

**A RESOLUTION determining SUBSTANTIAL COMPLIANCE OR NON-COMPLIANCE with Statement of Benefits (CF-1) form filing for 2021 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-75-14 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 542 full-time jobs would be retained by December 31, 2015; and

**WHEREAS**, Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s approved SB-1 form stated \$25,539,000 in annual payroll for the 542 retained jobs; and

**WHEREAS**, Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s 2021 CF-1 form filing stated that 370 jobs were retained; and

**WHEREAS**, Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s 2021 CF-1 form filing stated \$29,947,783 in annual payroll for the 370 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 542 jobs retained means retaining 406 jobs; and

**WHEREAS**, meeting 75% of the \$25,539,000 in retained annual payroll means \$19,154,250 in retained annual payroll; and

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

**WHEREAS**, Common Council made a determination on July 13, 2021 that Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. was not in substantial compliance as a result of its failure to retain at least 406 jobs 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 by Council for the purpose of further considering Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s compliance with Statement of Benefits; and

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

**WHEREAS**, Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. [appeared/failed to appear] 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 forms filed by Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. with an approved Economic Revitalization Area for 2021 are not in substantial compliance pursuant to I.C. 8-1-1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to retain 75% of the 542 full-time jobs or 406 full-time jobs that were stated that would be retained.~~

~~**SECTION 2a.** Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. failed to appear and otherwise testify and therefore Council confirms its determination of July 13, 2021 that Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. has failed to substantially comply pursuant to I.C. 8-1-1-12.1 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-75-14 is hereby terminated.~~

**SECTION 2b.** That Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. appeared and testified at the hearing and from its testimony it was determined

that notwithstanding Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s failure 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-75-14 is hereby approved.

~~SECTION 2. That Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. appeared and testified at the hearing and from its testimony it was determined in addition to Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s failure to substantially comply as detailed in Section 1 above, that Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. did not 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 not caused by factors beyond the control of Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. As a result of said failure, Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s deduction/abatement under R-75-14 is hereby terminated.~~

**SECTION 3.** 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

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

DIGEST SHEET

**TITLE OF ORDINANCE: Resolution Considering Substantial Compliance or Non-Compliance with a Statement of Benefits (SB-1) for 2021**

**DEPARTMENT REQUESTING ORDINANCE: Community Development Division**

**SYNOPSIS OF ORDINANCE: This resolution confirms that the Compliance with Statement of Benefits (CF-1) Form filings made by Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc. in May 2021 with an approved economic revitalization area approved under Confirming Resolution R-75-14 for real and personal property is either in substantial compliance or non-compliance pursuant to both City of Fort Wayne Code and Indiana Code.**

**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 Glynn Hines**



**BILL NO. R-21-07-26**

**REPORT OF COMMITTEE ON FINANCE**

**August 10, 2021**


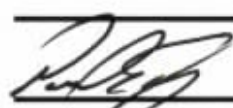

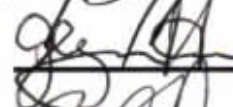
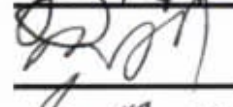

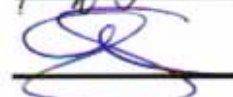
***Glynn Hines Chair***

***Jason Arp Co-Chair***

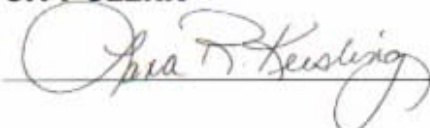
***All Council Members***

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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>
<u>ARP</u>			
<u>CHAMBERS</u>			
<u>DIDIER</u>			
<u>ENSLEY</u>			
<u>FREISTROFFER</u>			
<u>HINES</u>			
<u>JEHL</u>			
<u>PADDOCK</u>			
<u>TUCKER</u>			

**LANA R. KEESLING  
CITY CLERK**



Public Hearing Date: N/A


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

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

Read the third time in full and on motion by Councilperson Hines, 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 10, 2021

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

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

Resolution No. R-21-07-26 on the 10th day of August, 2021

ATTEST:

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

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

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th of August 2021, at the hour of 11:35 o'clock A.M. E.S.T.

  
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 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 13<sup>th</sup> day of AUGUST 2021, at the hour of 10:00 o'clock AM E.S.T.

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

FORT WAYNE, INDIANA  
**RECEIVED**  
 AUG 16 2021  
 LANA R. KEESLING  
 CITY CLERK