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**ORDINANCE 2017-36**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, AUTHORIZING THE ISSUANCE OF THE TOWN OF WHITESTOWN, INDIANA ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2017 (GDI HOLDINGS, LLC PROJECT), AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Town of Whitestown, Indiana (the "Town"), is a municipal corporation and political subdivision of the State of Indiana and by virtue of I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the "Act"), is authorized and empowered to adopt this ordinance (this "Bond Ordinance") and to carry out its provisions;

WHEREAS, GDI Holdings, LLC, or an affiliate thereof (the "Company"), desires to finance the design and construction of certain improvements described in Exhibit A hereto which are located in the Town of Whitestown, Indiana Legacy Core Redevelopment Area #1 (collectively, the "Projects");

WHEREAS, the Company will complete the Projects for use in connection with its industrial development in or directly serving and benefiting the Town of Whitestown, Indiana Legacy Core Redevelopment Area #1 Allocation Area (the "Facilities");

WHEREAS, the Company has advised the Town of Whitestown Economic Development Commission (the "Commission") and the Town that it proposes that the Town issue its taxable or tax-exempt Economic Development Revenue Bonds, Series 2017 (GDI Holdings, LLC Project) in an amount not to exceed Six Million Three Hundred Thousand Dollars ($6,300,000) (the "Bonds"), under the Act and provide the proceeds of such Bonds to the Company for the purpose of financing the Projects;

WHEREAS, the completion of the Projects results in the diversification of industry, the creation of jobs and the creation of business opportunities in the Town;

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance the Projects;

WHEREAS, on the date specified in the notice of the Public Hearing, the Commission held the Public Hearing on the Projects; and

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Town Council the forms of: (1) a Financing Agreement between the Town and the Company (the "Financing Agreement"); (2) a Trust Indenture between the Town and a trustee to be selected by the Clerk-Treasurer of the Town (the "Trustee") (the "Indenture"); (3) the Bonds; and (4) this Bond Ordinance (the Financing Agreement, the Indenture, the Bonds, and this Bond Ordinance, collectively, the "Financing Agreements");

ORIGINAL

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

Section 1. Findings; Public Benefits. The Town Council hereby finds and determines that the Projects involve the acquisition, construction and equipping of an "economic development facility" as that phrase is used in the Act; that the Projects will increase employment opportunities and increase diversification of economic development in the Town, will improve and promote the economic stability, development and welfare in the Town, will encourage and promote the expansion of industry, trade and commerce in the Town and the location of other new industries in the Town; that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of the Projects by the issue of the Bonds under the Act: (i) will be of benefit to the health and general welfare of the Town; and (ii) complies with the Act.

Section 2. Approval of Financing. The proposed financing of the Projects by the issuance of the Bonds under the Act, in the form that such financing was approved by the Commission, is hereby approved.

Section 3. Authorization of the Bonds. The issuance of the Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized.

Section 4. Terms of the Bonds. (a) The Bonds, in the aggregate principal amount not to exceed Six Million Three Hundred Thousand Dollars ($6,300,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the President of the Town Council and the Clerk-Treasurer of the Town; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than twenty-five years after the date of the first draw of principal on the Bonds; (iv) bear interest at such rates as determined with the purchaser thereof (the "Purchaser") which interest may be taxable or tax-exempt, as determined by the President of the Town Council and the Clerk-Treasurer, with the advice of the Town's bond counsel, prior to the issuance of the Bonds; (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Indenture; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office of the Trustee as provided in the Indenture; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements.

(b) The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the Town, but shall be special and limited obligations of the Town, payable solely from revenues and other amounts derived from the Financing Agreements. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Clerk-Treasurer of the Town is hereby directed, in the name and on behalf of the Town, to insert them into the minutes of the Town Council and to keep them on file.

ORIGINAL

Section 5. Sale of the Bonds. The President of the Town Council and the Clerk-Treasurer of the Town are hereby authorized and directed, in the name and on behalf of the Town, to sell the Bonds to the Purchaser at such prices as are determined on the date of sale and approved by the President of the Town Council and the Clerk-Treasurer of the Town.

Section 6. Execution and Delivery of Financing Agreements. The President of the Town Council and the Clerk-Treasurer of the Town are hereby authorized and directed, in the name and on behalf of the Town, to execute or endorse and deliver the Financing Agreement, the Indenture, and the Bonds, submitted to the Common Council, which are hereby approved in all respects.

Section 7. Changes in Financing Agreements. The President of the Town Council and the Clerk-Treasurer of the Town are hereby authorized, in the name and on behalf of the Town, without further approval of the Town Council or the Commission, to approve such changes in the Financing Agreements as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 8. Reimbursement from Bond Proceeds. The Town hereby declares its intent to issue the Bonds for the purpose of financing the Projects, which Bonds will not exceed $6,300,000, and pursuant to Treas. Reg. §1.150-2 and IC 5-1-14-6(c), to reimburse costs of the Projects (including costs of issuing the Bonds) from proceeds of the sale of such Bonds.

Section 9. General. The President of the Town Council and the Clerk-Treasurer of the Town, and each of them, are hereby authorized and directed, in the name and on behalf of the Town, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Projects, the issuance and sale of the Bonds, and the securing of the Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 10. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreements shall constitute a binding contract between the Town and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 11. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 12. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon adoption and compliance with I.C. § 36-4-6-14.

Section 13. Copies of Financing Agreements on File. Two copies of the Financing Agreements incorporated into this Bond Ordinance were duly filed in the office of the Clerk-Treasurer of the Town, and are available for public inspection in accordance with I.C. § 36-1-5-4.

ORIGINAL

Passed and adopted by the Town Council of the Town of Whitestown, Indiana on this 13 day of September, 2017.

TOWN COUNCIL OF
TOWN OF WHITESTOWN, INDIANA

Eric Miller, President

Susan Austin, Council Member

Clinton Bohm, Council Member

Jeff Wisnek, Council Member

Kevin Russell, Council Member

ATTEST:

Matt Sumner, Clerk-Treasurer

ORIGINAL

## EXHIBIT A

## DESCRIPTION OF THE PROJECTS

The Projects shall consist of the design and construction of, and land and right-of way acquisition for: road and utility infrastructure improvements located in or directly serving and benefiting the Town of Whitestown, Indiana Legacy Core Redevelopment Area #1, including, without limitation, improvements to County Road 500 East, Albert S. White Boulevard, and interior roads including Fishback Creek Road, and related utility improvements, as well as park improvements and miscellaneous costs related to the above-described projects.

ORIGINAL

**RESOLUTION NO. EDC 2017-01**

A RESOLUTION APPROVING AND AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO CERTAIN PROPOSED ECONOMIC DEVELOPMENT REVENUE BONDS

WHEREAS, the Town of Whitestown, Indiana (the "Town"), is authorized by I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the "Act") to issue revenue bonds for the financing of economic development facilities, and provide the proceeds of the revenue bond issue to another entity to finance or refinance the acquisition, construction, renovation, installation and equipping of said facilities;

WHEREAS, GDI Holdings, LLC, or an affiliate thereof (the "Company") desires to finance the design and construction of the projects listed in Exhibit A hereto which are located in the Town of Whitestown, Indiana Legacy Core Redevelopment Area #1 (the "Projects");

WHEREAS, the Company will complete the Projects for use in connection with its industrial development in or directly serving and benefiting the Town of Whitestown, Indiana Legacy Core Redevelopment Area #1 Allocation Area (the "Facilities");

WHEREAS, the Company has advised the Town of Whitestown Economic Development Commission (the "Commission") and the Town that it proposes that the Town issue its taxable or tax-exempt Economic Development Revenue Bonds, Series 2017 (GDI Holdings, LLC Project), in an amount not to exceed Six Million Three Hundred Thousand Dollars ($6,300,000) (the "Bonds") under the Act and provide the proceeds of such Bonds to the Company for the purpose of financing the Projects;

WHEREAS, the Commission has studied the Projects and the proposed financing of the Projects and their effect on the health and general welfare of the Town and its citizens;

WHEREAS, the completion of the Projects results in the diversification of industry, the creation of new jobs and the creation and retention of business opportunities in the Town;

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance the Projects; and

WHEREAS, on the date hereof the Commission held the public hearing on the Projects;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF WHITESTOWN ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby finds, determines, ratifies and confirms that the diversification of industry, the retention of business opportunities and the retention of opportunities for gainful employment within the jurisdiction of the Town is desirable, serves a public purpose, and is of benefit to the health and general welfare of the Town; and that it is in the public interest that the Town take such action as it lawfully may to encourage the

ORIGINAL

diversification of industry, the retention of business opportunities, and the retention of opportunities for gainful employment within the jurisdiction of the Town.

SECTION 2. The Commission hereby determines that the Facilities and the Projects will not have a material adverse competitive effect on any similar facilities already constructed or operating in or near the Town.

SECTION 3. The Commission hereby approves the report with respect to the Projects presented at this meeting. The Secretary of this Commission shall submit such report to the executive director or chairman of the plan commission of the Town and to the superintendent of the Lebanon Community Schools.

SECTION 4. The Commission finds, determines, ratifies and confirms that the issuance and sale of the Bonds in an amount not to exceed Six Million Three Hundred Thousand Dollars ($6,300,000), and the provision of the proceeds of the Bonds to the Company for the financing of the Projects will be of benefit to the health and general welfare of the Town, will serve the public purposes referred to above in accordance with the Act, and fully comply with the Act.

SECTION 5. The financing of the Projects through the issuance of the Bonds, in an amount not to exceed Six Million Three Hundred Thousand Dollars ($6,300,000), is hereby approved.

SECTION 6. The Commission hereby approves the terms of the following documents in the form presented at this meeting: (i) a Financing Agreement between the Town and the Company; (ii) a Trust Indenture, between the Town and a trustee to be selected by the Clerk-Treasurer of the Town (the "Trustee"); (iii) the Bonds; and (iv) an Ordinance of the Common Council of the Town.

SECTION 7. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by him to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this resolution (including the preambles hereto and the documents mentioned herein), the Projects and the issuance and sale of the Bonds, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

SECTION 8. The Secretary of this Commission shall transmit this resolution, together with the forms of the documents approved by this resolution, to the Common Council of the Town.

SECTION 9. This resolution shall be in full force and effect upon adoption.

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Adopted this 5th day of September, 2017.

TOWN OF WHITESTOWN ECONOMIC DEVELOPMENT COMMISSION

President

Secretary

Member

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## EXHIBIT A

## DESCRIPTION OF THE PROJECTS

The Projects shall consist of the design and construction of, and land and right-of way acquisition for: road and utility infrastructure improvements located in or directly serving and benefiting the Town of Whitestown, Indiana Legacy Core Redevelopment Area #1, including, without limitation, improvements to County Road 500 East, Albert S. White Boulevard, and interior roads including Fishback Creek Road, and related utility improvements, as well as park improvements and miscellaneous costs related to the above-described projects.