

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-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 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 553 jobs retained means retaining 414 jobs; and

WHEREAS, meeting 75% of the \$22,027,703 in retained annual payroll means \$16,520,777 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 414 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 form 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. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne for failure to retain 75% of the 553 full-time jobs or 414 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 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

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-38-12 is hereby approved.

SECTION 2c. 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-38-12 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-38-12 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