BILL NO. R-13-12-37

RESOLUTION NO. R-________

A RESOLUTION approving a Waiver of Noncompliance for a Late-Filed Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) for 2515 Charleston Place, (Murray Equipment, Inc.)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 2515 Charleston Place for Murray Equipment, Inc. (Confirming Resolution R-16-07) 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, the original Statement of Benefits forms (SB-1/Real Property and SB-1/PP) and economic revitalization area designation application submitted by Murray Equipment, Inc. and approved under Confirming Resolution R-16-07 was for $650,000 in real property improvements and $1,535,000 in personal property improvements; and

WHEREAS, construction of the real property improvements for Murray Equipment, Inc. was completed in 2008; and

WHEREAS, Murray Equipment, Inc. was required to file under I.C. 6-1.1-12.1 and Section 153.21 of the Fort Wayne Code of Ordinances, a Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) with the Allen County Auditor and the City of Fort Wayne; and

WHEREAS, Common Council has previously determined on October 22, 2013 under resolution (R-90-13) that Murray Equipment, Inc. failed to substantially comply with I.C. 6-1.1-12.1 et seq. and Section 153.21 of the Fort Wayne Code of Ordinances for not filing a Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) or a corrective filing due May 15, 2013; and

WHEREAS, Common Council pursuant to I.C. 6-1.1-12.-5.9, directed the Fort Wayne Community Development Division to prepare and mail written notice to Murray Equipment, Inc. stating the reasons for council's determination of substantial non-compliance and a date, time and place of the hearing for the purpose of further consideration of each owner's circumstances; and

WHEREAS, said hearing was held by Common Council on December 10, 2013 for further consideration of each owner's circumstances and whether the economic revitalization area deduction should be terminated; and

WHEREAS, representatives of Murray Equipment, Inc. have informed the City of Fort Wayne that their Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) due May 15, 2013 was not filed in a timely manner; and

WHEREAS, this oversight was an unusual occurrence for Murray Equipment, Inc.; and

WHEREAS, the Common Council finds that Murray Equipment, Inc. has fulfilled its pledge to construct the real property improvements and install new manufacturing, information technology, logistical distribution and information technology equipment; and

WHEREAS, Murray Equipment, Inc. has created at least 75% of the jobs which were to be created as reported on the approved Statement of Benefits forms; and

WHEREAS, the Common Council acknowledges that Murray Equipment, Inc. has requested a waiver of noncompliance which the Common Council has the power and authority to approve, under I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3; and

WHEREAS, the Common Council intends that Murray Equipment, Inc. receive the tax abatement benefits to which they would have been entitled had no non compliance event occurred, so long as the waiver of non compliance and the granting of those benefits does not prejudice the City of Fort Wayne; and

WHEREAS, the Common Council has concluded that granting of the ERA deduction for 2013 payable 2014 tax year would not create a strain on the City of Fort Wayne's fiscal budget; and

WHEREAS, I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3 permit noncompliance events such as the untimely filing of an application, statement of benefits, or another document required to be filed under I.C. 6-1.1-12.1; and

WHEREAS, the noncompliance event has been corrected and a public hearing of the Common Council has been held on the waiver.

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

SECTION 1. That, Common Council hereby waives all clerical and technical errors and nonconformities that are waiveable under State and local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

SECTION 2. As authorized by I.C. 6-1.1-12.1-9.5(d), the Common Council will permit Murray Equipment, Inc. to continue to receive the economic revitalization area real property deductions remaining under R-16-07.

SECTION 3. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage. This resolution shall have no effect on the assessed value, economic revitalization area deductions, or taxes payable with respect to Murray Equipment, Inc.'s personal property.

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 AND LEGALITY

____
Carol Helton, City Attorney

Admn. Appr.____________

DIGEST SHEET

TITLE OF RESOLUTION: **Resolution Approving a Waiver of Noncompliance for a Late-Filed Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) for 2515 Charleston Place (Murray Equipment, Inc.)**

DEPARTMENT REQUESTING RESOLUTION: **Community Development Division**

SYNOPSIS OF RESOLUTION: **This is to approve a waiver of noncompliance for a late-filed economic revitalization area deduction forms for Murray Equipment, Inc. on real property improvements at 2515 Charleston Place. Fort Wayne Common Council designated and confirmed 2515 Charleston Place as an economic revitalization area for tax abatement purposes under Confirming Resolution R-16-07.**

EFFECT OF PASSAGE: **Approval of this resolution and granting of a waiver of noncompliance will allow Murray Equipment, Inc. to continue to receive their remaining real property economic revitalization area deductions.**

EFFECT OF NON-PASSAGE: **Potential loss of future development by Murray Equipment, Inc.**

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

ASSIGNED TO COMMITTEE (CO-CHAIRS): **Russell Jehl and Glynn Hines**