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ORDINANCE NO. 2017-14

An Ordinance concerning the establishment and approval of the Town of Whitestown, Indiana Revolving Fund Program, the initial funding of said Program, the making of loans and forgivable loans from said Program, the administration of the Program by the Town of Whitestown Redevelopment Commission, other matters connected therewith, and repealing ordinances inconsistent herewith

WHEREAS, the Town Council of the Town of Whitestown, Indiana (the "Town") finds that there is a need to foster economic development, industrial growth, employment opportunities and diversification of industry and commerce in the Town; and

WHEREAS, the Town Council of the Town (the "Town Council") further finds that fostering economic development will be of benefit to the general public in the Town, including industrial and commercial enterprises in the Town, and is a public purpose; and

WHEREAS, in furtherance of the economic development of the Town and pursuant to Indiana Code 5-1-14-14 and 36-9-32-7, each as amended (such provisions, collectively, the "Revolving Fund Act"), the Town Council desires to establish the Town of Whitestown, Indiana Revolving Fund Program (the "Program") as more particularly described in Exhibit A attached hereto and incorporated herein by reference, to encourage economic development in the Town through the provision of loans and forgivable loans for improvements in the Town (collectively, the "Loans"); and

WHEREAS, in order to provide initial funding for the Program, the Town Council of the Town (the "Town Council") finds that the Town should transfer $50,000 of revenue received by the Town under Indiana Code 6-3.6-9 and allocated for economic development purposes under Indiana Code 6-3.6-6-9 ("Economic Development LIT"), subject to appropriation, to a revolving fund of the Town established in accordance with the Revolving Fund Act and designated as the "Town of Whitestown, Indiana Revolving Fund" (the "Revolving Fund"); and

WHEREAS, the Town Council finds that the funds in the Revolving Fund should be used for the purpose of making Loans in accordance with the terms of the Program and the proceeds from the repayment of the Loans, to the extent not forgivable, should be deposited to the Revolving Fund and used for additional Loans in furtherance of the Program; and

WHEREAS, the Town Council finds that future funding of the Revolving Fund will, to the extent necessary, be made from (i) deposits of the repayment of Loans, to the extent not forgivable, (ii) Economic Development LIT, subject to appropriation, (iii) grants received by the Town for such purpose, (iv) the proceeds from the sale of any notes received by the Town to evidence Loans, (v) the proceeds of bonds issued under the Revolving Fund Act for such purpose and (vi) any other source of funds permitted by the Revolving Fund Act; and

ORIGINAL

WHEREAS, as the governing body of the Town's department of redevelopment under Indiana Code 36-7-14 and 36-7-25, each as amended, the Town Council finds that it is appropriate to have the Program administered and operated by the Town of Whitestown Redevelopment Commission (the "Commission");

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, THAT:

Section 1. Authorization of Program and Establishment of Revolving Fund. The Program, as more particularly described in Exhibit A attached hereto, is hereby approved. There is hereby established a revolving fund of the Town to be designated as the "Town of Whitestown, Indiana Revolving Fund" (as hereinbefore defined, the "Revolving Fund"). The Clerk-Treasurer of the Town (the "Clerk-Treasurer") is hereby authorized and directed to take all actions necessary and appropriate to create the Revolving Fund and administer such fund (including making transfers from, deposits to and investments of amounts therein) in a manner in accordance with the other funds and accounts of the Town and in accordance with Indiana law, including, particularly, Indiana Code 5-13, as amended.

Section 2. Funding of Program. The Revolving Fund shall be initially funded from a deposit of $50,000 of the Town's Economic Development LIT funds, subject to appropriation by the Town. The Clerk-Treasurer is hereby authorized and directed, subject to appropriation by the Town, to deposit such funds to the Revolving Fund. Future funding of the Revolving Fund will, to the extent necessary, be made from (i) the repayment of Loans, to the extent not forgivable, (ii) Economic Development LIT, subject to appropriation, (iii) grants received by the Town for such purpose, (iv) the proceeds from the sale of any notes received by the Town to evidence Loans, (v) the proceeds of bonds issued under the Revolving Fund Act for such purpose and (vi) any other source of funds permitted by the Revolving Fund Act. Except with respect to the repayment of Loans described in (i) above which shall be deposited to the Revolving Fund, future funding of the Revolving Fund from the sources described in (ii) through (vi) above shall be subject to the prior approval of the Town Council.

Section 3. Administration by Commission. The Commission is hereby authorized and directed to operate and administer the Program, including the making of Loans from the Revolving Loan Fund pursuant to the Program, without further action of the Town Council. At the request of the Town Council President (the "President") or Town Manager of the Town (the "Town Manager"), the Commission shall provide a report to the Town Council, the President, the Town Manager and the Clerk-Treasurer summarizing (i) applications for Loans from the Revolving Fund; (ii) Loans made from the Revolving Fund, including the par amounts thereof, the borrowers and the projects funded thereby; (iii) any payments received or amounts forgiven on Loans; (iv) the balance in the Revolving Fund; and (v) any such other matters as may be reasonably requested by the President or Town Manager or otherwise determined appropriate by the Commission.

ORIGINAL

Section 4. Loans from the Revolving Fund. The funds held in the Revolving Fund shall be used for the purpose of making Loans to borrowers in accordance with the Program and the Revolving Fund Act. Subject to the terms of this ordinance and the administration of the Program by the Commission, including any guidelines established by the Commission with respect to the Program, Loans may be made to borrowers for carrying out one or more economic development purposes including expenditures for any of the following: (i) acquisition of land; (ii) acquisition of property interest; (iii) site improvements; (iv) infrastructure improvements; (v) buildings; (vi) structures; (vii) rehabilitation, renovation, or enlargement of buildings or structures; (viii) machinery; (ix) equipment; and (x) furnishings. Borrowers from funds in the Revolving Fund shall be determined by the Commission and such borrowers may include local governmental entities if the local governmental entity includes territory within the Town. In the event of a Loan to a local governmental entity, the local governmental entity and the Commission shall each adopt resolutions relating to the Loan as provided in Indiana Code 5-1-14-14(d). The Commission is hereby authorized on behalf of the Town Council to adopt such resolutions.

Section 5. Execution of Instruments and Documents. The President, Town Manager and Clerk-Treasurer are each hereby authorized and directed, in the name and on behalf of the Town, to execute, attest and deliver such further instruments and documents, and to take such further actions, in the name of the Town as in their judgment shall be necessary or advisable in order fully to consummate the transactions described herein and carry out the purposes of this ordinance, and any such documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved.

Section 6. Severability of Provisions. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section 7. Repeal of Prior Conflicting Proceedings. All ordinances, resolutions and orders or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 8 Headings. The headings or titles of the several sections of this ordinance shall be solely for convenience or reference and shall not affect the meaning, construction or effect of this ordinance.

Section 9. Effective Date. This ordinance shall be in full force and effect from and after its passage.

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Passed and adopted by the Town Council of the Town of Whitestown, Indiana on this 10th day of May, 2017.

TOWN COUNCIL OF
TOWN OF WHITESTOWN, INDIANA

Eric Miller, President

Susan Austin, Council Member

Clinton Bohm, Council Member

Jeff Wishek, Council Member

Kevin Russell, Council Member

ATTEST:

Matt Sumner, Clerk-Treasurer

ORIGINAL

EXHIBIT A

Town of Whitestown, Indiana Revolving Fund Program

The Town of Whitestown, Indiana (the "Town") has determined that there is a need to foster economic development, industrial growth, employment opportunities and diversification of industry and commerce in the Town. The Town has further determined that fostering economic development will be of benefit to the general public, including industrial and commercial enterprises, and is a public purpose. In connection therewith, the Town has established the "Town of Whitestown, Indiana Revolving Loan Program" (the "Program") pursuant to Indiana Code 5-1-14-14 and Indiana Code 36-9-32-7, each as amended (such provisions, collectively, the "Revolving Fund Act"). The Program is administered by the Town of Whitestown Redevelopment Commission (the "Commission") and is available to existing and new businesses in the Town desiring to undertake economic development activities in the Town. The Program is also available to local governmental entities with territory within the Town. To the extent not provided herein and in the ordinance of the Town establishing the Program, the Commission shall establish Program guidelines which will specify the application forms, incentives offered, eligible uses of the incentives, the eligibility and selection criteria for applicants, and the application process.

Purpose of Program

The primary purpose of the Program is to provide financial assistance through a loan, a forgivable loan, or a combination of loan and forgivable loan, to businesses and local governmental entities wishing to undertake economic development activities within the Town all in accordance with the Revolving Fund Act. The goals of the Program are to:

1) Promote significant opportunities for the gainful employment of the Town's residents;
2) Attract major new business enterprises to the Town;
3) Upgrade the appearance of property in the Town;
4) Retain and create new jobs in the Town;
5) Retain and expand significant business enterprises within the Town; and
6) Increase retail sales, property values, and improve the business climate in the Town.

Funding of Loans and Permitted Uses of Funds

Funding for loans from the Program will be provided from the Town of Whitestown, Indiana Revolving Fund (the "Revolving Fund"). The Revolving Fund shall be funded initially by the Town and from permitted sources under the Revolving Fund Act. The proceeds of loans from the Program may be used for any of the following purposes:

1) Acquisition of land;
2) Acquisition of property interests;
3) Site improvements;

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4) Infrastructure improvements;
5) Buildings;
6) Structures;
7) Rehabilitation, renovation, or enlargement of building or structures;
8) Machinery;
9) Equipment; and
10) Furnishings.

For any loans made to governmental units, in addition to the application and other materials as may be required by the Commission, the governmental unit and Commission shall adopt resolutions as required under the Revolving Fund Act providing for the specific terms of the loan.

Additional Matters

All additional matters relating to the Program and the operation thereof shall be determined by the Commission, consistent with the ordinance of the Town establishing the Program and the Revolving Fund Act, and as further set forth in guidelines prepared by the Commission.

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