

ORIGINAL

ORDINANCE 2016-18

**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**

**HACKETT II
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 450 East and Albert S. White Boulevard, and with a common address of 3961 S. 450 E., as hereinafter described ("Annexation Territory"), be annexed by Whitestown; and

WHEREAS, the Petition has been signed by the sole owner (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 survey of the Annexation Territory are attached hereto as Exhibit A; 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 A; and

WHEREAS, the Annexation Territory consists of approximately 11.63 acres, and is contiguous to the existing Town limits; and

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WHEREAS, responsible planning and state law require adoption of a fiscal plan and a definite policy for the provision of certain services to any annexed areas; 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; and

WHEREAS, the written fiscal plan and definite policy adopted by resolution provide for the provision of services of a non-capital nature (including police protection, fire protection, street and road maintenance, and other non-capital services normally provided within the corporate boundaries of the Town) to the Annexation Territory within one (1) year after the effective date of this annexation in a manner equivalent in standard and scope to those non-capital services provided to areas within the current corporate boundaries, regardless of similar topography, patterns of land use, and population density; and

WHEREAS, the written fiscal plan and definite policy adopted by resolution provide for the provision of services of a capital nature (including street construction, street lighting, sewer facilities, water facilities and storm water drainage facilities) to the Annexation Territory within three (3) years after the effective date of this annexation in the same manner those services are provided to areas within the current corporate boundaries, regardless of similar topography, patterns of land use, and population density and in a manner consistent with federal, state and local laws, procedures, and planning criteria; and

WHEREAS, the terms and conditions of this annexation, including the written fiscal plan and definite policy, 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, 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 are incorporated herein by this reference as though fully set forth herein below.

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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. 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 May 11, 2016, and adopted by the Town Council of the Town of Whitestown, Indiana, on July 27, 2016.

[Signature Page Follows]

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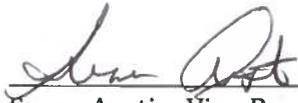
THE TOWN COUNCIL OF THE TOWN
OF WHITESTOWN, INDIANA

YAY/NAY



Yes

Eric Miller, President



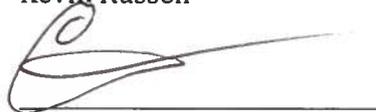
Yes

Susan Austin, Vice-President



YAY

Kevin Russell



YAY

Clinton Bohm



YAY

Jeffrey Wishek

ATTEST:



Matthew 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
2979652



EXHIBIT A
A LAND BOUNDARY DESCRIPTION OF AN
11.63 ACRE PARCEL A
WHITESTOWN, BOONE COUNTY, INDIANA
APRIL 19, 2016

A PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 18 NORTH, RANGE 1 EAST, WORTH TOWNSHIP, BOONE COUNTY, INDIANA, MORE FULLY DESCRIBED BY: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 23; THENCE NORTH 00°00'00" WEST, ALONG THE QUARTER SECTION LINE AND THE APPROXIMATE CENTERLINE OF COUNTY ROAD 450 EAST, A DISTANCE OF 810.00 FEET TO THE POINT OF BEGINNING, LOCATED AT THE NORTHWEST CORNER OF THE BRIGHT PROPERTY, AS RECORDED IN DEED RECORD 243, PAGE 220; THENCE CONTINUING NORTH 00°00'00" WEST, ALONG THE QUARTER SECTION LINE AND THE APPROXIMATE CENTERLINE OF COUNTY ROAD 450 EAST, A DISTANCE OF 100.00 FEET; THENCE NORTH 89°11'30" EAST, A DISTANCE OF 448.00 FEET; THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 96.89 FEET; THENCE NORTH 89°05'25" EAST, ALONG AN EXISTING FENCE LINE, A DISTANCE OF 466.65 FEET; THENCE SOUTH 00°25'03" EAST, ALONG AN EXISTING FENCE LINE, A DISTANCE OF 812.40 FEET; THENCE SOUTH 89°05'59" WEST, ALONG AN EXISTING FENCE LINE, A DISTANCE OF 572.09 FEET; THENCE NORTH 00°00'00" WEST, ALONG THE EAST DESCRIBED LINE OF THE FOLLOWING DEED HOLDERS: ANDERSON (DEED RECORD 174, PAGE 392), W.L.M., INC. (DEED RECORD 235, PAGES 387-388), HACKETT (DEED RECORD 251, PAGE 497), WEICHEL (DEED RECORD 254, PAGE 708), AND BRIGHT (DEED RECORD 243, PAGE 220), FOR A DISTANCE OF 809.44 FEET; THENCE SOUTH 89°11'30" WEST, ALONG THE NORTH DESCRIBED LINE OF SAID BRIGHT PROPERTY, A DISTANCE OF 348.48 FEET TO THE POINT OF BEGINNING, CONTAINING 11.6348 ACRES,

BEING SUBJECT TO ANY PART(S) OF THE ABOVE DESCRIBED PARCEL TAKEN OR USED FOR PUBLIC ROADWAY PURPOSES.

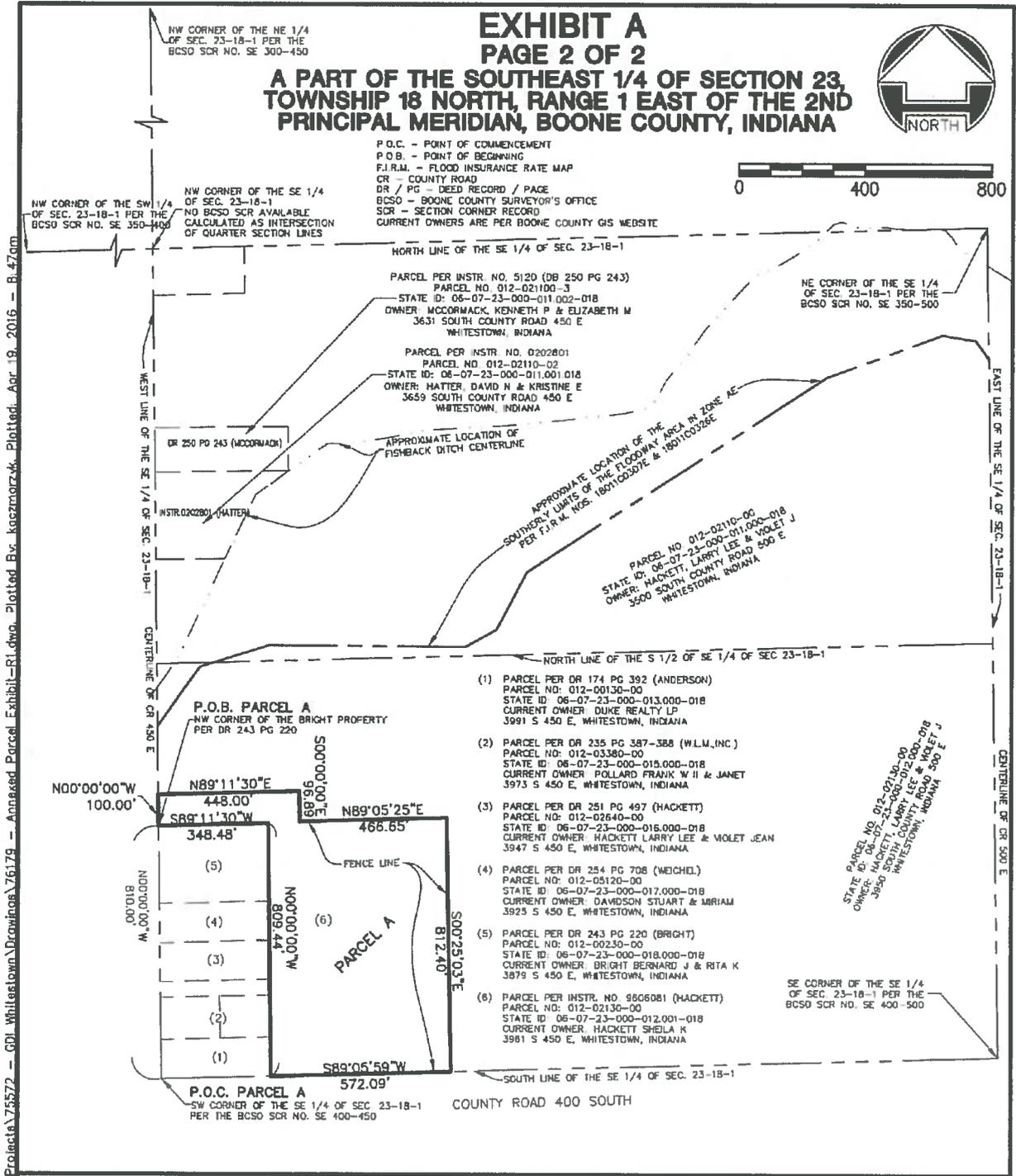
THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 18 NORTH, RANGE 1 EAST, WHICH BEARS NORTH 00°00'00" WEST.

EXHIBIT A
PAGE 1 of 2

Prepared by Woolpert Inc.

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EXHIBIT A
PAGE 2 OF 2
A PART OF THE SOUTHEAST 1/4 OF SECTION 23,
TOWNSHIP 18 NORTH, RANGE 1 EAST OF THE 2ND
PRINCIPAL MERIDIAN, BOONE COUNTY, INDIANA



G:\OS\Projects\Indiv Projects\76179 - 601_Whitestown\Drawings\76179 - Annexed Parcel Exhibit-RI.dwg, Plotted: Apr 19, 2016 - B:47am

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|  <p>WOOLPERT, INC. 7635 Interactive Way Suite 100 Indianapolis, IN 46278 317.299.7500 FAX: 317.291.5805</p> | PROJECT No 76179 | No. 1. | DATE 04/15/16 | REVISION PER COMMENTS |
| | DATE 04/15/16 | | | |
| | DES. SRK | | | |
| | DR. PTK | | | |
| | CKD. DNA | | | |