, Inc.'s 2023 Compliance with Statement of Benefits (Form CF-1/Real Property) was not filed in a timely manner on, or prior to, May 15, 2023 with the City of Fort Wayne and Allen County Auditor's Office; and

WHEREAS, the City has given TWE Nonwovens US, Inc. notice to file their Compliance with Statement of Benefits (Form CF-1/Real Property) and 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, TWE Nonwovens US, Inc. has filed their Compliance with Statement of Benefits (Form CF-1/Real Property) with the City of Fort Wayne and Allen County Auditor 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) in a timely manner; and

WHEREAS, the Common Council acknowledges that 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, TWE Nonwovens US, Inc. has fulfilled its pledge complete the project and construct an approximately 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, TWE
2 Nonwovens US, Inc. has established that they have substantially complied with its approved
3 statement of benefits; and

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

7 **WHEREAS**, if Common Council approves the waiver of non-compliance for the late filed
8 Compliance with Statement of Benefits (Form CF-1/Real Property) then Common Council will
9 also determine substantial compliance or non-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, TWE Nonwovens US, Inc.'s request for a waiver of clerical and technical
15 errors and nonconformities with its Compliance with Statement of Benefits (Form CF-1/Real
16 Property) requirements is hereby denied and as such the phase-in granted under Confirming
17 Resolution R-35-18 for real and personal property is terminated.

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

20 **[OPTION 2]**

21 **SECTION 1.** That all clerical and technical errors and nonconformities of TWE Nonwovens US,
22 Inc.'s Compliance with Statement of Benefits (Form CF-1/Real Property) requirements that are
23 waivable under State and local law, including without limitation those errors and nonconformities
24 described in I.C. 6-1.1-12.1-9.5 are hereby waived.

25 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 forms filed by TWE
26 Nonwovens US, Inc. with an approved Economic Revitalization Area for 2023 are in substantial
27 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of
28 Fort Wayne by virtue of retaining 75% of the 86 full-time jobs, or 64 full-time jobs, that were
29 stated to be retained and retaining 75% of the \$3,612,438 in retained annual payroll, or
30 \$2,709,328, as well as 75% of the 22 additional full-time jobs, or 16 additional full-time jobs, that
were stated to be created and creating 75% of the \$920,635, or \$690,476, in created annual

1 payroll. Therefore, the continuation of TWE Nonwovens US, Inc.'s abatement is hereby
2 approved. The Allen County Auditor shall be supplied with a copy of this Resolution, upon
3 passage, and is instructed to apply the tax phase-in.

4
5 **SECTION 2. [OPTION B]** That Common Council finds that the CF-1 forms filed by TWE
6 Nonwovens US, Inc. with an approved Economic Revitalization Area with an approved Economic
7 Revitalization Area for 2023 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and
8 Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to retain 75% of the 86
9 full-time jobs, or 64 full-time jobs, that were stated to be retained and failing to retain 75% of the
10 \$3,612,438 in retained annual payroll, or \$2,709,328, as well as failure to create 75% of the 22
11 additional full-time jobs, or 16 additional full-time jobs, that were stated to be created and creating
12 75% of the \$920,635, or \$690,476, in additional annual payroll. TWE Nonwovens US, Inc. did
13 make reasonable efforts to substantially comply with the statement of benefits and TWE
14 Nonwovens US, Inc.'s failure to substantially comply was caused by factors beyond the control of
15 TWE Nonwovens US, Inc. Therefore, the continuation of TWE Nonwovens US, Inc.'s abatement
16 is hereby approved. The Allen County Auditor shall be supplied with a copy of this Resolution,
17 upon passage, and is instructed to apply the tax phase-in.

18
19 **SECTION 2. [OPTION C]** That Common Council finds that the CF-1 forms filed by TWE
20 Nonwovens US, Inc. with an approved Economic Revitalization Area for 2023 are not in
21 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of
22 the City of Fort Wayne for failure to retain 75% of the 86 full-time jobs, or 64 full-time jobs, that
23 were stated to be retained and failing to retain 75% of the \$3,612,438 in retained annual payroll,
24 or \$2,709,328, as well as failure to create 75% of the 22 additional full-time jobs, or 16 additional
25 full-time jobs, that were stated to be created and creating 75% of the \$920,635, or \$690,476, in
26 additional annual payroll. TWE Nonwovens US, Inc. did not make reasonable efforts to
27 substantially comply with the statement of benefits and TWE Nonwovens US, Inc.'s failure to
28 substantially comply was not caused by factors beyond the control of TWE Nonwovens US, Inc.
29 As a result of said failure, the abatement for TWE Nonwovens US, Inc. is hereby terminated by
30 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

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution Considering a Waiver of Non-Compliance for Late-Filed Compliance with Benefits (Form CF-1/Real Property) and a Determination of Substantial Compliance or Non-Compliance with Statement of Benefits approved under R-35-18 for 9403 Avionics Drive, Fort Wayne, Indiana 46809 (TWE Nonwovens US, Inc.)

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution considers a waiver of non-compliance for late filed documents and a determination of compliance or non-compliance with statement of benefits for filings made in June 2023 for TWE Nonwovens US, Inc.

EFFECT OF PASSAGE: Potential retention or loss of economic revitalization area deduction (property tax abatement/phase-in).

EFFECT OF NON-PASSAGE:

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): No expenditures of public funds required.

ASSIGNED TO COMMITTEE (CHAIR & CO-CHAIR): Geoff Paddock an Jason Arp