

A RESOLUTION determining SUBSTANTIAL NON-COMPLIANCE with a Statement of Benefits (SB-1) for 2014 for Nemcomed FW, LLC/Avalign Technologies, Inc. for property at 8727 Clinton Park Drive under Confirming Resolution R-02-10 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 (SB-1) forms property for Nemcomed FW, LLC/Avalign Technologies, Inc. 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 Statement of Benefits (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 (CF-1) with the Allen County Auditor, the Allen County Assessor and the City of Fort Wayne showing information on the extent to which there has been compliance with the approved Statement of Benefits for the project; and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc. has filed Compliance with Statement of Benefit Forms with the Allen County Auditor's Office, Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc. has filed Compliance with Statement of Benefit Forms with the Allen County Auditor's Office, Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc.'s approved Statement of Benefits (SB-1) form stated that 55 full-time jobs would be retained and 75 full-time jobs would be created by December 2012; and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc.'s approved Statement of Benefits (SB-1) form stated that \$2,579,720 in annual payroll for retained jobs and \$3,653,035 in annual payroll would be generated by the created jobs; and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc.'s 2014 Compliance with Statement of Benefits (CF-1) form filings stated that 55 jobs were retained and 54 jobs had been created; and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc.'s 2014 Compliance with Statement of Benefits (CF-1) form filings stated that \$2,579,720 in annual payroll for the retained jobs and \$3,825,846 in annual payroll for the created jobs; 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 55 retained jobs means retaining 42 jobs; and

WHEREAS, meeting 75% of the 75 jobs to be created means creating 57 jobs; and

WHEREAS, meeting 75% of the \$2,579,720 in retained annual payroll means \$1,934,790 in annual payroll retained; and

WHEREAS, meeting 75% of the \$3,653,035 in annual payroll to be created means \$2,739,776 in annual payroll created; and

WHEREAS, Common Council shall determine not later than forty-five (45) days after receipt of the Compliance of Statement of Benefits Form (CF-1) that Nemcomed FW, LLC/Avalign Technologies, Inc. has substantially complied with the original Statement of Benefits Form (SB-1) approved by Common Council; and

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

SECTION 1. That, the Compliance with Statement of Benefits Forms (CF-1) filed by Nemcomed FW, LLC/Avalign Technologies, Inc. with an approved economic revitalization area for 2014 is in 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 create 75% of the 75 jobs that were stated that would be created.

SECTION 2. That, the failure to substantially comply was not caused by factors beyond the control of Nemcomed FW, LLC/Avalign Technologies, Inc.

SECTION 3. That, Council directs the Community Development Division to mail written notice to Nemcomed FW, LLC/Avalign Technologies, Inc. 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 Nemcomed FW, LLC/Avalign Technologies, Inc's.
compliance with Statement of Benefits.

SECTION 4. 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

Carol Helton, City Attorney