

ORDINANCE 2023-[20](#)

**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-MICO SUPER-VOLUNTARY ANNEXATION

WHEREAS, the Town Council ("Council") of the Town of Whitestown, Indiana ("Town" or "Whitestown") received a petition ("Petition") requesting that certain territory generally located northeast of the intersection of County Road 600 East and County Road 200 South, as hereinafter described ("Annexation Territory"), be annexed by Whitestown; and

WHEREAS, the Petition has been signed by the owners (i.e, 100%) of all non-exempt parcels of 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 map and legal description of the Annexation Territory are attached hereto as [Exhibit A](#) and [Exhibit B](#); and

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

WHEREAS, the Annexation Territory consists of approximately 89.71 acres more or less, 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 shall maintain its current 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 September 13, 2023, and adopted by the Town Council of the Town of Whitestown, Indiana, on October 11, 2023, by a vote of 5 in favor and 0 against.

[Signature Page Follows]

THE TOWN COUNCIL OF THE TOWN
OF WHITESTOWN, INDIANA

DocuSigned by:



Eric Nichols, President

ATTEST:

DocuSigned by:



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

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EXHIBIT A



EXHIBIT B

Legal Descriptions for parcels to be annexed:

Tract A (as labeled on survey):

The Northwest Quarter of the Southwest Quarter of Section 7, Township 18 North, Range 2 East of the Second Principal Meridian. EXCEPT Ten (10) acres off the East side thereof, leaving Thirty-Six (36) acres, more or less.

ALSO, Seven and One-Half (7 1/2) acres off the South side of the Southwest Quarter of the Northwest Quarter of Section 7, Township 18 North, Range 2 East of the Second Principal Meridian.

Tract C (as labeled on survey):

The Southwest Quarter of the Southwest Quarter of Section 7 Township 18 North, Range 2 East of the Second Principal Meridian, Worth Township, Boone County, Indiana, containing 46.10 acres, more or less.

