



WC3398255-012

3398255

REGISTER'S OFFICE  
WAUKESHA COUNTY, WI  
RECORDED ON

06-26-2006 11:57 AM

MICHAEL J. HASSLINGER  
REGISTER OF DEEDS

**EASEMENT AGREEMENT**

DOCUMENT NO.

This Easement Agreement ("Easement") is made effective as of the 26<sup>th</sup> day of June, 2006 by and between Carol St. John (collectively the "Grantor"), Great Lakes Real Estate Company II, L.L.C., ("Grantee"), and Great Lakes Quick Lube Limited Partnership ("Tenant").

REC. FEE: 26.00  
REC. FEE-CO: 5.00  
REC. FEE-ST: 2.00  
TRAN. FEE:  
TRAN. FEE-STATE:  
PAGES: 12

WITNESSETH:

WHEREAS, Grantor is the owner and Tenant, pursuant to that certain Lease Agreement dated November 9, 2004 ("Lease"), as amended, is the ground lessee of certain real property located in the City of Waukesha, Waukesha County, State of Wisconsin, and more particularly described in EXHIBIT A attached hereto ("Lot 1"); and

THIS SPACE RESERVED FOR RECORDING DATA  
NAME AND RETURN ADDRESS

Stephanie A. Lyons  
Godfrey & Kahn, S.C.  
780 North Water Street  
Milwaukee, WI 53202

PART OF  
WAKC 1005 978

WHEREAS, Grantee is the owner of certain adjacent real property located in the City of Waukesha, Waukesha County, State of Wisconsin, and more particularly described in EXHIBIT B attached hereto ("Lot 2") pursuant to a Warranty Deed delivered from Grantor to Grantee on a date even herewith; and

Parcel Identification Number

WHEREAS, Grantor desires to grant and confirm certain easements referenced in Certified Survey Map No. 10227 as recorded on JUNE 26, 2006 as Document No. 3398250 in the Waukesha County Register of Deeds office for; (i) ingress and egress to and from, and for passage over, upon and across Lot 1, for the benefit of Lot 2, to access the existing easement to the West Frontage Road and East Main Street appurtenant to Lot 1 and Lot 2 reserved in that certain Warranty Deed recorded on April 30, 1999 as Document No. 2458983 (the "Original Ingress/Egress Easement"); and (ii) installation, operation, maintenance, repair and replacement of telephone, electricity, gas, cable, water, sewer and other utility lines and services ("Utilities") under, upon and across Lot 1 for the benefit of Lot 2; and

WHEREAS, Grantee desires to grant and confirm certain easements for the installation, operation, maintenance, repair and replacement of Utilities and the use of any curb cuts, driveways or accessways under, upon and across Lot 2 for the benefit of Lot 1.

NOW, THEREFORE, in consideration of the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor, Grantee and Tenant agree as follows:

1. Grant of Easements.

A. Ingress/Egress Easement. Grantor and Tenant hereby grant for the benefit of Lot 2, a perpetual, nonexclusive right, privilege and easement across that portion of Lot 1 which is cross hatched on EXHIBIT C attached hereto (the "Lot 1 Easement Area") for ingress and egress to and from, and for passage over, upon and across Lot 1 to access the existing access easement to the West Frontage Road and East Main Street as reserved in the Original Ingress/Egress Easement.

B. Utility Easement. Grantor and Tenant hereby grant for the benefit of Lot 2, a perpetual non-exclusive easement in, over, upon, and under the Lot 1 Easement Area for the installation, operation, maintenance, repair and replacement of underground Utilities.

C. Lot 2 Easements.

(i) Utility Easement. Grantee hereby grants for the benefit of Lot 1, a perpetual non-exclusive easement in, over, upon and under Lot 2 for the installation, operation, maintenance, repair and replacement of Utilities (i) as they currently exist, and (ii) as may be reasonably necessary in the future, as determined by Grantee's sole reasonable discretion, at such locations as reasonably determined by Grantee. (When identified, the easement area shall be referred to as the "Lot 2 Utility Easement Area").

(ii) Ingress/Egress Easement. In the event Lot 2 acquires direct access to a public right-of-way, Grantee hereby grants for the benefit of Lot 1, a perpetual non-exclusive easement in, over, upon and across any curb cuts, driveways or accessways that exist on Lot 2 as may be necessary to access such public right-of-way from Lot 1. (When identified, the easement area shall be referred to as the "Lot 2 Access Easement Area") (The Lot 2 Utility Easement Area and the Lot 2 Access Easement Area are collectively referred to as the "Lot 2 Easement Areas").

D. Utility Company Requests. If, in order to provide Utilities, any company or entity which is in the business of providing services for Utilities requests an easement over the Lot 1 Easement Area or Lot 2, then Grantor, Grantee and Tenant shall grant such easement promptly provided the terms of such requested easement are consistent with the terms of this Easement Agreement.

2. Obstructions. Grantor and Tenant hereby agree not to obstruct or interfere with the free flow of pedestrian and vehicular traffic over and upon the Lot 1 Easement Area, nor to conduct activities within the Lot 1 Easement Area if such activities will damage any Utilities, or will limit, inhibit, or make more expensive Grantee's access to Utilities for purposes of installation, operation, maintenance, repair or replacement. Notwithstanding the foregoing,

Grantor has installed pavement for driveways over the Lot 1 Easement Area, and such paving is not prohibited hereunder. Grantee hereby agrees not to obstruct or interfere with the free flow of pedestrian and vehicular traffic over and upon the Lot 2 Access Easement Area, nor to conduct activities within the Lot 2 Utility Easement Area if such activities will damage any Utilities, or will limit, inhibit, or make more expensive Grantor's or Tenant's access to Utilities for purposes of installation, operation, maintenance, repair or replacement.

3. Maintenance. Grantee shall be solely responsible for and shall pay as and when due all costs associated with the installation, operation, maintenance, repair and replacement of the Utilities for Lot 2. Grantor and Tenant shall be solely responsible for and shall pay as and when due all costs associated with the installation, operation, maintenance, repair and replacement of the Utilities for Lot 1. Grantor, and Tenant to the extent required under the Lease, shall maintain the Lot 1 Easement Area in good condition and repair. Grantee shall maintain the Lot 2 Easement Areas in good condition and repair.

4. Use of Easement Areas. Any installation, maintenance, repair or replacement of Utilities shall be made by each party in a manner so that the use of the Lot 1 Easement Area for ingress and egress is not adversely affected by becoming less convenient, accessible, or useful and the visibility and street appeal of any party's business is not adversely affected. During the performance of any installation, maintenance, repair or replacement of any of the Utilities, the performing party shall, at their sole cost and expense, immediately restore the easement areas to substantially the same condition in which they existed prior to such installation, maintenance, repair or replacement, so that the rights of others to use an easement area is not hindered or impaired.

5. Indemnification. Grantee shall hold Grantor and Tenant harmless from and shall indemnify Grantor and Tenant against any loss, liability, damage or expense, including reasonable attorneys' fees arising out of or in any way related to the use of the Lot 1 Easement Area by Grantee, Grantee's tenants, customers, employees, agents and invitees. Grantor and Tenants shall each hold Grantee harmless from and shall each indemnify Grantee against any loss, liability, damage or expense, including reasonable attorneys' fees arising out of or in any way related to the use of the Lot 2 Easement Areas by Grantor, Tenant and their respective tenants, customers, employees, agents and invitees.

6. Term/Termination. The term of this Agreement shall commence on the date that this Agreement is filed of record with the Register of Deeds office for Waukesha County, Wisconsin, and except as otherwise herein specifically provided, shall continue in perpetuity. Notwithstanding the foregoing, this Agreement may be terminated by recording with the Register of Deeds office for Waukesha County, Wisconsin, a written instrument of termination signed by all of the then-owners of the fee and leasehold interest in Lot 1 and Lot 2.

7. Enforcement. If the Grantor, Grantee or Tenant fails to properly improve or maintain an Easement Area, or if the Grantor, Grantee or Tenant fails to otherwise duly and fully perform any of their respective obligations under this Agreement, including, but not limited to, situations

involving an immediate response due to an imminent threat to life or health (hereinafter referred to as "Emergency") (such party being hereinafter referred to as the "Defaulting Party"), then any nondefaulting party may send a written notice of such failure to the Defaulting Party, which written notice, in the event of an Emergency, shall be given as soon as reasonably practicable following the correction of such Emergency. Such notice shall contain an itemized statement of the specific deficiencies (hereinafter referred to as the "Deficiencies") in performance by the Defaulting Party of its duties and obligations (or, in the event of an Emergency, documentation as to the undertakings performed by the non-defaulting party). The Defaulting Party shall have thirty (30) days after receipt of such a notice in which to correct the Deficiencies or, if the Deficiencies cannot reasonably be corrected within the said thirty (30) day period, then said Defaulting Party shall commence to correct the Deficiencies within said thirty (30) day period and thereafter proceed diligently to complete such correction (or, in the event of an Emergency, to reimburse a nondefaulting party for any advances made by the nondefaulting party, within thirty (30) days of receipt of written notice therefor). If, for any reason, the Defaulting Party shall fail or refuse to timely correct or to begin and proceed to correct the Deficiencies, as the case may be, then a nondefaulting owner may, at its option, correct the Deficiencies, and in such event, the Defaulting Party shall, promptly upon receipt from the nondefaulting owner of an itemized invoice of the costs incurred by the nondefaulting owner in correcting the Deficiencies, pay to the nondefaulting owner a sum equal to all such costs plus interest thereon, until paid, at the rate which is the lesser of (i) two percent (2%) per annum in excess of the announced "prime rate" or (ii) the highest rate permitted by applicable law. Prime rate is herein defined as the base rate on corporate loans at large U.S. money center commercial banks as published from time to time by the Wall Street Journal. The obligation to pay such costs, plus interest thereon, shall be secured by a lien in favor of the nondefaulting owner who corrected the Deficiencies, on all of the right, title, and interest of the Defaulting Party in or to the portion of the Total Property owned by such Defaulting Party, which lien may be foreclosed pursuant to Section 846.103(2) of the Wisconsin Statutes or any successor thereto. Such lien shall be effective only upon recordation of notice thereof with the Register of Deeds of Milwaukee County, Wisconsin, and shall be subject and subordinate to (i) any lease of all or any portion of the subject parcel in effect at the time of such recordation, and (ii) the lien of any mortgage encumbering all or any portion of the subject parcel on record with the Milwaukee County Register of Deeds at the time of such recordation.

#### 8. Miscellaneous.

(a) No Joint Venture. Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers, or to render any of said parties liable for the debts or obligations of any other.

(b) Headings. Paragraph and subparagraph headings herein are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

covenants, conditions or agreements hereof to be performed by another must be in writing and shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement contained herein.

(d) Notices. Any notice, request or demand required or permitted under this Agreement shall be in writing and shall be deemed given when personally served or three (3) days after the same has been deposited with the United States Post Office, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to Grantee: Great Lakes Real Estate Company II, L.L.C.  
720 Main Street  
Mukwonago, WI 53149  
Attn: Chester J. Bojanowski

With a copy to: Stephanie A. Lyons  
Godfrey & Kahn, S.C.  
780 North Water Street  
Milwaukee, WI 53202

If to Grantor: Carole St. John  
2662 St. Helena Court  
Livermore, CA 94550

If to Tenant: Great Lakes Quick Lube Limited Partnership  
10150 West National Avenue, Suite 325  
West Allis, WI 53227  
Attn: Jim Wheat

With a copy to: Krass Monroe, P.A.  
8000 Norman Center Drive, Suite 1000  
Minneapolis, MN 55437  
Attn: Kent Sticha/Randy Evans

Any party may change its address for the receipt of notice by written notice to the other parties.

(e) Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin.

(f) Amendments or Further Agreements to be in Writing. No agreement or amendment shall be effective to add to, change, modify, waive or discharge this Agreement in whole or in part, unless such agreement is in writing and signed by all parties bound hereby.

(g) Covenants Running With the Land. All of the easements, restrictions, covenants and agreements set forth in this Agreement are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of, and enforceable by the parties hereto and their respective successors and assigns.

(h) Partial Invalidity. If any provisions, or portions thereof, of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other persons or circumstances shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(i) Conveyance. Upon either party's conveyance of all of its interest in its respective parcel, the transferring party shall be relieved of any further liability under this Agreement arising on and after the date of transfer and such transferee shall be deemed to have assumed all obligations of the transferor hereunder arising on and after the date of transfer.

IN WITNESS WHEREOF, the parties have signed this Agreement to take effect as of the date first above written.

GRANTOR:

  
Carole St. John

STATE OF California )  
 ) SS.  
COUNTY OF Santa Clara )

Personally came before me this 26<sup>th</sup> day of May, 2006, the above-named Carole St. John, to me known to be the person who executed the foregoing instrument on behalf of such limited liability company, by its direction, and acknowledged the same.

Jo Ann Mitchell  
Notary Public, State of California

My Commission Expires: 6/7/07



[SIGNATURES CONTINUE ON NEXT FOLLOWING PAGE]

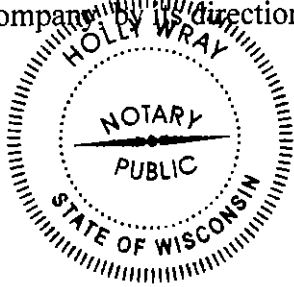
GRANTEE:

GREAT LAKES REAL ESTATE COMPANY II,  
L.L.C.

By: Chester J. Bojanowski, MANAGER  
\*Chester J. Bojanowski, Manager

STATE OF WISCONSIN )  
 ) SS.  
COUNTY OF WAUKESHA )

Personally came before me this 28 day of APRIL, 2006, the above-named  
Chester J. Bojanowski, as Manager of Great Lakes Real Estate Company II, L.L.C., to me known  
to be the person who executed the foregoing instrument on behalf of such limited liability  
company, by his direction, and acknowledged the same.



Holly Wray  
Notary Public, State of Wisconsin

My Commission Expires: 7-12-09

[SIGNATURES CONTINUE ON NEXT FOLLOWING PAGE]





001006 JUN 26 2006

EXHIBIT A

Lot 1 of Certified Survey Map No. 10227, recorded on JUNE 26, 2006, as Document No. 3398250, being a part of the Southeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 36, in Township 7 North, Range 19 East in the City of Waukesha, County of Waukesha, State of Wisconsin.

001007 JUN 26 8

EXHIBIT B

Lot 2 of Certified Survey Map No. 10227, recorded on JUNE 26<sup>2006</sup>, as Document No. 3798250, being a being a part of the Southeast ¼ of the Northeast ¼ of Section 36, in Township 7 North, Range 19 East in the City of Waukesha, County of Waukesha, State of Wisconsin.

EXHIBIT C

