

A RESOLUTION Considering a Waiver of Non-Compliance for Late Filed Compliance with Statement of Benefits (Form CF-1/Personal Property) and Determination of Substantial Compliance or Non-Compliance with Statement of Benefits Approved under R-25-11 for 8727 Clinton Park Drive, Fort Wayne, Indiana 46825 (Nemcomed FW, LLC/Avalign Technologies, Inc.)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 8727 Clinton Park Drive for Nemcomed FW, LLC/Avalign Technologies, Inc. (Confirming Resolution R-25-11) 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 Nemcomed FW, LLC/Avalign Technologies, Inc. and approved under Confirming Resolution R-25-11 was for \$1,259,000 in real property improvements and \$1,523,000 in personal property improvements; and

WHEREAS, The real property tax phase-in approved under R-25-11 has expired; and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc.'s 2026 Compliance with Statement of Benefits (Form CF-1/Personal Property) was not filed in a timely manner on, or prior to, May 15, 2026 with the City of Fort Wayne; and

WHEREAS, the City has given Nemcomed FW, LLC/Avalign Technologies, Inc. notice to file their Compliance with Statement of Benefits (Form CF-1/Personal Property) with the City of Fort Wayne; and

WHEREAS, the City has given Nemcomed FW, LLC/Avalign Technologies, Inc. notice to submit an application for a waiver of non-compliance for a late filed Compliance with Statement of Benefits (Form CF-1/Personal Property); and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc. has filed their Compliance with Statement of Benefits (Form CF-1/Personal Property) with the City of Fort Wayne and the Allen County Assessor's Office and also submitted an application for a waiver of non-compliance for failure to file their Compliance with Statement of Benefits (Form CF-1/Personal Property); and

WHEREAS, the Common Council acknowledges that Nemcomed FW, LLC/Avalign Technologies, 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, Nemcomed FW, LLC/Avalign Technologies, Inc. has fulfilled its pledge to complete the project to construct an approximately 13,000 square foot addition to their existing facility and purchase and install new personal property equipment; and

WHEREAS, Based on the Compliance with Statement of Benefits (Form CF-1/Personal Property) statement of benefits submitted, Nemcomed FW, LLC/Avalign Technologies, Inc. has established that they have substantially complied with its approved statement of benefits; and

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

WHEREAS, if Common Council approves the waiver of non-compliance for the

late filed Compliance with Statement of Benefits (Form CF-1/Personal Property) then Common Council will also determine substantial compliance or non-compliance with statement of benefits.

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

[OPTION 1]

SECTION 1. That, Nemcomed FW, LLC/Avalign Technologies, Inc.'s request for a waiver of clerical and technical errors and nonconformities with its Compliance with Statement of Benefits (Form CF-1/Personal Property) requirements is hereby denied and as such the tax phase-in granted under Confirming Resolution R-25-11 for Personal Property is terminated.

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

[OPTION 2]

SECTION 1. That all clerical and technical errors and nonconformities of Nemcomed FW, LLC/Avalign Technologies, Inc.'s Compliance with Statement of Benefits (Form CF-1/Personal Property) requirements that are waivable under State and local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 are hereby waived.

SECTION 2. [OPTION A] That Common Council finds that the Compliance with Statement of Benefits (Form CF-1/Personal Property) form filed by Nemcomed FW, LLC/Avalign Technologies, Inc. with an approved Economic Revitalization Area for 2026 is 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. Therefore, the continuation of Nemcomed FW, LLC/Avalign Technologies, Inc.'s tax phase-in is hereby approved. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage, and are instructed to apply the tax phase-in.

SECTION 2. [OPTION B] That Common Council finds that the Compliance with Statement of Benefits (Form CF-1/Personal Property) forms filed by Nemcomed FW, LLC/Avalign Technologies, Inc. with an approved Economic Revitalization Area for 2026 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. Therefore, Nemcomed FW, LLC/Avalign Technologies, Inc.'s tax phase-in is hereby terminated. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage, and are instructed to terminate the tax phase-in for real and personal property.

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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