

RESOLUTION NO. 13-2021

***A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF AUBURN
APPROVING THE TRANSFER
OF THE CENTURY OLD IRON BRIDGE FROM THE COUNTY OF DEKALB
TO THE CITY OF AUBURN, INDIANA***

Under Indiana Code Section 36-1-11-8

Summary

This resolution calls for the transfer of the property known as the Century Old Iron Bridge (hereinafter referred to as “Bridge”) that once spanned the CSX Railroad on County Road 75 in DeKalb County, State of Indiana. Said iron bridge came down in 2014 as a result of safety concerns.

The transfer of property is made from DeKalb County, Indiana (also known as “County”), to the City of Auburn, Indiana (also known as “City”) pursuant to Indiana Code Section 36-1-11-8 and both the County of DeKalb and the City of Auburn, Indiana, make this transfer effective by passing substantially identical Resolutions.

In addition to the Resolution, the parties will enter into a Memorandum of Understanding outlining the terms of the transfer and a copy of said Memorandum of Understanding is attached to this Resolution as Exhibit “A” hereto and made a part hereof.

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Under Indiana Code Section 36-1-11-8

WHEREAS, Indiana Code Section 36-1-11-8 states, a transfer or exchange of property may be made with a governmental entity upon terms and conditions agreed upon by the entities as evidenced by adoption of substantially identical Resolutions by each entity. Such a transfer may be made for any amount of real property, cash, or other personal property, as agreed upon by the entities;

WHEREAS, the City of Auburn desires to acquire the Century Old Iron Bridge (hereinafter referred to as “Bridge”) that once spanned the CSX Railroad on County Road 75 in DeKalb County, State of Indiana; and

WHEREAS, the purpose of the transfer of the Bridge is to use the bridge to connect the City of Auburn downtown area to green spaces located at the area of the DeKalb County Theater, DeKalb County Fairgrounds, and /or for the purpose of connecting areas to greenway, trails, walking and biking across Cedar Creek that can be utilized and enjoyed by the Citizens of DeKalb County and the surrounding communities and to provide connectivity with recreational activities within the County of DeKalb and the City of Auburn, Indiana; and

WHEREAS, the County and the City herein agree that said transfer shall be made to the City and in return the City shall pay \$50,000.00 for the Bridge; and

WHEREAS, it is mutually beneficial for the County and City to collaborate to transfer said Bridge; and

WHEREAS, DeKalb County agrees to make the transfer and the City agrees to accept the same and to make the payment as further set forth herein subject to certain conditions, all in accordance with *Indiana Code 36-1-11-8*, and;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF AUBURN, INDIANA, AS FOLLOWS:

1. Indiana Code Section 36-1-11-8 is the applicable Indiana Code that the County and the City are operating under.
2. The County shall make available and the City shall move said Bridge to a location in Auburn, Indiana, for the purpose of inspection.
3. The City shall have the right to have an engineer examine the Bridge to determine if it is structurally sound for a foot bridge and provide an opinion regarding the same.
4. If the Bridge is declared to be unsound and unable to be used as a foot bridge, the City shall return the Bridge to the County and the transaction shall be negated.
5. If the Bridge is found to be structurally sound, the City shall then make payment of \$50,000.00 to the County of DeKalb.
6. The City shall be responsible for the cost of transporting the Bridge and the inspection of the Bridge.

7. The County shall be responsible for and hold the City harmless for any fines, costs or penalties levied against the County and related to the Bridge.
8. Upon the transaction being completed a Bill of Sale shall be prepared and executed by the County of DeKalb in favor of the City of Auburn.
9. The City of Auburn shall name the County as an additional insured for the purpose of transporting the Bridge and hold the County harmless for any damage that may result in transporting the Bridge.

BE IT FURTHER RESOLVED PURSUANT TO INDIANA CODE 36-1-11-8

THAT:

Said transfer of the Bridge is made from the County of DeKalb to the City of Auburn, Indiana and the attached Memorandum of understanding shall be executed along with this Resolution.

Said transfer is made for consideration as set forth herein and shall be in full force and effect from and after its passage and the meeting of the conditions set forth herein in an open meeting in accordance with Indiana Code 36-1-11-8.

PASSED AND ADOPTED this _____ day of _____, 2021.

James Finchum, Councilmember

ATTEST:

Patricia M. 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

VOTING:

AYE

NAY

Kevin Webb
Council President

Jim Finchum

Denny Ketzenberger

Dennis K (Matthew) Kruse II

Natalie Dewitt

David Bundy

Michael Walter

Exhibit "A"

MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF DEKALB AND THE CITY OF AUBURN REGARDING THE TRANSFER OF THE OLD IRON BRIDGE FROM THE COUNTY OF DEKALB TO THE CITY OF AUBURN, INDIANA

INTRODUCTION

This Memorandum of Understanding (MOU) sets forth the terms and understanding between the County of DeKalb and the City of Auburn, Indiana, as it relates to the transfer of the Old Iron Bridge from the County of DeKalb to the City of Auburn, Indiana. This MOU is deemed necessary because the City of Auburn desires to acquire the century Old Iron Bridge that most recently spanned County Road 75 in DeKalb County, Indiana.

PURPOSE

The purpose of this MOU is to memorialize a transfer of the Bridge from the County of DeKalb to the City of Auburn, Indiana, and obligate the City to compensate DeKalb County, Indiana \$30,000.00 for the Bridge.

The agreement is subject to the City of Auburn having the Bridge moved to a location in Auburn at the City's cost and risk and allowing the City to examine the structural integrity of the Bridge by an engineer.

AGREEMENT

The City of Auburn, Indiana, for the transfer of the Bridge agrees to pay \$50,000.00 to the County of DeKalb; a Bill of Sale shall be provided.

This MOU is at will and may only be modified by the mutual consent of the authorized parties herein. This MOU shall become effective upon the signature of the authorized officials and parties herein and shall remain in full force and effect until all terms and conditions are executed and fulfilled. Failure to fulfill the terms shall be considered a breach of said agreement.

The acquisition and transfer of the Bridge is for a public purpose to benefit the individuals of DeKalb County, Indiana and other visitors who use the walking paths, trails and recreation venues in the City of Auburn, DeKalb County, State of Indiana. The purpose of the transfer of the Bridge is to use the Bridge to connect the City of Auburn downtown area to green spaces located at the area of the DeKalb County Theater, DeKalb County Fairgrounds, and /or for the purpose of connecting areas to greenway, trails, walking and biking across Cedar Creek that can be utilized and enjoyed by the Citizens of DeKalb County and the surrounding communities.

The City of Auburn shall indemnify the County of DeKalb and name the County as an additional insured when moving the Bridge to Auburn for inspection and evaluation. If the Bridge is found to not be structurally sound for the purpose of a footbridge, then the agreement shall be negated and the Bridge returned to the County. If the Bridge is found to be structurally sound, the City shall pay \$50,000.00 to the County for said transfer.

APPROVED BY THE CITY OF AUBURN BOARD OF WORKS

Michael D. Ley, Mayor and Member

Date: _____

Danny D. McAfee, Member

Herb Horrom, Member

ATTEST

Patricia Miller, Clerk-Treasurer

APPROVED BY THE CITY OF AUBURN, INDIANA COMMON COUNCIL

Date: _____

Kevin Webb
Council President

James Finchum

Denny Ketzenberger

Dennis K Kruse II

Natalie Dewitt

David Bundy

Michael Walter

APPROVED BY THE COUNTY COMMISSIONERS

PRESIDENT
DEKALB COUNTY COMMISSIONERS

ATTEST:

DEKALB COUNTY AUDITOR

Date: _____

William Hartman, President

Michael Watson

Todd Sanderson

APPROVED BY THE COUNTY COUNCIL

Date: _____

Richard Ring – President

William VanWye - Vice President

Bob Krafft

Eldonna King

David Yarde

Amy Prosser

Amy Demske