

**A RESOLUTION CONFIRMING SUBSTANTIAL
COMPLIANCE/NON-COMPLIANCE with a Statement of
Benefits (SB-1) for 2014 for BROOKS CONSTRUCTION
COMPANY, INC. for property at 2711 Banks Avenue
under Confirming Resolution R-30-10 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 Brooks Construction Company, 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, Brooks Construction Company, Inc. has filed Compliance with Statement of Benefit Forms with the Allen County Assessor’s Office and the City of Fort Wayne; and

WHEREAS, Brooks Construction Company, Inc.’s approved Statement of Benefits (SB-1) form stated that **six** full-time jobs would be created by September 2010; and

WHEREAS, Brooks Construction Company, Inc.’s approved Statement of Benefits (SB-1) form stated **\$390,000** in annual payroll would be generated by the created jobs; and

WHEREAS, Brooks Construction Company, Inc.’s 2014 Compliance with Statement of Benefits (CF-1) form stated that **four** jobs were created; and

WHEREAS, Brooks Construction Company, Inc.’s 2014 Compliance with Statement of Benefits (CF-1) form stated that **\$234,210** in annual payroll for the four jobs created; and

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

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

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

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

WHEREAS, meeting 75% of the \$390,000 in annual payroll to be created means **\$292,500** in annual payroll created; and

WHEREAS, Common Council made a determination on June 24, 2014 that Brooks Construction Company, Inc. was not in substantial compliance as a result of its failure to generate at least \$292,500 in annual payroll created, and that the failure to substantially comply was not caused by factors beyond the control of Brooks Construction Company, Inc.; and

WHEREAS, Council directed the Community Development Division to mail written notice to Brooks Construction Company, Inc. explaining the reasons for Council's determination and a date, time, place of a hearing to be conducted by Council for the purpose of further considering Brooks Construction Company, Inc.'s compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon Brooks Construction Company, Inc. on July 7, 2014; and

WHEREAS, Council conducted a hearing on August 5, 2014 for the purpose of further considering Brooks Construction Company, Inc.'s compliance with statement of benefits; and

WHEREAS, Brooks Construction Company, Inc. **appeared/failed to appear** at the hearing.

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

SECTION 1. Brooks Construction Company, Inc. failed to appear and otherwise testify and therefore Council confirms its determination of June 24, 2014 that Brooks Construction Company, Inc. has failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for its failure to create 75% of the \$390,000 annual payroll or \$292,500 in that Brooks Construction Company, Inc. only created payroll in the amount of \$234,210. Council therefore finds that Brooks Construction

Company, Inc. has failed to substantially comply and said failure was not caused by factors outside of Brooks Construction Company, Inc.'s control. As a result of said failure, Brooks Construction Company, Inc.'s deduction/abatement under R-30-10 is hereby terminated.

Or

SECTION 1. That Brooks Construction Company, Inc. appeared and testified at the hearing and from its testimony it was determined that notwithstanding Brooks Construction Company, Inc.'s failure to substantially comply by its failure to create annual payroll of \$292,500 or more, that Company did make reasonable efforts to substantially comply with the statement of benefits and Brooks Construction Company, Inc.'s failure to substantially comply was caused by factors beyond the control of Brooks Construction Company, Inc.. Therefore the continuation of Brooks Construction Company, Inc.'s deduction/abatement under R-30-10 is hereby approved.

SECTION 2. 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