

RESOLUTION NO. R2020-89

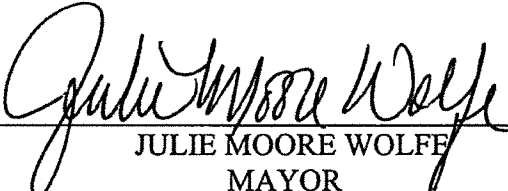
RESOLUTION AUTHORIZING AGREEMENT  
-FAIRVIEW PARK PLAZA, LLC.-  
-CITY OF DECATUR, ILLINOIS-

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR,  
ILLINOIS:


Section 1. That the Agreement presented to the Council herewith, between FAIRVIEW  
PARK PLAZA, LLC, AND THE CITY OF DECATUR, ILLINOIS, be, and the same is hereby,  
received, placed on file and approved.

Section 2. That the Mayor and City Clerk be, and they are hereby, authorized and directed  
to sign, seal and attest Agreement on behalf of the City.

PRESENTED AND ADOPTED this 15<sup>th</sup> day of June, 2020.

  
\_\_\_\_\_  
JULIE MOORE WOLFE  
MAYOR

ATTEST:

  
\_\_\_\_\_  
KIM ALTHOFF  
CITY CLERK

## LEASE AGREEMENT WITH PURCHASE OPTION

THIS LEASE AGREEMENT WITH PURCHASE OPTION ("Agreement") is by and between FAIRVIEW PARK PLAZA, LLC, an Illinois Limited Liability Company ("Landlord/Seller"), and the CITY OF DECATUR, ILLINOIS, an Illinois municipal corporation ("Tenant/Buyer").

### WITNESSETH:

Landlord/Seller agrees to lease with an option to purchase and Tenant/Buyer agrees to lease with an option to purchase on the terms and conditions hereinafter set forth, the unimproved real estate situated in Macon County, Illinois, described on Exhibit A attached hereto ("the Property").

1. Lease Price. Landlord/Seller agrees to lease the Property to Tenant/Buyer for the sum of One Dollar (\$1.00) per year.
2. Term. This Agreement shall be effective beginning on the date of signing of this Agreement by both parties and shall extend for a period of ninety-nine (99) years.
3. Improvements. Landlord/Seller agrees to allow Tenant/Buyer to construct a structure on the Property which, with improvements shall be referred to as "Premises." The design and construction shall be at the direction and control of Tenant/Buyer and Landlord/Seller shall have no control or input on said design and construction.
4. Access. At any time after the date hereof, architects and engineers of Tenant/Buyer shall have reasonable access to the Property for the purpose of measurement and preparation of design plans for Tenant/Buyer, provided such access cannot unreasonably interfere with the usual business of Landlord/Seller performed on the Property. Tenant/Buyer shall indemnify and hold Landlord/Seller harmless from and against all losses, costs, damages and liability arising out of Tenant/Buyer or any of its employees, agents or contractors entering the Property.
5. Ownership and Possession of Improvements. The parties agree that all improvements made or constructed or existing on the Premises shall be owned by the Tenant/Buyer for the term of this Agreement and Landlord/Seller shall have no responsibility to make any improvements or repairs on the improvements.
6. Transfer/Assignment. Landlord/Seller shall not enter into or amend any contracts, options, leases, easements or other agreements adversely affecting the Property and shall not take any action which would adversely affect the ownership or condition of the Property. Tenant/Buyer shall not assign or transfer the Property or Premises if leased from Landlord/Seller without written consent of Landlord/Seller which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Tenant/Buyer may assign or sublet all or any part of the premises to any other governmental agency or entity without the consent of Landlord/Seller.

7. Option to Purchase. If, at any time during the term of this Agreement and at its sole discretion Tenant/Buyer desires to purchase Property, Landlord/Seller shall sell the Property to Tenant/Buyer upon written request to do so from Tenant/Buyer.
8. Purchase Price. The purchase price for the Property is One Dollar (\$1.00) with purchase price for the Property to be paid at closing, subject to closing adjustments.
9. Representation. Landlord/Seller represents that a No Further Remediation ("NFR") order has been received for the Property from the Illinois Environmental Protection Agency, a copy of which will be provided to the Buyer and except for the NFR, Landlord/Seller has not made and does not make any representations, warranties, or guarantees of any kind concerning the Property or its condition or suitability for Tenant/Buyer's proposed use, whether express, or implied, oral or written. Tenant/Buyer agrees that it is purchasing the Property "as is" with all faults and defects and based solely on Tenant/Buyer's inspection, testing and investigation of the Property. Tenant/Buyer acknowledges that the disclaimers, agreements and other statements set forth in this section are an integral portion of this Agreement and that Landlord/Seller would not agree to sell the Property to Tenant/Buyer for the purchase price without the disclaimers, agreements and other statements set forth in this paragraph and that the disclaimers, agreements and other statements in this paragraph shall survive the closing of the sale under this Agreement.

10. Conditions Precedent.

10.1. Landlord/Seller's obligations under this Agreement are subject to the following conditions:

- (a). The establishment of on-premise zoning regulations and ordinances allowing for:
  - (i). The approval of a commercial subdivision of the parcel of which the property is part thereof;
  - (ii). Construction and operation of a City of Decatur fire station on the property;
  - (iii). The approval of a new ingress/egress for southbound traffic along Fairview Avenue as shown by the approach drawn in red on the attached drawing.
- (b). Landlord/Seller and Tenant/Buyer agreeing to any limited or shared common area and exclusive/non-exclusive points of ingress/egress as described on Exhibit B attached hereto.

10.2 Tenant/Buyer's obligations under this Agreement are subject to the following conditions:

- (a). Tenant/Buyer may, at its expenses and option, obtain such title reports and surveys as to the Property as Tenant/Buyer may desire. Tenant/Buyer shall advise

Landlord/Seller in writing within 30 days after the effective date of this Agreement concerning any defect in the condition of title disclosed by such reports or surveys and rendering the title I marketable. In the event of such notice, the conveyance to Tenant/Buyer shall be delayed pending Landlord/Seller's efforts to resolve the same. In event Landlord/Seller is unable or unwilling to cure such defects within a reasonable time after notice thereof, Tenant/Buyer or Landlord/Seller may elect to cancel and terminate this Agreement and the rights and obligations of the parties hereunder; and in such event, Landlord/Seller shall refund to Tenant/Buyer all sums paid hereunder if Tenant/Buyer shall so elect. Failure to notify Landlord/Seller of any objectionable title defect as above said shall constitute a waiver thereof. Title may be subject only to the following exceptions:

- (i). Easements, restrictions and reservations of record on the date hereof;
- (ii). Building and use restrictions;
- (iii). Special assessments levied for local improvements;
- (iv). Zoning regulations and ordinances affecting the Property; and,
- (v). The lien of current general real estate taxes.

10.3 If Tenant/Buyer exercises the option to purchase, Landlord/Seller and Tenant/Buyer agree to comply with the requirements of the Real Estate Settlement Procedures Act.

10.4. Closing. The time and place of settlement on the date of closing shall be fixed by mutual agreement of the parties.

(a). At the settlement, Tenant/Buyer shall deliver to Landlord/Seller or cause to be paid:

- (i). All documents as Landlord/Seller's counsel may reasonably require.
- (ii). An amount equal to the cost of recording any release of indenture of mortgage or trust deed; and,
- (iii). An amount equal to the costs of Illinois revenue stamps if required to be affixed to the quitclaim deed.
- (iv). An amount equal to any and all costs associated with the transfer of ownership of Property including but not limited to any real estate taxes unpaid and due after the date of closing prorated to the date of closing, based upon the last ascertainable real estate taxes on the Property; the fee charged by the Title Company for closing the sale; the fee for recording the deed; the costs of a survey; and the cost of the title commitment and policy.

(b). Landlord/Seller shall deliver to Tenant/Buyer:

- (i). Its executed quitclaim deed to the Property, containing only those exceptions listed in sub paragraphs (i) through (v), inclusive, of paragraph 10.2 (a) above.
- (ii). A sufficient release of any indenture of mortgage or trust which may be a lien on the Property; and,

(iii). Such other documents as Tenant/Buyer's counsel may reasonably require.

11. Title Commitment. If Tenant/Buyer exercises the option to purchase, Tenant/Buyer shall obtain a current title commitment for an owner's title insurance policy for the Property if the option to purchase is exercised. Tenant/Buyer shall pay all title examination fees or other expenses charged by the Title Company for the purpose of issuing such title commitment.
12. Landlord/Seller's Closing Obligations. If Tenant/Buyer exercises the option to purchase, at the closing, Landlord/Seller shall deliver to Tenant/Buyer a quitclaim deed, conveying the Property in fee simple, subject to real estate taxes and assessments and subsequent years not yet due and payable, all easements, agreements, restrictions and other matters of record. Such deed shall also include provisions requiring the Tenant/Buyer, its successors and assigns, for a period of twenty (20) years from date of closing, to utilize the Property to house a fire station or similar public safety uses agreed to in writing by the Landlord/Seller. The promise made to use land to house a fire station or similar public safety uses agreed to in writing by the Landlord/Seller shall survive the date of closing and such promise shall be specifically enforceable by the Landlord/Seller and its successors under the terms of this Agreement.
13. Default. If Tenant/Buyer exercises the option to purchase, if the conditions precedent of this Agreement are satisfied or waived by Tenant/Buyer and Landlord/Seller, and if Landlord/Seller fails to consummate this Agreement for any reason other than the default of Tenant/Buyer, then Tenant/Buyer may enforce specific performance or seek other legal remedies. If Tenant/Buyer shall default in the performance of its obligations under this Agreement, then Landlord/Seller may enforce specific performance or seek other legal remedies.
14. Miscellaneous.

(a). Any notice which either party may be required to give hereunder or which either party is permitted or may desire to give to the other party shall be in writing and given either personally or by mailing the same by registered or certified mail, return receipt requested, to the party to whom notice is directed at the address of such party as follows:

Landlord/Seller: Fairview Park Plaza  
101 S. Main St., Suite 800  
Decatur, IL. 62523

Tenant/Buyer: City of Decatur  
City Manager  
#1 Gary K. Anderson Plaza  
Decatur, IL 62523

Any notice served by mail shall be deemed given on the day in which the same is postmarked and deposited in the United States mail, addressed as above provided with postage there on fully prepaid. Either party may change the party or address to which any such notice is to be addressed by giving written notice to the other party of such change. Any time limitation provided for in this Agreement shall begin on the date that the party actually receives such notice, or refuses to accept delivery, and the date of postmark of any return receipt indicating the date of delivery of such notice to the addressee shall be conclusive evidence of such receipt.

(b). This Agreement constitutes the entire agreement between the Landlord/Seller and Tenant/Buyer, and there are no other covenants, agreements, or conditions, either oral or written, between them concerning the Property other than those set forth in this Agreement. No subsequent change, deletion or addition to this Agreement shall be binding unless in writing and signed by both parties.

(c). The headings, captions, numbering systems, etc., are inserted only as a matter of convenience and shall not be considered in interpreting the provisions of this Agreement.

(d). All of the provisions of this Agreement shall be binding upon the personal representatives, heirs, successors and permitted assigns of both parties.

(e). If any of the dates or time periods in this Agreement fall or end on a Saturday, Sunday or U.S. bank holiday, then such date or time period shall be extended until the next business day other than a Saturday, Sunday or U.S. bank holiday.

DATED this 16<sup>th</sup> day of June, 2020.

LANDLORD/SELLER:

BUYER:

FAIRVIEW PARK PLAZA, LLC

CITY OF DECATUR, IL

By: 

By: 

Dated: 16 JUN 20

Dated: June 16, 2020

ATTEST:

  
CITY CLERK

Legal Department

**DATE:** 6/11/2020

**MEMO:** 2020-11

**TO:** Honorable Mayor Julie Moore-Wolfe & City Council Members

**FROM:** Scot Wrighton, City Manager  
Jon Kindseth, Deputy City Manager

**SUBJECT:**

Resolution Authorizing Agreement-Fairview Park Plaza, LLC.-City of Decatur, Illinois

**SUMMARY RECOMMENDATION:** Staff recommends approval of the attached lease agreement with purchase option with Fairview Park Plaza, LLC for certain property for the proposed fire station number 3.

**BACKGROUND:**

The City is moving forward with building of a new fire station to replace the our oldest station, station number 3. The current station is well beyond its useful life and the existing site in not conducive for building the necessary station. This council action secures a site for the new station two blocks north of current location.

This site was selected for multiple reasons, including the price, proximity to current location, access consideration, as well as the potential compounding impact that this public investment can have on this shopping center and this neighborhood.

**PRIOR COUNCIL ACTION:** The City Council previously had authorized a purchase agreement for this same site last fall; however, due to environmental concerns found during our due diligence the authorization period provided by the Council lapsed. Due to the potential for some remediation, this new agreement now before Council for consideration is a 99 year lease agreement with the option to purchase. This will allow the city to lease the property if environmental concerns remain after the site is dug up and the new station is built. We would have the ability to pull the plug on the project at any point should we need to. None of this is expected, but there are low levels of contamination below the parking lot where the new station will be constructed. We are anticipating these issues not requiring any remediation and the site would otherwise be treated as a clean site. If the project goes this way, than the City would acquire the site as the construction is being completed and the City would own it in fee simple and the liability for the conditions on the site. The agreement as proposed is the best way to protect the interests of the City while still potentially allowing for the project to move forward.

**POTENTIAL OBJECTIONS:** No known or anticipated objections.

**STAFF REFERENCE:** Scot Wrighton, Wendy Morthland, and Jon Kindseth are all available to answer any potential questions or concerns related to this agreement. All will also be at Monday's Council meeting.

**ATTACHMENTS:**

Description	Type
Resolution Authorizing Agreement-Fairview Park Plaza, LLC.-City of Decatur, Illinois	Resolution Letter

RESOLUTION NO. R2021 - 23

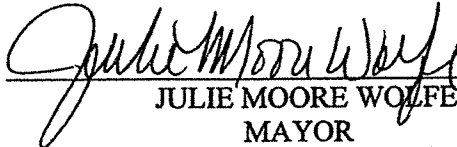
RESOLUTION AUTHORIZING NON-EXCLUSIVE EASEMENT AGREEMENT  
BETWEEN FAIRVIEW PARK PLAZA, LLC. AND  
-CITY OF DECATUR, ILLINOIS-

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR,  
ILLINOIS:


Section 1. That the Agreement presented to the Council herewith, between FAIRVIEW  
PARK PLAZA, LLC, AND THE CITY OF DECATUR, ILLINOIS, be, and the same is hereby,  
received, placed on file and approved.

Section 2. That the Mayor and City Clerk be, and they are hereby, authorized and directed  
to sign, seal and attest Agreement on behalf of the City.

PRESENTED AND ADOPTED this 17<sup>th</sup> day of February, 2021.

  
JULIE MOORE WOLFE  
MAYOR

ATTEST:

  
KIM ALTHOFF  
CITY CLERK



Prepared by:

Andrew P. Chiligris, Attorney  
143 N. Water St.  
Decatur, IL 62523

NON-EXCLUSIVE EASEMENT

This Agreement is entered into by FAIRVIEW PARK PLAZA, LLC, an Illinois limited liability company ("Fairview"), as Grantor, and the CITY OF DECATUR, Illinois, an Illinois municipal corporation (the "City"), as Grantee, this 17<sup>th</sup> day of ~~December, 2020~~  
February, 2021

WHEREAS, Fairview is the owner of that certain tract of land legally described and depicted on Exhibit A1 attached hereto and made a part hereof (the "Parent Parcel"); and

WHEREAS, the City desires to receive from Fairview and Fairview is willing to provide to the City a non-exclusive easement through certain portions of the Parent Parcel, as legally described and depicted on Exhibits B1 and D1, attached hereto and made a part hereof (the "Easement Areas") to construct, install, use, operate, repair, maintain, remove and/or replace combined sanitary storm sewer lines (the "Sewer Lines") and a Watermain (the "Watermain"); and

WHEREAS, this Agreement shall terminate and replace a Non-Exclusive Easement between Fairview and the City dated December 12, 2014 and recorded January 12, 2015 in Book 4413, Page 293 as Document No. 1882344 in office of the Macon County, Illinois Recorder which did not include a Watermain.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and for other good and valuable consideration, the parties hereby grant, covenant and agree as follows:

1. Grant of Easement. Fairview grants to the City a non-exclusive perpetual easement for the construction, installation, use, operation, repair, maintenance, removal and/or replacement of Sewer Lines and a Watermain below the Easement Areas, together with all rights reasonably implied by and incidental to the exercise of the rights herein granted, including the reasonable right of ingress and egress to and over the Easement Areas and temporarily over the Parent Parcel, for all purposes herein stated.

2. Maintenance, Repair, Etc. The City agrees to construct and maintain the Sewer Lines and the Watermain in good order, condition and repair (including, without limitation, making necessary repairs, replacements and renewals) in accordance with good commercial practices and all applicable laws, and shall be solely responsible for all construction, maintenance, repair and replacement of the Sewer Lines and the Watermain. Fairview may not

construct or place any structure or building, whether temporary or permanent within the Easement Areas. Notwithstanding anything herein to the contrary, in the event Fairview constructs or installs any landscaping, entrances, exits, driveway, light pole, and/or parking lot on the surface of the Easement Areas, the City acknowledges these improvements shall not interfere with the City's easement rights herein. In the event such improvements are damaged by the City or its designee in connection with this Agreement, the City shall restore said improvements at its expense.

3. No Public Dedication. Nothing herein contained shall be deemed to be a grant or dedication of any portion of the Parent Parcel to or for the general public or for any public purposes whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed.

4. Indemnification. Fairview shall indemnify and hold harmless the City, its city council members and employees, from and against any and all claims, liability, damages and costs including, but not limited to, reasonable attorneys' fees and costs of suit, in connection with personal injuries, death, and/or property damage resulting from: (a) the acts and/or omissions of Fairview, its employees and/or agents, and/or (b) failure of Fairview to comply with the terms and conditions of this Agreement. The City shall indemnify and hold harmless Fairview, its shareholders, directors, officers and employees, from and against any and all claims, liability, damages and costs including, but not limited to, reasonable attorneys' fees and costs of suit, in connection with personal injuries, death, and/or property damage resulting from: (a) the acts and/or omissions of the City, its employees and/or agents, and/or (b) failure of the City to comply with the terms and conditions of this Agreement.

5. General Provisions. This Agreement shall inure to the benefit of and bind the parties hereto, their heirs, legal representatives, successors and assigns. The easements, restrictions and covenants herein shall be easements, restrictions and covenants running with the land. In the event either party breaches the terms and conditions hereof, the non-breaching party shall be entitled to all remedies, at law and/or in equity, including but not limited to injunctive relief and damages, along with the non-breaching party's reasonable attorneys' fees and costs of suit. No termination or modification of this Agreement shall be effective until an agreement signed by the parties hereto is recorded in the Office of the Recorder of Deeds of Macon County, Illinois. In the event any portion of the terms of this Agreement are held to be void or unenforceable by any court, the remaining portions of this Agreement shall remain in full force and effect. This Agreement shall be construed and enforced under the laws of the State of Illinois. The provisions in the recital paragraphs set out above are hereby incorporated herein and made a part hereof.

6. Non-Exclusive Easement. The City acknowledges that the easement granted herein and related rights are non-exclusive in that Fairview shall continue to have access to the Easement Areas for any and all purposes and may grant similar easements to third parties.

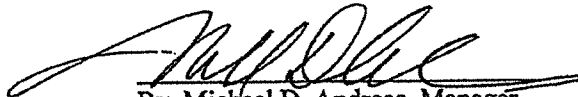
7. Termination of Prior Easement. This Easement shall vacate, terminate and replace the Non-Exclusive Easement between the parties hereto dated December 12, 2014 and

recorded January 12, 2015 in Book 4413, Page 293 as Document No. 1882344 in office of the Macon County Recorder as depicted on Exhibit C1 attached hereto and made a part hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date above written.

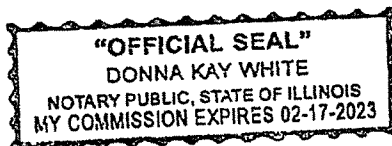
Fairview Park Plaza, LLC,  
an Illinois limited liability company


By: MDA Properties, LLC,  
an Illinois limited liability company

  
By: Michael D. Andreas, Manager

STATE OF ILLINOIS }  
                                  } SS.  
COUNTY OF MACON }

The foregoing instrument was acknowledged before me this 11th day of December, 2020 by Michael D. Andreas, the Authorized Member of MDA Properties, LLC, the Manager of Fairview Park Plaza, LLC, an Illinois limited liability company, on behalf of said company.



  
Notary Public

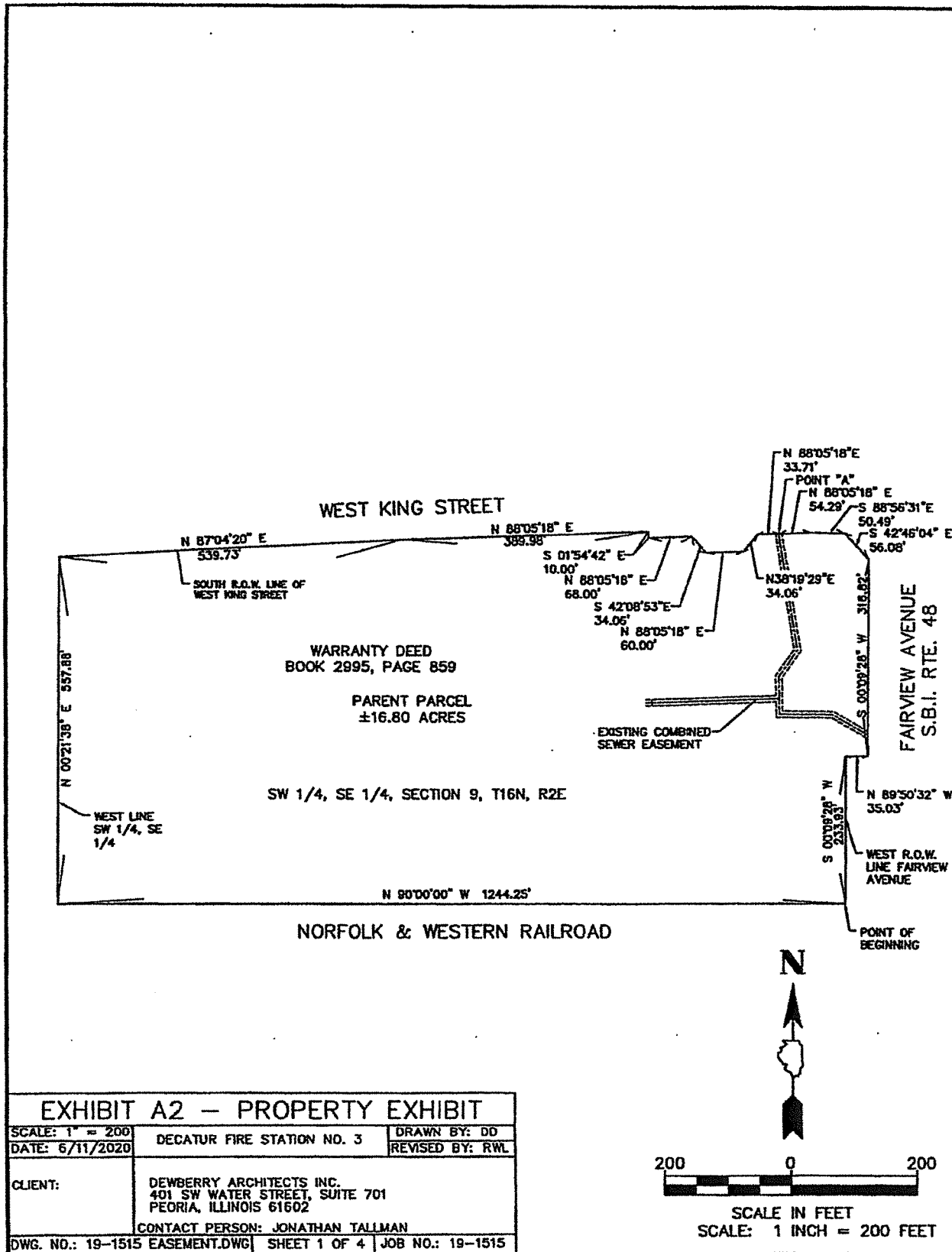
By: Julie Moore Wolfe  
Julie Moore Wolfe  
Its: Mayor

**Andrew P. Chiligris, Attorney**  
143 N. Water St.  
Decatur, IL 62523

## Exhibit A1

### Legal Description

A part of the Southwest 1/4 of the Southeast 1/4, Section Nine (9), Township Sixteen (16) North, Range Two (2) East of the Third Principal Meridian, and more particularly described as follows: Beginning at the point of intersection of the North right of way line of the Norfolk & Western Railroad (formerly Wabash Railroad) with the present West right of way line of S.B.I. Rt. 48 (Fairview Avenue), said point being approximately 59.2 feet North of and 80.2 feet West of the Southeast corner of said Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 9; thence N 90 degrees W (Assumed bearing) 1244.25 feet along said railroad right of way line to the West line of said Southwest 1/4, Southeast 1/4, Section 9; thence N 0 degrees 21 minutes 38 seconds E, 557.88 feet along the West line of said Southwest Quarter 1/4 of the Southeast Quarter 1/4 of Section 9 to its intersection with the South right of way line of King Street; thence N 87 degrees 04 minutes 20 seconds E, 539.73 feet along said right of way line; thence N 88 degrees 05 minutes 18 seconds E, 389.98 feet; thence S 01 degrees 54 minutes 42 seconds E 10.00 feet; thence N 88 degrees 05 minutes 18 seconds E, 68.00 feet; thence S 42 degrees 08 minutes 53 seconds E, 34.06 feet; thence N 88 degrees 05 minutes 18 seconds E, 60.00 feet; thence N 38 degrees 19 minutes 29 seconds E, 34.06 feet; thence N 88 degrees 05 minutes 18 seconds E, 88.00 feet; thence S 88 degrees 56 minutes 31 seconds E, 50.49 feet; thence S 42 degrees 46 minutes 04 seconds E, 56.08 feet to a point on the West right of way line of Fairview Avenue; thence S 00 degrees 09 minutes 28 seconds W, 316.82 feet along said right of way line; thence N 89 degrees 50 minutes 32 seconds W, 35.03 feet; thence S 00 degrees 09 minutes 28 seconds W, 233.93 feet to the point of beginning. Situated in Macon County, Illinois.



## Exhibit B1

### Watermain Easement Legal Description

Part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Nine (9), Township Sixteen (16) North, Range Two (2) East of the Third Principal Meridian, Macon County, Illinois, more particularly described as follows:

Commencing at a point of intersection of the North right of way line of Norfolk Southern Railroad (formerly Norfolk & Western Railroad) and the West right of way line of S.B.I. Route 48 (Fairview Avenue), said point also being approximately 59.2 feet North of and 80.2 feet West of the Southeast corner of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Nine (9) and also being the Southeast corner of a tract of land as described in Warranty Deed recorded in Book 2995 on page 859 of the records in the Recorder's Office of Macon County, Illinois; thence North 00 degrees 04 minutes 11 seconds West (bearings are based on the Illinois State Plane Coordinate System – East Zone (NAD 83[2011])), along the West right of way line of said S.B.I. Route 48 (Fairview Avenue) (recorded South 00 degrees 09 minutes 28 seconds West), a distance of 233.93 feet (recorded 233.93 feet); thence North 89 degrees 55 minutes 49 seconds East (recorded North 89 degrees 50 minutes 32 seconds West), along said West right of way line, a distance of 35.00 feet (recorded 35.03 feet); thence North 00 degrees 04 minutes 11 seconds West (recorded South 00 degrees 09 minutes 28 seconds West), along said West right of way line, a distance of 317.93 feet (recorded 316.82 feet); thence North 43 degrees 08 minutes 05 seconds West, along said West right of way line, a distance of 55.92 feet (recorded 56.08 feet) to a point on the South right of way line of West King Street; thence North 84 degrees 14 minutes 21 seconds West, along said South right of way line, a distance of 50.49 feet (recorded 50.49 feet); thence South 87 degrees 47 minutes 29 seconds West, along said South right of way line, a distance of 44.47 feet to the Point of Beginning.

From said Point of Beginning; thence South 00 degrees 04 minutes 11 seconds East, a distance of 10.77 feet; thence North 89 degrees 32 minutes 53 seconds West, a distance of 45.15 feet; thence South 00 degrees 21 minutes 39 seconds West, a distance of 95.55 feet; thence South 22 degrees 12 minutes 15 seconds East, a distance of 25.47 feet; thence South 00 degrees 17 minutes 45 seconds West, a distance of 17.95 feet; thence South 89 degrees 55 minutes 49 seconds West, a distance of 10.00 feet; thence North 00 degrees 17 minutes 45 seconds East, a distance of 16.02 feet; thence North 22 degrees 12 minutes 15 seconds West, a distance of 25.47 feet; thence North 00 degrees 21 minutes 11 seconds East, a distance of 91.27 feet to a point on the South right of way line of King Street; thence North 38 degrees 01 minutes 39 seconds East, along said South right of way line, a distance of 18.98 feet; thence North 87 degrees 47 minutes 29 seconds East, along said South right of way line, a distance of 43.53 feet to the Point of Beginning.

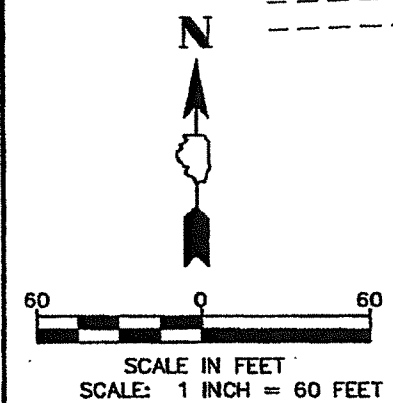
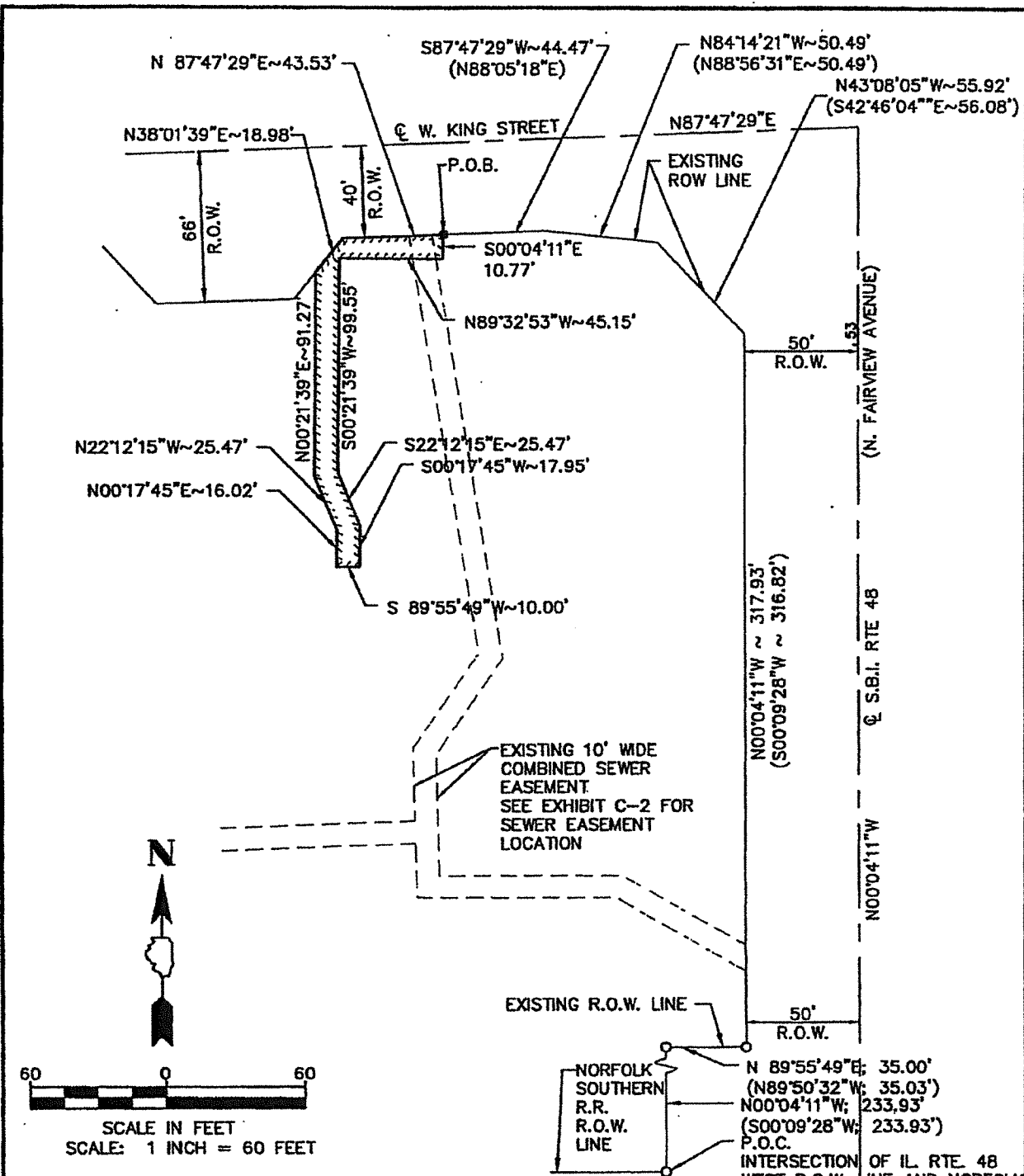


EXHIBIT B2 WATER MAIN EASEMENT		
SCALE: 1" = 60'	DECATUR FIRE STATION NO. 3	DRAWN BY: RMC
DATE: 6/11/2020		REVISED BY: RWL
CLIENT:	DEWBERRY ARCHITECTS INC. 401 SW WATER STREET, SUITE 701 PEORIA, ILLINOIS 61602	
	CONTACT PERSON: JONATHAN TALLMAN	
DWG. NO.: 19-1515 EASEMENT.DWG	SHEET 2 OF 4	JOB NO.: 19-1515



## Exhibit C1

### Combined Sewer Easement (to be vacated)

A 10.00 foot wide combination sewer easement, over, across and through the Exhibit A1 described parent parcel, the centerline of said easement being more particularly described as follows:

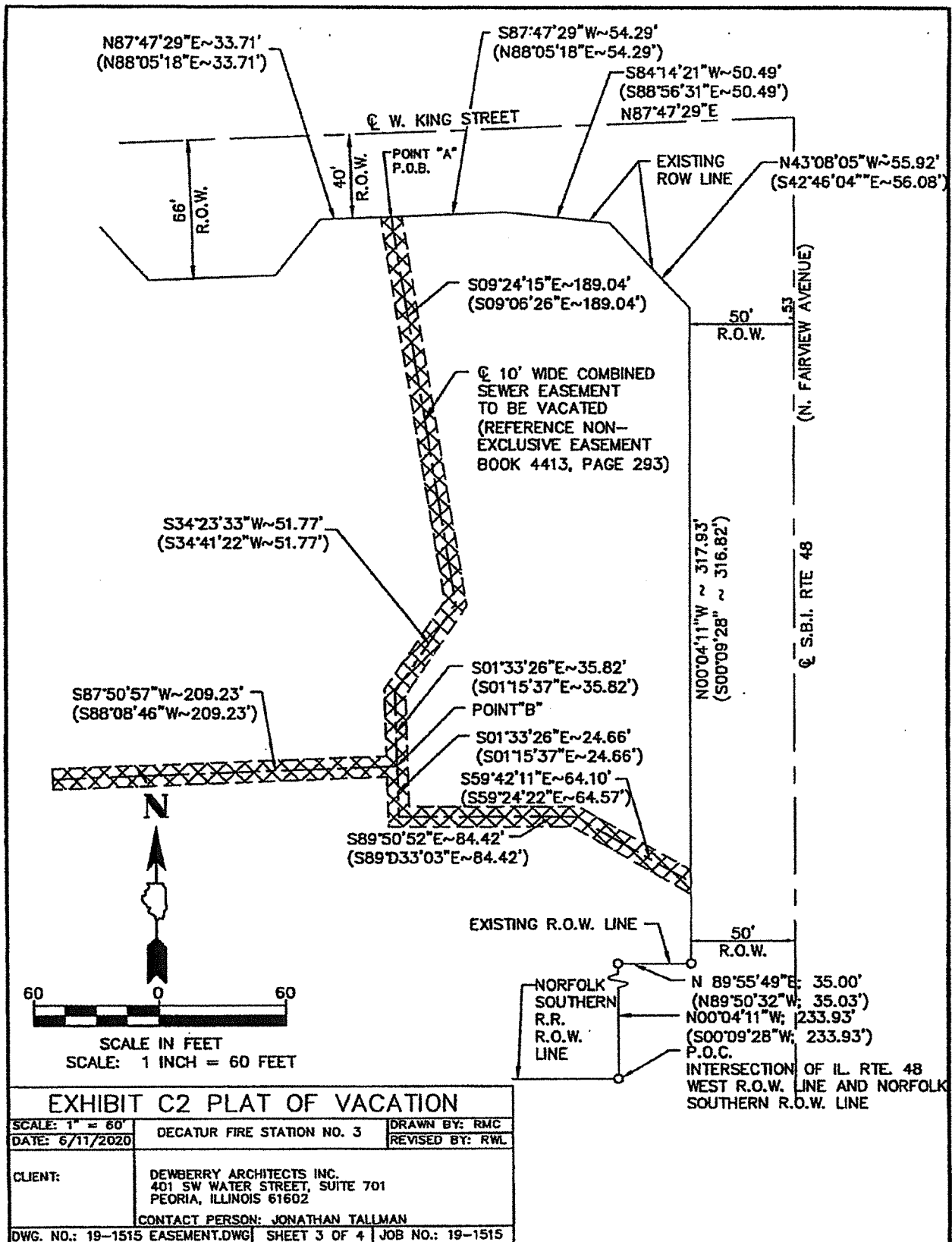
Part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Nine (9), Township Sixteen (16) North, Range Two (2) East of the Third Principal Meridian, Macon County, Illinois, more particularly described as follows:

Commencing at a point of intersection of the North right of way line of Norfolk Southern Railroad (formerly Norfolk & Western Railroad) and the West right of way line of S.B.I. Route 48 (Fairview Avenue), said point also being approximately 59.2 feet North of and 80.2 feet West of the Southeast corner of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Nine (9) and also being the Southeast corner of a tract of land as described in Warranty Deed recorded in Book 2995 on page 859 of the records in the Recorder's Office of Macon County, Illinois; thence North 00 degrees 04 minutes 11 seconds West (bearings are based on the Illinois State Plane Coordinate System — East Zone (NAD 83[2011])), along the West right of way line of said S.B.I. Route 48 (Fairview Avenue) (recorded South 00 degrees 09 minutes 28 seconds West), a distance of 233.93 feet (recorded 233.93 feet); thence North 89 degrees 55 minutes 49 seconds East (recorded North 89 degrees 50 minutes 32 seconds West), along said West right of way line, a distance of 35.00 feet (recorded 35.03 feet); thence North 00 degrees 04 minutes 11 seconds West (recorded South 00 degrees 09 minutes 28 seconds West), along said West right of way line, a distance of 317.93 feet (recorded 316.82 feet); thence North 43 degrees 08 minutes 05 seconds West, along said West right of way line, a distance of 55.92 feet (recorded 56.08 feet) to a point on the South right of way line of West King Street; thence North 84 degrees 14 minutes 21 seconds West, along said South right of way line, a distance of 50.49 feet (recorded 50.49 feet); thence South 87 degrees 47 minutes 29 seconds West, along said South right of way line, a distance of 54.29 feet to Point "A" and also being the Point of Beginning.

From said Point of Beginning; thence South 09 degrees 24 minutes 15 seconds East, a distance of 189.04 feet; thence South 34 degrees 23 minutes 33 seconds West, a distance of 51.77 feet; thence South 01 degrees 33 minutes 26 seconds East, a distance of 35.82 feet to Point "B"; thence continuing South 01 degrees 33 minutes 26 seconds East, a distance of 24.66 feet; thence South 89 degrees 50 minutes 52 seconds East, a distance of 84.42 feet; thence South 59 degrees 42 minutes 11 seconds East, a distance of 64.10 feet (record 64.57 feet) to a point on the West right of way line of S.B.I. Route 48 (Fairview Avenue), said point being the terminus point of said centerline.

And also, commencing at said Point "B"; thence South 87 degrees 50 minutes 57 seconds West, a distance of 209.23 feet to the terminus point of said centerline.

All situated, lying and being in the City of Decatur, Macon County, Illinois.



## Exhibit D1

### Combined Sewer Easement

A 10.00 foot wide combination sewer easement, over, across and through the Exhibit A1 described parent parcel, the centerline of said easement being more particularly described as follows:

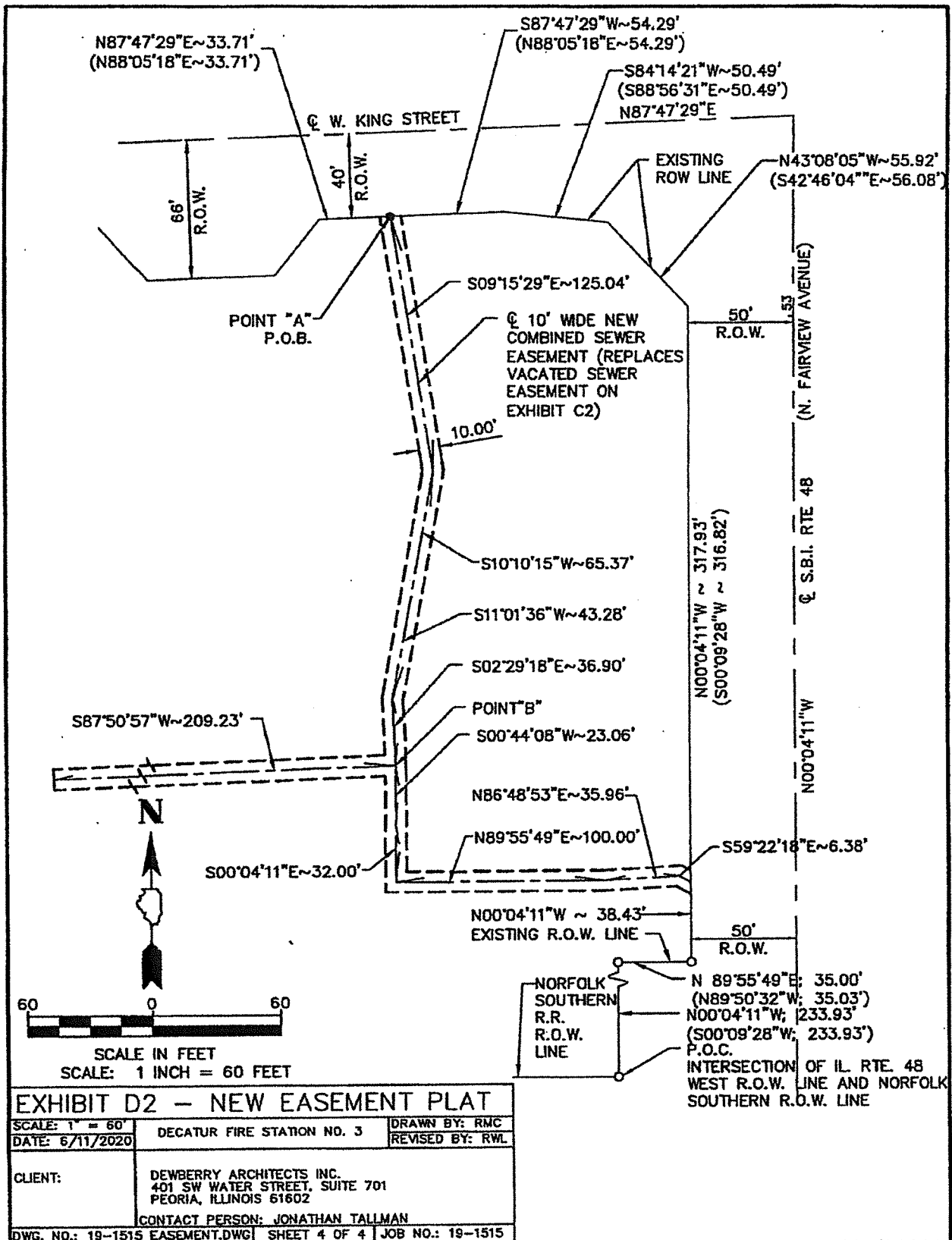
Part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Nine (9), Township Sixteen (16) North, Range Two (2) East of the Third Principal Meridian, Macon County, Illinois, more particularly described as follows:

Commencing at a point of intersection of the North right of way line of Norfolk Southern Railroad (formerly Norfolk & Western Railroad) and the West right of way line of S.B.I. Route 48 (Fairview Avenue), said point also being approximately 59.2 feet North of and 80.2 feet West of the Southeast corner of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Nine (9) and also being the Southeast corner of a tract of land as described in Warranty Deed recorded in Book 2995 on page 859 of the records in the Recorder's Office of Macon County, Illinois; thence North 00 degrees 04 minutes 11 seconds West (bearings are based on the Illinois State Plane Coordinate System – East Zone (NAD 83[2011])), along the West right of way line of said S.B.I. Route 48 (Fairview Avenue) (recorded South 00 degrees 09 minutes 28 seconds West), a distance of 233.93 feet (recorded 233.93 feet); thence North 89 degrees 55 minutes 49 seconds East (recorded North 89 degrees 50 minutes 32 seconds West), along said West right of way line, a distance of 35.00 feet (recorded 35.03 feet); thence North 00 degrees 04 minutes 11 seconds West (recorded South 00 degrees 09 minutes 28 seconds West), along said West right of way line, a distance of 317.93 feet (recorded 316.82 feet); thence North 43 degrees 08 minutes 05 seconds West, along said West right of way line, a distance of 55.92 feet (recorded 56.08 feet) to a point on the South right of way line of West King Street; thence North 84 degrees 14 minutes 21 seconds West, along said South right of way line, a distance of 50.49 feet (recorded 50.49 feet); thence South 87 degrees 47 minutes 29 seconds West, along said South right of way line, a distance of 54.29 feet to Point "A" and also being the Point of Beginning.

From said Point of Beginning; thence South 09 degrees 15 minutes 29 seconds East, a distance of 125.04 feet; thence South 10 degrees 10 minutes 15 seconds West, a distance of 65.37 feet; thence South 11 degrees 01 minutes 36 seconds West, a distance of 43.28 feet; thence South 02 degrees 29 minutes 18 seconds West, a distance of 36.90 feet to Point "B"; thence South 00 degrees 44 minutes 08 seconds East, a distance of 23.06 feet; thence South 00 degrees 04 minutes 11 seconds East, a distance of 32.00 feet; thence South 89 degrees 55 minutes 49 seconds East, a distance of 100.00 feet; thence South 59 degrees 22 minutes 18 seconds East, a distance of 6.38 feet to a point on the West right of way line of S.B.I. Route 48 (Fairview Avenue), said point being the terminus point of said centerline.

And also, commencing at said Point "B"; thence South 87 degrees 50 minutes 57 seconds West, a distance of 209.23 feet to the terminus point of said centerline.

All situated, lying and being in the City of Decatur, Macon County, Illinois.



RESOLUTION NO. R2019-170

**RESOLUTION AUTHORIZING CITY MANAGER  
TO PURCHASE PROPERTY LOCATED AT  
855 NORTH FAIRVIEW AVENUE, DECATUR, ILLINOIS**

WHEREAS, the City of Decatur, Illinois has need to build a fire station facility to replace an aging structure; and,

WHEREAS, the location of 855 North Fairview Avenue, Decatur, Illinois will be a desirable location for a fire station to be built.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ILLINOIS:


Section 1. That the City Manager, or his authorized designee, is authorized to enter into the Contract of Sale, attached hereto and marked Exhibit A for the purchase of the property located at 855 North Fairview Avenue, Decatur, Illinois.

Section 2. That the City Manager or his authorized designee, is authorized to execute any and all documents necessary to purchase the property located at 855 North Fairview Avenue Decatur, Illinois.

PRESENTED and ADOPTED this 4<sup>th</sup> day of November, 2019.

  
JULIE MOORE WOLFE, MAYOR

Attest:

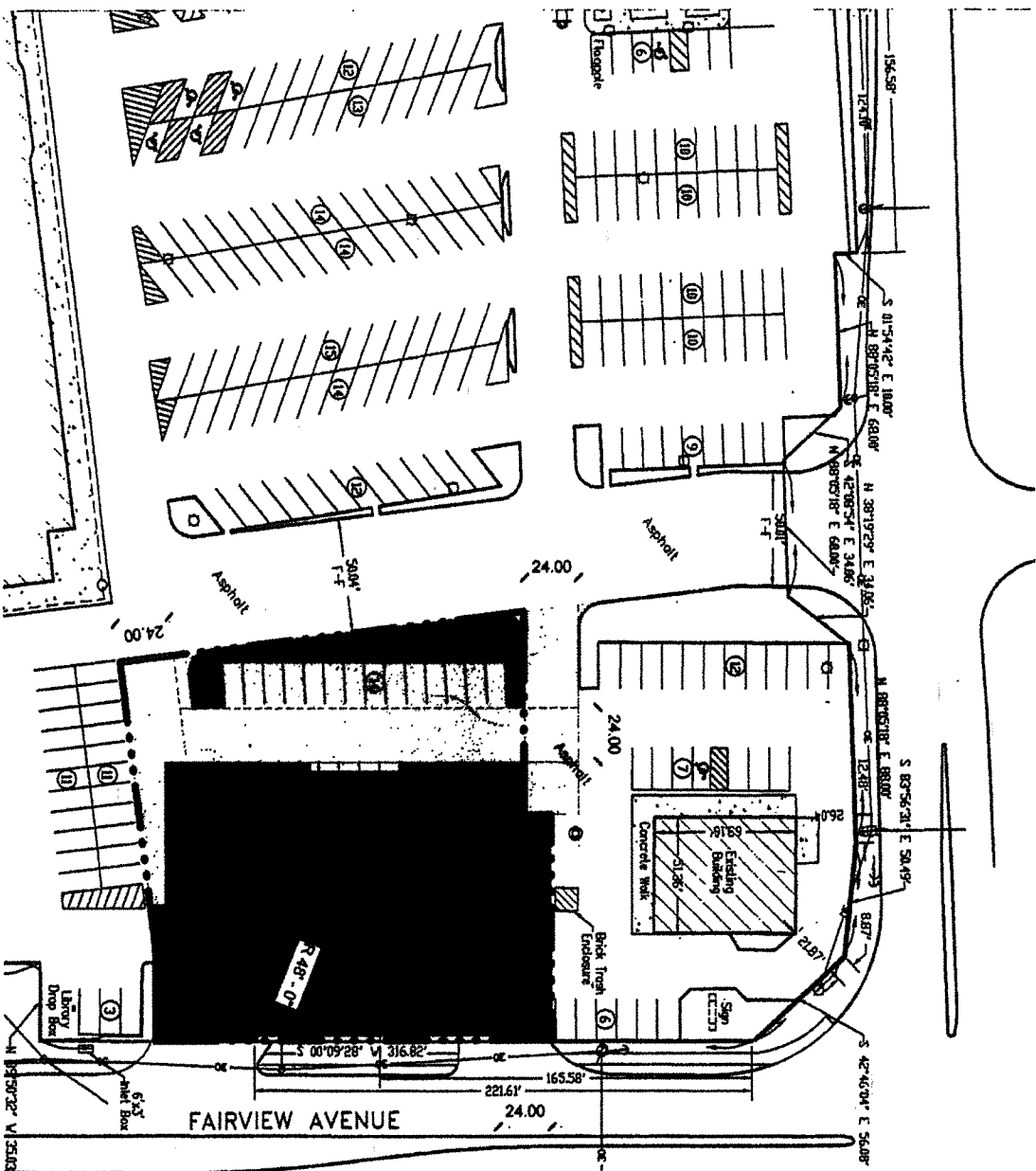
  
CITY CLERK

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PREMISES**

Fairview Park Plaza. L.L.C.

Part of the Southwest 1/4, Southeast 1/4, Section 9, Township 16 North, Range 2 East of the 3rd P.M. and more particularly described as follows: Beginning at the point of intersection of the North right of way line of the Norfolk and Western Railroad (formerly Wabash Railroad) with the present West right of way line of S.B.I. Rt. 48 (Fairview Ave.), said point being approximately 59.2 feet North of and 80.2 feet West of the Southeast corner of said Southwest 1/4, Southeast 1/4, Section 9; thence North 90° W (Assumed Bearing) 1244.25 feet along said railroad right of way line to the West line of said Southwest 1/4, Southeast 1/4, Section 9; thence N 0° 21' 38" E, 557.88 feet along the West line of said Southwest 1/4, Southeast 1/4, Section 9 to its intersection with the South right of way line of King Street, thence North 87° 04' 20" E, 539.73 feet along said right of way line; thence N 88° 05' 18" E, 389.98 feet; thence S 01° 54' 42" E, 10.00 feet; thence N 88° 05' 18" E, 68.00 feet; thence S 42° 08' 53" E, 34.06 feet; thence N 88° 05' 18" E, 60.00 feet; thence N 38° 19' 29" E, 34.06 feet; thence N 88° 05' 18" E, 88.00 feet; thence S 88° 56' 31" E, 50.49 feet; thence S 42° 46' 04" E, 56.08 feet to a point on the West right Of way line of Fairview Avenue; thence S 00° 09' 28" W, 316.82 feet along said right of way line; thence N 89° 50' 32" W, 35.03 feet; thence S 00° 09' 28" W, 233.93 feet to the point of beginning. Situated in Macon County, Illinois.



thence N 89°05'18" E, 68.00 feet; thence S 42°08'53" E, 34.06 feet; thence N 89°05'18" E, 68.00 feet; thence N 38°19'28" E, 34.06 feet; thence N 89°05'18" E, 68.00 feet; thence S 63°50'31" E, 50.49 feet; thence S 42°45'04" E, 56.08 feet to a point on the West right of way line of Fairview Avenue; thence S 00°08'28" W, 316.82 feet along said right of way line; thence N 89°50'32" W, 35.03 feet; thence S 00°09'28" W, 223.93 feet to the point of beginning. Situated in Macon County, Illinois.

# DECATUR FIRE STATION 3 - CONCEPT D.1

01/31/19  
PROJECT NO. 50101919  
REVISED 09/09/2019



**Dewberry**

**EXHIBIT A**

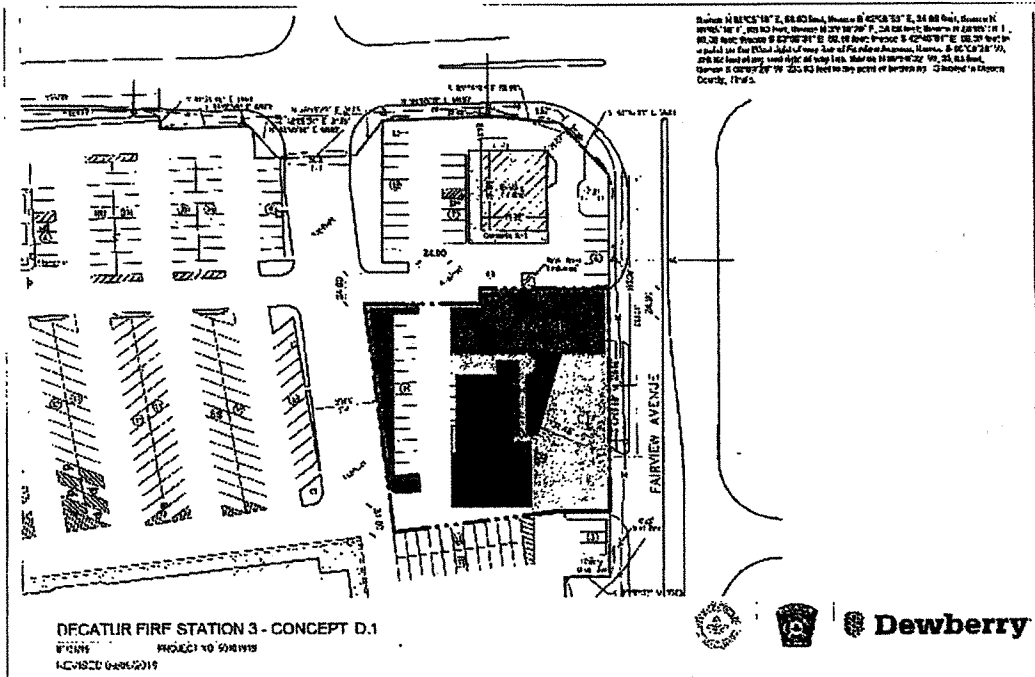
**LEGAL DESCRIPTION OF PREMISES**

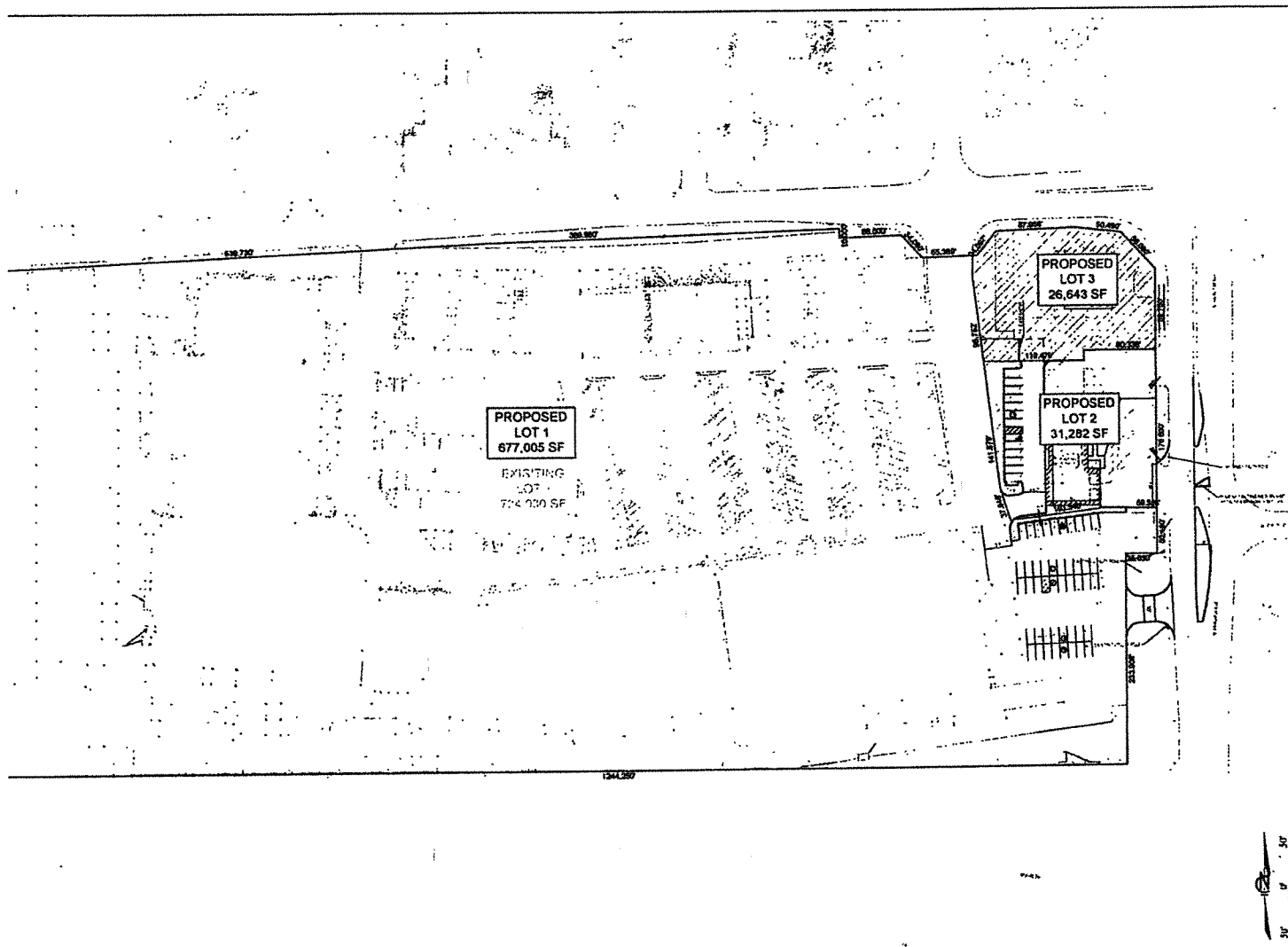
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## EXHIBIT B





## CONTRACT OF SALE

THIS CONTRACT OF SALE ("Contract") is by and between FAIRVIEW PARK PLAZA, LLC, an Illinois limited liability company ("Seller"), and the CITY OF DECATUR, an Illinois municipal corporation ("Buyer").

### WITNESSETH:

Seller agrees to sell and Buyer agrees to purchase on the terms and conditions hereinafter set forth, the real estate situated in Macon County, Illinois, described on Exhibit A attached hereto (the "Premises").

1. Purchase Price. The purchase price for the Property is One Dollar (\$1.00) with purchase price for the property to be paid at closing, subject to closing adjustments.

2. Representations. Seller represents that a No Further Remediation ("NFR") order has been received for the Premises from the Illinois Environmental Protection Agency, a copy of which will be provided to the Buyer and except for the NFR, Seller has not made and does not make any representations, warranties or guarantees of any kind concerning the Premises or its condition or suitability for Buyer's proposed use, whether express or implied, oral or written. Buyer agrees that it is purchasing the Premises "as is" with all faults and defects and based solely on Buyer's inspection, testing and investigation of the Property. Buyer acknowledges that the disclaimers, agreements and other statements set forth in this section are an integral portion of this Contract and that Seller would not agree to sell the Premises to Buyer for the purchase price without the disclaimers, agreements and other statements set forth in this Paragraph 2 and that the disclaimers, agreements and other statements in this Paragraph 2 shall survive the closing of the sale under this Contract.

3. Conditions Precedent.

3.1 Seller's obligations under this Contract are subject to the following conditions:

(a) The establishment of on-premise zoning regulations and ordinances allowing for:

(i) the approval of a commercial subdivision of the parcel of which the

Premises is part thereof;

(ii) construction and operation of a City of Decatur fire station on the Premises;

(iii) the approval of a new ingress/egress for southbound traffic along Fairview Avenue as shown by the approach drawn in red on the attached drawing.

(b) Buyer and Seller agreeing to any limited or shared common area and exclusive/non-exclusive points of ingress/egress as described on Exhibit B attached hereto.

3.2 Buyer's obligations under this Contract are subject to the following conditions:

(a) Buyer may, at its expense and option, obtain such title reports and surveys as to the Premises as Buyer may desire. Buyer shall advise Seller in writing within 30 days after the effective date of this agreement concerning any defect in the condition of title disclosed by such reports or surveys and rendering the title unmarketable. In the event of such notice, the conveyance to Buyer shall be delayed pending Seller's efforts to resolve the same. In event Seller is unable or unwilling to cure such defects within a reasonable time after notice thereof, Buyer or Seller may elect to cancel and terminate this agreement and the rights and obligations of the parties hereunder; and in such event, Seller shall refund to Buyer all sums paid hereunder if Buyer shall so elect. Failure to notify Seller of any objectionable title defect as above said shall constitute a waiver thereof. Title may be subject only to the following exceptions:

- (i) Easements, restrictions and reservations of record on the date hereof;
- (ii) Building and use restrictions;
- (iii) Special assessments levied for local improvements;
- (iv) Zoning regulations and ordinances affecting the Premises; and,
- (v) The lien of current general real estate taxes.

3.3 Both Seller and Buyer agree:

(a) To comply with the requirements of the Real Estate Settlement Procedures Act;

(b) At any time after the date hereof, architects and engineers of Buyer shall have reasonable access to the Premises for the purpose of measurement and preparation of design plans for Buyer, provided such access cannot unreasonably interfere with the usual business of Seller performed on the Premises. Buyer shall indemnify and hold Seller harmless from and against all losses, costs, damages and liabilities arising out of Buyer or any of its employees, agents or contractors entering the Premises.

3.4 Closing. The time and place of settlement on the date of closing shall be fixed by mutual agreement of the parties not more than 120 days after the effective date of this Contract. As used in this Contract, "Effective Date of this Contract" means the date that both parties have executed this Contract and received a fully executed original of this Contract.

(a) At the settlement Buyer shall deliver to Seller or cause to be paid:

(i) All documents as Seller's counsel may reasonably require.

(ii) An amount equal to the cost of recording any release of indenture of mortgage or trust deed; and,

(iii) An amount equal to the cost of Illinois revenue stamps if required to be affixed to Seller's quitclaim deed.

(iv) An amount equal to any and all costs associated with the transfer of ownership to Premises including but not limited to any real estate taxes unpaid and due after the date of closing prorated to the date of closing, based upon the last ascertainable real estate taxes on the Premises; the fee charged by the Title Company for closing the sale; the fee for recording the deed; the cost of an survey; and the cost of the title commitment and policy.

(b) Seller shall deliver to Buyer:

(i) Its executed quitclaim deed to the Premises, containing only those exceptions listed in subparagraphs (i) through (v), inclusive, of paragraph 3.2 (a) above.

(ii) A sufficient release of any indenture of mortgage or trust which may be a lien on the Premises; and,

(iii) Such other documents as Buyer's counsel may reasonably require.

3.5 Buyer shall have the right to take possession of the Premises on completion of the transaction on the date of closing.

3.6 While this Contract is in effect, Seller shall (i) not enter into or amend any contracts, options, leases, easements or other agreements adversely affecting the Property, and (ii) not take any action which would adversely affect the ownership or condition of the Property.

4. Title Commitment. Buyer shall obtain a current title commitment for an owner's title insurance policy for the Property. Buyer shall pay all title examination fees or other expenses charged by the Title Company for the purpose of issuing such title commitment.

5. Seller's Closing Obligations. At the closing, Seller shall deliver to Buyer a quitclaim deed, conveying the Premises in fee simple, subject to 2019 real estate taxes and assessments and subsequent years not yet due and payable, all easements, agreements, restrictions and other matters of record. Such deed shall also include provisions requiring the Buyer, its successors and assigns, for a period of twenty (20) years from date of closing, to utilize the Premises to house a fire station or similar public safety uses agreed to in writing by the Seller. The promise made to use land to house a fire station or similar public safety uses agreed to in writing by the Seller shall survive the date of closing and such promise shall be specifically enforceable by the Seller and its successors under the terms of this agreement.

6. Seller shall not be liable for environmental defects to the Premises.

7. Default. If the conditions precedent of this Contract are satisfied or waived by Buyer and Seller, and if Seller fails to consummate this Contract for any reason other than the default of Buyer, then Buyer may enforce specific performance or seek other legal remedies. If Buyer shall default in the performance of its obligations under this Contract, then Seller may enforce specific performance or seek other legal remedies.

8. Assignment Neither the Seller nor Buyer may assign this Agreement or their interest in the Premises without the prior written consent of the other. The terms of this agreement and deed conveying ownership in the Premises shall be binding on the parties, their respective successors, personal representatives, heirs and assigns.

9. Miscellaneous.

(a) Any notice which either party may be required to give hereunder or which either party is permitted or may desire to give to the other party shall be in writing and given either personally or by mailing the same by registered or certified mail, return receipt requested, to the party to whom notice is directed at the address of such party as follows:

Seller: Fairview Park Plaza  
101 S. Main St., Suite 800  
Decatur, IL 62523

Buyer: City of Decatur  
City Manager  
#1 Gary K. Anderson Plaza  
Decatur, IL 62523

Any notice served by mail shall be deemed given on the day in which the same is postmarked and deposited in the United States mail, addressed as above provided with postage thereon fully prepaid. Either party may change the party or address to which any such notice is to be addressed by giving written notice to the other party of such change. Any time limitation provided for in this Contract shall begin on the date that the party actually receives such notice, or refuses to accept delivery, and the date of postmark of any return receipt indicating the date of delivery of such notice to the addressee shall be conclusive evidence of such receipt.

(b) This Contract constitutes the entire agreement between Seller and Buyer, and there are no other covenants, agreements, or conditions, either oral or written, between them concerning the Property other than those set forth in this Contract. No subsequent change, deletion or addition to this Contract shall be binding unless in writing and signed by both parties.

(c) The headings, captions, numbering systems, etc., are inserted only as a matter

of convenience and shall not be considered in interpreting the provisions of this Contract.

(d) All of the provisions of this Contract shall be binding upon the personal representatives, heirs, successors and permitted assigns of both parties.

(e) If any of the dates or time periods in this Contract fall or end on a Saturday, Sunday or U.S. bank holiday, then such date or time period shall be extended until the next business day other than a Saturday, Sunday or U.S. bank holiday.

DATED this 4<sup>th</sup> day of November, 2019.

SELLER:

FAIRVIEW PARK PLAZA, LLC

By: 

Dated: 10/17/19

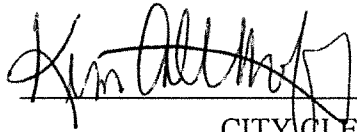
BUYER:

CITY OF DECATUR

BY: 

Dated: Nov. 6, 2019

ATTEST:



CITY CLERK



Legal Department

**DATE:** 10/31/2019

**MEMO:**

**TO:** Mayor Julie Moore Wolfe & Decatur City Council Members

**FROM:** Scot Wrighton, City Manager

**SUBJECT:** Resolution Authorizing City Manager to Purchase Property Located at 855 N. Fairview Ave., Decatur, IL

**SUMMARY RECOMMENDATION:** Adopt a resolution authorizing acquisition of a site for a fire station.

**BACKGROUND:**

The city's fire station architect/planner, Dewberry, recommended that the city upgrade and modernize 4 of its 7 stations, and replace/relocate the other 3. The 4 upgrades/modernizations have been completed. Stations 3, 5 and 7 were slated for replacement. Station #5 (on Mound Road) is nearly finished and will be substantially complete by year's end. The city has not yet acquired new sites for stations 3 and 7.

The staff examined several possible replacement sites for station 3, and determined that the proposed site (on the east side of Fairview Plaza where the former Kroger gas pumps were located) would provide the best access to neighborhoods on the west side of the city. Staff has also secured preliminary approval from IDOT for the necessary curb and median cuts to service the proposed site. It is recommended that the City Council approve the acquisition of the site.

**ATTACHMENTS:**

Description	Type
Resolution Authorizing City Manager to Purchase Property Located at 855 N Fairview Ave	Resolution Letter