

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2019 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 2019** CF-1 form filing stated that **four** jobs were created; and

**WHEREAS, Brooks Construction Company, Inc.'s 2019** CF-1 form filing stated **\$117,343** 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

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

4 **WHEREAS**, meeting 75% of the **six** full-time jobs to be created means creating **four** full-  
5 time jobs; and

6 **WHEREAS**, meeting 75% of the **\$390,000** in annual payroll to be created means  
7 **\$292,500** in created annual payroll; and

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

12 **WHEREAS**, Common Council made a determination on **June 25, 2019** that **Brooks**  
13 **Construction Company, Inc.** was not in substantial compliance as a result of its failure to  
14 generate at least **four** jobs and at least **\$292,500** in annual payroll created, and that the failure to  
15 substantially comply was not caused by factors beyond the control of **Brooks Construction**  
16 **Company, Inc.**; and

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

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

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

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

27 **SECTION 1.** That, Common Council finds that the CF-1 form filed by **Brooks**  
28 **Construction Company, Inc.** with an approved Economic Revitalization Area for **2019** are not  
29 in substantial compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code  
30 of the City of Fort Wayne for failure to create 75% of the **six** full-time jobs or **four** jobs that were  
stated that would be created and create 75% of the **\$390,000** in annual payroll or **\$292,500** that  
was stated that would be generated by the created jobs.


~~**SECTION 2a.** **Brooks Construction Company, Inc.** failed to appear and otherwise  
testify and therefore Council confirms its determination of **June 26, 2019** 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 as detailed in Section 1 above.  
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,**~~

1 ~~Inc.'s control. As a result of said failure, Brooks Construction Company, Inc.'s~~  
2 ~~deduction/abatement under R-30-10 is hereby terminated~~

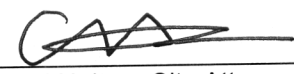
3 SECTION 2b. That Brooks Construction Company, Inc. appeared and testified at the  
4 hearing and from its testimony it was determined that notwithstanding Brooks Construction  
5 Company, Inc.'s failure to substantially comply as detailed in Section 1 above that Brooks  
6 Construction Company, Inc.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

11 ~~SECTION 2c. That Brooks Construction Company, Inc. appeared and testified at~~  
12 ~~the hearing and from its testimony it was determined in addition to Brooks Construction~~  
13 ~~Company, Inc.'s failure to substantially comply as detailed in Section 1 above, that Brooks~~  
14 ~~Construction Company, Inc. did not make reasonable efforts to substantially comply with the~~  
15 ~~statement of benefits and Brooks Construction Company, Inc.'s failure to substantially comply~~  
16 ~~was not caused by factors beyond the control of Brooks Construction Company, Inc. As a~~  
17 ~~result of said failure, Brooks Construction Company, Inc.'s deduction/abatement under R-30-~~  
18 ~~10 is hereby terminated.~~

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

21   
22 \_\_\_\_\_  
23 Member of Council

24 APPROVED AS TO FORM A LEGALITY

25   
26 \_\_\_\_\_  
27 Carol Helton, City Attorney

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

DIGEST SHEET

TITLE OF ORDINANCE: **Resolution Confirming Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2019**

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 2019 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.**

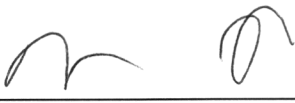
ASSIGNED TO COMMITTEE (PRESIDENT): **Russ Jehl and Jason Arp**

Fort Wayne Common Council  
Citizens Square  
200 E. Berry St., Ste. 120  
Fort Wayne, Indiana 46802

**Subject: Notice of Intention to Move for Reconsideration**

Councilmember Jerk, having voted with the prevailing side on ordinance  
R-19-07-23, is providing this written notice of his intention to move for  
reconsideration of the aforementioned bill at the next regular Council meeting on  
Aug. 27<sup>th</sup>, 2019.

Date: \_\_\_\_\_, 201\_\_

  
\_\_\_\_\_

Printed: Russ Jell

**BILL NO. R-19-07-23**

**REPORT OF COMMITTEE ON FINANCE**

**August 6, 2019**

***Russ Jehl Chair***

***Jason Arp Co-Chair***

***All Council Members***

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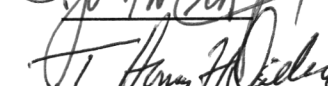
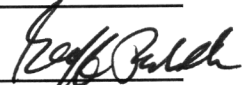
**COMMITTEE ON FINANCE HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

DO PASS

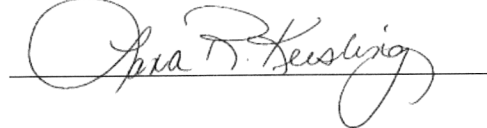
DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
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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 Arp.

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

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

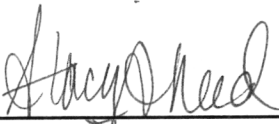
<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>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

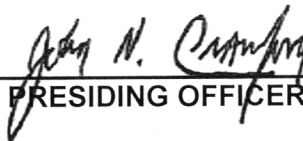
DATED: August 27, 2019

  
 \_\_\_\_\_  
 STACY A. REED, DEPUTY CITY CLERK

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

Resolution No. R-19-07-23 on the 27th day of August, 2019

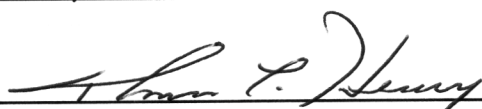
  
 \_\_\_\_\_  
 STACY A. REED  
 DEPUTY CITY CLERK

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

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th of August 2019, at the hour of 12:15 o'clock P.M. E.S.T.

  
 \_\_\_\_\_  
 STACY A. REED, DEPUTY CITY CLERK

Approved and signed by me this 29<sup>TH</sup> day of August 2019, at the hour of 4:00 o'clock PM E.S.T.

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

FORT WAYNE, INDIANA  
**RECEIVED**  
**AUG 30 2019**  
 LANA R. KEESLING  
 CITY CLERK