

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

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

4 **WHEREAS**, Common Council designated the City of Fort Wayne Community
5 Development Division as the entity for the administration, application, processing and
6 monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code of
7 the City of Fort Wayne; and

8 **WHEREAS**, Common Council has defined substantial compliance under Section
9 153.21 of the Municipal Code of the City of Fort Wayne as:

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

16 **WHEREAS**, meeting 75% of the 55 retained jobs means retaining 42 jobs; and

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

18 **WHEREAS**, meeting 75% of the \$2,579,720 in retained annual payroll means
19 \$1,934,790 in annual payroll retained; and

20 **WHEREAS**, meeting 75% of the \$3,653,035 in annual payroll to be created means
21 \$2,739,776 in annual payroll created; and

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

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

28 **SECTION 1.** That, the Compliance with Statement of Benefits Forms (CF-1) filed
29 by Nemcomed FW, LLC/Avalign Technologies, Inc. with an approved economic revitalization
30 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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30


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

DIGEST SHEET

TITLE OF ORDINANCE: Resolution determining substantial non-compliance with a Statement of Benefits (SB-1) for 2014

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution affirms that Compliance with Statement of Benefits (CF-1) Form filings made by Nemcomed FW, LLC/Avalign Technologies, Inc. in May 2014 with an approved economic revitalization area is not in substantial compliance pursuant to both Council policy and Indiana law.

EFFECT OF PASSAGE: Provides notice to company that it has been found to be in substantial non-compliance and a hearing will be scheduled

EFFECT OF NON-PASSAGE: Potential 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):

Public Hearing Date, if applicable _____

Read the first time in full and on motion by Councilman Jehl
Read the second time by title and referred to the Finance
Committee. Read the third time in full and on motion by Councilman
Jehl, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____
BENDER	✓	_____	_____	_____
CRAWFORD	✓	_____	_____	_____
DIDIER	✓	_____	_____	_____
HARPER	✓	_____	_____	_____
HINES	✓	_____	_____	_____
JEHL	✓	_____	_____	_____
PADDOCK	✓	_____	_____	_____
SHOAFF	✓	_____	_____	_____
SMITH	✓	_____	_____	_____

DATED: 6-27-14 Sandra E Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE
(RESOLUTION) NO. R-44-14 on the 27th day of
June, 2014

ATTEST:
Sandra E Kennedy
SANDRA E. KENNEDY,
CITY CLERK

Jeffrey A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day
of June, 2014, at the hour of 2 o'clock PM E.S.T.

Sandra E Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 30th day of June
2014, at the hour of 8:00 o'clock AM E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

BILL NO. R-14-06-30

COMMITTEE ON FINANCE

JUNE 17, 2014

*RUSS JEHL – CHAIR
JOHN CRAWFORD – CO-CHAIR
ALL COUNCIL MEMBERS*








A RESOLUTION determining Substantial Non-Compliance with Statement of Benefits (SB-1) for 2014 for Newcomed 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. **COMMITTEE OF FINANCE** HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE

DO PASS

DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
_____	_____	_____	_____

**SANDRA E. KENNEDY
CITY CLERK**