

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

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

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

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

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

28 **WHEREAS**, Brooks Construction Company, Inc. **appeared** at the hearing.

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

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..

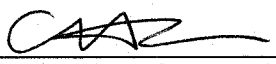
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Therefore the continuation of Brooks Construction Company, Inc.'s deduction/abatement under R-30-10 is hereby approved.

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

BILL NO. R-14-07-26

REPORT OF COMMITTEE ON FINANCE

AUGUST 5, 2014

*JOHN CRAWFORD – CHAIR
RUSS JEHL – CO-CHAIR
ALL COUNCIL MEMBERS*

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. **COMMITTEE OF FINANCE HAVE HAD SAID ORDINANCE** under Consideration and beg leave to report back to the Common Council that said ordinance

DO PASS

DO NOT PASS

ABSTAIN

NO REC

John Crawford
Russ Jehl
[Signature]

Geoff Bunker

[Signature]
Thomas H. Dyer
[Signature]
[Signature]
Robert A. Bunker

**SANDRA E. KENNEDY
CITY CLERK**

Public Hearing Date, if applicable _____

Read the first time in full and on motion by Councilman John Crawford
Read the second time by title and referred to the Finance Committee
Committee. Read the third time in full and on motion by Councilman
John Crawford, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>6</u>	_____	_____	_____
BENDER	_____	_____	_____	<u>✓</u>
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	_____	_____	_____	<u>✓</u>
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____
PADDOCK	<u>✓</u>	_____	_____	_____
SHOAFF	_____	_____	_____	<u>✓</u>
SMITH	<u>✓</u>	_____	_____	_____

DATED: 8-12-14 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~) (~~SPECIAL~~) (~~ZONING~~) ORDINANCE
(RESOLUTION) NO. R-60-14 on the 12th day of
August, 2014

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY,
CITY CLERK

Robert A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day
of August, 2014, at the hour of 3:00 o'clock PM. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day of August
2014, at the hour of 10:00 o'clock AM. E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR