



2020009544

DOUGLAS J. JOHNSON  
RECORDER - DEKALB COUNTY, IL

RECORDED: 9/17/2020 02:15 PM  
REC FEE: 55.00

STATE OF ILLINOIS )  
COUNTY OF DEKALB ) SS  
CITY OF DEKALB )

PAGES: 16

**CERTIFICATION**

I, **RUTH A. SCOTT**, am the duly qualified and appointed Executive Assistant of the City of DeKalb, DeKalb County, Illinois, as authorized by Local Ordinance 2019-059, and as such Executive Assistant, I maintain and am safe-keeper of the records and files of the Mayor and City Council of said City.

I do hereby certify that the attached hereto is a true and correct copy of:

**ORDINANCE 2020-035**

**AUTHORIZING THE PURCHASE OF REAL ESTATE FROM STEVEN L. BEMIS AND APPROVING THE RIGHT OF WAY PLAT FOR THE DEVELOPMENT OF AFTON ROAD, DEKALB, ILLINOIS.**

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois, on the 26<sup>th</sup> day of May 2020.

**WITNESS** my hand and the official seal of said City this 16<sup>th</sup> day of September 2020.

**RUTH A. SCOTT**, Executive Assistant



**Prepared by and return to:**

City of DeKalb  
City Manager's Office  
Attention: Ruth A. Scott  
164 E. Lincoln Highway  
DeKalb, Illinois 60115

**AUTHORIZING THE PURCHASE OF REAL ESTATE FROM STEVEN L. BEMIS AND APPROVING THE RIGHT OF WAY PLAT FOR THE DEVELOPMENT OF AFTON ROAD, DEKALB, ILLINOIS.**

**WHEREAS**, the City of DeKalb (the "City") is a home rule unit of local government which may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

**WHEREAS**, Steven L. Bemis ("Seller") is the owner in fee simple of real property legally described in Exhibit A attached hereto and incorporated herein by reference (the "Property") and further described in the Right of Way Plat in Exhibit B attached hereto and incorporated herein by reference (the "Plat"); and

**WHEREAS**, the City intends to purchase the Property to construct and develop the new Afton Road and certain stormwater drainage improvements; and

**WHEREAS**, the City and Seller (the "Parties") have agreed to the City's provisional offer to purchase the Property at a price of \$30,000 per acre subject to the approval of this Ordinance and the Parties' execution of a Real Estate Purchase Agreement (the "Agreement") in the same or substantially similar form as the Agreement attached hereto and incorporated herein as Exhibit C (the "Agreement"); and

**WHEREAS**, the City's corporate authorities find that the purchase of the Property is in the City's best interests for the protection of the public health, safety, and welfare;

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

**SECTION 1:** The recitals to this Ordinance are true, material, adopted, and incorporated herein as Section 1 to this Ordinance.

**SECTION 2:** The City's corporate authorities, by a  $\frac{3}{4}$  vote of the corporate authorities then holding office, approve of the purchase of the Property at a price of \$30,000 per acre, subject to the Parties' execution of the Agreement in the same or substantially similar form as Exhibit C. The City's corporate authorities further approve the Agreement in the same or substantially similar form as Exhibit C, and direct the Mayor to execute and the City Clerk or Executive Assistant to attest the Agreement and all other documents and acts which are necessary to effectuate the Agreement and purchase of the Property.

**SECTION 3:** Effective upon the City attaining title to the Property, the City's corporate authorities adopt and approve the Plat, and further direct the City Manager or his designee to record and file the Plat with the DeKalb County Clerk and Recorder.

**SECTION 4:** This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the City of DeKalb that to the extent that the terms of this resolution should be inconsistent with any non-preemptive state law, that this resolution shall supersede state law in that regard within its jurisdiction.

**SECTION 5:** This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

**ADOPTED BY THE CITY COUNCIL** of the City of DeKalb, Illinois at a Regular meeting thereof held on the 26<sup>th</sup> day of May 2020 and approved by me as Mayor on the same day. Passed on First Reading by a 7-0-1 roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Mayor Smith. Nay: None. Absent: Faivre. Second Reading waived by a 7-0-1 roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Mayor Smith. Nay: None. Absent: Faivre.

**ATTEST:**



**RUTH A. SCOTT**, Executive Assistant



**JERRY SMITH**, Mayor

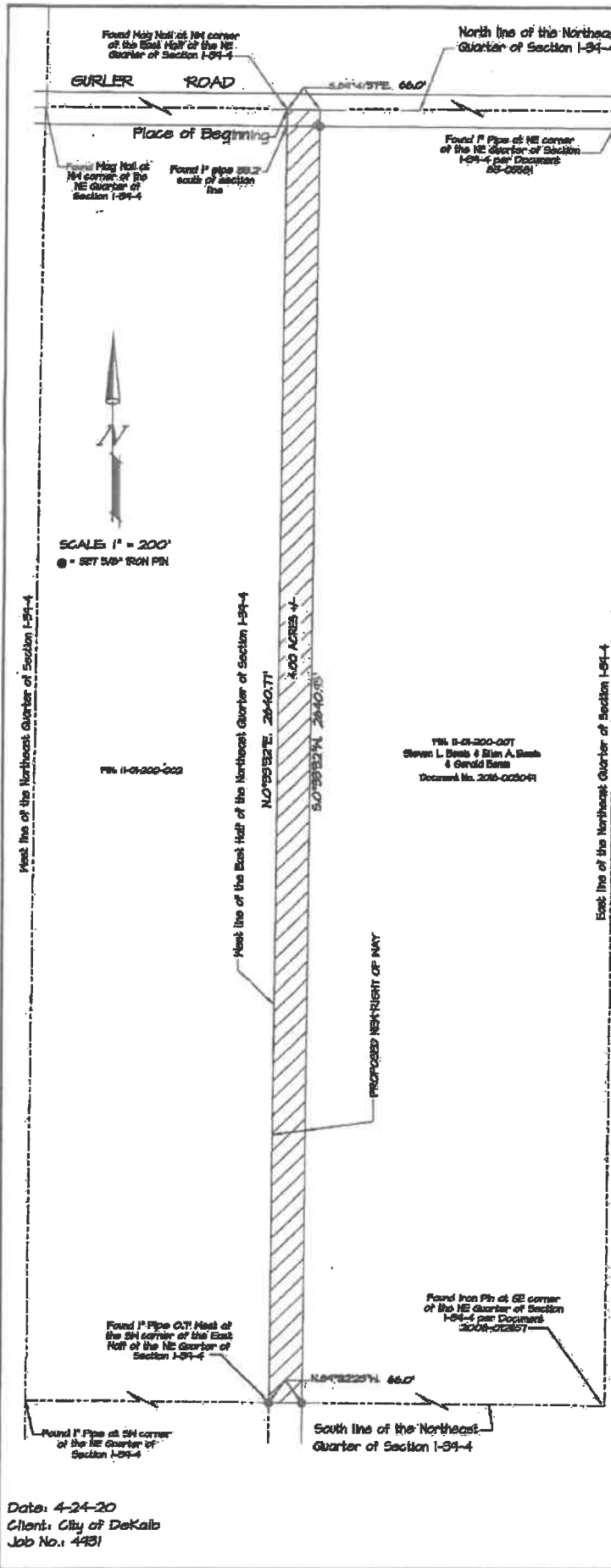


**EXHIBIT A**  
**(Legal Description of the Property)**

Part of the East Half of the Northeast Quarter (1/4) of Section One (1), Township Thirty-nine (39) North, Range Four (4) East of the Third Principal Meridian, bounded and described as follows to wit:

Beginning at the Northwest corner of the East Half of the Northeast Quarter (1/4) of said Section One (1); thence South 89 degrees 41 minutes 57 seconds East along the North End of said Northeast Quarter (1/4) a distance of 66.00 feet; thence South 00 degrees 33 minutes 32 seconds West parallel with the West line of said East Half of the Northeast Quarter (1/4) a distance of 2640.95 feet to the South line of said East Half of the Northeast Quarter (1/4); thence North 89 degrees 32 minutes 23 seconds West along the South line of said Northeast Quarter (1/4) a distance of 66.00 feet to the Southwest corner of said East Half of the Northeast Quarter (1/4); thence North 00 degrees 33 minutes 32 seconds East along the West line of said East Half of the Northeast Quarter (1/4) a distance of 2640.77 feet to the Place of the Beginning. Situated in DeKalb County, State of Illinois. Containing 4.00 Acres more or less.

**EXHIBIT B  
(RIGHT OF WAY PLAT)**



**RIGHT OF WAY PLAT**  
**AFTON ROAD**  
 Part of the East Half of  
 Section 1, Township 39 North,  
 Range 4 East of the 3rd P.M.  
 DeKalb County, Illinois

**Legal Description:**  
 Part of the East Half of the Northeast Quarter (1/4) of Section One (1), Township Thirty-nine (39) North, Range Four (4) East of the Third Principal Meridian, bounded and described as follows to-wit: Beginning at the Northwest corner of the East Half of the Northeast Quarter (1/4) of said Section One (1); thence South 89 degrees 41 minutes 57 seconds East along the North line of said Northeast Quarter (1/4) a distance of 66.00 feet thence South 89 degrees 33 minutes 37 seconds West parallel with the West line of said East Half of the Northeast Quarter (1/4) a distance of 2540.35 feet to the South line of said East Half of the Northeast Quarter (1/4); thence North 89 degrees 32 minutes 32 seconds West along the South line of said Northeast Quarter (1/4) a distance of 66.00 feet to the Southwest corner of said East Half of the Northeast Quarter (1/4); thence North 89 degrees 33 minutes 32 seconds East along the West line of said East Half of the Northeast Quarter (1/4) a distance of 2640.77 feet to the Place of Beginning. Situated in DeKalb County, State of Illinois.

I hereby certify that I have surveyed the above-described property for the purpose of determining the boundaries thereof and the attached plat is a true and correct representation of said survey. This professional services certificate is the correct Illinois uniform detailed requirements for a boundary survey.

Dimensions are given in feet and decimals of a foot.  
 Given under my hand and seal this 5th day of May, A.D. 2020

*Gary R. Sumner*  
 Gary R. Sumner, P.L.S.  
 (expires 11-1-2021)



PL 11-01-200-007  
 Steven L. Davis & Brian A. Smith  
 & Gerald Egan  
 Document No. 2016-0230-01

Date: 4-24-20  
 Client: City of DeKalb  
 Job No.: 4431



**EXHIBIT C  
(REAL ESTATE PURCHASE AGREEMENT)**

## REAL ESTATE PURCHASE AGREEMENT

This Agreement (the "Agreement"), by and between the City of DeKalb (the "City" or "Buyer"), an Illinois home rule municipal corporation, and Steve Bemis (the "Seller"), collectively referred to as the Parties, and in consideration of the covenants set forth herein, agree as follows:

### RECITALS

**WHEREAS**, the City is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

**WHEREAS**, the City wishes to purchase approximately four (4) acres of agricultural real estate owned in fee simple by the Seller, for the purpose of establishing a sixty-six foot (66') public road right-of-way from Gurler Road to Keslinger Road. The right-of-way will be sized to accommodate two (2) paved driving lanes that are each twelve feet (12') in width, with adequate gravel shoulders and grass ditches, as well as field entrances at appropriate intervals and necessary culverts and drainage structures. The Property is legally described as Exhibit A (the "Property") and attached hereto.

**WHEREAS**, the City desires to purchase the Property from the Buyer upon and subject to all of the terms, provisions, and conditions set forth in this Agreement; and

**WHEREAS**, the City's corporate authorities find that the purchase of the Property is in the public interest and promotes the public health, safety, and welfare; and

**NOW, THEREFORE**, in consideration of and in reliance upon the above Recitals, which are incorporated in and made a part of this Agreement, and for and in consideration of the mutual covenants and conditions set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Property to be sold.** The City agrees to purchase the Property from the Buyer for the price of \$30,000.00 (Thirty Thousand Dollars and Zero Cents) per acre.

2. **Stormwater Drainage Improvements.** The City agrees to address a variety of storm water runoff concerns identified by the Seller that would be aggravated by the construction of the proposed rural roadway ("Afton Road") if proper planning and construction allowances are not undertaken. At no charge to the Seller, the City shall collaborate with the Seller in the design and construction of such drainage tiling and other storm water appurtenances that will assure that trapped storm water will be effectively controlled without further damage to the Seller's crop land. For this purpose, the City shall specify a \$20,000.00 (Twenty Thousand Dollars and Zero Cents) allowance within the bid contract for the road construction. Because of the Seller's unique and keen understanding of the existing drain tile design proximate to the Afton Road right-of-way location, the City shall involve the Seller in the design of the drainage improvements.



**3. Possession.** At closing, the Seller shall deliver possession of the Property to the City.

**4. Deed.** The Seller agrees to convey the Property to the City by a good and sufficient recordable special warranty deed, subject only to covenants, conditions, restrictions and easements apparent or of record and to all applicable zoning laws and ordinances.

**5. Evidence of title.**

- (i) The City shall be responsible for ordering and paying, at its sole cost and expense, a Commitment for Title Insurance issued by a title insurance company doing business in DeKalb County, committing a company to issue a title policy in the usual form in such amount as desired by the City.
- (ii) Permissible exceptions to title shall include only special assessments; zoning laws and building ordinances; easements, apparent or of record; and covenants and restrictions of record which do not restrict reasonable use of the premises.
- (iii) If title evidence or any survey discloses exceptions other than those permitted, the Buyer shall give written notice of such exceptions to the Seller within 15 days. The Seller shall have 15 days upon receipt of said written notice to have such title exceptions removed. If the Seller is unable to cure such exceptions, then the Buyer shall have the option to terminate this Agreement.

**6. Closing.** The Closing Date shall be determined as the Parties may agree in writing, subject to the applicable provisions of this Agreement. If the scheduled Closing Date does not fall on a business day, the Closing Date shall be the next business day thereafter.

**7. Seller's Deliveries.** On the Closing Date, provided all conditions and contingencies have been satisfied, Seller shall deposit or cause to be deposited with the Title Company (or deliver to the Buyer, or its designee) the following, each duly executed and notarized, as appropriate:

- (i) A Warranty Deed, meeting the requirements of this Agreement transferring the real estate to the Buyer;
- (ii) An ALTA statement and "gap" undertaking in the form customarily required by the Title Company of a seller of property to enable it to issue the Title Policy in accordance with the terms hereof for the Property;

- (iii) An Affidavit of Title signed by the Seller of the Property in the customary form.
- (iv) A Bill of Sale for all improvements and fixtures located on the Property, if any, in the customary form.
- (v) All documents necessary to release any mortgages, or liens in the property, if any.
- (vi) Such other documents or deliveries (if any) required pursuant to other provisions of this Agreement, the Closing Escrow, or otherwise reasonably required in order to consummate the transaction contemplated hereby and customarily required by the Title Company of a Seller of property to enable it to issue the Title Policy in accordance with the terms hereof.

**8. Buyer's Deliveries.** On the Closing Date, provided all conditions and contingencies have been satisfied, Buyer shall deposit with Title Company (or deliver to Seller) the following, each dated and duly executed and notarized, as appropriate:

- (i) All affidavits, indemnities, undertakings and certificates customarily required by the Title Company of a purchaser of property to enable it to issue the Title Policy in accordance with the terms hereof.
- (ii) The monetary payment due Seller and any additional amounts necessary to pay any costs and fees required to be paid by Buyer less any applicable credits.
- (iii) Such other documents or deliveries (if any) required pursuant to other provisions of this Agreement, the Closing Escrow, or otherwise reasonably required in order to consummate the transaction contemplated hereby.

**9. Joint Deliveries.** On the Closing Date, provided all conditions and contingencies have been satisfied, the parties shall jointly deposit with Title Company the following, each dated and duly executed and notarized, as appropriate:

- (i) Closing Statement.
- (ii) State, and county transfer tax declarations and any required forms completed to establish that the transfers is exempt from any State, County or City real estate transfer taxes that is applicable because the transfer is made by a public entity.

**10. Closing Costs.** The closing costs shall be paid as follows:  
By City:

- (a) Preparation of the Deeds and documents required of the Parties
- (b) Its legal expenses
- (c) 100% of the Title Company closing escrow fees
- (d) The cost of the Owner's title insurance policy with extended coverage
- (e) Recording fees for the Deed
- (f) The Survey if requested or required by the Title Company
- (g) Any other closing costs charged to the Parties that are not otherwise allocated pursuant to this Section.

By Seller:

- (a) Its legal expenses

**11. Broker involvement.** The Parties acknowledge that neither party has used a broker.

**12. Real estate taxes and proration.** Any and all prior real estate taxes due for the Property for any period prior to closing, if any, shall be paid by Seller prior to or at closing. If necessary, the Seller shall bring to closing a certificate of redemption showing the amount of the real estate taxes owed for payments that were previously due and payable along with any penalties and interest and shall otherwise comply with all the Title Company's requirements pertaining to its payment of any previously due but unpaid real estate taxes.

**13. Real Estate Transfer Taxes.** At closing, the Parties shall execute a completed Real Estate Transfer Declaration in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois showing the exchange of properties in this Agreement as being exempt from any State, County, or local real estate transfer taxes.

**14. Personal property.** All personal property and fixtures located on or within real estate, if any, shall be removed by the Seller before the closing.

**15. Uniform Vendor and Purchaser Risk Act.** The provisions of the Uniform Vendor and Purchaser Risk Act of Illinois shall be applicable to this Agreement.

**16. IRS Section 1445.** Each Party represents that it is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and that it is exempt from the withholding requirements of said Section. Each Party will furnish to the other Party at closing the Exemption Certification set forth in said Section.

**17. Condition of property.** Buyer agrees to accept the Property in its "as-is" condition, and the Seller disclaims all warranties express or implied as to the condition of the Property.

**18. Environmental matters.** The Seller shall provide the Buyer with all environmentally specific reports and correspondence which pertain to the Property.

To the fullest extent permitted by law, the Seller shall defend, indemnify, and hold harmless the City and its officers, employees, and agents from and against all claims, damages, losses, fines, expenses, costs and attorney's fees arising out of or resulting from any Hazardous Materials located upon the Property and the remediation, clean-up, and removal of any Hazardous Materials located upon the Property.

The covenants and indemnities contained in this Section 18 shall survive the termination of this Agreement and shall not merge with the deed or closing. The responsibility of the Seller to the City to pursue remediation shall not merge with the deed or closing and shall continue to exist after closing. The terms of this Section 18 are intended to remain applicable after closing and shall not merge with deed or closing.

**19. Default.** If any Party defaults under this Agreement, the other Party may waive the default and proceed to closing, seek specific performance, or refuse to close and cancel this Agreement with both parties being relieved of all further obligations under this Agreement. Except for failure to close on the Closing Date, a Party may not exercise its remedies until after it delivers notice of the alleged default to the other Party and the other Party fails to cure within ten (10) days after receipt of the default notice. The remedies provided herein shall be the sole and exclusive remedies for either Party's default under this Agreement.

**20. Time is of the essence.** Time is of the essence for this Agreement.

**21. Notices.** All notices herein required shall be in writing and shall be served on the parties at the addresses following their signatures. Except for when delivery of a notice is required, the mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service.

**22. Amendment.** This Agreement may be amended only by the mutual agreement of the Parties evidenced by a written amendment adopted and executed by the Parties.

**23. Entire Agreement.** This Agreement sets forth all agreements, understandings and covenants between and among the Parties relative to the matters herein contained. This Agreement supersedes all prior written agreements, negotiations and understandings, written and oral, and shall be deemed a full integration of the entire agreement of the Parties.

**24. Illinois Law.** This Agreement shall be construed its accordance with the laws of the State of Illinois.

**25. Interpretations.** This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

**26. Execution.** All the parties to this Agreement represent that they are authorized to enter into this Agreement.

**IN WITNESS WHEREOF,** the Parties have duly executed this Agreement pursuant to all requisite authorizations on the dates set forth below.

<b>SELLER</b>  Steve Bemis 6585 Gurler Rd. DeKalb, IL 60115  By: <u>Steve Bemis</u> Steve Bemis  Date: <u>7-17-20</u>	<b>CITY</b>  City of DeKalb 164 E. Lincoln Hwy. DeKalb, IL 60115  By: <u>Jerry Smith</u> Jerry Smith, Mayor  Date: <u>5-26-2020</u>
<b>BUYER ATTEST</b>  _____  Print Name: _____	<b>CITY ATTEST</b> <u>Ruth A. Scott</u> Ruth A. Scott, Executive Assistant



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**(Legal Description of the Property)**

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700 West Locust Street  
Belvidere, Illinois 61008  
Phone: (815) 547-8435  
Fax: (815) 544-0421

August 7, 2020

DeKalb County Recorder  
110 E. Sycamore St  
Sycamore, IL 60178

Re: ✓ Right of Way Plat Afton Road (4.00 acres +-)  
Right of Way Plat - Afton Road (0.61 acres +-)  
Right of Way Plat - Afton Road (1.40 acres +-)  
Right of Way Plat - Afton Road (2.00 acres +-)

To Whom it may concern:

Authorization is hereby given to:

Ruth A. Scott  
Jason R. Blumenthal  
Stephanie Turner  
Adam Grubbs

To record the above plats

Sincerely,  
C.E.S. Inc.

Gary R. Sumner, P.L.S. No 2508  
(Expires 11/30/20)



ord 2020-035

# RIGHT OF WAY PLAT AFTON ROAD

Part of the East Half of  
Section 1, Township 39 North,  
Range 4 East of the 3rd P.M.  
DeKalb County, Illinois

Legal Description:  
Part of the East Half of the Northeast Quarter (1/4) of Section One (1), Township Thirty-nine (39) North, Range Four (4) East of the Third Principal Meridian, bounded and described as follows to-wit: Beginning at the Northwest corner of the East Half of the Northeast Quarter (1/4) of said Section One (1); thence South 89 degrees 41 minutes 57 seconds East along the North line of said Northeast Quarter (1/4) a distance of 66.00 feet; thence South 00 degrees 33 minutes 32 seconds West parallel with the West line of said East Half of the Northeast Quarter (1/4) a distance of 2640.95 feet to the South line of said East Half of the Northeast Quarter (1/4); thence North 89 degrees 32 minutes 23 seconds West along the South line of said Northeast Quarter (1/4) a distance of 66.00 feet to the Southwest corner of said East Half of the Northeast Quarter (1/4); thence North 00 degrees 33 minutes 32 seconds East along the West line of said East Half of the Northeast Quarter (1/4) a distance of 2640.77 feet to the Place of Beginning. Situated in DeKalb County, State of Illinois. Containing 4.00 Acres more or less.

I hereby certify that I have surveyed the above described property for the purpose of determining the boundaries thereof and the attached plat is a true and correct representation of said survey. This professional service conforms to the current Illinois minimum detailed requirements for a boundary survey.

Dimensions are given in feet and decimals of a foot.

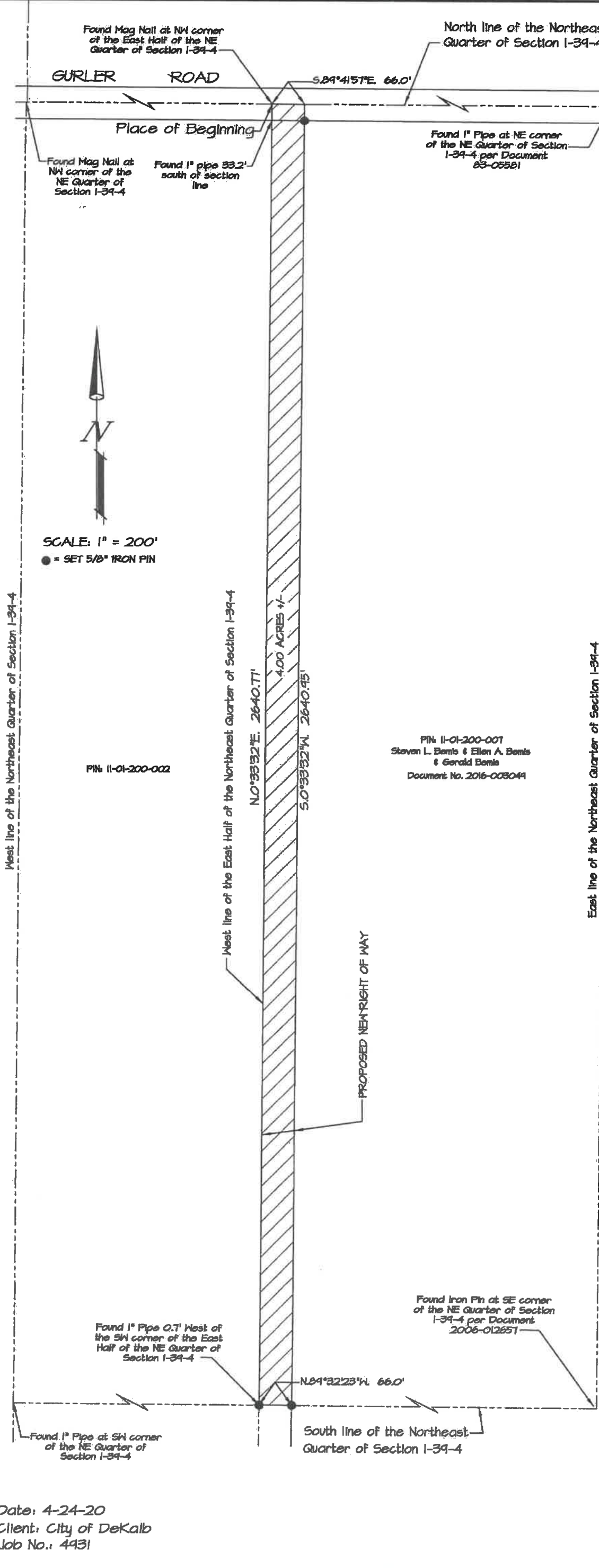
Given under my hand and seal this 5th day of May, A.D. 2020

*Gary R. Sumner*  
Gary R. Sumner, P.L.S. No. 2508  
(expires 11-30-20)



PIN 11-01-200-001  
Steven L. Bemis & Ellen A. Bemis  
& Gerald Bemis  
Document No. 2016-008049

PIN 11-01-200-002



SCALE: 1" = 200'  
● = SET 5/8" IRON PIN

Date: 4-24-20  
Client: City of DeKalb  
Job No.: 4431

ENGINEERING SERVICES  
**C.E.S.** INC.  
700 WEST LOCUST ST., BELVIDERE, ILLINOIS 61008  
PHONE: (815) 547-8433, FAX: (815) 544-0421  
ILLINOIS DESIGN FIRM NO. 184-001260