

**A RESOLUTION determining SUBSTANTIAL
COMPLIANCE OR NON-COMPLIANCE with Statement of
Benefits (CF-1) form filing for 2015 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 2015 Compliance with Statement of Benefits (CF-1) form stated that **four** jobs were created; and

WHEREAS, Brooks Construction Company, Inc.'s 2015 Compliance with Statement of Benefits (CF-1) form stated that **\$254,732** 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

1 **WHEREAS**, Common Council has defined substantial compliance under Section
2 153.21 of the Municipal Code of the City of Fort Wayne as:

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

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

11 **WHEREAS**, meeting 75% of the **\$390,000** in annual payroll to be created means
12 **\$292,500** in annual payroll created; and

13 **WHEREAS**, Common Council shall determine not later than forty-five (45) days after
14 receipt of the Compliance of Statement of Benefits Form (CF-1) that Brooks Construction
15 Company, Inc. has substantially complied with the original Statement of Benefits Form (SB-1)
16 approved by Common Council; and

17 **WHEREAS**, Brooks Construction Company, Inc. **appeared/failed to appear** before
18 council to provide additional information on its compliance with statement of benefits.

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

21 **SECTION 1.** That, Common Council finds that the Compliance with Statement of
22 Benefits Forms (CF-1) filed by Brooks Construction Company, Inc. with an approved
23 economic revitalization area for 2014 are not in substantial compliance pursuant to I.C. 6-1.1-
24 12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create
25 75% of the \$390,000 in annual payroll or \$292,500 in annual payroll that was stated that
26 would be created.

27 **SECTION 2a.** Brooks Construction Company, Inc. appeared before council and
28 provided additional information on its compliance with statement of benefits and from this
29 information it was determined that notwithstanding Brooks Construction Company, Inc.'s
30 failure to substantially comply by its failure to create \$292,500 in annual payroll or more from
the jobs created, that Brooks Construction Company, Inc. 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.

OR

1 **SECTION 2b.** That Brooks Construction Company, Inc. failed to appear and
2 otherwise provide additional information on its compliance with statement of benefits and has
3 caused Council to conclude and find that Brooks Construction Company, Inc. is not in
4 substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code
5 of the City of Fort Wayne on their 2015 filing. Council therefore directs the Community
6 Development Division to mail written notice to Brooks Construction Company, Inc. explaining
7 the reasons for Council's determination and a date, time, place of a hearing to be conducted
8 by Council for the purpose of further considering Brooks Construction Company, Inc. 's 2015
9 compliance with statement of benefits.

10 **SECTION 3.** That, this Resolution shall be in full force and effect from and after
11 its passage and any and all necessary approval by the Mayor.
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Member of Council

APPROVED AS TO FORM A LEGALITY

Carol Helton, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution determining substantial compliance with a Statement of Benefits (SB-1) for 2015

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution determines whether Compliance with Statement of Benefits (CF-1) Form filings made by Brooks Construction Company, Inc. in May 2015 with an approved economic revitalization area are in substantial compliance pursuant to both Council policy and Indiana law.

EFFECT OF PASSAGE: Will allow property owners with existing economic revitalization area designation to continue to receive their economic revitalization area deduction (property tax abatement/phase-in) benefit if determined to be in substantial compliance or provide notice to company if determined to be in substantial non-compliance and a hearing will be scheduled

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

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

ASSIGNED TO COMMITTEE (PRESIDENT): Thomas Didier and Russ Jehl