

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-38-12 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, the Allen County Auditor 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 **553** full-time jobs would be retained by January 31, 2012; and

WHEREAS, **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** approved SB-1 form stated **\$22,027,703** in annual payroll for the **553** retained jobs; 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

WHEREAS, **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** 2020 CF-1 form filing stated **\$19,777,337** in annual payroll for the **401** jobs retained jobs; 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
2. Meeting 75% or more of the total payroll stated to be created or retained as delineated in the original Statement of Benefits Form (SB-1) approved by Common Council; and

WHEREAS, meeting 75% of the **553** jobs retained means retaining **414** jobs; and

1 **WHEREAS**, meeting 75% of the **\$22,027,703** in retained annual payroll means **\$16,520,777** in retained annual payroll; and

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

6 **WHEREAS**, Common Council made a determination on **July 28, 2020** that **Edy's**
7 **Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.** was not in substantial
8 compliance as a result of its failure to retain at least **414** jobs and that the failure to
9 substantially comply was not caused by factors beyond the control of **Edy's Grand Ice**
10 **Cream, Inc./Dreyer's Grand Ice Cream, Inc.**; and

11 **WHEREAS**, Council directed the Community Development Division to mail written
12 notice to **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.** explaining the
13 reasons for Council's determination and a date, time, place of a hearing to be conducted
14 by Council for the purpose of further considering **Edy's Grand Ice Cream, Inc./Dreyer's**
15 **Grand Ice Cream, Inc.'s** compliance with Statement of Benefits; and

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

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

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

23 **SECTION 1.** That, Common Council finds that the CF-1 form filed by **Edy's**
24 **Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.** with an approved Economic
25 Revitalization Area for **2020** are not in substantial compliance pursuant to I.C. 6-1.1-12.1
26 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to retain
27 75% of the **553** full-time jobs or **414** full-time jobs that were stated that would be retained.


28 ~~**SECTION 2a.** **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.**
29 **failed to appear and otherwise testify and therefore Council confirms its determination of**
30 **July 28, 2020 that Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, 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 Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. has failed to
substantially comply and said failure was not caused by factors outside of Edy's Grand
Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s control. As a result of said failure,
Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s deduction/abatement
under R-38-12 is hereby terminated.~~

31 **SECTION 2b.** That **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream,**
32 **Inc.** appeared and testified at the hearing and from its testimony it was determined that
33 notwithstanding **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** failure
34 to substantially comply as detailed in Section 1 above that **Edy's Grand Ice Cream,**
35 **Inc./Dreyer's Grand Ice Cream, Inc.** did make reasonable efforts to substantially comply
36 with the statement of benefits and **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice**
37 **Cream, Inc.'s** failure to substantially comply was caused by factors beyond the control of
38 **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.** Therefore, the
39 continuation of **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s**
40 deduction/abatement under **R-38-12** is hereby approved.


41 ~~**SECTION 2c.** That **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream,**
42 **Inc.** appeared and testified at the hearing and from its testimony it was determined in
43 addition to **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** failure to
44 substantially comply as detailed in Section 1 above that **Edy's Grand Ice Cream,**
45 **Inc./Dreyer's Grand Ice Cream, Inc.** did not make reasonable efforts to substantially~~

1 ~~comply with the statement of benefits and Edy's Grand Ice Cream, Inc./Dreyer's Grand~~
2 ~~Ice Cream, Inc.'s failure to substantially comply was not caused by factors beyond the~~
3 ~~control of Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. As a result of~~
4 ~~said failure, Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s~~
5 ~~deduction/abatement under R 88-42 is hereby terminated.~~

6 SECTION 3. That, this Resolution shall be in full force and effect from and after
7 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

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/Castleton 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-38-12 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



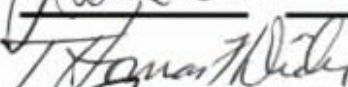


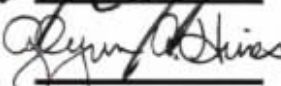


Jason Arp Chair

Sharon Tucker Co-Chair

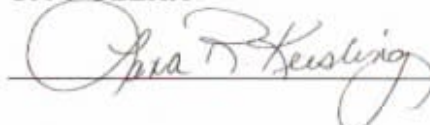
All Council Members

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-38-12 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

LANA R. KEESLING, CITY CLERK

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

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

ATTEST:

Lana R. Keesling

LANA R. KEESLING
CITY CLERK

Thomas Didier

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

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.

Thomas C. Henry

THOMAS C. HENRY, MAYOR

