

3 **AN ORDINANCE OF THE CITY OF FORT WAYNE, INDIANA,**
4 **ANNEXING TERRITORY TO THE CITY OF FORT WAYNE,**
5 **PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES THEREOF,**
6 **AND MAKING THE SAME A PART OF THE CITY OF FORT WAYNE**

7 **SWEETWATER SOUND, LLC VOLUNTARY ANNEXATION**

8 WHEREAS, the City of Fort Wayne, Indiana ("City" or "Fort Wayne") has received
9 petitions for the annexation of certain territory in an area generally located west of
10 Kroemer Rd and south of the City's existing corporate limits, as hereinafter more
11 specifically described ("Annexation Territory"); and

12 WHEREAS, the annexation has been requested by the owners of the property
13 within the Annexation Territory; and

14 WHEREAS, the City deems it desirable and in the best interest of the City to
15 annex the Annexation Territory; and

16 WHEREAS, a legal description and drawing of the Annexation Territory are
17 attached hereto as Exhibit A and Exhibit B; and

18 WHEREAS, where the legal description attached as Exhibit A describes land that
19 is contiguous to a public highway right-of-way that has not previously been annexed,
20 the Annexation Territory shall include the contiguous public highway right-of-way even
21 if it is not fully described in Exhibit A, except to the extent prohibited by I.C. § 36-4-3-
22 1.5(c); and

23 WHEREAS, where the parcel of property within the Annexation Territory is
24 adjacent to a parcel of property within the existing City limits, the Annexation Territory
25 boundary shall conform to and match the boundary of the existing City limits so long as
26 it does not result in adding or removing parcels of property from the Annexation
27 Territory depicted in Exhibit B; and

28 WHEREAS, the Annexation Territory consists of approximately 90.92 acres, and
29 is contiguous to the existing City limits; and

30 WHEREAS, prior to adoption of this Ordinance, the City, by resolution, will have
adopted a written fiscal plan and definite policy for the provision of services of both a
non-capital and capital nature to the Annexation Territory that meets the requirements
of I.C. § 36-4-3; and

WHEREAS, the terms and conditions of this annexation, including the written
fiscal plan, are fairly calculated to make the annexation fair and equitable to property
owners and residents of the Annexation Territory and of the City; and

WHEREAS, the City has further determined that the Annexation Territory is
needed and can be used by the City for its development in the reasonably near future;

1 and

2 WHEREAS, prior to the final adoption of this Ordinance, the City will have
3 conducted a public hearing pursuant to proper notice issued as required by law; and

4 WHEREAS, the City finds that the Annexation pursuant to the terms of this
5 Ordinance is fair and equitable and should be accomplished.

6 NOW, THEREFORE, BE IT ORDAINED by the City of Fort Wayne, Indiana, as
7 follows:

- 8 1. The above recitals including Exhibit A and Exhibit B are incorporated herein
9 by this reference as though fully set forth herein below.
- 10 2. In accordance with I.C. § 36-4-3-5.1 and other applicable laws, the
11 Annexation Territory is hereby annexed to the City and thereby included
12 within its corporate boundaries pursuant to the terms of this Ordinance.
- 13 3. The Annexation Territory is assigned to the 3rd Council District.
- 14 4. The Annexation Territory shall maintain its current zoning classification(s)
15 and designation(s) until such time the City updates its respective
16 comprehensive plan, zoning ordinance, or zoning map.
- 17 5. Some or all of the property within the Annexation Territory is currently
18 classified as agricultural for tax purposes. As may be contemplated by I.C. §
19 36-4-3-4.1, the City anticipates that the real property will be treated as
20 exempt from property tax liability under I.C. § 6-1.1 for “municipal
21 purposes” unless/until the land is reclassified under assessment rules and
22 guidelines of the DLGF. As fire protection services are not uniquely a
23 municipal service, the Annexation Territory will continue to pay the
24 applicable fire tax rate (to the extent not otherwise exempt) until
25 reclassified and assessed the full municipal tax rate.
- 26 6. All prior Ordinances or parts thereof that may be inconsistent with any
27 provision of this Ordinance are hereby superseded. The paragraphs,
28 sentences, words, and Annexation Territory of this Ordinance are separable,
29 and if a court of competent jurisdiction hereof declares any portion of this
30 Ordinance or the Annexation Territory unconstitutional, invalid, or
unenforceable for any reason, such declaration shall not affect the remaining
portions of the Annexation Territory or this Ordinance.
7. The effective date of this annexation shall be as soon as allowed by law
following its adoption, execution, and publication as required by law.

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8. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Malak Heiny, City Attorney

EXHIBIT A
Legal Description

Sweetwater Sound LLC
Voluntary Annexation

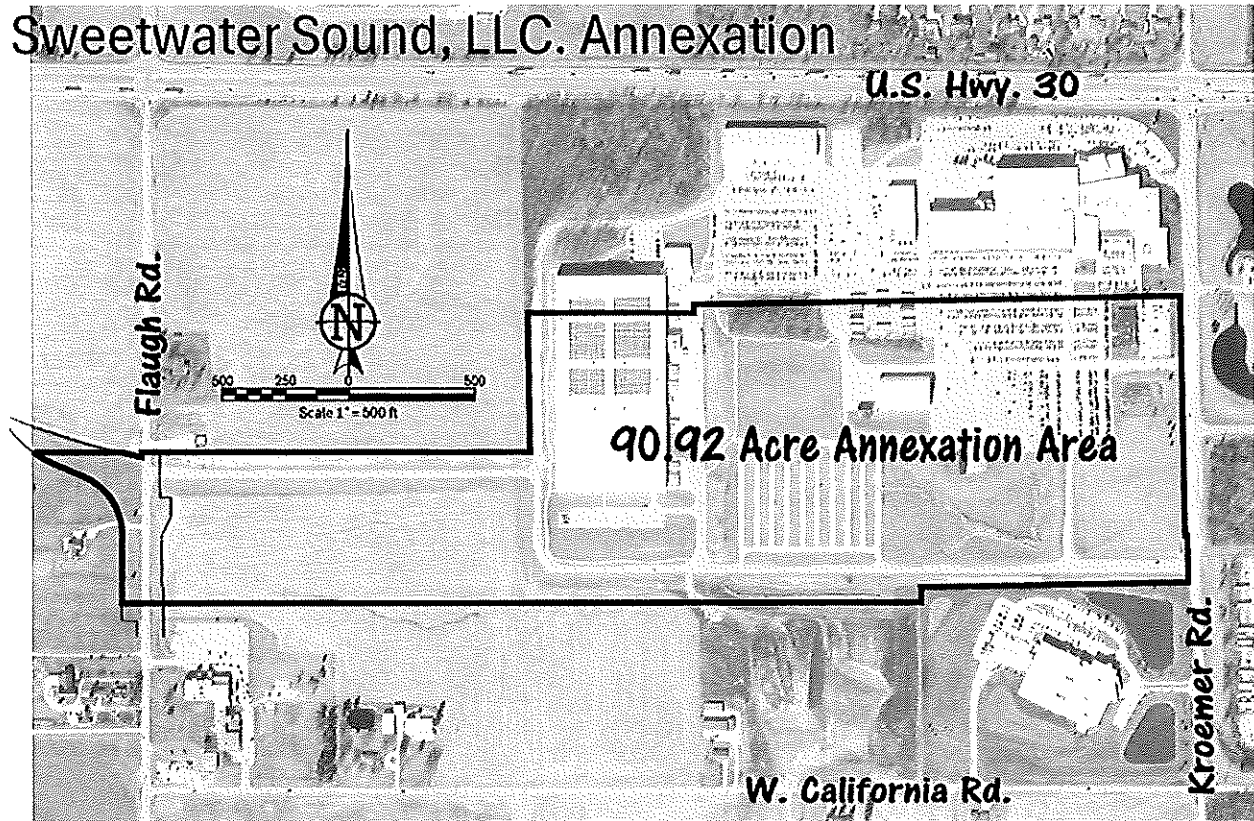
Part of the Southeast and Southwest Quarters of Section 19, in Township 31 North, Range 12 East of the Second Principal Meridian, Washington Township in Allen County, Indiana and also part of the Southeast Quarter of Section 24, in Township 31 North, Range 11 East of the Second Principal Meridian, Lake Township in Allen County, Indiana, and being more particularly described as follows:

Commencing at a Harrison Marker at the Southeast corner of the Southeast Quarter of said Section 19; thence North 00 degrees 58 minutes 53 seconds West (Indiana East SPC, bearing and basis of bearings to follow), a distance of 816.02 feet (deed) along the East line of said Southeast Quarter and within the right-of-way of Kroemer Road to the Easterly extension of the North line of an existing 19.561 acre tract described in Document Number 2018034671 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 00 minutes 59 seconds West, a distance of 40.00 feet along said extension to a point on the West right-of-way line of Kroemer Road, said point being the POINT OF BEGINNING of the herein described tract; thence continuing South 89 degrees 00 minutes 59 seconds West, a distance of 1055.21 feet (1055.16 feet deed) along said North line to the West line of said 19.561 acre tract; thence South 01 degrees 00 minutes 26 seconds East, a distance of 60.03 feet along said West line; thence South 89 degrees 55 minutes 28 seconds West, a distance of 1538.12 feet parallel with the South line of said Southeast Quarter to the West line of said Southeast Quarter; thence North 89 degrees 59 minutes 13 seconds West, a distance of 775.98 feet parallel with the South line of said Southwest Quarter to the Northeast corner of an existing tract described in Document Number 2017059730 in the Office of the Recorder of Allen County, Indiana; thence continuing North 89 degrees 59 minutes 13 seconds West, a distance of 744.11 feet along the North line of said Document Number 2017059730 to the West line of the Southwest Quarter of said Section 19 and also being on the East line of the Southeast Quarter of said Section 24; thence continuing North 89 degrees 59 minutes 13 seconds West, a distance of 106.15 feet along the Westerly extension of the North line of said Document Number 2017059730 to the Westerly right-of-way line of Flaugh Road as described in Document Number 2025053281 in the Office of the Recorder of Allen County, Indiana; thence North 00 degrees 20 minutes 25 seconds East, a distance of 270.47 feet along said right-of-way line to the point of curvature of a tangent curve, concave to the Southwest, having a radius of 245.00 feet; thence Northwesterly along said curve and said right-of-way line a distance of 287.17 feet; having a central angle 67 degrees 09 minutes 27 seconds and a chord bearing of North 33 degrees 14 minutes 17 seconds West, a distance of 271.01 feet to the point of tangency; thence North 66 degrees 49 minutes 00 seconds West, a distance of 132.34 feet along said right-of-way line to the point of curvature of a tangent curve, concave to the Northeast, having a radius of 435.00 feet; thence Northwesterly along said curve and said right-of-way line a distance of 91.76 feet; having a central angle 12 degrees 05 minutes 10 seconds and a chord bearing of North 60 degrees 46 minutes 23 seconds West, a distance of 91.59 feet; thence South 89 degrees 57 minutes 53 seconds East, a distance of 347.24 feet to a right-of-way line as described in said Document Number 2025053281; thence South 77 degrees 17 minutes 47 seconds East, a distance of 82.01 feet along said right-of-way line to the West right-of-way line of Flaugh Road; thence North 00 degrees 15 minutes 18 seconds East, a distance of 17.99 feet along said right-of-way line to the Westerly extension of the South line of an existing tract described in Document Numbers 2008052055 and 2008052056 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 57 minutes 53 seconds East, a distance of 1538.68 feet along said extension and said South line to the West line of said Southeast Quarter; thence North 00 degrees 50 minutes 42 seconds

West, a distance of 548.18 feet along said West line to the South line of an existing tract described in Document Number 2021052490 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 53 minutes 43 seconds East, a distance of 657.71 feet (657.53 feet deed) along said South line to the East line of the West Half of the West Half of said Southeast Quarter; thence North 00 degrees 52 minutes 44 seconds West, a distance of 33.47 feet (33.58 feet deed) along said East line to the South line said Document Number 2021052490; thence North 89 degrees 02 minutes 34 seconds East, a distance of 1922.74 feet along said South line to the West right-of-way line of Kroemer Road; thence South 00 degrees 58 minutes 53 seconds East, a distance of 942.13 feet along said right-of-way line; thence North 89 degrees 01 minutes 07 seconds East, a distance of 10.00 feet (deed) along said right-of-way; thence South 00 degrees 58 minutes 53 seconds East, a distance of 183.66 feet (186.69 feet deed) along said right-of-way to the Point of Beginning. Containing 90.92 acres, more or less. Subject to rights-of-way of Flaugh Road, the Hitzeman Branch 3 Legal Tile Drain and subject to easements of record.

EXHIBIT B
Map

Sweetwater Sound, LLC. Annexation



**PETITION FOR AND CONSENT TO ANNEXATION
INTO THE CITY OF FORT WAYNE, INDIANA**

WHEREAS, the undersigned (hereinafter, the "Petitioner"), is the owner of the following described real estate in Allen County, Indiana, and as shown on the attached Exhibit A (the "Real Estate");

Part of the Southeast and Southwest Quarters of Section 19, in Township 31 North, Range 12 East of the Second Principal Meridian, Washington Township in Allen County, Indiana, and being more particularly described as follows:

Commencing at a Harrison Marker at the Southeast corner of said Southeast Quarter; thence North 00 degrees 58 minutes 53 seconds West (Indiana East SPC, bearing and basis of bearings to follow), a distance of 816.02 feet (deed) along the East line of said Southeast Quarter and within the right-of-way of Kroemer Road to the Easterly extension of the North line of an existing 19.561 acre tract described in Document Number 2018034671 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 00 minutes 59 seconds West, a distance of 40.00 feet along said extension to a point on the West right-of-way line of Kroemer Road, said point being the POINT OF BEGINNING of the herein described tract; thence continuing South 89 degrees 00 minutes 59 seconds West, a distance of 1055.21 feet (1055.16 feet deed) along said North line to the West line of said 19.561 acre tract; thence South 01 degrees 00 minutes 26 seconds East, a distance of 60.03 feet along said West line; thence South 89 degrees 55 minutes 28 seconds West, a distance of 1538.12 feet parallel with the South line of said Southeast Quarter to the West line of said Southeast Quarter; thence North 89 degrees 59 minutes 13 seconds West, a distance of 775.98 feet parallel with the South line of said Southwest Quarter to the Northeast corner of an existing tract described in Document Number 2017059730 in the Office of the Recorder of Allen County, Indiana; thence continuing North 89 degrees 59 minutes 13 seconds West, a distance of 689.78 feet along the North line of said Document Number 2017059730 to the East right-of-way line of Flaugh Road; thence North 00 degrees 11 minute 10 seconds West, a distance of 269.98 feet along said right-of-way line; thence North 24 degrees 55 minutes 49 seconds East, a distance of 80.07 feet along said right-of-way line; thence North 00 degrees 16 minutes 16 seconds West, a distance of 74.80 feet along said right-of-way line; thence South 89 degrees 39 minutes 54 seconds West, a distance of 43.35 feet along said right-of-way line; thence North 00 degrees 16 minutes 16 seconds West, a distance of 176.56 feet along said right-of-way line to the South line of an existing tract described in Document Numbers 2008052055 and 2008052056 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 57 minutes 53 seconds East, a distance of 1468.66 feet along said South line to the West line of said Southeast Quarter; thence North 00 degrees 50 minutes 42 seconds West, a distance of 548.18 feet along said West line to the South line of an existing tract described in Document Number 2021052490 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 53 minutes 43 seconds East, a distance of 657.71 feet (657.53 feet deed)

along said South line to the East line of the West Half of the West Half of said Southeast Quarter; thence North 00 degrees 52 minutes 44 seconds West, a distance of 33.47 feet (33.58 feet deed) along said East line to the South line said Document Number 2021052490; thence North 89 degrees 02 minutes 34 seconds East, a distance of 1922.74 feet along said South line to the West right-of-way line of Kroemer Road; thence South 00 degrees 58 minutes 53 seconds East, a distance of 942.13 feet along said right-of-way line; thence North 89 degrees 01 minutes 07 seconds East, a distance of 10.00 feet (deed) along said right-of-way; thence South 00 degrees 58 minutes 53 seconds East, a distance of 183.66 feet (186.69 feet deed) along said right-of-way to the Point of Beginning. Containing 87.95 acres, more or less. Subject to rights-of-way of Flaugh Road, the Hitzeman Branch 3 Legal Tile Drain and subject to easements of record

The above description was comprised of previous surveys and deed descriptions and should be used for annexation purposes only and should not be construed as a Title 865 boundary survey.

WHEREAS, the Petitioner desires that the Real Estate be annexed by the City of Fort Wayne, Indiana (the "City" or "Fort Wayne"), and otherwise consents to the annexation of the Real Estate by the City.

NOW THEREFORE, the Petitioner, in support of this Petition for and Consent to Annexation, hereby states the following:

1. The Petitioner is the owner of the lots or parcels located within the Real Estate.
2. The Petitioner requests that the City adopt an ordinance annexing the Real Estate to the City of Fort Wayne, Indiana.
3. The Petitioner further consents to annexation by Fort Wayne as may otherwise be contemplated by I.C. § 36-4-3-9.
4. The Petitioner desires Fort Wayne to take appropriate additional action as may be appropriate to effectuate the intent of this Petition and Consent, including but not limited to combining this with similar petitions from other property owners for the inclusion of multiple parcels/lots in a single annexation ordinance.

PETITIONER

SWEETWATER SOUND, LLC

By: _____

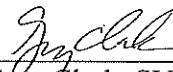
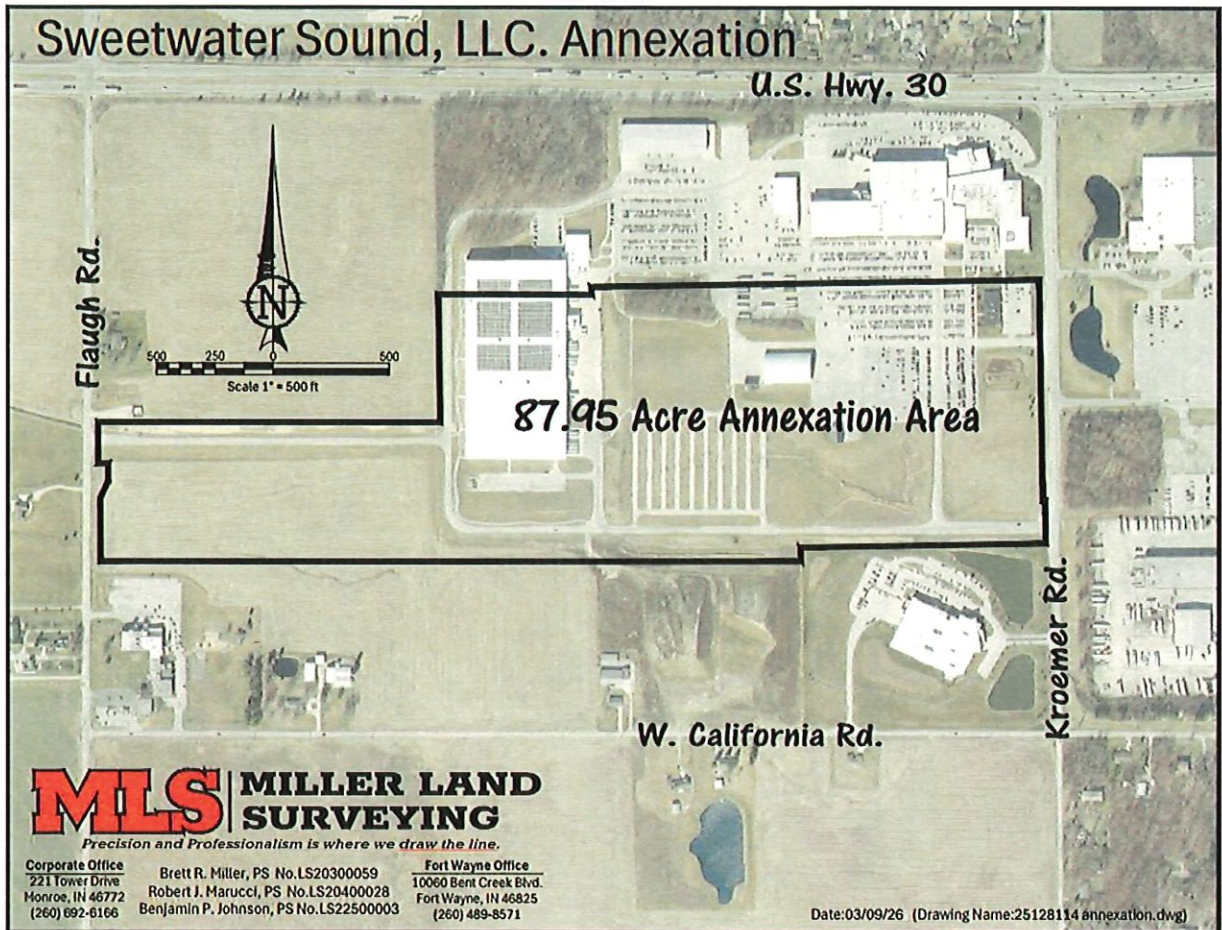

Greg Clark, SVP & CFO

Exhibit A



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