

# AGREEMENT FOR RECIPROCAL EASEMENTS AND USE RESTRICTIONS

CM 620022769

THIS AGREEMENT FOR RECIPROCAL EASEMENTS AND USE RESTRICTIONS (hereinafter referred to as the "Agreement") by and between Aldi (Indiana) L.P., an Indiana limited partnership with offices at P.O. Box 1398, Valparaiso, Indiana 46384-1398 (hereinafter referred to as "Aldi") and Teachers' Retirement System of the State of Kentucky, an independent agency and instrumentality of the Commonwealth of Kentucky (hereinafter referred to as "Owner") is made and entered into this 14th day of June, 2002, to become effective the 19th day of July, 2002.

Chicago Title Insurance Company

2002

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## RECITALS

- A. Aldi has or is about to become the owner of certain real property situated in the Town of Lowell, County of Lake, State of Indiana, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Aldi Parcel").
- B. Owner is the owner of certain real property situated in the Town of Lowell, County of Lake, State of Indiana, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference which is leased to Walgreen Co. (hereinafter referred to as the "Walgreen Parcel").
- C. The Aldi Parcel and the Walgreen Parcel are adjacent and contiguous to each other.
- D. Aldi and Owner desire to impose certain easements upon the Parcels, and to establish certain covenants, conditions and restrictions with respect to said Parcels, for the mutual and reciprocal benefit and complement of the Aldi Parcel and the Walgreen Parcel and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, Aldi and Owner for the benefit of all present and future owners of the Parcels (hereinafter referred to as the "Aldi Parcel Owner" and the "Walgreen Parcel Owner", respectively) hereby declare and establish that the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Agreement, so that said Parcels shall be maintained, kept, sold and used in full compliance with and subject to this Agreement:

## AGREEMENTS

1. Definitions. For purposes hereof:

- (a) The term "Owner" or "Owners" shall mean the Aldi Parcel Owner (as to the Aldi Parcel) and the Walgreen Parcel Owner (as to the Walgreen Parcel) and any and all

**FILED**

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PETER BENJAMIN  
LAKE COUNTY AUDITOR

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successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.

(b) The term "Parcel" or "Parcels" shall mean each separately identified parcel of real property now constituting a part of the real property subjected to this Agreement as described on Exhibit A, that is, the Aldi Parcel and the Walgreen Parcel, and any future subdivisions thereof.

c) The term "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Parcel, and (ii) such tenant(s) or occupant(s).


(d) The term "Common Area" shall mean those portions of the Aldi Parcel and the Walgreen Parcel that are outside of exterior walls of buildings or other structures from time to time located on the Parcels, except the Controlled Access Property, (as defined below), and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits and other similar exterior site improvements.

(e) The term "Site Plan" shall mean that site plan of the Parcels attached hereto as Exhibit B and by reference made a part hereof. Except as may be otherwise provided in this Agreement, the Site Plan is for identification purposes only.

(f) The term "Controlled Access Property" shall mean that portion of Aldi Parcel and Walgreen Parcel described and/or depicted on Exhibit B, attached hereto and by reference made a part hereof.

## 2. Easements.

2.1 Grant of Reciprocal Easements. Subject to any express conditions, limitations or reservations contained herein, the parties hereby grant, establish, covenant and agree that the Parcels, and all Owners and Permittees of the Parcels, shall be benefitted and burdened by the following nonexclusive, perpetual and reciprocal easements which are hereby imposed upon the Parcels and all present and future Owners and Permittees of the Parcels:

(a) An easement for reasonable access, ingress and egress over all paved driveways, roadways and walkways as presently or hereafter constructed and constituting a part of the Common Area of Walgreen Parcel and the Common Area of Aldi Parcel, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Common Area of such Parcels intended for such purposes, and to and from all abutting streets or rights of way furnishing access to 

such Parcels; and

(b) An easement under and across those parts of the Common Areas for the installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains and other utility facilities necessary for the orderly development and operation of the Common Areas and each building from time to time located within the Parcels; provided that (i) the rights granted pursuant to such easements shall at all times be exercised in such manner as not to interfere materially with the normal operation of a Parcel and the businesses conducted therein, (ii) the exact location of any utilities shall be subject to the approval of the Owner(s) of the burdened Parcel(s), and (iii) except in an emergency, the right of any Owner to enter upon the Parcel of another Owner for the exercise of any right pursuant to such easements shall be conditioned upon providing reasonable prior advance written notice to the other Owner as to the time and manner of entry. All such systems, structures, mains, sewers, conduits, lines and other public utilities shall be installed and maintained below the ground level or surface of the Parcel (except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels, which shall be placed in such location as approved by the Owner of the affected Parcel). Once the initial construction of either Parcel shall be completed by the Owner thereof, thereafter no additional utility easements affecting the other Parcel shall be installed without the consent of the Owner of the affected Parcel.

2.2 Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Owner whose Parcel is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

2.3 Reasonable Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) Once the utility lines, systems and equipment are installed pursuant to the easements granted in paragraph 2.1(b) hereof, no permanent building, structures, trees or other improvements inconsistent with the use and enjoyment of such easements (excluding improvements typically found in common areas of shopping centers) shall be placed over

or permitted to encroach upon such utility installations. The Owner of the Parcel served by such installations shall not unreasonably withhold its consent to the reasonable relocation of such installations requested by the Owner of a Parcel where such installations are located, at such requesting Owner's sole cost and expense, so long as utility services to the other Owner's Parcel are not unreasonably interrupted and the remaining provisions of this paragraph 2.3 are complied with. No such relocation affecting either Parcel or utility service(s) thereto shall be performed without the consent of both Parcel Owners.

(c) Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Parcel of another Owner for the exercise of any right pursuant to the easements set forth, or to prosecute work on such Owners own Parcel if the same interferes with utility easements or easements of ingress, egress or access to or in favor of another Owner's Parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees. In such case, no affirmative monetary obligation shall be imposed upon the other Owner, and the Owner undertaking such work shall with due diligence repair at its sole cost and expense any and all damage caused by such work and restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed, prior to the commencement of such work. In addition, the Owner undertaking such work shall pay all costs and expenses associated therewith and shall indemnify and hold harmless the other Owner(s) and its Permittees from all damages, losses, liens or claims attributable to the performance of such work. Notwithstanding the foregoing or anything contained in this Agreement to the contrary, the Aldi Parcel Owner and its Permittees shall in no event undertake any work described in this paragraph (except normal minor repairs in the ordinary course which do not interfere with the business of the Walgreen Parcel Owner and its Permittees) which is not of an emergency nature during the months of November or December unless the Walgreen Parcel Owner shall consent thereto.

3. Maintenance.

3.1 General. Until such time as improvements are constructed on a Parcel, the Owner thereof shall maintain the same in a clean and neat condition and shall take such measures as are necessary to control grass, weeds, blowing dust, dirt, litter or debris.

3.2 Buildings and Appurtenances Thereto. Each Owner covenants to keep and maintain, at its sole cost and expense, the buildings located from time to time on its respective Parcel in good order, condition and repair. Once constructed, in the event of any damage to or destruction of a building on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence either (a) repair, restore and rebuild such building to its condition prior to such damage or destruction (or with such changes as shall

not conflict with this Agreement), or (b) demolish and remove all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition. Nothing contained in paragraph 3.2 shall be deemed to allow an Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owners Permittee. All buildings on the Aldi Parcel and Walgreen Parcel shall not be erected or located within ninety-four feet (94') of the right-of-way for Commercial Avenue. Each Parcel shall comply with applicable governmental parking ratio requirements.

3.3 Common Area. Each Owner of a Parcel covenants at all times during the term hereof to operate and maintain or cause to be operated and maintained at its expense all Common Area located on its Parcel in good order, condition and repair. Following the construction of improvements thereon, maintenance of Common Area shall include, without limitation, maintaining and repairing all sidewalks and the surface of the parking and roadway areas, removing all papers, debris and other refuse from and periodically sweeping all parking and road areas to the extent necessary to maintain the same in a clean, safe and orderly condition, maintaining appropriate lighting fixtures for the parking areas and roadways, maintaining marking, directional signs, lines and striping as needed, maintaining landscaping, maintaining signage in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Area in a clean, safe and orderly condition. Except as otherwise expressly provided in this Agreement, once constructed, in the event of any damage to or destruction of all or a portion of the Common Area on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence repair, restore and rebuild such Common Area to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Agreement). Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Areas or building areas on its Parcel, subject to the following conditions: (i) the reciprocal easements between the Parcels pursuant to paragraph 2.1 (a) shall not be closed or materially impaired; (ii) the ingress and egress to the Parcels and adjacent streets and roads, shall not be so altered, modified, relocated, blocked and/or removed without the express written consent of all Owners; and (iii) the same shall not violate any of the provisions and easements granted in paragraph 2.

3.4 Utilities. Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense, any utility or other installations serving the Parcel of such Owner and from time to time existing on the Parcel of another Owner pursuant to an easement described herein.

4. Construction of Improvements. Every building (including its appurtenant Common Area improvements), now or in the future constructed on Aldi Parcel, shall be constructed, operated and maintained so that the same is in compliance with all applicable governmental

requirements and in substantial conformity with the Site Plan.

5. Restrictions.

5.1 General. Each Parcel shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Parcel which is illegal. In addition to the foregoing, throughout the term of this Agreement, it is expressly agreed that neither all nor any portion of a Parcel shall be used, directly or indirectly, for purposes of a cocktail lounge, bar, disco, bowling alley, pool hall, billiard parlor, skating rink, roller rink, amusement arcade, children's play or party facility, adult book store, adult theater, adult amusement facility, any facility selling or displaying pornographic materials or having such displays, second hand store, odd lot, closeout or liquidation store, auction house, flea market, educational or training facility, blood bank, sleeping quarters or lodging, the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, boats or other vehicles, any industrial use, a car wash, an assembly hall, off track betting establishment, bingo parlor, any use involving the use, storage, disposal or handling on a Parcel of hazardous materials or underground storage tanks, or any use which creates a nuisance.

5.2.A. Additional Aldi Parcel Restrictions. Throughout the term of this Agreement, it is expressly agreed that neither all nor any portion of Aldi Parcel shall be used, directly or indirectly, for any one or more of the following purposes: (i) the operation of a drug store or a so-called prescription pharmacy or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; (ii) the sale of so-called health or beauty aids or drug sundries; (iii) the operation of a business in which greeting cards or gift wrap shall be offered for sale; (iv) the operation of a business in which food shall be sold for off premises consumption (provided however that the foregoing restriction against the sale of food items shall not prohibit the operation of an Aldi grocery store of at least 15,000 square feet on Aldi Parcel); (v) the sale of alcoholic beverages for off-premises consumption; (vi) the operation of a medical diagnostic lab, and (vii) the operation of a business in which photofinishing services or photographic film are offered for sale. Subparagraphs (ii), (iii) and (vii) (as to the sale of photographic film only) herein shall not apply or be effective as to the Aldi Parcel for so long as Aldi Parcel is used as an Aldi food store and is operated as a typical Aldi food store.

5.2.B. Additional Walgreen Parcel Restrictions. Throughout the term of this Agreement it is expressly agreed that neither all nor any portion of Walgreen Parcel shall be used, directly or indirectly for a grocery or food store. The foregoing restriction shall not be deemed or interpreted to prohibit the sale of food or drink items normally sold by Walgreen drug stores. AT

5.3 Drive-Throughs. No facility on Aldi Parcel or Walgreen Parcel for vehicular drive-up or drive-through in which the stopping or standing of motor vehicles in line at a location for drop-off and/or pickup is intended (as, for example, at a restaurant, car wash or bank) shall be assigned, constructed, used or operated in any manner such that motor vehicles in line at such facility stop or stand onto the other Parcel, or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic on and across the other Parcel. Nothing contained herein shall be deemed to affect the drive-through serving the building constructed on the Walgreen Parcel by the Owner thereof and in its presently existing location and operation which is hereby expressly approved by Aldi.

6. Insurance. Throughout the term of this Agreement, each Owner shall procure and maintain general and comprehensive public liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in paragraph 2.2 above), death, or property damage occurring upon such Owner's Parcel, with single limit coverage of not less than an aggregate of Two Million Dollars (\$2,000,000.00) including umbrella coverage, if any, and naming each other Owner (provided the Owner obtaining such insurance has been supplied with the name of such other Owner in the event of a change thereof) as additional insureds. The Owner of either Parcel may elect to self insure or carry insurance required hereunder under master or blanket policies of insurance so long as the net worth of such Owner exceeds \$100,000,000.00. Upon the written request of either Owner, the other Owner shall provide a certificate of insurance or evidence of self-insurance, including a certified statement that said Owner meets the net worth test set forth above.

7. Taxes and Assessments. The Owners of both Parcels shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to their respective Parcel.

8. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Aldi Parcel or Walgreen Parcel. No easements, except those expressly set forth in paragraph 2, shall be implied by this Agreement; in that regard, and without limiting the foregoing, no easements for signage, parking or drainage are granted or implied.

9. Remedies and Enforcement.

9.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms, covenants, restrictions or conditions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by injunction and all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and specific performance.

9.2 Self-Help. In addition to all other remedies available at law or in equity upon the

failure of a defaulting Owner to cure a breach of this Agreement within thirty (30) days following written notice thereof by an Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), any Owner shall have the right to perform such obligation contained in this Agreement on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof together with interest at the prime rate charged from time to time by First Chicago NBD (its successors or assigns), plus two percent (2%) (not to exceed the maximum rate of interest allowed by law). Notwithstanding the foregoing, in the event of (i) an emergency, (ii) blockage or material impairment of the easement rights, and/or (iii) the unauthorized parking of vehicles on the Aldi Parcel or the Walgreen Parcel, an Owner may immediately cure the same and be reimbursed by the other Owner upon demand for the reasonable cost thereof together with interest at the prime rate, plus two percent (2%), as above described.

9.3 Lien Rights. Any claim for reimbursement, including interest as aforesaid, and all costs and expenses including reasonable attorneys' fees awarded to any Owner in enforcing any payment in any suit or proceeding under this Agreement shall be assessed against the defaulting Owner in favor of the prevailing party and shall constitute a lien (the "Assessment Lien") against the Parcel of the defaulting Owner until paid, effective upon the recording of a notice of lien with respect thereto in the Office of the County Recorder of Lake County, Indiana, provided, however, that any such Assessment Lien shall be subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, (ii) all liens recorded in the Office of the County Recorder of Lake County, Indiana prior to the date of recordation of said notice of lien, and (iii) all leases entered into, whether or not recorded, prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by the defaulting Owner of any default for which a notice of lien was recorded, the party recording same shall record an appropriate release of such notice of lien and Assessment Lien.

9.4 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

9.5 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Agreement. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Parcel made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Parcel covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.



9.6 Irreparable Harm. In the event of a violation or threat thereof of any of the provisions of paragraphs 2 or 5 of this Agreement, each Owner agrees that such violation or threat thereof shall cause the nondefaulting Owner and/or its Permittees to suffer irreparable harm and such nondefaulting Owner and its Permittees shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of paragraphs 2 or 5 of this Agreement, the nondefaulting Owner, in addition to all remedies available at law or otherwise under this Agreement, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of paragraphs 2 or 5 of this Agreement.

10. Term. The easements, covenants, conditions and restrictions contained in this Agreement shall be effective commencing on the date of recordation of this Agreement in the Office of the County Recorder of Lake County, Indiana and shall remain in full force and effect thereafter in perpetuity, unless this Agreement is modified, amended, canceled or terminated by the written consent of all then record Owners of Aldi Parcel and Walgreen Parcel in accordance with paragraph 11.2 hereof.

11. Miscellaneous.

11.1 Attorneys' Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

11.2 Amendment. The provisions of this Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of the Aldi Parcel and the Walgreen Parcel, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the Office of the County Recorder of Lake County, Indiana.

11.3 Consents. Wherever the consent or approval of any Owner of a Parcel is required in this Agreement, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an Owner under this Agreement, to be effective, must be given, denied or conditioned expressly and in writing.

11.4 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default. ~~SI~~

11.5 No Agency. Nothing in this Agreement shall be deemed or construed to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the Owners.

11.6 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefitted thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

11.7 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

11.8 Separability. Each provision of this Agreement and the application thereof to Aldi Parcel and Walgreen Parcel are hereby declared to be independent of and severable from the remainder of this Agreement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Agreement. In the event the validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description, the Owners shall promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity shall not terminate this Agreement nor in any manner affect or impair the validity or enforceability of this Agreement.

11.9 Time of Essence. Time is of the essence of this Agreement.

11.10 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each Owner may change from time to time their respective address for notice hereunder by like notice to the other party. The notice addresses of the Aldi and Owner are as follows:

Aldi: Aldi (Indiana) L.P.  
197 East Division Road  
P. O. Box 1398  
Valparaiso, IN 46384  
Attn: Real Estate Director

Owner: Teachers' Retirement System of the State of Kentucky  
c/o Mortgage Company of Kentucky  
642 S. 4th Street  
Louisville, Kentucky 40202

With a Copy to:

Walgreen Co.  
Law Department, M. S. #2252  
200 Wilmot Road  
Deerfield, Illinois 60015  
Attn.: M. S. Moran

11.11 Governing Law. The laws of the State in which the Parcels are located shall govern the interpretation, validity, performance, and enforcement of this Agreement.

11.12 Estoppel Certificates. Each Owner, within twenty (20) days of its receipt of a written request from the other Owner(s), shall from time to time provide the requesting Owner, a certificate binding upon such Owner stating: (a) to the best of such Owner's knowledge, whether any party to this Agreement is in default or violation of this Agreement and if so identifying such default or violation, and (b) that this Agreement is in full force and effect and identifying any amendments to the Agreement as of the date of such certificate.

11.13 Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Agreement shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.



IN WITNESS WHEREOF, Aldi and Owner have executed this Agreement as of the date first written above.

Aldi (Indiana) L.P.

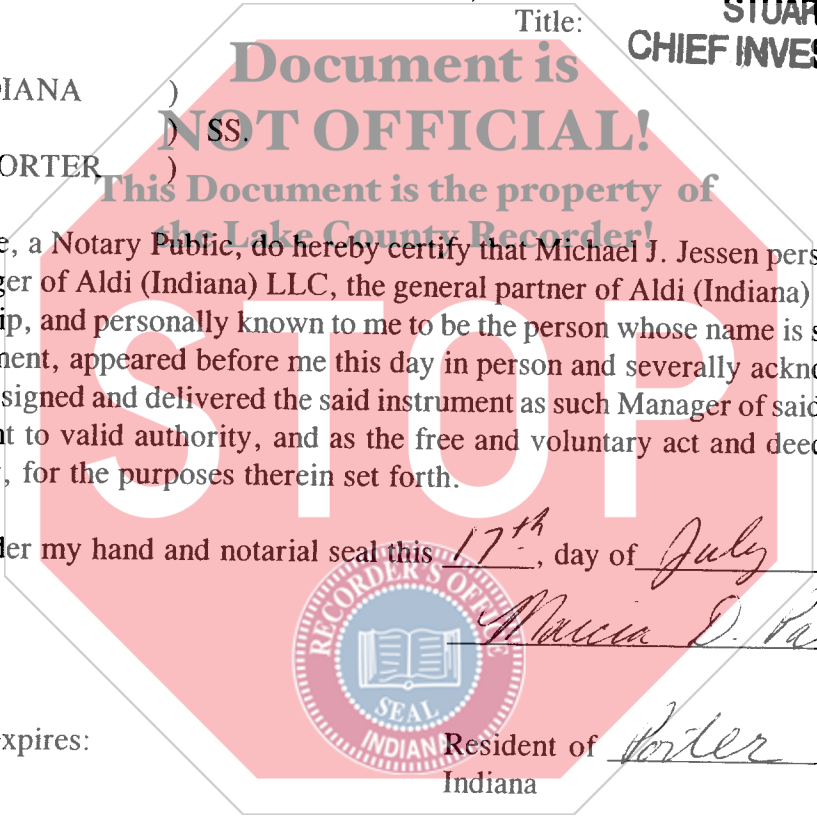
By Aldi (Indiana) LLC  
Its General Partner

By: Michael J. Jessen  
Michael J. Jessen  
Manager

Teachers' Retirement System of the  
State of Kentucky

By: Stuart A. Reagan  
Name: **STUART A. REAGAN**  
Title: **CHIEF INVESTMENT OFFICER**

STATE OF INDIANA )  
                                  ) SS.  
COUNTY OF PORTER )



Before me, a Notary Public, do hereby certify that Michael J. Jessen personally known to me to be a Manager of Aldi (Indiana) LLC, the general partner of Aldi (Indiana) L.P., an Indiana limited partnership, and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Manager he signed and delivered the said instrument as such Manager of said limited liability company pursuant to valid authority, and as the free and voluntary act and deed of said limited liability company, for the purposes therein set forth.

Given under my hand and notarial seal this 17<sup>th</sup>, day of July, 2002.

Marcia D. Palmer  
, Notary Public

My commission expires:

Resident of Porter County,  
Indiana

March 24, 2008

**MARCIA D PALMER**  
**NOTARY PUBLIC STATE OF INDIANA**  
**PORTER COUNTY**  
**MY COMMISSION EXP. MAR. 24, 2008**

STATE OF KENTUCKY )  
 ) SS.  
COUNTY OF FRANKLIN )

Before me, a Notary Public, do hereby certify that Stuart Reagan personally known to me to be the Chief Inv. Officer of Teachers' Retirement System of the State of Kentucky, and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared before me this day in person and severally acknowledged that as such representative capacity he/she signed and delivered the said instrument pursuant to valid authority, and as the free and voluntary act and deed of said corporation, for the purposes therein set forth.

Given under my hand and notarial seal this 14, day of June, 2002.

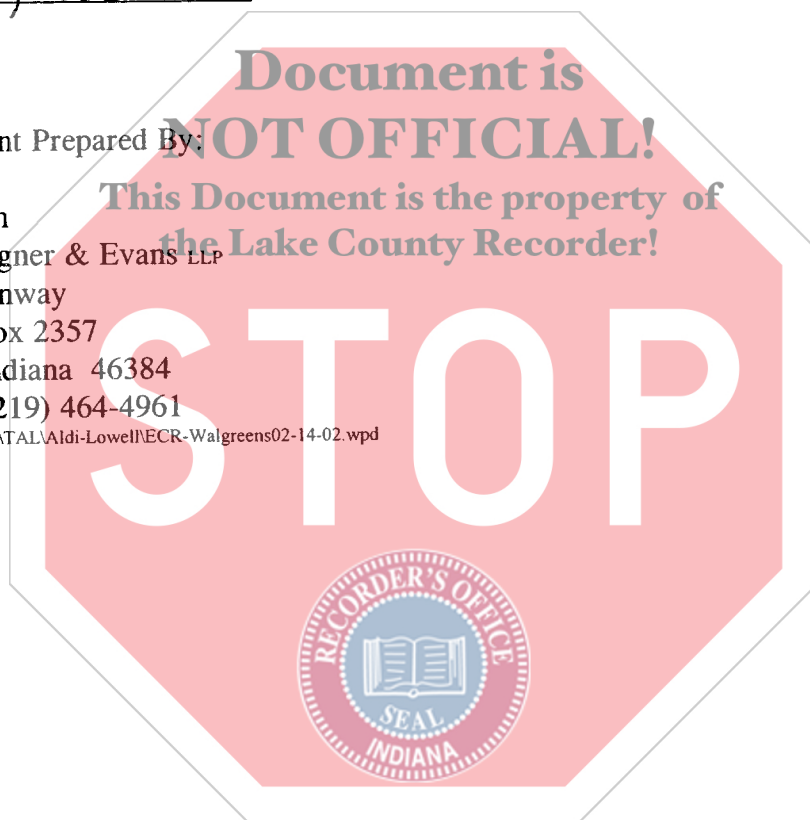
Ashley H. Briscoe  
\_\_\_\_\_, Notary Public

My commission expires: \_\_\_\_\_ Resident of Franklin County,  
~~Indiana~~ Kentucky

March 18, 2006

This Instrument Prepared By:

Todd A. Leeth  
Hoepfner Wagner & Evans LLP  
103 E. Lincolnway  
Post Office Box 2357  
Valparaiso, Indiana 46384  
Telephone: (219) 464-4961  
February 14, 2002 C:\TALA\Aldi-Lowell\ECR-Walgreens02-14-02.wpd



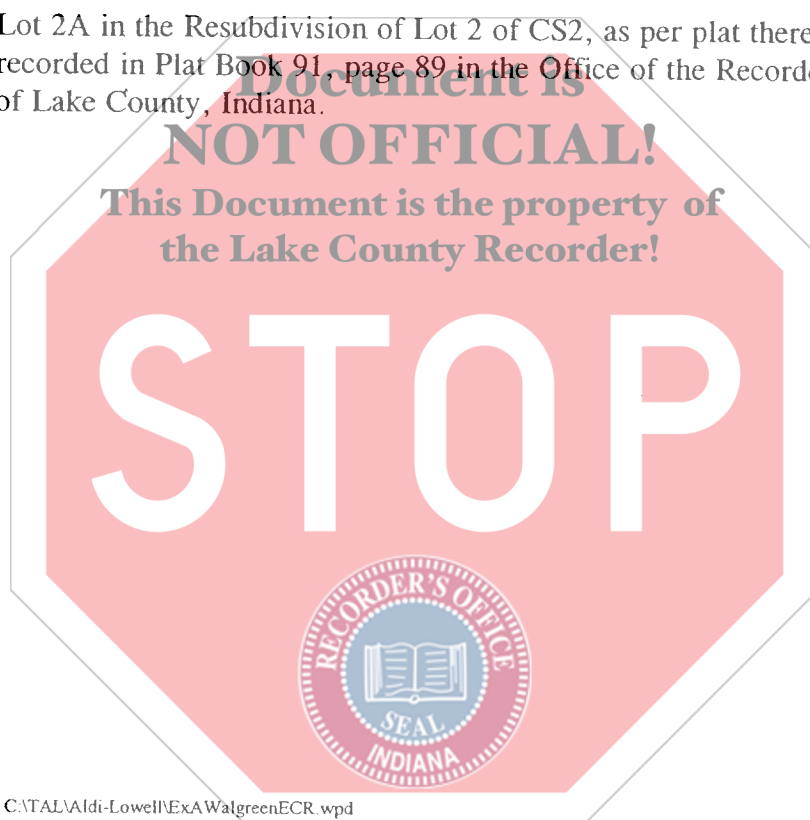
**EXHIBIT "A"**  
**TO**  
**AGREEMENT FOR RECIPROCAL EASEMENTS**  
**AND USE RESTRICTIONS**

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**Walgreen Parcel**

Lot 1 in the CS2 Subdivision, as per plat thereof, recorded in Plat Book 86, page 34 in the Office of the Recorder of Lake County, Indiana, amended by Plat of Amendment recorded April 30, 1999, in Plat Book 86, Page 59, and as further amended by Plat of Amendment recorded in Plat Book 87, Page 40, in the Office of the Recorder of Lake County, Indiana.  
**Aldi Parcel**

Lot 2A in the Resubdivision of Lot 2 of CS2, as per plat thereof, recorded in Plat Book 91, page 89 in the Office of the Recorder of Lake County, Indiana.



# BURR STREET

# INDIANA ROUTE NO. 2 (COMMERCIAL AVENUE)

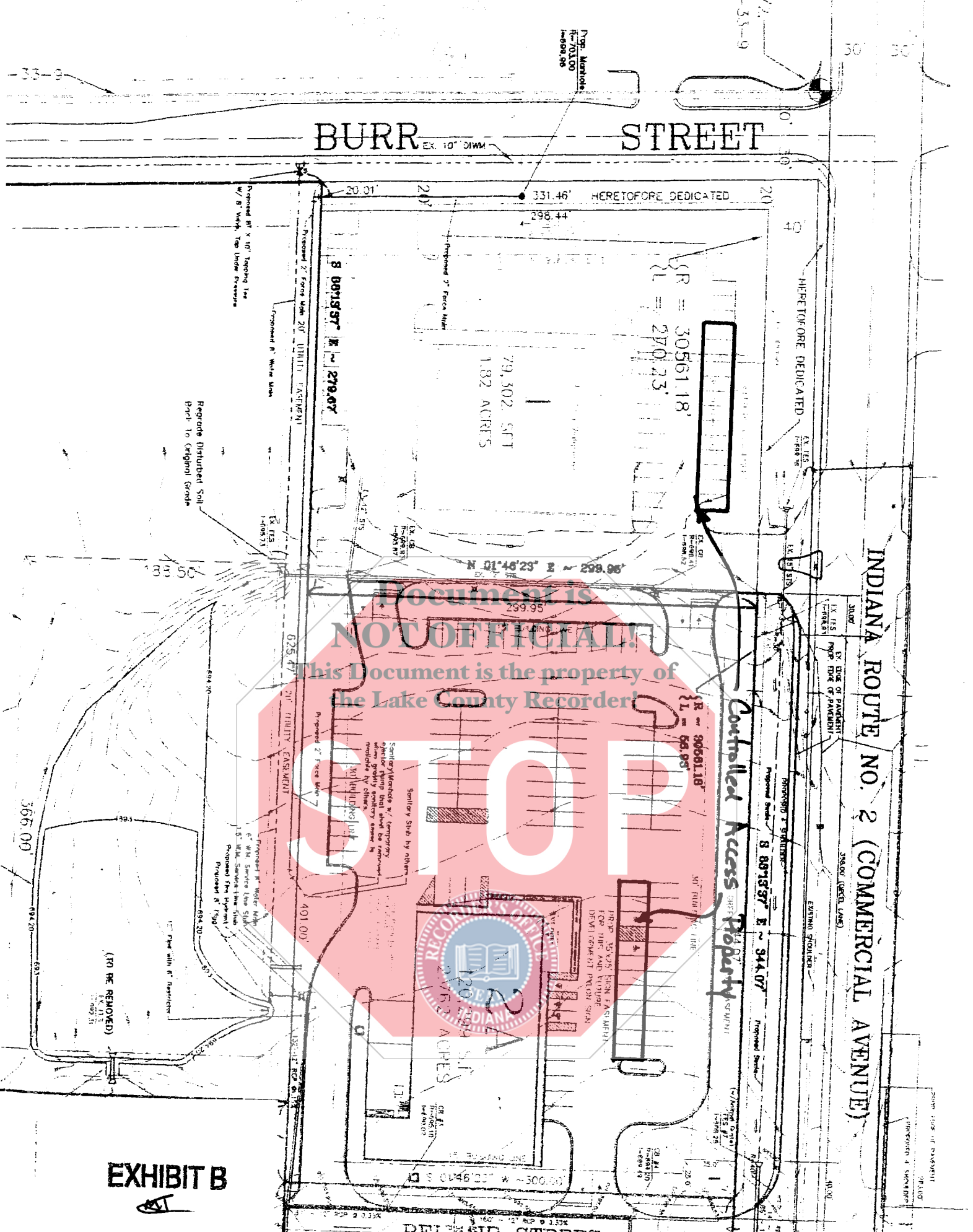


EXHIBIT B

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