

**A RESOLUTION CONFIRMING SUBSTANTIAL
COMPLIANCE/NON-COMPLIANCE with a Statement of
Benefits (SB-1) for 2014 for Seavac USA, LLC for
property at 9304 Yeager Lane under Confirming
Resolution R-58-04 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 Seavac USA, LLC 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, Seavac USA, LLC has filed Compliance with Statement of Benefit Forms with the Allen County Auditor's Office, the Allen County Assessor's Office and the City of Fort Wayne; and

WHEREAS, Seavac USA, LLC's approved Statement of Benefits (SB-1) form stated that **20** full-time and **four** part-time jobs for total of **24** jobs would be created by December 2007; and

WHEREAS, Seavac USA, LLC's approved Statement of Benefits (SB-1) form stated **\$895,000** in annual payroll would be generated by the 20 full-time and four part-time jobs to be created; and

WHEREAS, Seavac USA, LLC's 2014 Compliance with Statement of Benefits (CF-1) form filings stated that **eight** jobs have been created; and

WHEREAS, Seavac USA, LLC's 2014 Compliance with Statement of Benefits (CF-1) form filings stated **\$186,572** in annual payroll for the eight 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 24 created jobs means creating **18** jobs; and

WHEREAS, meeting 75% of the \$895,000 in annual payroll to be created means **\$671,250** in annual payroll created; and

WHEREAS, Common Council made a determination on June 24, 2014 that Seavac USA, LLC was not in substantial compliance as a result of its failure to generate at least 18 jobs or \$671,250 in annual payroll created, and that the failure to substantially comply was not caused by factors beyond the control of Seavac USA, LLC; and

WHEREAS, Council directed the Community Development Division to mail written notice to Seavac USA, LLC 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 Seavac USA, LLC's compliance with Statement of Benefits; and

WHEREAS, the aforementioned notice was properly prepared and served upon Seavac USA, LLC 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, Seavac USA, LLC **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. Seavac USA, LLC failed to appear and otherwise testify and therefore Council confirms its determination of June 24, 2014 Seavac USA, LLC. Seavac USA, LLC 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 18 jobs or 75% of the \$895,000 annual payroll or \$671,250 in that Seavac USA, LLC only created eight jobs and payroll in the amount of \$186,572. Council therefore finds that Seavac USA, LLC has failed to substantially comply and said failure was not caused by factors outside of Seavac USA, LLC's control. As a result of said failure, Seavac USA, LLC's deduction/abatement under R-58-04 is hereby terminated.

Or

SECTION 1. That Seavac USA, LLC appeared and testified at the hearing and from its testimony it was determined that notwithstanding Seavac USA, LLC's failure to substantially comply by its failure to create 18 jobs or annual payroll of \$671,250 or more, that Seavac USA, LLC did make reasonable efforts to substantially comply with the statement of benefits and Seavac USA, LLC's failure to substantially comply was caused by factors beyond the control of Seavac USA, LLC. Therefore the continuation of Seavac USA, LLC's deduction/abatement under R-58-04 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