

**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

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

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

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

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

13 **WHEREAS**, the Common Council acknowledges that Sweetwater Sound, Inc. and
14 Sweetwater Holdings, LLC has requested a waiver of noncompliance which the Common
15 Council has the power and authority to approve, under I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-
16 12.1-11.3; and

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

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

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

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

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

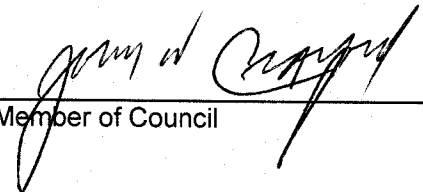
SECTION 1. That, Common Council hereby waives all clerical and technical errors
and nonconformities that are waiveable under State and local law, including without limitation
those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

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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.

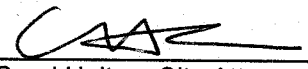
SECTION 3. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage. This resolution shall have no effect on the assessed value, economic revitalization area deductions, or taxes payable with respect to Sweetwater Sound, Inc. and Sweetwater Holdings,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

Admn. Appr. _____

DIGEST SHEET

TITLE OF RESOLUTION: 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)

DEPARTMENT REQUESTING RESOLUTION: Community Development Division

SYNOPSIS OF RESOLUTION: This is to approve a waiver of noncompliance for a late-filed economic revitalization area deduction forms for Sweetwater Sound, Inc. and Sweetwater Holdings, LLC on real property improvements at 5501 US Highway 30 West. Fort Wayne Common Council designated and confirmed 5501 US Highway 30 West as an economic revitalization area for tax abatement purposes under Confirming Resolution R-36-06.

EFFECT OF PASSAGE: Approval of this resolution and granting of a waiver of noncompliance will allow Sweetwater Sound, Inc. and Sweetwater Holdings, LLC to continue to receive their remaining real property economic revitalization area deductions.

EFFECT OF NON-PASSAGE: Potential loss of future development by Sweetwater Sound, Inc. and Sweetwater Holdings, LLC

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): No expenditures of public funds required.

ASSIGNED TO COMMITTEE (CO-CHAIRS): Russell Jehl and John Crawford

Public Hearing Date, if applicable 8-26-14

Read the first time in full and on motion by Councilman John Crawford
Read the second time by title and referred to the Finance Committee
Committee. Read the third time in full and on motion by Councilman
John Crawford, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____
BENDER	<u>✓</u>	_____	_____	_____
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	<u>✓</u>	_____	_____	_____
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____
PADDOCK	<u>✓</u>	_____	_____	_____
SHOAFF	<u>✓</u>	_____	_____	_____
SMITH	<u>✓</u>	_____	_____	_____

DATED: 8-26-14 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE
(RESOLUTION) NO. R-73-14 on the 26th day of
August, 2014

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY,
CITY CLERK

Michael A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day
of August, 2014, at the hour of 1:00 o'clock P.M. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 28th day of August
2014, at the hour of 11:00 o'clock AM E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

BILL NO. R-14-08-06

REPORT OF COMMITTEE ON FINANCE

AUGUST 26, 2014

*JOHN CRAWFORD – CHAIR
RUSS JEHL – CO-CHAIR
ALL COUNCIL MEMBERS*

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) **COMMITTEE OF FINANCE HAVE HAD SAID ORDINANCE** under Consideration and beg leave to report back to the Common Council that said ordinance

DO PASS

DO NOT PASS

ABSTAIN

NO REC

John Crawford
Russ Jehl
Michael Bender
Walter
Tom
Paul
Shirley
David
Thomas

**SANDRA E. KENNEDY
CITY CLERK**