

1st Reading: _____

2nd Reading: _____

Received electronically 2/9/2021

RESOLUTION NO. 01-2021

**A RESOLUTION OF THE COMMON COUNCIL OF
THE CITY OF AUBURN, INDIANA, CALLING FOR CERTAIN REAL ESTATE
OWNED BY AUBURN MOBILE HOME PARK LLC TO BE DONATED TO
THE CITY OF AUBURN, INDIANA, FOR USE AS A RIGHT-OF-WAY
FOR DEVELOPMENT OF A RAILROAD OVERPASS, RECONFIGURING THE
ROADWAY, AND OTHER RELATED MATTERS.**

SUMMARY

This Resolution calls for certain real estate owned by Auburn Mobile Home Park, LLC to be donated to the City of Auburn, Indiana, for use as a right-of-way for development of a railroad overpass, reconfiguring the roadway, and other related matters.

_____ Recorder's Office

_____ Publish Public Hearing

_____ Auditor's Office

_____ Clerk's Office

_____ Publish O/R after adoption

_____ Other:

1st Reading: _____

2nd Reading: _____

RESOLUTION NO. 01 -2021

**A RESOLUTION OF THE COMMON COUNCIL OF
THE CITY OF AUBURN, INDIANA, CALLING FOR CERTAIN REAL ESTATE
OWNED BY AUBURN MOBILE HOME PARK LLC TO BE DONATED TO
THE CITY OF AUBURN, INDIANA, FOR USE AS A RIGHT-OF-WAY
FOR DEVELOPMENT OF A RAILROAD OVERPASS, RECONFIGURING THE
ROADWAY, AND OTHER RELATED MATTERS.**

WHEREAS, Auburn Mobile Home Park, LLC is the owner of certain real estate described in Exhibit "A" attached; and

WHEREAS, the City of Auburn is a municipal government located in DeKalb County, Indiana; and

WHEREAS, Auburn Mobile Home Park LLC desires to donate said real estate described in Exhibit "A" to the City of Auburn, Indiana; and

WHEREAS, the City of Auburn is in need of acquiring real estate in the area for a right-of-way in order to develop South Wayne Street to include a railroad overpass, reconfigure the roadway, and other related matters; and

WHEREAS, Auburn Mobile Home Park, LLC is making this gift as a civic gesture to assist the City of Auburn, Indiana, in the furtherance of the general good of the community; and

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Auburn, Indiana, that the City of Auburn herein accept the gift of real estate set forth in Exhibit "A" attached hereto and made a part hereof, subject to a more fully set forth Memorandum of Understanding and deed of conveyance between Auburn Mobile Home Park LLC and the City of Auburn by the Board of Public Works and Safety, with the following terms and conditions:

Use. City executes this Agreement subject to the present use permitted by the appropriate Federal, State, and local laws.

Acceptance. If this offer is accepted, it shall constitute an Agreement between City and Auburn MHP binding and inuring to the benefit of them and their respective heirs and personal representatives and officers or shareholders, if applicable. If this offer is not accepted in writing on or before seven (7) days from the date hereof, it shall then expire, and all earnest money shall be returned to Buyer without delay.

Survey. In the event that a survey is required, it shall be assumed by and be the expense of City.

1st Reading: _____

2nd Reading: _____

Title Evidence. City shall have the sole responsibility of providing for itself evidence of title to the subject real estate, including any lien search. Additionally, City shall be responsible for the preparation and cost of a Warranty Deed to the subject real estate and any additional documents required to make said real estate non-taxable in the future.

Closing. This transaction shall be closed as soon as title to the real estate meets necessary legal requirements and is in compliance with the provisions of this Agreement. At closing, the City shall receive proper evidence of conveyance which shall include a Closing Affidavit and a General Warranty Deed. MHP shall assume the risk of loss or damage to the real estate and all improvements thereon until the delivery of the instrument of conveyance. In the event the real estate cannot be conveyed or contracted to be conveyed to City in substantially their present condition, usual wear and tear expected, this Agreement, at City’s election, shall not be binding upon City. All closing costs shall be paid for by City.

The City of Auburn, Indiana shall prepare the necessary documents and assume the cost of all documents associated with the transfer, including the cost of title insurance.

**ADOPTED BY THE COMMON COUNCIL OF THE MUNICIPAL CITY OF AUBURN,
INDIANA, ON THE ____ DAY OF _____, 2021.**

James Finchum, Councilmember
Chair Ordinance and Resolutions Committee

ATTEST:

Patricia Miller, Clerk-Treasurer

Presented by me to the Mayor of the City of Auburn, Indiana this ____ day of _____, 2021.

PATRICIA M. MILLER, Clerk-Treasurer

APPROVED AND SIGNED by me this ____ day of _____, 2021.

MICHAEL D. LEY, Mayor

1st Reading: _____

2nd Reading: _____

VOTING:

AYE

NAY

Kevin Webb
Council President

David Bundy

Dennis K. Kruse II

Natalie DeWitt

Dennis Ketzenberger

James Finchum

Michael Walter

1st Reading: _____

2nd Reading: _____

Exhibit "A"
Legal Description

A part of the Southeast Quarter of the Northeast Quarter of Section Number Six (6) AND a part of the Southwest Quarter (1/4) of Section Number Five (5), all in Township Thirty-three (33) North, Range Thirteen (13) East more particularly described as follows:

A part of the Northwest Quarter of Section 5, and a part of the Northeast Quarter of Section 6 in Township 33 North, Range 13 East, Jackson Civil Township, DeKalb County, Indiana, and more fully described as follows:

Commencing at a stone found at the South corner between said Sections 5 and 6 and running thence on the line between said Quarter Sections of said Sections 5 and 6 North 00 deg. 17 min. 39 sec. West 461.70 feet to the TRUE POINT OF BEGINNING; thence South 88 deg. 05 min. 40 sec. East 534.25 feet to the top of bank of the Cedar Creek; thence along said top of bank North 17 deg. 13 min. 12 sec. East 276.18 feet; thence North 88 deg. 05 min. 40 sec. West 439.87 feet to a 4 inch round steel post; thence continuing North 88 deg. 05 min. 40 sec. West 177.55 feet to the North-South running line between said Sections 5 and 6; thence continuing North 88 deg. 05 min. 40 sec. West 197.41 feet to a Point on a curve to the Right on the Easterly Right-of-Way of County Road 427; thence along said Easterly Right-of-Way, along said curve having a radius of 57,295.80 feet and being measured along a chord having a bearing of South 21 deg. 57 min. 48 sec. West a chord distance of 67.75 feet to the P.T. of a curve and being station 323 + 15.6 of the State Highway Plans for Highway #427; thence continuing along said Easterly Right-of-Way South 21 deg. 55 min. 51 sec. West 215.76 feet; thence South 88 deg. 05 min. 40 sec. East 304.76 feet back to the POINT OF BEGINNING, and being all that land known as the South Auburn Trailer Court. Containing 5.057 acres total boundary with 1.535 acres in Section 6, and 3.522 acres in Section 5.