

A RESOLUTION approving a Waiver of Noncompliance for a Late-Filed Application for the Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) for 8550 Aviation Drive, (Old Dominion Freight Line, Inc.)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 8550 Aviation Drive for Old Dominion Freight Line, Inc. (Confirming Resolution R-73-12) 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 Old Dominion Freight Line, Inc. and approved under Confirming Resolution R-73-12 was for \$5,800,000 in real property improvements; and

WHEREAS, construction of the real property improvements for Old Dominion Freight Line, Inc. was completed in April 2013; and

WHEREAS, representatives of Old Dominion Freight Line, Inc. have informed the City of Fort Wayne that their application for deduction from assessed valuation of structures in economic revitalization areas (322 /RE) for 2013 was not filed in a timely manner; and

WHEREAS, this oversight was an unusual occurrence for Old Dominion Freight Line, Inc.; and

WHEREAS, the Common Council finds that Old Dominion Freight Line, Inc. has fulfilled its pledge to construct the real property improvements; and

WHEREAS, Old Dominion Freight Line, Inc. has retained its workforce as reported on the approved statement of benefits forms; and

WHEREAS, the Common Council acknowledges that Old Dominion Freight Line, 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 I.C. 6-1.1-12.1-11.3; and

WHEREAS, the Common Council intends that Old Dominion Freight Line, 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 tax abatement non compliance events such as the untimely filing of deduction application paperwork to be waived; 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 Old Dominion Freight Line, Inc. to receive the economic revitalization area deduction amount in accordance with the following schedule

Tax Year	Real Property Tax Deduction Amount
2013 pay 2014	\$1,758,200
TOTAL	\$1,758,200

The foregoing numbers represent deductions from assessed valuation from real property, not tax liability. The total deduction amounts set forth in the preceding table represent deductions Old Dominion Freight Line, Inc. will lose in 2013 payable 2014. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage, and instructed to apply the deduction amounts in accordance with this schedule. This resolution shall have no effect on the assessed value, tax abatement deductions or taxes payable with respect to Old Dominion Freight Line, Inc. personal property.

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

Carol Helton, City Attorney