

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with a Statement of Benefits (SB-1) for 2016 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 2016 Compliance with Statement of Benefits (CF-1) form filing stated that **129** jobs were retained and **25** jobs created; and

WHEREAS, Nemcomed FW, LLC's 2016 Compliance with Statement of Benefits (CF-1) form filing stated **\$6,259,900** in annual payroll for the **129** jobs retained and **\$1,607,183** in annual payroll for the **25** jobs created; 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 **129** retained jobs means retaining **96** jobs; and

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

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

WHEREAS, meeting 75% of the **\$2,900,000** in annual payroll to be created means **\$2,175,000** 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 has substantially complied with the original Statement of Benefits Form (SB-1) approved by Common Council; and

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

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

SECTION 1. That, Common Council finds that the Compliance with Statement of Benefits Forms (CF-1) filed by Nemcomed FW, LLC with an approved economic revitalization area for 2016 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 failure to create 75% of the 60 jobs or 45 jobs or more that were stated that would be created and 75% of the \$2,900,000 in annual payroll or \$2,175,000 in annual payroll that would be generated by the created jobs.

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.

SECTION 2b. That Nemcomed FW, LLC appeared 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 not make reasonable efforts to substantially comply with the statement of benefits and Nemcomed FW, LLC's failure to substantially comply was not caused by factors beyond the control of Nemcomed FW, LLC. 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 2016 compliance with statement of benefits.

SECTION 2c. 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 2016 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 2016 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