

ORDINANCE 2020-37

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA,
ANNEXING TERRITORY TO THE TOWN OF WHITESTOWN, INDIANA,
PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES THEREOF
AND MAKING THE SAME A PART OF THE TOWN OF WHITESTOWN**

BRAUN SUPER-VOLUNTARY ANNEXATION II

WHEREAS, the Town Council ("Council") of the Town of Whitestown, Indiana ("Town" or "Whitestown") received a petition ("Petition") requesting that certain territory generally located south and west of the intersection of County Road 575 East and the Big 4 Trail, as hereinafter described ("Annexation Territory"), be annexed by Whitestown; and

WHEREAS, the Petition has been signed by the owners (i.e, 100%) of the property within the Annexation Territory; and

WHEREAS, the Council deems it desirable and in the best interest of the Town to annex the Annexation Territory; and

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

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

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

WHEREAS, the Annexation Territory consists of approximately 86.26 acres, and is contiguous to the existing Town limits; and

WHEREAS, prior to adoption of this Ordinance, the Council, 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 Town; and

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

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

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

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whitestown, Indiana, as follows:

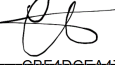
1. The above recitals including Exhibit A and Exhibit B are incorporated herein by this reference as though fully set forth herein below.
2. In accordance with I.C. § 36-4-3-5.1 and other applicable laws, the Annexation Territory is hereby annexed to the Town and thereby included within its corporate boundaries pursuant to the terms of this Ordinance.
3. The Annexation Territory is assigned to Council District No. 1.
4. The Annexation Territory was previously zoned AG (Agriculture) under county planning. Consistent with and pursuant to Whitestown Ordinance No. 2020-34, following completion of annexation of the Annexation Territory under this Ordinance, the Annexation Territory will be zoned MU-COR (Mixed Use – Commercial, Office, and Residential) Zoning Classification, subject to certain commitments set forth in Ordinance No. 2020-34. The Annexation Territory will maintain the its zoning classification(s) and designation(s) until such time the Town updates its respective comprehensive plan, zoning ordinance, or zoning map.

5. Some or all of the property within the Annexation Territory is currently classified as agricultural for tax purposes. As may be contemplated by I.C. § 36-4-3-4.1, Whitestown anticipates that the real property will be treated as exempt from property tax liability under I.C. § 6-1.1 for “municipal purposes” unless/until the land is reclassified under assessment rules and guidelines of the DLGF. As fire protection services are not uniquely a municipal service, and Whitestown already provides fire protection service to unincorporated Worth Township, including the Annexation Territory, and as agreed by the property owner, the fire tax levy for the Annexation Territory is not to be considered “property tax liability under I.C. § 6-1.1 for municipal purposes.” The Annexation Territory will therefore not be exempt from property tax liability for fire protection purposes (e.g., the fire tax levy) even while the Annexation Territory remains classified as agricultural.
6. All prior Ordinances or parts thereof that may be inconsistent with any provision of this Ordinance are hereby superseded. The paragraphs, sentences, words, and Annexation Territory of this Ordinance are separable, and if a court of competent jurisdiction hereof declares any portion of this 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.

Introduced on December 9, 2020, and adopted by the Town Council of the Town of Whitestown, Indiana, on _____, 2020, by a vote of ____ in favor and ____ against.

[Signature Page Follows]

THE TOWN COUNCIL OF THE TOWN
OF WHITESTOWN, INDIANA

DocuSigned by:


CBF4DCEA4783469...
Clinton Bohm, President

ATTEST: DocuSigned by:


0A9483A78E9B4B5...
Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Stephen C. Unger

This Ordinance was prepared by Stephen C. Unger, Attorney at Law, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204

EXHIBIT A**MODERNIZED LAND DESCRIPTION:**

A part of Section 13, Township 18 North, Range 1 East, Worth Township, Boone County, Indiana, being that 78.73 acre parcel surveyed by Jonathan E. Hause, P.S. 20600040 and shown on a plat of survey certified on March 6, 2019 as Hause Surveying and Engineering Job Number 19S111 (all monuments herein referenced are as set or found on the aforesaid Hause Survey), being more particularly described as follows:

Beginning at a 5/8-inch diameter rebar with blue plastic cap stamped "HAUSE PLS20600040" (hereafter called capped rebar) set marking the Southwest corner of the Northeast Quarter of the Southwest Quarter of said Section 13; thence North 00 degrees 36 minutes 15 seconds West 1632.93 feet along the West line of the Northeast Quarter of the Southwest Quarter of said Section 13 and along the West line of the Southeast Quarter of the Northwest Quarter of said Section 13 to the Southwesterly Right-of-way line of the former Cleveland, Cincinnati, Chicago and St. Louis Railroad and a capped rebar; thence South 64 degrees 27 minutes 25 seconds East 1493.16 feet along the Southwesterly Right-of-way line of said railroad to the East line of the Southwest Quarter of said Section 13; thence North 00 degrees 32 minutes 10 seconds West 5.57 feet along the East line of the Southwest Quarter of said Section 13 to the Southwesterly Right-of-way line of said railroad; thence South 64 degrees 27 minutes 25 seconds East 1483.82 feet along the Southwesterly Right-of-way line of said railroad to the East line of the West Half of the Southeast Quarter of said Section 13 and a found railroad spike; thence South 00 degrees 48 minutes 52 seconds East 857.60 feet along the East line of the West Half of the Southeast Quarter of said Section 13 to a magnetic nail with metal washer stamped "HAUSE PLS20600040"; thence North 88 degrees 08 minutes 52 seconds West 1583.00 feet to a capped rebar; thence North 00 degrees 48 minutes 52 seconds West 449.00 feet to a capped rebar; thence South 88 degrees 28 minutes 31 seconds West 1092.43 feet to the West line of the Southeast Quarter of the Southwest Quarter of said Section 13 and a capped rebar; thence North 00 degrees 36 minutes 15 seconds West 31.70 feet along the West line of the Southeast Quarter of the Southwest Quarter of said Section 13 to the Point of Beginning.

Containing 78.73 acres, more or less and being Subject to all Legal Highways, Rights-of-way and Easements of Record.

AND**MODERNIZED LAND DESCRIPTION:**

A part of Section 13, Township 18 North, Range 1 East, Worth Township, Boone County, Indiana, being that 7.53 acre parcel surveyed by Jonathan E. Hause, P.S. 20600040 and shown on a plat of survey certified on March 5, 2019 as Hause Surveying and Engineering Job Number 19S110 (all monuments herein referenced are as set or found on the aforesaid Hause Survey), being more particularly described as follows:

Commencing at a Harrison Monument found marking the Southwest corner of the Northwest Quarter of said Section 13; thence North 00 degrees 34 minutes 28 seconds West 963.28 feet along the West line of the Northwest Quarter of said Section 13 to the Southwesterly Right-of-way line of the former Cleveland, Cincinnati, Chicago and St. Louis Railroad and a magnetic nail with metal washer stamped "HAUSE PLS20600040" (hereafter called mag nail with washer), said point also being the Point of Beginning of this description; thence continuing North 00 degrees 34 minutes 28 seconds West 84.24 feet to the Northeasterly Right-of-way line of said railroad and a mag nail with washer; thence South 63 degrees 29 minutes 26 seconds East 413.35 feet along the Northeasterly Right-of-way line of said railroad to the point of curvature of an arc to the left having a radius of 19068.59 feet and a capped rebar; thence Southeasterly 321.64 feet along said arc and the Northeasterly Right-of-way line of said railroad to the point of tangency and a capped rebar, said arc also having a long chord bearing South 63 degrees 58 minutes 25 seconds East 321.64 feet; thence South 64 degrees 27 minutes 25 seconds East 3739.50 feet along the Northeasterly Right-of-way line of said railroad to the East line of the West Half of the Southeast Quarter of said Section 13 and a mag nail with washer; thence South 00 degrees 48 minutes 52 seconds East 78.12 feet along the East line of the West Half of the Southeast Quarter of said Section 13 to the Southwesterly Right-of-way line of said railroad and a found railroad spike; thence North 64 degrees 27 minutes 25 seconds West 1483.82 feet along the Southwesterly Right-of-way line of said railroad to the West line of the Southeast Quarter of said Section 13 and a capped rebar; thence South 00 degrees 32 minutes 10 seconds East 5.57 feet along the West line of the Southeast Quarter of said Section 13 to the Southwesterly Right-of-way line of said railroad and a capped rebar; thence North 64 degrees 27 minutes 25 seconds West 2292.81 feet along the Southwesterly right-of-way line of said railroad to the point of curvature of an arc to the right having a radius of 19143.59 feet and a capped rebar; thence Northwesterly 322.91 feet along said arc and the Southwesterly Right-of-way line of said railroad to the point of tangency and a capped rebar, said arc also having a long chord bearing North 63 degrees 58 minutes 25 seconds West 322.90 feet; thence North 63 degrees 29 minutes 26 seconds West 374.99 feet along the Southwesterly Right-of-way line of said railroad to the Point of Beginning.

Containing 7.53 acres, more or less and being Subject to all Legal Highways, Rights-of-way and Easements of Record.

EXHIBIT B

West-B (To Be Annexed)

