

BK015130PG01708

WAKE COUNTY, NC 4
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
02/05/2013 AT 08:42:33

BOOK:015130 PAGE:01708 - 01715

STATE OF NORTH CAROLINA:

EASEMENT AGREEMENT

COUNTY OF WAKE:

Cross Reference: Book 10402,
Page 1029, Wake County Registry

THIS EASEMENT AGREEMENT ("Agreement"), made and entered into this 4th day of February 2013, by and between **Duke Realty Limited Partnership**, an Indiana limited partnership doing business in North Carolina as Duke Realty Indiana Limited Partnership (herein "Duke" or "Declarant") and **Gregory Poole Equipment Company**, a Delaware corporation (herein "Poole").

WHEREAS Duke is the successor Declarant under that certain Declaration of Master Protective Covenants for Greenfield North recorded in Book 10402, Page 1029, Wake County Registry, which was subsequently amended by that certain First Amendment and Supplement to Declaration of Master Protective Covenants for Greenfield North recorded at Book 11750, Page 2262 (collectively, as amended, the "Declaration");

WHEREAS, Poole is the owner of those certain parcels or tracts of land located in or near the Town of Garner, Wake County, North Carolina, described in the Declaration and designated as (i) Parcel 11, on that certain plat of survey prepared by Withers & Ravenel entitled "Greenfield North (Formerly Auburn Park) Parcels 1, 2, 4, 5, 6 Greenfield Parkway" dated November 15, 2003 which plat is recorded in Book of Maps 2004, page 1269 Wake County Registry ("Parcel 11"), and (ii) New Tract 18 on the Final Plat of survey prepared by Ballentine Associates, P.A. entitled "Greenfield North Parcel 9 Exempt Subdivision" dated December 16, 2005 which plat is recorded in Book of Maps 2005, page 2505 Wake County Registry ("Lot 18") (the lots being hereinafter collectively referred to as the "Gregory Poole Building Sites");

WHEREAS, the Declaration obligates the Declarant to provide access to and from certain

WHEREAS, Duke and Poole desire to enter into this Agreement to set forth each parties obligations and understanding relative to the construction of the Diversion Ditch.

NOW THEREFORE, subject to the terms, covenants and conditions set forth below, and for in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the sufficiency and receipt of which Duke and Poole hereby acknowledge, the parties hereby agree as follows:

1. Poole hereby grants and establishes for the benefit of Duke, and its agents, employees, contractors, successors and assigns, a temporary construction easement on, through, over, under and across that portion of Lot 18 identified on Exhibit A as *Easement Area* to allow Duke to construct certain stormwater improvements consisting of the Diversion Ditch, and a fifty foot (50') wide area from the centerline of the Easement Area ("Construction Easement Area"), and for the purposes of performing design, surveying, construction and installation, and activities incident thereto, of the diversion ditch to be located on Lot 18, provided, however, such activities shall not materially interfere with any activity at, or materially impair the use of Lot 18. Duke and its agents, employees, contractors, successors and assigns shall have full, free and uninterrupted use of the Construction Easement Area for the purposes set forth in this Agreement, including, without limitation, the right, to bring construction equipment, materials, vehicles and personnel onto the Construction Easement Area. The temporary construction easement provided in this paragraph shall expire ninety (90) days after the commencement of construction of the diversion ditch on Lot 18 by Duke and construction shall begin within ninety (90) days of Poole's notification that construction shall begin on Parcel 11

2. Duke shall obtain and maintain in force during the term of this Agreement, appropriate and adequate workers' compensation, liability and builders' risk insurance, as applicable, and it shall, upon request of Poole, provide evidence that such insurance is in effect. Additionally, Duke shall protect, defend, indemnify and hold Poole harmless from and against any damages, liability, actions, claims, and expenses (including reasonable attorney's fees actually incurred) arising from or related to the exercise of any rights granted to Duke herein.

3. Notwithstanding anything to the contrary contained herein, in the event Poole, or any subsequent owner of Lot 18, begins development of Lot 18 prior to the development of Parcel 11, then, upon notice to Duke that such Lot 18 development has commenced, this Agreement shall terminate.

4. Poole, or any subsequent owner of Lot 18, shall maintain the Diversion Ditch located on Lot 18. Poole, or any subsequent owner of Lot 18, shall also have the right to relocate or remove the Diversion Ditch, provided that such action complies with applicable laws and regulations and

3005 Carrington Mill Blvd., Ste. 100
Morrisville, NC 27560
Attn: Mr. Jeff Sheehan

with copy

to:

Elizabeth Belden, Esq.
Duke Realty Corporation
3715 Davinci Court, Ste. 300
Peachtree Corners, GA 30092

If to Poole:

Gregory Poole Equipment Company
4807 Beryl Road
Raleigh, NC 27606
Attn: Richard Donnelly

6. This Agreement shall run with the land, and shall be binding upon the heirs, personal representatives, successors and assigns of Duke (as Declarant under the Declaration) and Poole and their employees, agents, licensees, lessees and permittees.

7. Poole shall have the right to use the Easement Area for any and all purposes not inconsistent with the easement rights granted hereunder, including, without limitation, the right to construct and install other utility improvements therein; and to install landscape improvements thereon; provided, however, Poole shall not take any action which would inhibit or prevent the use of the Easement Area for the purposes set forth herein.

8. The terms and provisions of this Agreement shall extend to and be binding upon the parties and their respective successors and assigns, and shall operate as covenants running with the land and shall not be barred by any lapse of time. The rights, privileges and easements granted in this Agreement shall be non-exclusive easements, running with the land, for the benefit of and as an appurtenance to each tract and binding upon each tract. However, the real properties burdened and benefited by this Agreement may be subdivided, recombined or reconfigured from time to time, and this Agreement and the rights, privileges and easements created hereunder shall apply to such subdivided, recombined or reconfigured real properties.

Duke / Declarant:

DUKE REALTY LIMITED PARTNERSHIP,
an Indiana limited partnership doing business in
North Carolina as Duke Realty Indiana Limited
Partnership

By: Duke Realty Corporation, an Indiana
Corporation, its general partner

By: Jeffrey B. Sheehan
Name: Jeffrey B. Sheehan
Title: SVP

STATE OF North Carolina

COUNTY OF Wake

I, Susan C. Dolder, a Notary Public of the County and State aforesaid, certify that
Jeffrey B. Sheehan as SVP of Duke Realty Corporation, the general partner of
DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership doing business in North
Carolina as Duke Realty Indiana Limited Partnership, personally appeared before me this day and
acknowledged the execution of the foregoing instrument as the act and deed of said limited
partnership.

Witness my hand and official seal this 4th day of February 2013.

Susan C. Dolder
Notary Public

My Commission Expires: 11.23. 2013

Poole:

GREGORY POOLE EQUIPMENT COMPANY, a
Delaware corporation

By: Richard F. Donnelly
Name: Richard F. Donnelly
Title: Executive Vice President

STATE OF NC

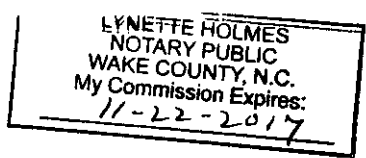
COUNTY OF Wake

I, Lynette Holmes, a Notary Public of the County and State aforesaid, certify that
Richard F. Donnelly, as Exec VP of Gregory Poole Equipment Company, a Delaware
corporation, personally appeared before me this day and acknowledged the execution of the
foregoing instrument as the act and deed of said corporation.

Witness my hand and official seal this 4 day of Feb 2013.

Lynette Holmes
Notary Public
My Commission Expires: 11-22-2017

[NOTARIAL SEAL]

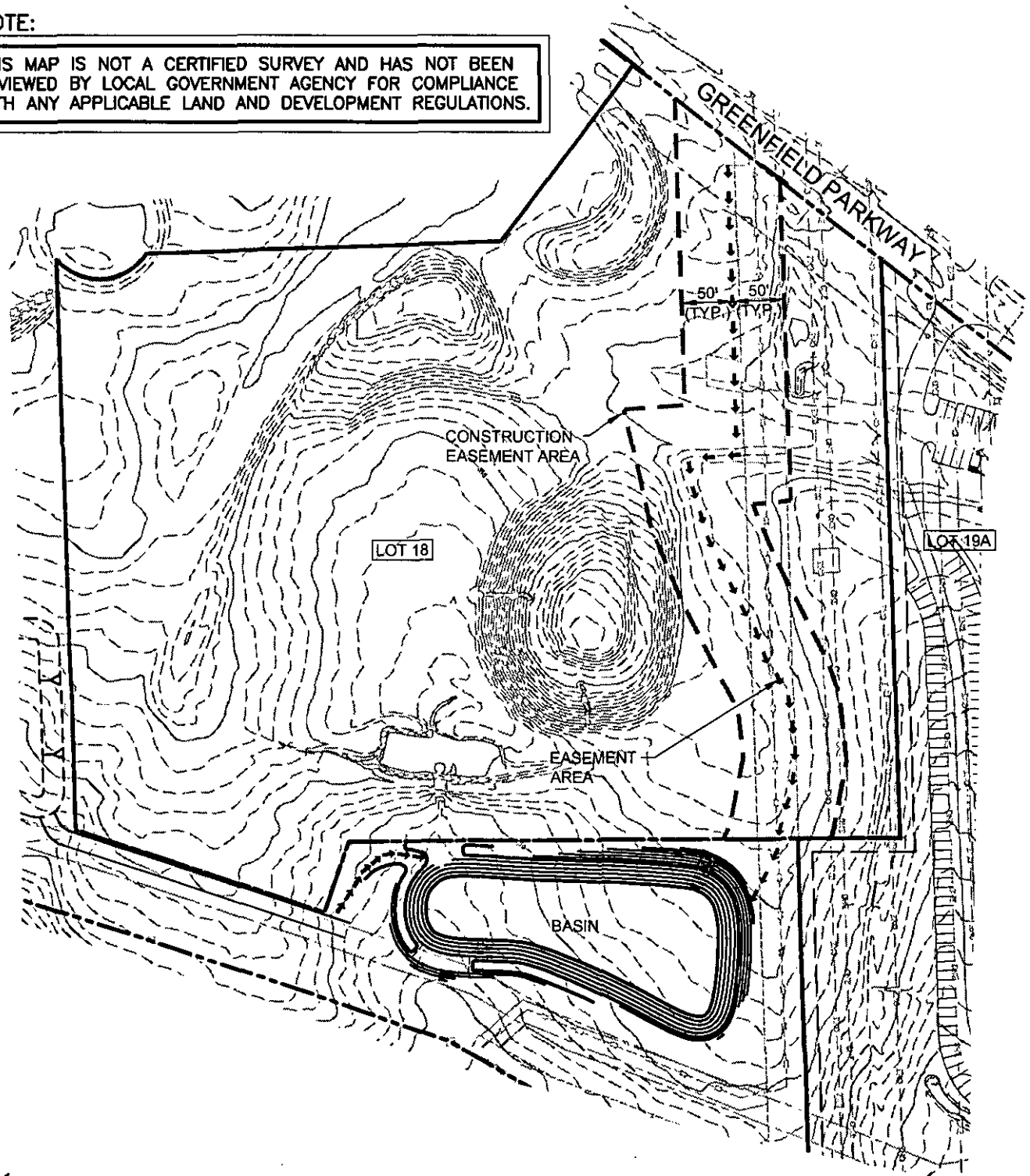


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EXHIBIT A
ILLUSTRATION OF EASEMENT AREA

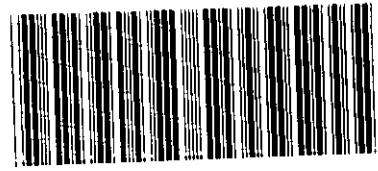
NOTE:

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND AND DEVELOPMENT REGULATIONS.



LEGEND

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**Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.**



**Wake County Register of Deeds
Laura M. Riddick
Register of Deeds**