

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with a Statement of Benefits (SB-1) for 2015 for Nemcomed FW, LLC for property at 8727 Clinton Park Drive under Confirming Resolution R-25-11 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 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 has filed Compliance with Statement of Benefit Forms with the Allen County Auditor's Office, the Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, Nemcomed FW, LLC's approved Statement of Benefits (SB-1) form stated that **128** full-time jobs would be retained and **60** full-time would be created by December 2014; and

WHEREAS, Nemcomed FW, LLC's approved Statement of Benefits (SB-1) form stated **\$6,259,000** in annual payroll would be generated from the **128** full-time jobs retained and **\$2,900,000** in annual payroll would be generated by the **60** full-time created jobs; and

WHEREAS, Nemcomed FW, LLC's 2015 Compliance with Statement of Benefits (CF-1) form filing stated that **129** jobs were retained and **zero** jobs created; and

WHEREAS, Nemcomed FW, LLC's 2015 Compliance with Statement of Benefits (CF-1) form filing stated **\$7,482,486** in annual payroll for the **129** jobs retained; and

WHEREAS, Common Council designated the City of Fort Wayne Community Development Division as the entity for the administration, application, processing and

1 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code of
2 the City of Fort Wayne; and

3 **WHEREAS**, Common Council has defined substantial compliance under Section
4 153.21 of the Municipal Code of the City of Fort Wayne as:

- 5 1. Meeting 75% or more of the numbers of full-time and/or part-time jobs stated to
6 be created or retained as delineated in the original Statement of Benefits Form
7 (SB-1) approved by Common Council; and
- 8 2. Meeting 75% or more of the total payroll stated to be created or retained as
9 delineated in the original Statement of Benefits Form (SB-1) approved by
10 Common Council; and

11 **WHEREAS**, meeting 75% of the 129 retained jobs means retaining 96 jobs; and

12 **WHEREAS**, meeting 75% of the 60 created jobs means creating 45 jobs; and

13 **WHEREAS**, meeting 75% of the \$6,259,000 in annual payroll to be retained means
14 \$4,694,250 in annual payroll retained; and

15 **WHEREAS**, meeting 75% of the \$2,900,000 in annual payroll to be created means
16 \$2,175,000 in annual payroll created; and

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

21 **WHEREAS**, Nemcomed FW, LLC **appeared/failed to appear** before council to
22 provide additional information on its compliance with statement of benefits.

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

25 **SECTION 1.** That, Common Council finds that the Compliance with Statement of
26 Benefits Forms (CF-1) filed by Nemcomed FW, LLC with an approved economic
27 revitalization area for 2015 are not in substantial compliance pursuant to I.C. 6-1.1-12.1 and
28 Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create 75% of
29 the 60 jobs or 45 jobs that were stated that would be created and 75% of the \$2,900,000 in
30 annual payroll or \$2,175,000 in annual payroll to be created.

SECTION 2a. Nemcomed FW, LLC appeared before council and provided
additional information on its compliance with statement of benefits and from this information
it was determined that notwithstanding Nemcomed FW, LLC 's failure to substantially comply
by its failure to create 45 jobs or more and \$2,175,000 in annual payroll or more from the
jobs created, that Nemcomed FW, LLC did make reasonable efforts to substantially comply
with the statement of benefits and Nemcomed FW, LLC 's failure to substantially comply was

caused by factors beyond the control of Nemcomed FW, LLC. Therefore, the continuation of Nemcomed FW, LLC's deduction/abatement under R-25-11 is hereby approved.

OR

SECTION 2b. That Nemcomed FW, LLC failed to appear and otherwise provide additional information on its compliance with statement of benefits and has caused Council to conclude and find that Nemcomed FW, LLC 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 on their 2015 filing. Council therefore directs the Community Development Division to mail written notice to Nemcomed FW, LLC 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's 2015 compliance with statement of benefits.

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 A LEGALITY

Carol Helton, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution determining substantial compliance with a Statement of Benefits (SB-1) for 2015

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution determines whether Compliance with Statement of Benefits (CF-1) Form filings made by Nemcomed FW, LLC in May 2015 with an approved economic revitalization area are in substantial compliance pursuant to both Council policy and Indiana law.

EFFECT OF PASSAGE: Will allow property owners with existing economic revitalization area designation to continue to receive their economic revitalization area deduction (property tax abatement/phase-in) benefit if determined to be in substantial compliance or provide notice to company if determined to be in substantial non-compliance and a hearing will be scheduled

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

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

ASSIGNED TO COMMITTEE (PRESIDENT): Thomas Didier and Russ Jehl