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RESOLUTION 15-2021

**A RESOLUTION TO ACQUIRE REAL ESTATE
BY DONATION**

SUMMARY

This resolution concerns acquiring certain real estate located at 400 Auburn Drive, Auburn, Indiana, particularly 0.961 acres, more or less, north of the centerline of Cedar Creek, as an addition to the City of Auburn, Indiana.

_____ Recorder's Office

_____ Auditors Office

_____ Clerk's Office

_____ Other:

_____ Publish Public Hearing

_____ Publish O/R after adoption

RESOLUTION 15-2021

A RESOLUTION TO ACQUIRE REAL ESTATE BY DONATION

WHEREAS, the Municipal City of Auburn, Indiana wishes to acquire and Verdi Property, LLC (herein referred to as “Verdi”) wishes to donate and convey certain real estate containing 0.961 acres, more or less, located at 400 Auburn Drive, in Auburn, Indiana (see attached Exhibit “A” for real estate description); and

WHEREAS, Indiana Code Section 36-1-4-5 authorizes the City of Auburn to enter into contracts; and

WHEREAS, Indiana Code Section 36-1-10.5 also allows the City of Auburn to acquire real estate by purchase; and

WHEREAS, the City of Auburn, Indiana, for over twenty (20) years, has owned, occupied, and maintained public utility infrastructure in the form of combination sewers, storm sewers, and overhead electric lines within the real estate described herein; and

WHEREAS, a private water tap on this area also serves other real estate owned by the west-adjointing Museum Campus; and

WHEREAS, the City desires to acquire this real estate and to make further improvements to the City infrastructure and also to acquire an abandoned bridge located within the real estate, refurbish the same, and incorporate the bridge into the access areas and use it as a way to promote the trails, greenways, and access points to all of the recreation areas in and around the park and museum area of the City of Auburn, Indiana; and

WHEREAS, the City of Auburn, Indiana shall take this real estate by a gift of conveyance, but the City of Auburn, Indiana shall be responsible for the title insurance commitment policy, the closing costs, recording, and all other related costs associated with the transfer of said real estate; and

WHEREAS, the City of Auburn, Indiana consents and is agreeable to the terms of the transfer, as it will benefit the City to have control over the real estate, allowing it to serve a proper public purpose; and

WHEREAS, the City of Auburn, Indiana has within its budget the necessary funds to accommodate the transfer herein; and

**NOW, THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE
MUNICIPAL CITY OF AUBURN, INDIANA THAT:**

1. The Municipal City of Auburn, Indiana shall receive from Verdi, for One Dollar (\$1.00) and other valuable consideration, an executed deed of conveyance, for fee title interest, for all said real estate of Verdi which lies north of the centerline of Cedar Creek containing 0.961 acres, more or less.
2. The Municipal City of Auburn, Indiana shall receive from Verdi, at no cost, sole possession of and all of Verdi's interest, if any, in said existing iron bridge structure located along the westerly side of said 0.961 acre tract of real estate.
3. Verdi agrees to release sole possession of and all of their right and title to said existing iron bridge structure to the Municipal City of Auburn, Indiana, and Auburn accepts the same.
4. The conveyance of the Iron Bridge shall take place upon the closing of the 0.961-acre tract of real estate.
5. Further, the Municipal City of Auburn, Indiana, shall receive from Verdi, at no cost, an executed Right of Entry Agreement to allow the Municipal City of Auburn, it agents, contractors, and subcontractors, the right to perform the bridge removal work upon the real estate of Verdi located along the southerly side of Cedar Creek.
6. The Municipal City of Auburn further agrees, at no cost to Verdi, to perform a certified boundary survey for all of said real estate of Verdi's which lies north of the centerline of Cedar Creek containing 0.961 acres, more or less.
7. In addition, the Municipal City of Auburn agrees to provide and install a new water tap and valve, at no cost to Verdi (or Auburn Gear, LLC), on the existing 16-inch water main along Auburn Drive for re-location of new water service to Auburn Gear

- facility. Unless there is a serious failure of the existing water service, the timing of the water services shall be within the sole discretion of Verdi. Verdi (or Auburn Gear, LLC) would be responsible for all work and costs associated with installation of new water service from new water tap and valve to facility.
8. The Municipal City of Auburn agrees to perform all work necessary, at no cost to Verdi (or Auburn Gear, LLC), to abandon existing water service to Auburn Gear facility for that portion of said water service which lies north of the centerline of Cedar Creek, after relocation of new water service off Auburn Drive is complete. Verdi (or Auburn Gear, LLC) would be responsible for all work and costs associated with abandoning the existing water service to Auburn Gear facility for that portion of said water service which lies south of the centerline of Cedar Creek.
9. The Municipal City of Auburn agrees to execute the necessary forms and documents associated herein and authorizes the Mayor of the City of Auburn to execute the necessary documents to complete this transaction. Appropriate funds have been budgeted for the project.

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

This project shall serve a valid public purpose and is in the best interest of the City of Auburn.

JAMES FINCHUM, Councilmember

ATTEST:

Patricia M. Miller, Clerk-Treasurer

1ST Reading _____
2nd Reading _____

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

VOTING:

AYE

NAY

Kevin Webb, President

Jim Finchum

Denny Ketzenberger

Dennis K (Matthew) Kruse II

Natalie Dewitt

David Bundy

Michael Walter

EXHIBIT "A"

A PART OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 34 NORTH, RANGE 13 EAST, IN DEKALB COUNTY, INDIANA, AND BEING A PORTION OF THE LANDS OF VERDI PROPERTY, LLC AS RECORDED IN DOCUMENT NUMBER 201001803 WITHIN THE OFFICE OF THE RECORDER OF DEKALB COUNTY, INDIANA, SURVEYED BY TODD R. BAUER LICENSE NUMBER 29800007 OF FORESIGHT CONSULTING, LLC AS PROJECT NUMBER 202840, DATED NOVEMBER 18TH, 2020 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A HARRISON MONUMENT MARKING THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 32; THENCE NORTH 00 DEGREES 18 MINUTES 02 SECONDS WEST (INDIANA STATE PLANE EAST GRID BEARINGS AND BASIS OF BEARINGS TO FOLLOW) ON AND ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1188.57 FEET TO THE SOUTHEAST CORNER OF THE LAND OF THE CITY OF AUBURN AS RECORDED IN DEED RECORD 58 PAGE 131 BEING ONE AND THE SAME AS THE NORTHEAST CORNER OF SAID LANDS OF VERDI AND BEING MARKED BY A 3" DIAMETER STEEL POST; THENCE SOUTH 87 DEGREES 44 MINUTES 00 SECONDS WEST ON AND ALONG THE NORTH LINE OF SAID LANDS OF VERDI AND THE SOUTH LINE OF SAID LANDS OF CITY OF AUBURN, A DISTANCE OF 675.03 FEET TO THE SOUTHWEST CORNER OF SAID LAND OF CITY OF AUBURN; THENCE NORTH 01 DEGREES 49 MINUTES 52 SECONDS WEST ON AND ALONG THE WEST LINE OF SAID LANDS OF AUBURN, A DISTANCE OF 77.75 FEET, MORE OR LESS, TO A POINT ON THE APPROXIMATE CENTERLINE OF CEDAR CREEK, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED REAL ESTATE; THENCE SOUTH 48 DEGREES 11 MINUTES 22 SECONDS WEST ON AND ALONG THE APPROXIMATE CENTERLINE OF CEDAR CREEK A DISTANCE OF 222.69 FEET, MORE OR LESS, TO THE EASTERN CORNER OF THE LANDS OF NATIONAL AUTOMOTIVE AND TRUCK MUSEUM OF THE UNITED STATES, INC AS RECORDED IN DEED RECORD 192 PAGE 315 WITHIN THE OFFICE OF THE RECORDER OF DEKALB COUNTY, INDIANA; THENCE NORTH 27 DEGREES 19 MINUTES 37 SECONDS WEST ON AND ALONG THE EAST LINE OF SAID LANDS OF NATIONAL AUTOMOTIVE AND TRUCK MUSEUM OF THE UNITED STATES, INC BEING ONE AND THE SAME AS THE WESTERLY LINE OF SAID LANDS OF VERDI PROPERTY, LLC, A DISTANCE OF 193.70 FEET TO THE SOUTHERLY CORNER OF THE LANDS OF THE CITY OF AUBURN AS RECORDED IN DEED RECORD 134 PAGE 311-312 WITHIN THE OFFICE OF THE RECORDER OF DEKALB COUNTY, INDIANA, SAID CORNER BEING MARKED BY A 5/8"x24" REBAR WITH "FORESIGHT CONSULTING - BOUNDARY" IDENTIFICATION CAP; THENCE NORTH 60 DEGREES 25 MINUTES 46 SECONDS EAST ON AND ALONG THE SOUTH LINE THEREOF AND THE SOUTH LINE OF THE LANDS OF THE CITY OF AUBURN AS RECORDED IN DEED RECORD 146 PAGE 227 WITHIN THE OFFICE OF THE RECORDER OF DEKALB COUNTY, INDIANA BEING ONE AND THE SAME AS THE NORTHERN LINE OF SAID LANDS OF VERDI PROPERTY, LLC, A DISTANCE OF 287.00 FEET TO THE SOUTHEAST CORNER OF SAID LANDS OF THE CITY OF AUBURN BEING ONE AND THE SAME AS THE NORTHEAST CORNER OF SAID LANDS OF VERDI PROPERTY, LLC, SAID SOUTHEAST CORNER BEING MARKED BY A 5/8" REBAR; THENCE SOUTH 01 DEGREES 49 MINUTES 52 SECONDS EAST ON AND ALONG THE EASTERN LINE OF SAID LANDS OF VERDI PROPERTY, LLC A DISTANCE OF 165.34 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.961 ACRES OF LAND, MORE OR LESS, AND BEING SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.