

A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2020 for Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. for property at 3426 North Wells Street, Fort Wayne, IN 46808 under Confirming Resolution R-14-09 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 **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, 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, **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.** has filed CF-1 forms with the **City of Fort Wayne and the Allen County Assessor**; and

WHEREAS, **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** approved SB-1 form stated that **453 full-time** jobs would be retained and **49** full-time jobs would be created; and

WHEREAS, **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** approved SB-1 form stated **\$20,335,295** in annual payroll for the **453** retained jobs and **\$2,900,000** in annual payroll would be generated by the **46** full-time jobs to be created; and

WHEREAS, **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** **2020** CF-1 form filing stated that **401** jobs were retained and **zero** jobs were created; and

1 **WHEREAS, Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s**
2 **2020 CF-1 form filing stated \$19,777,337 in annual payroll for the 401 jobs retained and**
3 **\$0.00 in annual payroll for the zero jobs created; and**

4 **WHEREAS, Common Council designated the City of Fort Wayne Community**
5 **Development Division as the entity for the administration, application, processing and**
6 **monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code**
7 **of the City of Fort Wayne; and**

8 **WHEREAS, Common Council has defined substantial compliance under Section**
9 **153.21 of the Municipal Code of the City of Fort Wayne as:**

- 10 1. **Meeting 75% or more of the numbers of full-time and/or part-time jobs stated**
11 **to be created or retained as delineated in the original Statement of Benefits**
12 **Form (SB-1) approved by Common Council; and**
- 13 2. **Meeting 75% or more of the total payroll stated to be created or retained as**
14 **delineated in the original Statement of Benefits Form (SB-1) approved by**
15 **Common Council; and**

16 **WHEREAS, meeting 75% of the 453 jobs retained means retaining 339 jobs; and**

17 **WHEREAS, meeting 75% of the 49 full-time jobs to be created means creating 36**
18 **full-time jobs; and**

19 **WHEREAS, meeting 75% of the \$20,335,295 in retained annual payroll means**
20 **\$15,251,471 in retained annual payroll; and**

21 **WHEREAS, meeting 75% of the \$2,900,000 in annual payroll to be created means**
22 **\$2,175,000 in created annual payroll; and**

23 **WHEREAS, Common Council may determine not later than forty-five (45) days**
24 **after receipt of the CF-1 form that Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice**
25 **Cream, Inc. has either failed to substantially comply or has substantially complied with**
26 **the original SB-1 form approved by Common Council; and**

27 **WHEREAS, Common Council made a determination on July 28, 2020 that Edy's**
28 **Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. was not in substantial**
29 **compliance as a result of its failure to create at least 36 jobs and create at least \$2,175,000**
30 **in annual payroll, and that the failure to substantially comply was not caused by factors**
beyond the control of Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.;
and

WHEREAS, Council directed the Community Development Division to mail written
notice to Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. explaining the
reasons for Council's determination and a date, time, place of a hearing to be conducted

1 by Council for the purpose of further considering **Edy's Grand Ice Cream, Inc./Dreyer's**
2 **Grand Ice Cream, Inc.'s** compliance with Statement of Benefits; and

3 **WHEREAS**, the aforementioned notice was properly prepared and served upon
4 **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.**; and

5 **WHEREAS**, **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.**
6 **[appeared/failed to appear]** before Common Council to provide additional information
7 concerning compliance.

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

10 **SECTION 1.** That, Common Council finds that the CF-1 form filed by **Edy's**
11 **Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.** with an approved Economic
12 Revitalization Area for **2020** are not in substantial compliance pursuant to I.C. 6-1.1-12.1
13 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to create
14 75% of the **49** jobs or **36** jobs that were stated that would be created and create 75% of
15 the **\$2,900,000** in annual payroll or **\$2,175,000** that was stated that would be generated
16 by the created jobs.

17 ~~**SECTION 2a.** **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.**
18 **failed to appear and otherwise testify and therefore Council confirms its determination of**
19 **July 28, 2020 that Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. has**
20 **failed to substantially comply pursuant to IC 6-1.1-12.1 and Section 153.21 of the**
21 **Municipal Code of the City of Fort Wayne as detailed in Section 1 above. Council therefore**
22 **finds that Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. has failed to**
23 **substantially comply and said failure was not caused by factors outside of Edy's Grand**
24 **Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s control. As a result of said failure,**
25 **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s deduction/abatement**
26 **under R-14-09 is hereby terminated.**~~

27 **SECTION 2b.** That **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream,**
28 **Inc.** appeared and testified at the hearing and from its testimony it was determined that
29 notwithstanding **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** failure
30 to substantially comply as detailed in Section 1 above that **Edy's Grand Ice Cream,**
Inc./Dreyer's Grand Ice Cream, Inc. did make reasonable efforts to substantially comply
with the statement of benefits and **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice**
Cream, Inc.'s failure to substantially comply was caused by factors beyond the control of
Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. Therefore, the
continuation of **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s**
deduction/abatement under **R-14-09** is hereby approved.

1 ~~SECTION 2e. That Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream,~~
2 ~~Inc. appeared and testified at the hearing and from its testimony it was determined in~~
3 ~~addition to Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s failure to~~
4 ~~substantially comply as detailed in Section 1 above, that Edy's Grand Ice Cream,~~
5 ~~Inc./Dreyer's Grand Ice Cream, Inc. did not make reasonable efforts to substantially~~
6 ~~comply with the statement of benefits and Edy's Grand Ice Cream, Inc./Dreyer's Grand~~
7 ~~Ice Cream, Inc.'s failure to substantially comply was not caused by factors beyond the~~
8 ~~control of Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. As a result of~~
9 ~~said failure, Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s~~
10 ~~deduction/abatement under R-14-09 is hereby terminated.~~

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

13 
14 _____
15 Member of Council

16 APPROVED AS TO FORM A LEGALITY

17 
18 _____
19 Carol Helton, City Attorney

20
21
22
23
24
25
26
27
28
29
30

| Bill # | Company | A Didn't appear & failed | B Appeared & continue | C Appeared & failed |
|---------------|--|---|--|--|
| R-20-08-01 | 817 S Calhoun LLC | | X | |
| R-20-08-02 | CK Products LLC | | | X |
| R-20-08-03 | Conestoga LLC | | X | |
| R-20-08-04 | Craftline Graphics, Inc | | X | |
| R-20-08-05 | David M Allen DDS & Associates dba Afdent | X | | |
| R-20-08-07 | Edy's/Dreyers | | X | |
| R-20-08-08 | Edy's/Dreyers | | X | |
| R-20-08-09 | Edy's/Dreyers | | X | |
| R-20-08-10 | ElringKlinger Manufacturing | | X | |
| R-20-08-11 | WC Holdings II ,LLC | | X | |
| R-20-08-12 | Hightech Signs/Castleon Village Center Inc | | X | |
| R-20-08-13 | Indiana Oxygen Company Inc | | X | |
| R-20-08-14 | LH Carbide Corporation | | X | |
| | | | | |
| | | | | |

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: **Resolution Confirming Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2020**

DEPARTMENT REQUESTING ORDINANCE: **Community Development Division**

SYNOPSIS OF ORDINANCE: **This resolution confirms that Compliance with Statement of Benefits (CF-1) Form filings for R-14-09 made by Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. in June 2020 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.**


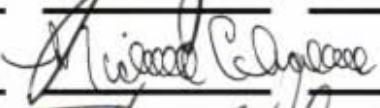
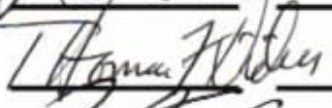
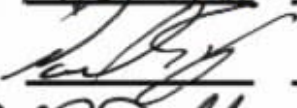
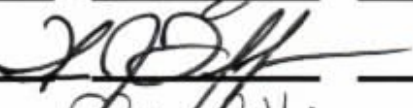
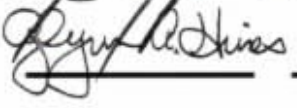
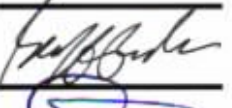

ASSIGNED TO COMMITTEE (PRESIDENT): **Jason Arp and Sharon Tucker**

REPORT OF COMMITTEE ON FINANCE
August 18, 2020


Jason Arp Chair
Sharon Tucker Co-Chair
All Council Members

A Resolution determining SUBSTANTIAL COMPLIANCE or NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2020 for Edy's Grand Ice Cream, Inc. /Dreyer's Grand Ice Cream, Inc. for property at 3426 North Wells Street, Fort Wayne, IN 46808 under Confirming Resolution R-14-09 with an "Economic Revitalization Area" approved under I.C. 6-1.1-12.1

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

| <u>COUNCIL MEMBER</u> | <u>DO PASS</u> | <u>DO NOT PASS</u> | <u>ABSTAIN</u> |
|-----------------------|---|--------------------|----------------|
| ARP |  | | |
| CHAMBERS |  | | |
| DIDIER |  | | |
| ENSLEY |  | | |
| FREISTROFFER |  | | |
| HINES |  | | |
| JEHL | | | |
| PADDOCK |  | | |
| TUCKER |  | | |

LANA R. KEESLING
CITY CLERK



Public Hearing Date: N/A

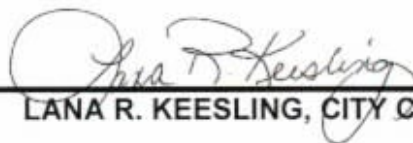
Read the first time in full and on motion by Councilperson Arp.

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

Read the third time in full and on motion by Councilperson Arp, 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"/> |
| CHAMBERS | <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"/> |
| TUCKER | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

DATED: August 25, 2020


LANA R. KEESLING, CITY CLERK

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

Resolution No. R-20-08-07 on the 25th day of August, 2020

ATTEST:


LANA R. KEESLING
CITY CLERK



PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th of August 2020, at the hour of 11:00 o'clock A.M. E.S.T.


LANA R. KEESLING, CITY CLERK

Approved and signed by me this 28TH day of AUGUST 2020, at the hour of 3:30 o'clock PM E.S.T.

FORT WAYNE, INDIANA
RECEIVED
SEP 01 2020
LANA R. KEESLING
CITY CLERK


THOMAS C. HENRY, MAYOR