

**A RESOLUTION approving a Waiver of Noncompliance
for a Late-Filed Compliance with Statement of Benefits
Real Estate Improvements (Form CF-1/Real Property)
for 5501 US Highway 30 West, (Sweetwater Sound, Inc.
and Sweetwater Holdings, LLC)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 5501 US Highway 30 West for Sweetwater Sound, Inc. and Sweetwater Holdings, LLC (Confirming Resolution R-36-06) 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, the original Statement of Benefits forms (SB-1/Real Property and SB-1/PP) and economic revitalization area designation application submitted by Sweetwater Sound, Inc. and Sweetwater Holdings, LLC and approved under Confirming Resolution R-36-06 was for \$22,000,000 in real property improvements and \$2,200,000 in personal property improvements; and

WHEREAS, construction of the real property improvements for Sweetwater Sound, Inc. and Sweetwater Holdings, LLC was completed in 2006; and

WHEREAS, Sweetwater Sound, Inc. and Sweetwater Holdings, LLC was required to file under I.C. 6-1.1-12.1 and Section 153.21 of the Fort Wayne Code of Ordinances, a Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) with the Allen County Auditor and the City of Fort Wayne; and

WHEREAS, Common Council has previously determined on June 24, 2014 under resolution R-35-14 that Sweetwater Sound, Inc. and Sweetwater Holdings, LLC failed to substantially comply with I.C. 6-1.1-12.1 et seq. and Section 153.21 of the Fort Wayne Code of Ordinances for not filing a Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) or a corrective filing due May 15, 2014; and

WHEREAS, Common Council pursuant to I.C. 6-1.1-12.-5.9, directed the Fort Wayne Community Development Division to prepare and mail written notice to Sweetwater Sound, Inc. and Sweetwater Holdings, LLC stating the reasons for council's determination of substantial non-compliance and a date, time and place of the hearing for the purpose of further consideration of each owner's circumstances; and

WHEREAS, said hearing was held by Common Council on August 5, 2014 for further consideration of each owner's circumstances and whether the economic revitalization area deduction should be terminated; and

WHEREAS, representatives of Sweetwater Sound, Inc. and Sweetwater Holdings, LLC have informed the City of Fort Wayne that their Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) due May 15, 2014 was not filed in a timely manner; and

WHEREAS, this oversight was an unusual occurrence for Sweetwater Sound, Inc. and Sweetwater Holdings, LLC and

WHEREAS, the Common Council finds that Sweetwater Sound, Inc. and Sweetwater Holdings, LLC has fulfilled its pledge to construct the real property improvements and install new logistical distribution and information technology equipment; and

WHEREAS, Sweetwater Sound, Inc. and Sweetwater Holdings, LLC has created at least 75% of the jobs which were to be created and retained as reported on the approved Statement of Benefits forms; and

WHEREAS, the Common Council acknowledges that Sweetwater Sound, Inc. and Sweetwater Holdings, LLC has requested a waiver of noncompliance which the Common Council has the power and authority to approve, under I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3; and

WHEREAS, the Common Council intends that Sweetwater Sound, Inc. and Sweetwater Holdings, LLC receive the tax abatement benefits to which they would have been entitled had no non compliance event occurred, so long as the waiver of non compliance and the granting of those benefits does not prejudice the City of Fort Wayne; and

WHEREAS, the Common Council has concluded that granting of the ERA deduction for 2014 payable 2015 tax year would not create a strain on the City of Fort Wayne's fiscal budget; and

WHEREAS, I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3 permit noncompliance events such as the untimely filing of an application, statement of benefits, or another document required to be filed under I.C. 6-1.1-12.1; and

WHEREAS, the noncompliance event has been corrected and a public hearing of the Common Council has been held on the waiver.

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

SECTION 1. That, Common Council hereby waives all clerical and technical errors and nonconformities that are waiveable under State and local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

SECTION 2. As authorized by I.C. 6-1.1-12.1-9.5(d), the Common Council will permit Sweetwater Sound, Inc. and Sweetwater Holdings, LLC to continue to receive the economic revitalization area real property deductions remaining under R-36-06.

SECTION 3. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage. This resolution shall have no effect on the assessed value, economic revitalization area deductions, or taxes payable with respect to Sweetwater Sound, Inc. and Sweetwater Holdings, LLC's personal property.

SECTION 4. 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 AND LEGALITY

Carol Helton, City Attorney