

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2018 for Brooks Construction Company, Inc. for property at 2711 Banks Avenue, Fort Wayne, IN 46802 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 (hereinafter "SB-1") forms, certain 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 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 (hereinafter "CF-1") with the City of Fort Wayne and in some cases either the Allen County Auditor, the Allen County Assessor, or both, showing information on the extent to which there has been compliance with the approved SB-1 form for the project; and

**WHEREAS**, **Brooks Construction Company, Inc.** has filed CF-1 forms with the City of Fort Wayne and the Allen County Assessor; and

**WHEREAS**, **Brooks Construction Company, Inc.'s** approved SB-1 form stated that **six** full-time jobs would be created by **September 30, 2010**; and

**WHEREAS**, **Brooks Construction Company, Inc.'s** approved SB-1 form stated **\$390,000** in annual payroll would be generated by the **six** full-time jobs to be created; and

**WHEREAS**, **Brooks Construction Company, Inc.'s 2018** CF-1 form filing stated that **zero** jobs were created; and

**WHEREAS**, **Brooks Construction Company, Inc.'s 2018** CF-1 form filing stated **\$0.00** in annual payroll for the **zero** 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** full-time jobs to be created means creating **four**  
10 full-time jobs; and

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

13                   **WHEREAS**, Common Council may determine not later than forty-five (45) days after  
14 receipt of the CF-1 form that **Brooks Construction Company, Inc.** has either failed to  
15 substantially comply or has substantially complied with the original SB-1 form approved by  
16 Common Council; and

17                   **WHEREAS**, Common Council made a determination on **June 26, 2018** that **Brooks**  
18 **Construction Company, Inc.** was not in substantial compliance as a result of its failure to  
19 generate at least **four** jobs and at least **\$292,500** in annual payroll created, and that the  
20 failure to substantially comply was not caused by factors beyond the control of **Brooks**  
21 **Construction Company, Inc.**; and

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

27                   **WHEREAS**, the aforementioned notice was properly prepared and served upon  
28 **Brooks Construction Company, Inc.**; and

29                   **WHEREAS**, **Brooks Construction Company, Inc. [appeared/failed to appear]**  
30 before Common Council to provide additional information concerning compliance.

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

**SECTION 1.** That, Common Council finds that the CF-1 form filed by **Brooks**  
**Construction Company, Inc.** with an approved Economic Revitalization Area for **2018** are  
not in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal  
Code of the City of Fort Wayne for failure to create 75% of the **six** full-time jobs or **four** jobs

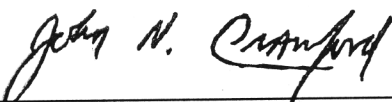
1 that were stated that would be created and create 75% of the \$390,000 in annual payroll or  
2 \$292,500 that was stated that would be generated by the created jobs.

3 ~~SECTION 2a. Brooks Construction Company, Inc. failed to appear and~~  
4 ~~otherwise testify and therefore Council confirms its determination of June 26, 2018 that~~  
5 ~~Brooks Construction Company, Inc. has failed to substantially comply pursuant to IC 6-~~  
6 ~~4.1-42.4 and Section 155.21 of the Municipal Code of the City of Fort Wayne as detailed in~~  
7 ~~Section 1 above. Council therefore finds that Brooks Construction Company, Inc. has~~  
8 ~~failed to substantially comply and said failure was not caused by factors outside of Brooks~~  
9 ~~Construction Company, Inc.'s control. As a result of said failure, Brooks Construction~~  
10 ~~Company, Inc.'s deduction/abatement under R-30-10 is hereby terminated.~~

11 SECTION 2b. That Brooks Construction Company, Inc. appeared and testified at  
12 the hearing and from its testimony it was determined that notwithstanding Brooks  
13 Construction Company, Inc.'s failure to substantially comply as detailed in Section 1 above  
14 that Brooks Construction Company, Inc. did make reasonable efforts to substantially  
15 comply with the statement of benefits and Brooks Construction Company, Inc.'s failure to  
16 substantially comply was caused by factors beyond the control of Brooks Construction  
17 Company, Inc.. Therefore, the continuation of Brooks Construction Company, Inc.'s  
18 deduction/abatement under R-30-10 is hereby approved.

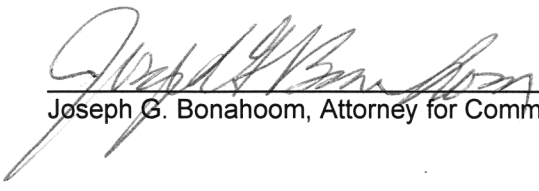
19 ~~SECTION 2c. That Brooks Construction Company, Inc. appeared and testified~~  
20 ~~at the hearing and from its testimony it was determined in addition to Brooks Construction~~  
21 ~~Company, Inc.'s failure to substantially comply as detailed in Section 1 above that Brooks~~  
22 ~~Construction Company, Inc. did not make reasonable efforts to substantially comply with~~  
23 ~~the statement of benefits and Brooks Construction Company, Inc.'s failure to substantially~~  
24 ~~comply was not caused by factors beyond the control of Brooks Construction Company,~~  
25 ~~Inc. As a result of said failure, Brooks Construction Company, Inc.'s deduction/abatement~~  
26 ~~under R-30-10 is hereby terminated.~~

27 SECTION 3. That, this Resolution shall be in full force and effect from and after  
28 its passage and any and all necessary approval by the Mayor.

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30 \_\_\_\_\_  
Member of Council

APPROVED AS TO FORM A LEGALITY

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\_\_\_\_\_  
Joseph G. Bonahoom, Attorney for Common Council

Admn. Appr. \_\_\_\_\_

DIGEST SHEET

**TITLE OF ORDINANCE: Resolution Confirming Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2016**

**DEPARTMENT REQUESTING ORDINANCE: Community Development Division**

**SYNOPSIS OF ORDINANCE: This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings made by Brooks Construction Company, Inc. in May 2018 with an approved economic revitalization area are either in substantial compliance or non-compliance pursuant to both Council policy and Indiana law.**

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

**EFFECT OF NON-PASSAGE:**

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

**ASSIGNED TO COMMITTEE (PRESIDENT): Geoff Paddock and Jason Arp**

**BILL NO. R-18-07-25**

**REPORT OF COMMITTEE ON FINANCE**  
**July 17, 2018**

**John Crawford Chair**

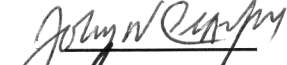







**Jason Arp Co-Chair**

**All Council Members**

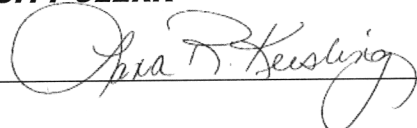
A Resolution determining Substantial Compliance or Non-Compliance with Statement of Benefits (CF-1) form filing for 2018 for Brooks Construction Company, Inc. for property at 2711 Banks Avenue, Fort Wayne, IN 46802 under Confirming Resolution R-30-10 with an "Economic Revitalization Area" approved under I.C. 6-1.1-12.1

**COMMITTEE ON FINANCE HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

2B

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
	_____	_____	_____
	_____	_____	_____
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**LANA R. KEESLING**  
**CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Crawford.

Read the second time by title and referred to the Finance Committee.

Read the third time in full and on motion by Councilman Crawford, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


DATED: July 24, 2018


  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Resolution No. R-18-07-25 on the 24th day of July, 2018

ATTEST:

  
 \_\_\_\_\_  
 LANA R. KEESLING  
 CITY CLERK

  
 \_\_\_\_\_  
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th of July 2018, at the hour of 3:10 o'clock P.M. E.S.T.

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 26<sup>th</sup> day of July

2018, at the hour of 11:00 O'clock AM . E.S.T.

  
 \_\_\_\_\_  
 THOMAS C. HENRY, MAYOR