

A RESOLUTION CONFIRMING SUBSTANTIAL COMPLIANCE/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.'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

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

5 **WHEREAS**, Common Council has defined substantial compliance under Section
6 153.21 of the Municipal Code of the City of Fort Wayne as:

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

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

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

15 **WHEREAS**, meeting 75% of the \$2,579,720 in retained annual payroll means
16 **\$1,934,790** in annual payroll retained; and

17 **WHEREAS**, meeting 75% of the \$3,653,035 in annual payroll to be created means
18 **\$2,739,776** in annual payroll created; and

19 **WHEREAS**, Common Council made a determination on June 24, 2014 that
20 Nemcomed FW, LLC/Avalign Technologies, Inc. was not in substantial compliance as a
21 result of its failure to generate at least 57 jobs and that the failure to substantially comply was
22 not caused by factors beyond the control of Nemcomed FW, LLC/Avalign Technologies, Inc.;
23 and

24 **WHEREAS**, Council directed the Community Development Division to mail written
25 notice to Nemcomed FW, LLC/Avalign Technologies, Inc. explaining the reasons for
26 Council's determination and a date, time, place of a hearing to be conducted by Council for
27 the purpose of further considering Nemcomed FW, LLC/Avalign Technologies, Inc.'s
28 compliance with Statement of Benefits; and

29 **WHEREAS**, the aforementioned notice was properly prepared and served upon
30 Nemcomed FW, LLC/Avalign Technologies, Inc. on July 7, 2014; and

WHEREAS, Council conducted a hearing on August 5, 2014 for the purpose of
further considering Nemcomed FW, LLC/Avalign Technologies, Inc.'s compliance with
statement of benefits; and

WHEREAS, Nemcomed FW, LLC/Avalign Technologies, Inc. **appeared** at the
hearing.

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

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution Confirming Substantial Compliance/Non-Compliance with a Statement of Benefits (SB-1) for 2014

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution confirms 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 are either in substantial compliance or non-compliance pursuant to both Council policy and Indiana law.

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

EFFECT OF NON-PASSAGE:

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

ASSIGNED TO COMMITTEE (PRESIDENT): John Crawford and Russ Jehl

Public Hearing Date, if applicable _____

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

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>6</u>	_____	_____	<u>3</u>
BENDER	_____	_____	_____	<u>✓</u>
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	_____	_____	_____	<u>✓</u>
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____
PADDOCK	<u>✓</u>	_____	_____	_____
SHOAFF	_____	_____	_____	<u>✓</u>
SMITH	<u>✓</u>	_____	_____	_____

DATED: 8-12-14 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-66-14 on the 12th day of
August, 2014

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

Marvin A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day
of August, 2014, at the hour of 3:00 o'clock PM. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day of August
2014, at the hour of 10:00 o'clock AM. E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

BILL NO. R-14-07-33

REPORT OF COMMITTEE ON FINANCE

AUGUST 5, 2014

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

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DO PASS

DO NOT PASS

ABSTAIN

NO REC

John Crawford
Russ Jehl

M. H.
Theresa D. ...

Thomas ...
...

...
Martin A. Bonds

**SANDRA E. KENNEDY
CITY CLERK**