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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

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RETURN TO: MICHAEL
GLENN R. PATTERSON, ESQ.
LUCAS, HOLCOMB & MEDREA, LLP
EASTON COURT
300 EAST 90TH DRIVE
MERRILLVILLE, INDIANA 46410

**ASSIGNMENT OF CERTAIN COMMON AREA MAINTENANCE
DUTIES UNDER THE BEACON HILL RETAIL CENTER
(PHASE ONE) DECLARATION OF RECIPROCAL EASEMENTS
AND OPERATING COVENANTS**

CM 62005177

This Assignment is entered into by and between ***I-65 PARTNERS, LLC, an Indiana limited liability company*** (the "Developer"), and ***VAN TIL'S REAL ESTATE, LLC, an Indiana limited liability company*** ("VTRE").

WHEREAS, the Developer is the Developer under that certain Beacon Hill Retail Center (Phase One) Declaration of Reciprocal Easements and Operating Covenants (the "REA"), which encumbers the following described real estate:

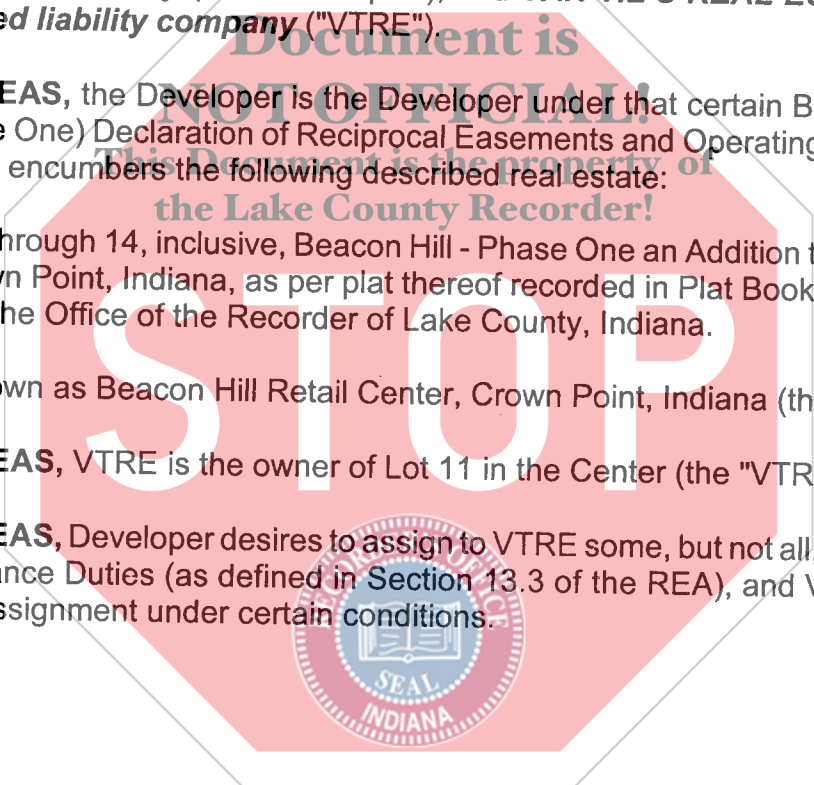
Lots 1 through 14, inclusive, Beacon Hill - Phase One an Addition to the City of Crown Point, Indiana, as per plat thereof recorded in Plat Book 97, page 46, in the Office of the Recorder of Lake County, Indiana.

commonly known as Beacon Hill Retail Center, Crown Point, Indiana (the "Center"); and

WHEREAS, VTRE is the owner of Lot 11 in the Center (the "VTRE Parcel"); and

WHEREAS, Developer desires to assign to VTRE some, but not all, of the Common Area Maintenance Duties (as defined in Section 13.3 of the REA), and VTRE desires to accept such assignment under certain conditions.

Chicago Title Insurance Company



2/10/02
CI
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NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Developer, Developer and VTRE agree as follows:

1. ASSIGNMENT OF CERTAIN COMMON AREA MAINTENANCE DUTIES. Developer hereby assigns to VTRE the following Common Area Maintenance Duties:

- a. Snow plow and salt the surface of the Parking Area (as defined in Section 1.14 of the REA), sidewalks, entrance ways and driveways which are Common Areas within the Center, keeping them free from snow and ice.
- b. Sweep the Parking Area, entrance ways and driveways which are Common Areas within the Center (specifically excluding sidewalks), keeping them free from trash and debris, and power wash the sidewalks which are a part of the Common Area, once annually.
- c. Re-lamping of Parking Area lighting fixtures as needed.

which limited number of Common Area Maintenance Duties itemized above are herein referred to as the "VTRE Maintenance Duties".

2. ASSUMPTION OF VTRE MAINTENANCE DUTIES. VTRE hereby assumes the obligation to perform the VTRE Maintenance Duties. As additional consideration for the foregoing assumption, the Developer hereby waives all compensation to Developer for services rendered which is otherwise required by Section 1.6 or any other term or provision of the REA, on all of VTRE Parcel's Allocable Share (as defined in Section 1.2 of the REA) of the Common Area Maintenance Costs (as defined in Section 1.6 of the REA), and VTRE hereby waives all claims to compensation from Developer for performing the VTRE Maintenance Duties.

3. PAYMENT OF THE COST OF PERFORMING THE VTRE MAINTENANCE DUTIES. All invoices received by VTRE for the cost of performing the VTRE Maintenance Duties, shall be paid in due course by VTRE. VTRE shall invoice Developer for the cost thereby incurred by VTRE for performing the VTRE Maintenance Duties, at least annually, and shall provide to Developer copies of all invoices paid by VTRE. Upon Developer's failure to pay VTRE's invoices within thirty (30) days of the date of such invoice, VTRE shall have the same rights and remedies against the Developer, as the Developer has for the collection of a Party's unpaid Allocable Share of Common Area Maintenance Cost under the REA, including, but not limited to, the provisions of Article 17 of the REA, the lien rights under Sections 9.4 and 9.5 of the REA, and the provisions of Section 21.7 of the REA.

4. FAILURE TO PERFORM VTRE MAINTENANCE DUTIES. The Parties to the REA, including the Developer, shall have the same rights and remedies against VTRE

as they would have against the Developer in the event of the Developer's failure to perform the Common Area Maintenance Duties, and said rights and remedies shall have the same limitations, including, but not limited to, those set forth in Article 17 of the REA. The provisions of this Paragraph 4 are intended to be for the benefit of all Parties to the REA and shall therefore be enforceable by them.

5. LIMITATION ON VTRE LIABILITY. If VTRE shall breach, violate or fail to keep, observe or perform any of the covenants, representations, warranties, agreements or obligations under the REA, which VTRE is required to keep, observe or perform under and pursuant to this Assignment, and, as a consequence thereof, another party shall recover a money judgment against VTRE, such judgment shall be satisfied only out of one or more of (a) the proceeds of a sale produced upon execution of said judgment levy thereon against VTRE's interest in the VTRE Parcel, including the improvements thereon; (b) the rents or income from the VTRE Parcel receivable by VTRE; (c) the proceeds of any insurance policies carried by VTRE, covering or relating to its obligations under this Assignment; and (d) the consideration received by VTRE from the sale of all or any part of the VTRE Parcel, including the improvements, made after any such breach, violation or failure by VTRE and VTRE shall not be liable for any deficiency. The provisions of this Paragraph 5 are not designed or intended to relieve VTRE from any of its covenants, representations, warranties, agreements or obligations under the REA which VTRE is required to keep, observe or perform under or pursuant to this Assignment, rather to limit its liability in the case of a recovery of a judgment against it, as aforesaid; nor shall any provision of this Paragraph 5 be deemed to limit, restrict, waive or otherwise affect a Party's rights under the REA to obtain injunctive relief or other equitable relief (except for the right of specific performance, which right all Parties, other than the City, have waived pursuant to Section 13.4 of the REA), or to avail itself of any other right or remedy which may be accorded by law or under the REA.

6. ASSIGNMENT OF VTRE MAINTENANCE DUTIES. Notwithstanding any other term or provision hereof to the contrary, VTRE shall have the right to transfer, assign or otherwise convey VTRE's Maintenance Duties to any Occupant (as defined in the REA) of the VTRE Parcel, at any time. Provided that VTRE delivers to the other Parties to the REA, a copy of an agreement in recordable form, signed by such Occupant as may have assumed the VTRE Maintenance Duties by transfer, assignment or other conveyance, and which shall contain an express assumption by such Occupant of all of the VTRE Maintenance Duties, VTRE shall be deemed released from all such VTRE Maintenance Duties after the date of said transfer.

7. DEVELOPER APPROVAL OF VTRE PLANS. Developer hereby gives its written approval to the site plan, rendering, and design and exterior of the Store to be constructed on the VTRE Parcel. All written approvals required by Developer pursuant to Section 3.2 of the REA with regard to the initial construction of the Store on the VTRE Parcel, or by any other term or provision of the REA with regard to the initial construction of the Store on the VTRE Parcel, are hereby waived by Developer.

So assigned and agreed to this 3rd day of June, 2005.

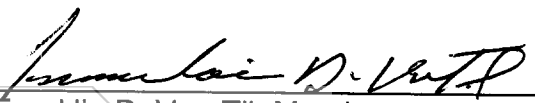
DEVELOPER:


I-65 PARTNERS, LLC

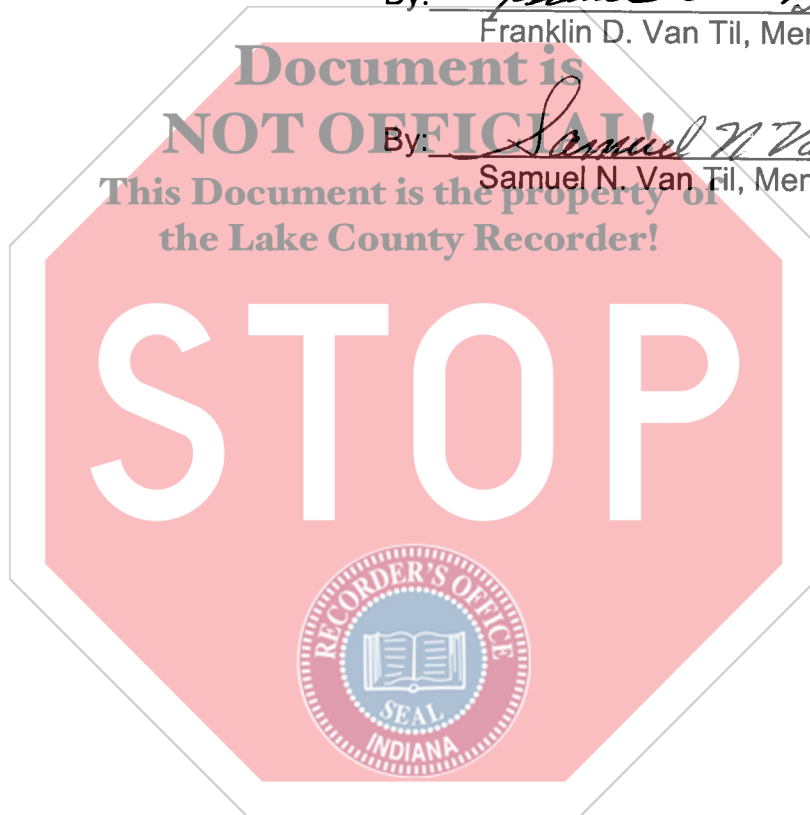
By: 
Robert I. Rossman, Sole Member
and Sole Manager

VTRE:

VAN TIL'S REAL ESTATE, LLC

By: 
Franklin D. Van Til, Member

By: 
Samuel N. Van Til, Member



STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Before me, the undersigned Notary Public in and for said County and State, this 3rd day of June, 2005, personally appeared ROBERT I. ROSSMAN, the Sole Member and Sole Manager of I-65 PARTNERS, LLC, and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



Glenn R. Patterson, Notary Public

My Commission Expires:

November 25, 2008

County of Residence:

Lake



STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Before me, the undersigned Notary Public in and for said County and State, this 3rd day of June, 2005, personally appeared FRANKLIN D. VAN TIL and SAMUEL N. VAN TIL, the Members of VAN TIL'S REAL ESTATE, LLC, and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



Glenn R. Patterson, Notary Public

My Commission Expires:

November 25, 2008

County of Residence:

Lake



This instrument prepared by Glenn R. Patterson, Esq., Lucas, Holcomb & Medrea, Easton Court, 300 East 90th Drive, Merrillville, Indiana 46410

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