

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
concerning compliance.

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

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

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

22 **SECTION 2b.** That **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream,**
23 **Inc.** appeared and testified at the hearing and from its testimony it was determined that
24 notwithstanding **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.'s** failure
25 to substantially comply as detailed in Section 1 above that **Edy's Grand Ice Cream,**
26 **Inc./Dreyer's Grand Ice Cream, Inc.** did make reasonable efforts to substantially comply
27 with the statement of benefits and **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice**
28 **Cream, Inc.'s** failure to substantially comply was caused by factors beyond the control of
29 **Edy's Grand Ice Cream, Inc./Dreyer's Grand Ice Cream, Inc.** Therefore, the
30 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 2c.** 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.

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Member of Council

APPROVED AS TO FORM A LEGALITY

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 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