

EASEMENT
Sanitary Sewer Easement Agreement

Parcel ID Number: WAKC 0991 999 004

After recording return to:
City of Waukesha Engineering Dept
201 Delafield St
Waukesha WI 53188

The Grantor, **Continental 665 Fund LLC**, for a good and valuable consideration, the receipt of which is acknowledged, hereby conveys to the Grantee, the **City of Waukesha, Wisconsin**, a permanent 60-foot wide sanitary sewer easement, referred to as the Easement Area, legally described as follows, subject to all of the terms stated below:

Being a part of Lot 2 of Certified Survey Map No 12535, in the Northeast 1/4 and Southeast 1/4 of the Southwest 1/4, Section 32, Township 7 North, Range 19 East, City of Waukesha, Waukesha County, Wisconsin, described as follows:

Commencing at the northeast corner of the Southwest 1/4 of said Section 32; thence South 88°32'32" West along the north line of said Southwest 1/4, 203.00 feet to the east right of way line of Winterberry Drive and the Point of Beginning; thence South 01°27'28" East, 74.97 feet to a point of curvature; thence southwesterly 61.19 feet along the arc of said curve to the right, whose radius is 130.00 feet and whose chord bears South 12°01'32" West, 60.62 feet; thence South 25°30'33" West, 23.50 feet to a point on a curve; thence southeasterly 112.69 feet along the arc of said curve to the right, whose radius is 130.00 feet and whose chord bears South 26°18'56" East, 109.19 feet; thence South 01°28'58" East, 1080.70 feet to the north right of way line of Summit Avenue; thence South 84°21'22" West along said north right of way line, 60.16 feet; thence North 01°28'58" West, 1085.06 feet to a point of curvature; thence northwesterly 107.98 feet along the arc of said curve to the left, whose radius is 70.00 feet and whose chord bears North 45°40'31" West, 97.59 feet; thence North 25°30'33" East, 86.74 feet to a point of curvature; thence northeasterly 32.95 feet along the arc of said curve to the left, whose radius is 70.00 feet and whose chord bears North 12°01'32" East, 32.64 feet; thence North 01°27'28" West, 74.97 feet to the aforesaid north line of the Southwest 1/4; thence North 88°32'32" East along said north line, 60.00 feet to the Point of Beginning.

Also see attached Exhibit 1.

Terms of Easement

1. **Grant of Easement.** The Grantor grants to the Grantee a perpetual easement and right-of-way over, upon and beneath the surface of the Easement Area to install, construct, operate, inspect, maintain, repair, improve, supplement, reconstruct, and remove underground sanitary sewer utility facilities, including sanitary sewer pipes and appurtenances ordinarily associated with such facilities, such as drains, manholes, collectors, valves, connections, and junction boxes; along with a right of ingress and egress across the Easement Area as reasonably required for the Grantee and the Grantee's contractors to perform such work. The size, type and quantity of the underground sanitary sewer utility facilities shall be as determined by the Grantee, and all such facilities shall be located at or below grade.
2. **Restrictions within Easement Area.** Grantor, and any persons or entities under contract with Grantor or subject to Grantor's direction or control, shall not do any of the following within the Easement Area without the expressed, written, prior approval of the Grantee:
 - a. Place or construct any buildings or other permanent structures.

- b. Change the grade elevations.
 - c. Excavate.
 - d. Plant trees or bushes that would reasonably be expected to grow to more than four feet in height.
 - e. Drive posts, drive stakes longer than 12 inches, drive pilings, drive helical footings, or bore holes of any size.
 - f. Place any items or do any acts which reasonably should be expected to interfere with Grantee's rights granted in section 1.
3. **Removal of Items from Easement Area.** In order to perform any activities authorized in section 1, Grantee may remove any items from the Easement Area which are in violation of the restrictions in section 2, and Grantee shall not be liable for damage to such items resulting from removal. However, Grantee shall provide advance notice of work to be performed in the Easement Area, and shall cooperate with Grantor to minimize damage to items to be removed from the Easement Area.
4. **Indemnification.** The Grantee shall indemnify the Grantor from and against all damages, liabilities and losses, including those arising from personal injury, death, and property damage, and including reasonable attorney fees, arising as a proximate result of Grantee's presence upon, use of, installation of improvements on or in, or exercise of the rights granted by this instrument on or in the Easement Area; except those liabilities, damages or losses arising from the acts or omissions of the Grantor or Grantor's permittees, licensees, employees, agents, or contractors.
5. **Restoration of Surface.** Grantee shall restore the surface, including pavement, of the Easement Area and the parcel across which the Easement Area lies, disturbed by any of Grantee's acts permitted under section 1, as nearly as is reasonably possible to its condition before the disturbance.
6. **Covenants Run with Land.** All of the terms and conditions of this instrument shall run with the land, shall be binding upon and inure to the benefit of, all of Grantor's and Grantee's successors in interest.
7. **No Waiver by Non-Use.** Neither non-use nor limited use of the rights granted by this instrument shall constitute a waiver or partial waiver of later exercise and enforcement of such rights.
8. **Governing Law.** This instrument shall be construed and enforced in accordance with the laws of the State of Wisconsin.
9. **Entire Agreement.** This instrument sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this Agreement and recorded in the office of the Register of Deeds of Waukesha County, Wisconsin.
10. **Severability.** If any term or condition of this instrument is deemed invalid or unenforceable by a court of competent jurisdiction, such invalid or unenforceable provision shall be severed and the remainder shall remain fully enforceable.
11. **Costs of Enforcement.** If a lawsuit is commenced to enforce this instrument, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees.
12. **No Public Dedication.** The rights granted by this instrument shall not be deemed to be a public dedication of any fee interest in the Easement Area.

Dated the _____ day of _____, 2024.

Grantor: Continental 665 Fund, LLC

By: Paul Seifert, Executive Vice-President

Kimberly Grimm, Executive Vice-President

State of Wisconsin }
 } ss.
Waukesha County }

Paul Seifert and Kimberly Grimm personally came before me this _____ day of _____, 2024, and are known to me to be the persons who executed this instrument in the indicated capacities and acknowledged the same.

_____, Notary Public,
Waukesha County, Wisconsin
My commission (is permanent)(expires_____)

Grantee: City of Waukesha

By Shawn N. Reilly, Mayor

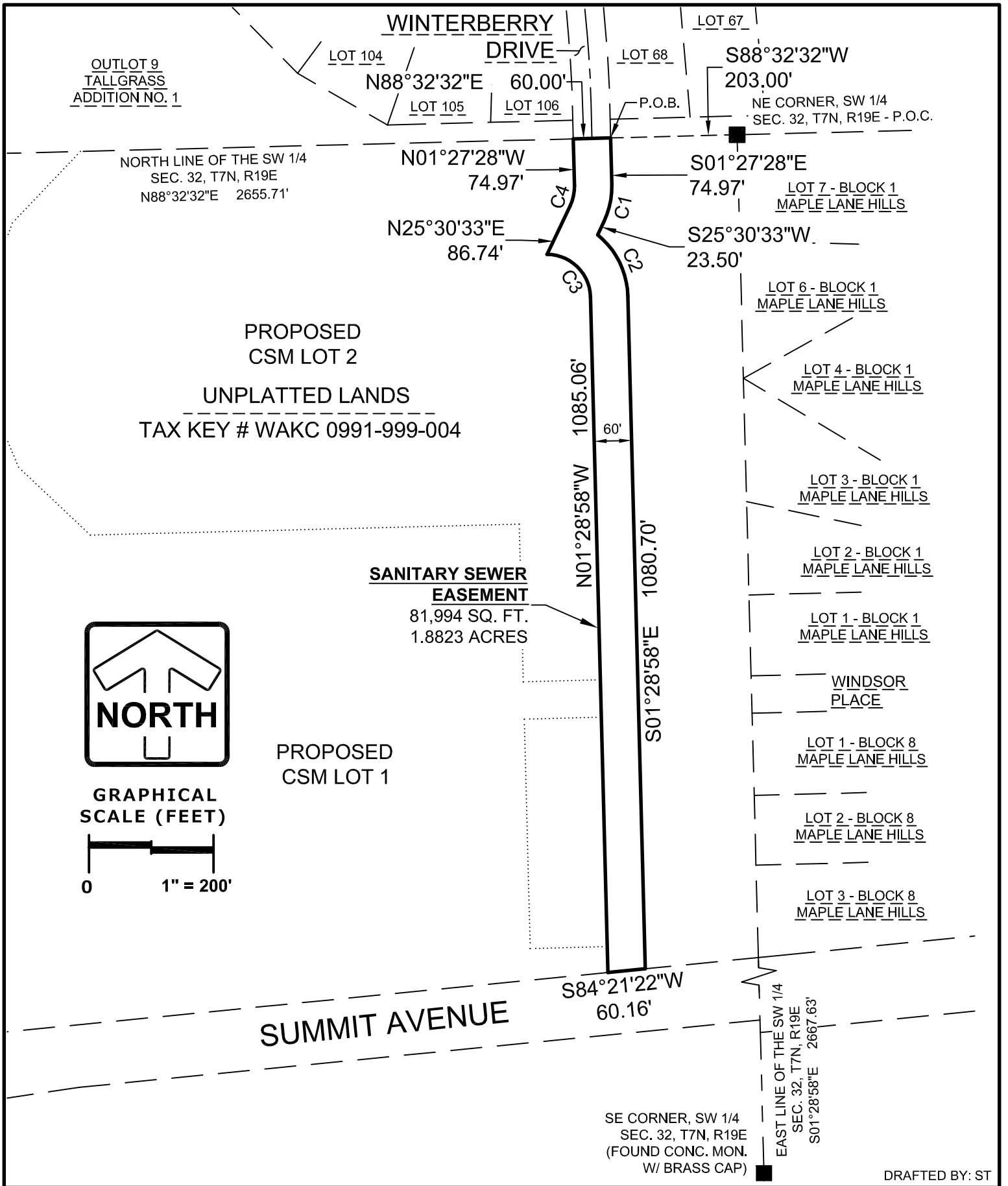
Attest: Sara Spencer, Interim City Clerk

State of Wisconsin }
 } ss.
Waukesha County }

Shawn N. Reilly and Sara Spencer personally came before me this _____ day of _____, 2024, and are known to me to be the persons who executed this instrument in the indicated capacities and acknowledged the same.

_____, Notary Public,
Waukesha County, Wisconsin
My commission (is permanent)(expires_____)

This instrument was drafted by Brian E. Running, City Attorney, Waukesha, Wisconsin.



DRAFTED BY: ST

EXHIBIT 1