

EASEMENT
Sanitary Sewerage Easement Agreement

Parcel ID Number:

After recording return to:
Chris Langemak
City of Waukesha Engineering Division
130 Delafield St
Waukesha WI 53188

The Grantor, **Arbor Oaks at Fiddler's Creek Condominium Association, Inc.**, for a good and valuable consideration, hereby conveys to the Grantee, the **City of Waukesha, Wisconsin**, a Permanent Sanitary Sewerage Easement and a Temporary Construction Easement as described below, across and upon the following-described real property in Waukesha County, Wisconsin, subject to all of the terms stated below:

Subject Parcel:

Arbor Oaks at Fiddler's Creek Condominium, a condominium declared and existing under and by virtue of the Condominium Ownership Act of the State of Wisconsin and recorded by a Declaration as such condominium in the Office of the Register of Deeds for Waukesha County, Wisconsin, on September 14, 2000, as Document No. 2590549, and amendments thereto, said Condominium being located in the City of Waukesha, Waukesha County, Wisconsin on the real estate described in said Declaration and Amendments and incorporated herein by this reference thereto.

Permanent Sanitary Sewerage Easement Area:

Part of Lot 2 of Certified Survey Map No. 8963 of the Southeast 1/4 of Section 31, Township 7 North, Range 19 East in the City of Waukesha, Waukesha County, Wisconsin.

Commencing at a Westerly corner of said Lot 2; thence South 53° 50' 23" East along the Westerly line of said Lot 2 for a distance of 48.26 feet to the Point of Beginning "A"; thence North 43° 19' 04" East 431.40 feet to a point; thence North 72° 16' 55" East 198.92 feet to a point in a Northerly line of said Lot 2; thence South 45° 00' 00" East along aforesaid Northerly line 22.50 feet to a point; thence South 72° 16' 55" West 204.07 feet to a point; thence South 43° 19' 04" West 423.73 feet to a point in the said Westerly line; thence North 53° 50' 23" West along the said Westerly line 20.16 feet to the Point of Beginning.

Containing 12,581 sq. ft. or 0.2888 acres

Temporary Construction Easement Area:

Part of Lot 2 of Certified Survey Map No. 8963 of the Southeast 1/4 of Section 31, Township 7 North, Range 19 East in the City of Waukesha, Waukesha County, Wisconsin.

Commencing at a Westerly corner of said Lot 2; thence South 53° 50' 23" East along the Westerly line of said Lot 2 for a distance of 68.42 feet to the Point of Beginning "B"; thence North 43° 19' 04" East 416.88 feet to a point; thence South 44°37'47" East 20.01 feet to a point; thence South 43° 19' 04" West 413.65 feet to a point in the said Westerly line; thence North 53° 50' 23" West along the said Westerly line 20.16 feet to the Point of Beginning.

Containing 8,305 sq. ft. or 0.1906 acres

ALSO

Part of Lot 2 of Certified Survey Map No. 8963 of the Southeast 1/4 of Section 31, Township 7 North, Range 19 East in the City of Waukesha, Waukesha County, Wisconsin.

Commencing at a Westerly corner of said Lot 2; thence South 53° 50' 23" East along the Westerly line of said Lot 2 for a distance of 48.26 feet to a point; thence North 43° 19' 04" East 431.40 feet to a point; thence North 72° 16' 55" East 9.54 feet to the Point of Beginning "C"; thence North 46° 13' 44" West 22.76 feet to a point; thence North 72° 17' 08" East 189.94 feet to a point on the Northerly line of said Lot 2; thence South 45° 00' 00" East along aforesaid Northerly line 22.49 feet to a point; thence South 72° 16' 55" West 189.38 feet to the Point of Beginning.

Containing 3,792 sq. ft. or 0.0870 acres

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 construct, operate, inspect, maintain, repair, improve, supplement, reconstruct, and remove sanitary sewerage facilities; along with a right of ingress and egress across the real property which the Easement Area burdens, as reasonably required for the Grantee and the Grantee's contractors to perform such work. During times at which such work is being done, Grantee and Grantee's contractors may also place equipment and materials within the Easement Area as reasonably required to perform such work. The size, type and quantity of the sewerage facilities shall be as reasonably determined by the Grantee. All sewerage 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 pavement, curbs or sidewalks, except as specifically approved in writing by the Grantee.
 - g. 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. The Grantee shall inventory the existing trees within and adjacent to the Permanent Sanitary Sewerage Easement Area and Temporary Construction Easement Area prior to the removal and the replacement of any trees shall be agree upon by a separate memorandum between the Grantee and Grantor.
4. **Consistent Uses Allowed.** The Grantor reserves the right to use the Easement Area for all uses and purposes that will not interfere with the rights granted to Grantee by this instrument.
5. **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.
6. **Restoration of Surface.** Grantee shall restore the surface 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. The Grantee shall not be required to replace trees or bushes, except as agreed upon in section 3. The Grantee shall replace the existing asphalt pathway per the plans and specifications (dated February 2020) for the construction of the

sanitary sewer to be utilized as a service road by the Grantee for the maintenance of the sanitary sewer. The Grantor shall assume responsibility of the routine maintenance of the asphalt pathway such as crack filling, sealcoating, etc. except any damage caused by the Grantee's activities in the maintenance of the sanitary sewer. If it becomes necessary to replace all or a portion of the asphalt pathway due to structural failure (cosmetic blemishes and typical cracking are not considered structural failures) as determined by an engineering review, the Grantee shall replace the asphalt pathway to ensure it is suitable to support the maintenance activities of the sanitary sewer.

7. **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.
8. **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.
9. **Governing Law.** This instrument shall be construed and enforced in accordance with the laws of the State of Wisconsin.
10. **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.
11. **Notices.** All notices to either party to this instrument shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the other party at that party's last known address. If the other party's address is not known, the party giving notice may use the address to which the other party's property tax bills are sent. Either party may change its address for notice by providing written notice to the other party.
12. **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.
13. **Waiver.** Waivers of the right to exercise any right granted by this instrument shall not be deemed, inferred or construed by the acts or inactions of the parties, and shall only be effective if expressly stated, in writing, by the waiving party.
14. **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.
15. **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.

Conveyance made this _____ day of _____, 2020.

Grantor: Arbor Oaks at Fiddler's Creek Condominium Association, Inc.

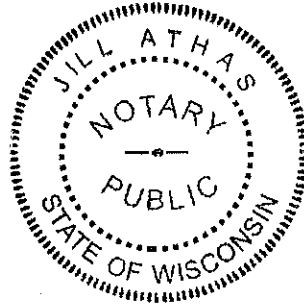
MARK W. ZAREMBA
By: Mark W. Zarembo
Title: PRESIDENT

Carolyn Champion
By: Carolyn Champion
Title: Director

State of Wisconsin }
Waukesha County } ss.

Mark W Zarembo and Carolyn Champion personally came before me this 8 day of September, 2020, and are known to me to be the persons who executed this instrument in the indicated capacities and acknowledged the same.

Jill Athas
Jill Athas, Notary Public,
Waukesha County, Wisconsin
My commission (is permanent)(expires August 8, 2021)



Grantee: City of Waukesha

By Shawn N. Reilly, Mayor

Attest: Gina L. Kozlik, City Clerk

State of Wisconsin }
Waukesha County } ss.

Shawn N. Reilly and Gina L. Kozlik personally came before me this _____ day of _____, 2020, and are known to me to be the persons who executed this instrument in the indicated capacities and acknowledged the same.

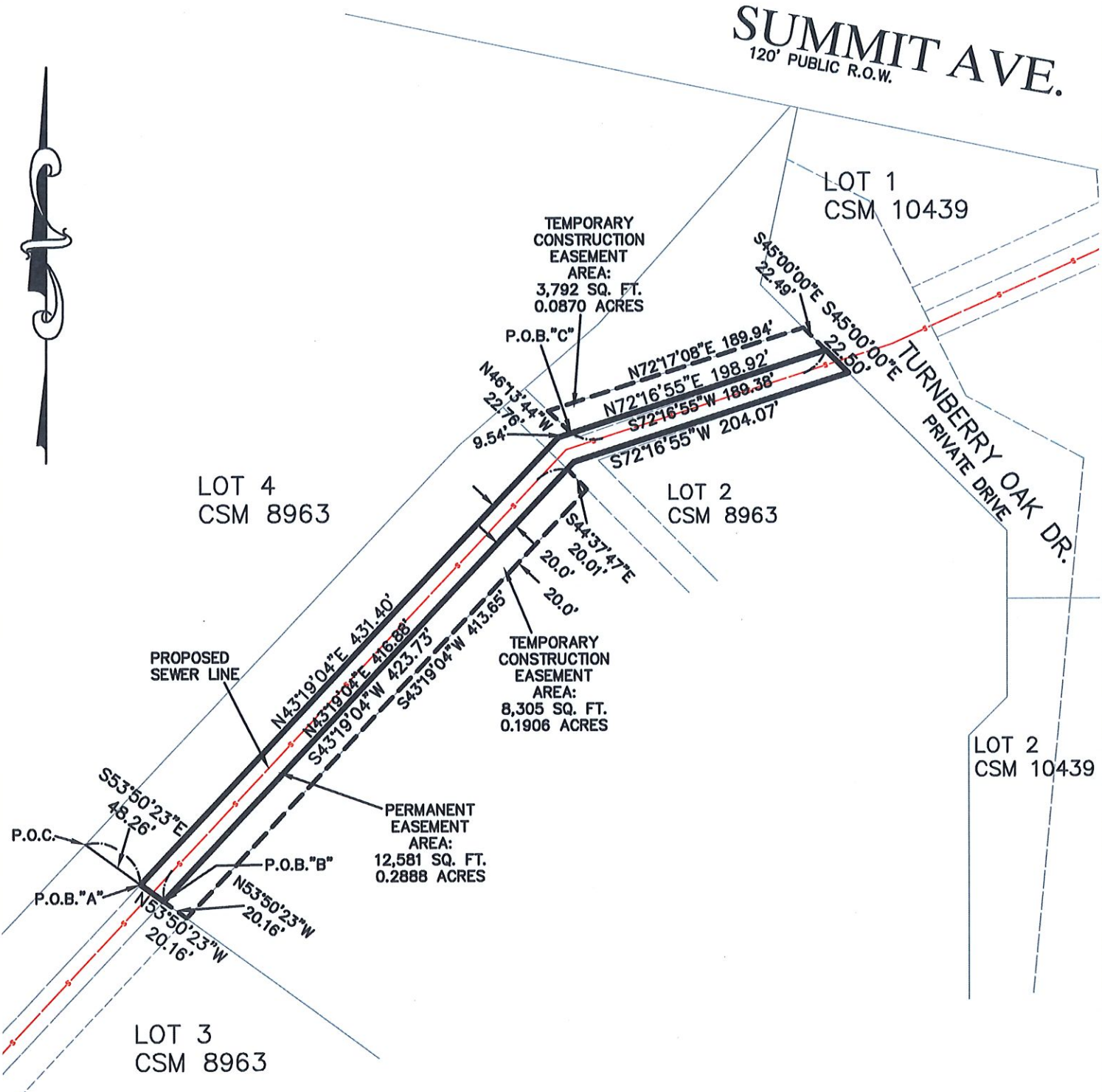
_____, Notary Public,
Waukesha County, Wisconsin
My commission (is permanent)(expires _____)

This instrument was drafted by City of Waukesha Department of Public Works.

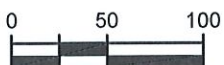
EASEMENT EXHIBIT

TAX PARCEL ID # WAKC 0988029

SUMMIT AVE.
120' PUBLIC R.O.W.



GRAPHIC SCALE



(1" = 100')

raSmith

CREATIVITY BEYOND ENGINEERING

16745 W. Bluemound Road
Brookfield, WI 53005-5938
(262) 781-1000
rasmith.com