

Document Number	Document Title <b>SIDEWALK AND PARKING EASEMENT</b>
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Recording Area

Name and return address:

Parcel Identification Number (PIN)

## **SIDEWALK AND PARKING EASEMENT**

THIS SIDEWALK AND PARKING EASEMENT ("Agreement") is made and entered into as of \_\_\_\_\_, 2023, by and between GenCap KG North Avenue 91, LLC, a Wisconsin corporation ("Grantor") and the City of Milwaukee, a Wisconsin municipal corporation ("Grantee").

### **RECITALS :**

A. Grantor is the owner of certain real property and improvements located in the City of Milwaukee, Milwaukee County, Wisconsin, as described on the attached Exhibit A and referred to on such exhibit and herein as the "Grantor Property"; and

B. Pursuant to the terms and conditions contained in this Agreement, Grantor desires to grant to Grantee and Grantee desires to accept from Grantor an easement for a sidewalk and parking on a portion of the Grantor Property as set forth below, and the parties wish to set forth their respective rights and responsibilities in each case on the terms described in this Agreement; and

### **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Grantor hereby grants to Grantee a perpetual and nonexclusive easement (the "Easement") over, across and upon that portion of the Grantor Property depicted on Exhibit B attached hereto (the "Easement Area") for the purpose of allowing pedestrian access over the sidewalk to be constructed thereon (the "Sidewalk"), and parking within the parking spaces to be constructed thereon ("Parking Spaces"), for the benefit of the public, as depicted on the site plan attached hereto as Exhibit C (the "Site Plan"). As shown on the Site Plan, the parking spaces located within the Easement Area are partially within the Easement Area and partially within the right of way owned by the Grantee. Use of any portion of the Easement Area by members of the general public is at their own risk.

2. Grantor shall construct the initial Sidewalk and Parking Spaces in accordance with plans submitted to and approved by Grantee. Following completion of such initial construction, Grantee shall be responsible, at its expense, for the upkeep, repair, maintenance and replacement of the Sidewalk and Parking Spaces, which shall be kept in good condition and repair in accordance to standard practices of the Department of Public Works. Except as to snow and ice removal from the Sidewalk, Grantor shall have no obligations or responsibilities to perform any maintenance, repairs or replacements to any improvements within the Easement Area; such obligations and responsibilities shall belong exclusively to Grantee. In addition, Grantee shall be responsible for removal of all snow and ice from the Parking Spaces. Grantor shall be responsible for removal of all snow and ice from the Sidewalk in accordance with section 116-8-1 of the Milwaukee Code of Ordinances. Neither Grantee nor Grantor shall place or install any temporary or permanent above ground improvements (other than the Sidewalk and Parking Spaces) within the Easement Area nor in any way prevent or impair access over and across the Easement Area; provided, however,

that Grantee may place temporary barriers upon or across the Easement Area in conjunction with fulfilling its maintenance and repair obligations set forth in this Section 2.

3. The Sidewalk and the Parking Spaces shall not be relocated without the consent of both Grantor and Grantee, which consent shall not be unreasonably withheld, conditioned or delayed.

4. Grantee shall indemnify, defend and hold Grantor harmless from and against any and all costs, damages, expenses, liabilities and losses, including, without limitation, reasonable attorneys' fees, incurred by Grantor as a result of Grantee's and/or the public's use of the Sidewalks and/or Parking Spaces. Nothing in the foregoing indemnity shall protect Grantee against its own default, negligence, willful acts, or misconduct. Grantee shall promptly repair any damage to the Grantor Property that has been caused by Grantee or any of its users use of the Sidewalks and/or Parking Spaces, at Grantee's sole cost and expense (and with prior approval from Grantor as to such repair).

5. All the terms, conditions, covenants and other provisions contained in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of and be enforceable by Grantor and Grantee and their respective successors and assigns Grantor, and each of its respective successors and assigns as fee simple owners of the Grantor Property, shall cease to have further liability under this Agreement with respect to facts or circumstances first arising after such party has transferred its fee simple interest in the particular property.

6. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

7. This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by Grantee and the then-current owner of the Grantor Property, and duly recorded in the office of the Register of Deeds of Milwaukee County, Wisconsin.

8. All notices to either party to this Agreement shall be delivered in person, sent by overnight courier or sent by certified mail, postage prepaid, return receipt requested to the address set forth below. Either party may change its address for notice by written notice to the other party.

GRANTOR:  
GenCap KG North Avenue 91, LLC  
c/o General Capital Management, Inc.  
6938 N. Santa Monica Blvd  
Fox Point, WI 53217

GRANTEE:  
City of Milwaukee  
809 North Broadway  
Milwaukee, WI 53202  
Attn: Commission of City Development

9. If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstance shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant and condition shall be valid and enforceable to the fullest extent permitted by law.

10. No delay or omission by any party in exercising any right or power accruing upon any default, non-compliance or failure of performance of any of the provisions of this Agreement shall be construed to be a waiver thereof. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms, covenants or conditions of this Agreement.

11. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute one agreement.

(signatures on following page)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date and year first above written.

**GRANTOR:**

GenCap KG North Avenue 91, LLC

By: GenCap KG North Avenue 91 MM, LLC  
Its: Managing Member

By: General Capital Management, Inc.  
Its: Manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

State of Wisconsin )  
  : SS  
\_\_\_\_\_ County )

Personally came before me this \_\_\_ day of \_\_\_\_\_, 2023, \_\_\_\_\_,  
\_\_\_\_\_ of General Capital Management, Inc., Manager of GenCap KG North  
Avenue 91 MM, LLC, Managing member of GenCap KG North Avenue 91, LLC, to me known  
to be the person who executed the foregoing instrument and acknowledged the same.

[Seal]

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

**GRANTEE: THE CITY OF MILWAUKEE**

**MAYOR**

\_\_\_\_\_  
Mayor Cavalier Johnson

**CITY CLERK**

\_\_\_\_\_  
James R. Owczarski, City Clerk

**COUNTERSIGNED**

\_\_\_\_\_  
Aycha Sawa, City Comptroller

**CITY ATTORNEY APPROVAL &  
AUTHENTICATION**

Alex Carson, a member in good standing of the State Bar of Wisconsin, hereby authenticates the signatures of the City representatives herein per Wis. Stat. 706.06 so this document may be recorded per Wis. Stat. 706.05(2)(b), and approves those Signatures per MCO 304-21.

By: \_\_\_\_\_  
Alex Carson  
Assistant City Attorney  
State Bar No. 1098157

City Common Council Resolution File #  
  
\_\_\_\_\_

This instrument was drafted by:

Leah R. Wyant  
Wyant Law Offices, S.C.  
601 Lake Avenue  
Racine, WI 53403

**EXHIBIT A**

Lot 1 of Certified Survey Map No. \_\_\_\_\_, being a redivision of Lots 2 and 3 of Certified Survey Map No. 7980 and part of Lot 27, Block 1 in Walworth's Subdivision of Lot 17, all being a part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 7 North, Range 22 East, in the City of Milwaukee, Milwaukee County, Wisconsin



# EXHIBIT B

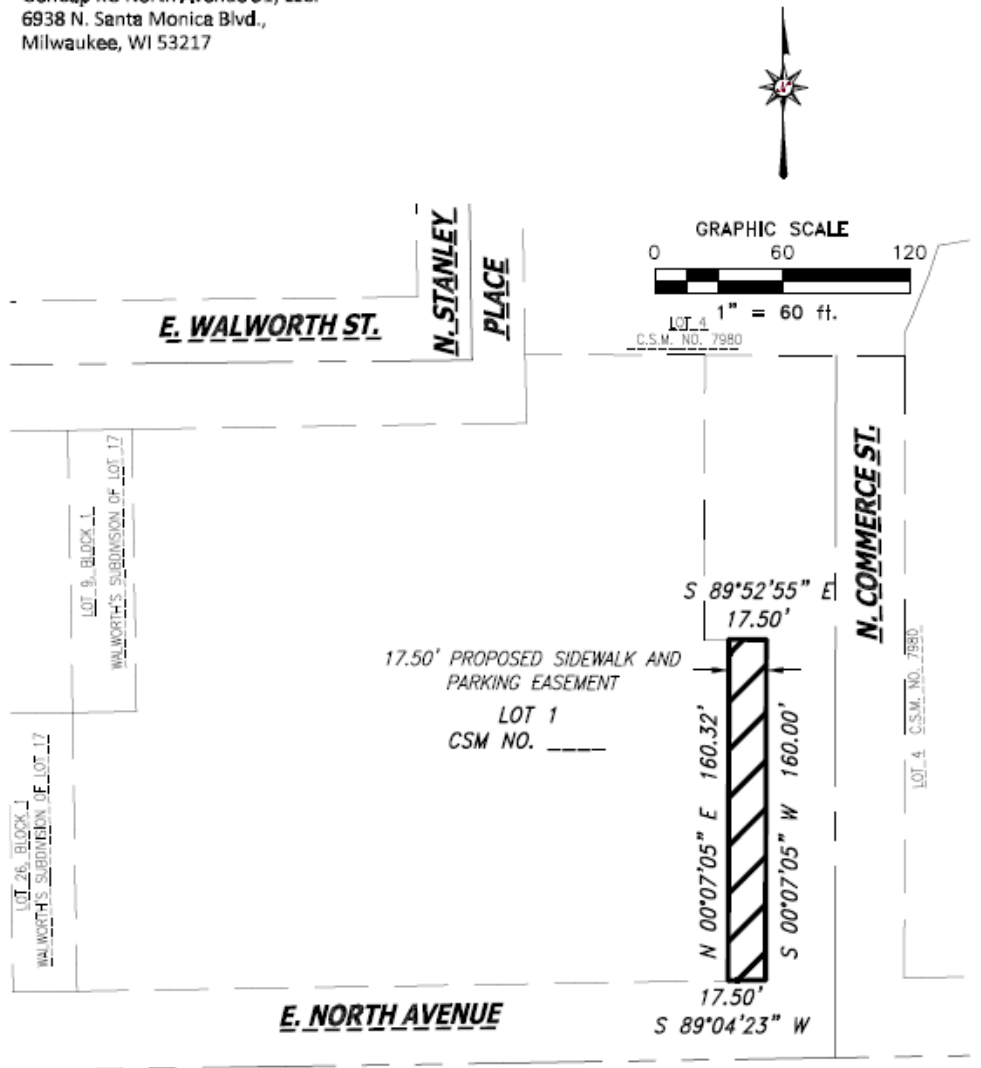
## EASEMENT AREA

### EXHIBIT A

Lot 1 of CSM No. \_\_\_\_\_, a redivision of Lots 2 and 3 of Certified Survey Map No. 7980 and part of Lot 27, Block 1 in Walworth's Subdivision of Lot 17, all being a part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 7 North, Range 22 East, in the City of Milwaukee, Milwaukee County, Wisconsin being more fully described as follows:

Beginning at the southeast corner of said Lot 1, thence South 89°04'23" West 17.50 feet to a point; thence North 00°07'05" East 160.32 feet to a point; thence South 89°52'55" East 17.50 feet to a point; thence South 00°07'05" East 160.00 feet back to a point at the beginning.

Client:  
GenCap KG North Avenue 91, LLC.  
6938 N. Santa Monica Blvd.,  
Milwaukee, WI 53217



**CHAPUT**

**EXHIBIT C**

**SITE PLAN**

