

STATE OF ALABAMA)

SHELBY COUNTY)

**RECIPROCAL EASEMENT AND
OPERATING AGREEMENT**

THIS RECIPROCAL EASEMENT AND OPERATING AGREEMENT (the "REA") has been executed as of September 9, 1999, by St. Vincent's Hospital, an Alabama non-profit corporation ("SVH"), and by River Ridge Retail Company, L.L.C., an Alabama limited liability company ("River Ridge"), for the purposes hereinafter set forth.

Inst # 1999-38039

09/10/1999-38039
10:23 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
22.00
006 HHS

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, SVH holds fee title to that certain real property known as Lot 1, which is more particularly described on the plat (the "Plat") prepared by Jerry Harkins, Walter Schoel Engineering, Inc., on Sept. 1, 1999, which is recorded in the Office of the Judge of Probate of Shelby County as Instrument No. 26, Page 14;
Map Book

WHEREAS, SVH has immediately prior hereto conveyed to River Ridge, the fee title to that certain real property shown as Lot 2, Lot 3 and Lot 5 on the Plat, including all rights, ways, alleys, privileges, easements, and appurtenances thereunto belonging or in any wise appurtenant; and

WHEREAS, SVH intends to maintain Lot 1 for use as a medical office building subject to this REA, its covenants, conditions, easements and restrictions.

NOW, THEREFORE, the parties hereby agree that Lots 1, 2, 3, and 5 as shown on the Plat (the "Property") shall be held, conveyed, hypothecated or encumbered, rented, used, occupied and improved subject to this Reciprocal Easement and Operating Agreement (the "REA"), which shall run with the land and shall be binding upon the record owners of the Property (the "Owners" or individually, the "Owner") and all parties having or acquiring any right, title or interest in any part of the Property subject hereto.

ARTICLE I

COVENANTS FOR MAINTENANCE

The Property shall not be permitted to fall into disrepair, and each tract, including any improvements and landscaping thereon, shall be kept and maintained by the Owners thereof in a clean, safe, attractive and aesthetically pleasing condition, not visibly in disrepair or lacking exterior paint, with windows glazed and paving swept. Any building

on any tract which is vacant for any reason shall be kept locked and the windows shall be glazed in order to prevent entrance by vandals. All grounds shall be maintained in a safe, clean and neat condition free of rubbish and weeds. Lawns shall be kept in a mowed condition. Roads and pavements shall be kept reasonably true to line and grade in good repair. Drainage systems shall be kept clear and reasonably free of obstacles. Parking areas, lighting and signage shall be kept clean and in good repair. To the extent reasonably possible, all plantings shall be maintained in a healthy condition, and fertilization, weeding and pruning of them shall be carried out on a regular basis. Dead or dying plants shall be removed as quickly as possible, and, subject, to seasonal limitations, replaced as quickly as possible. Irrigation systems shall be kept in proper working condition, with adjustment, repair and cleaning being done on a regular basis. Maintenance, repair and upkeep of each tract and any unpaved portion of the right-of-way of a public street adjoining such tract shall be the responsibility of the Owner of such tract.

ARTICLE II

EASEMENTS

2.1 **Drainage Easement.** The parties hereby grant to each other mutual easements for drainage on the area shown outlined in red on the attached **Exhibit A** and as shown on the Plat which is located partially on Lot 1 and partially on Lot 3 (the "Drainage Easement").

2.2 **Related Easements.** SVH hereby grants to River Ridge an easement for purposes of maintaining that part of the Drainage Easement located on Lot 1 but only to the extent reasonably necessary to maintain such area as a storm water detention pond or drainage area.

2.3 **Reimbursement.** Beginning on the date on which River Ridge has substantially completed its planned construction on Lot 2 and Lot 3, SVH agrees to reimburse River Ridge for its pro rata share of the reasonable cost of such maintenance, which cost shall be based on the parties' relative acreage of property draining to the Drainage Easement as certified by a professional engineer. Such reimbursement shall be paid within thirty (30) days following receipt of invoice from River Ridge, which invoice shall include a statement of the total cost of such maintenance.

ARTICLE III

OTHER COVENANTS

3.1 **Grading.** Lot 2 shall be graded at approximately the same slope as Lot 1 (so as not to require a retaining wall between the two parcels); provided that there will be no cross parking or access between Lot 1 and Lot 2 unless mutually agreed to by the parties hereto.

ARTICLE IV

MISCELLANEOUS

4.1 Captions. The captions preceding the various paragraphs and subparagraphs of this REA are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of this REA. Wherever and whenever applicable, the singular form of the word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

4.2 Effect of Violation on Mortgage Lien. No violation of any provision of this REA shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagees' or foreclosure sale shall be bound by and subject to any provision of this REA as fully as any other Owner of any portion of the Property.


4.3 Amendment. For so long as River Ridge owns any part of Lot 2, Lot 3 or 5, this REA may be amended and/or terminated in its entirety by an instrument signed SVH and River Ridge only. Thereafter, this REA may be amended and/or terminated in its entirety by an instrument signed by the owner of Lot 1 and the owner of Lot 3. Any such instrument shall be filed of record in such place of recording as may be appropriate at the time of the execution of such instrument.

4.5 No Waiver. The failure of any party entitled to enforce any of the provisions of this REA shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto.

IN WITNESS WHEREOF, the undersigned execute the foregoing as of the date first set forth above.


SVH:

ST. VINCENT'S HOSPITAL

By: 
Its: President & CEO

RR:

RIVER RIDGE RETAIL COMPANY, L.L.C.

By: 
Its: Arthur Bryant

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Curtis James, whose name as President & CEO of **ST. VINCENT'S HOSPITAL**, an Alabama non-profit corporation, is signed to the foregoing REA and who is known to me, acknowledged before me on this day that, being informed of the contents of the REA, he/she, in his/her capacity as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation on the day the same bears date.

Given under my hand this the 9th day of September, 1999.

Ann S. Gargarek
Notary Public
My Commission Expires: 4/19/01

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that DAVID L. SILVERSTEIN, whose name as AUTHORIZED AGENT of **River Ridge Retail Company, L.L.C.**, a Delaware limited liability company, is signed to the foregoing REA and who is known to me, acknowledged before me on this day that, being informed of the contents of this REA, he/she, in his/her capacity as such AUTHORIZED AGENT, and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 9th day of September, 1999.

David L. Shannon
Notary Public
My Commission Expires: 3/17/99

Inst • 1999-38039

09/10/1999-38039

10:23 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

004 NW 22.00

U.S.

OLD U.S. HIGHWAY

1st Addition
S. Page 62

R=518.69'
Δ=17°26'30"
T=79.56'
L=157.90'
Ch.Br.=S33°05'17"W

M=50.27'
R=50.27'
Δ=83°18'36"
T=84.72'
L=73.09'
Ch.Br.=S16°33'30"E
R=50.00'
Δ=83°22'01"
T=44.52'
L=73.09'

RIVERVIEW ROAD

RIVERVIEW PARKWAY

Lot 1
Tombago Commons
Map Book 13, Page 145

N61°22'48"W
488.00'

13.75' S24°27'02" W
R=3874.83'
Δ=0°43'48"
T=24.66'
L=49.33'
Ch.Br.=S24°45'55"W

R=426.99'
Δ=3°14'09"
T=12.06'
L=24.11'
Ch.Br.=S35°57'09"E

R=200.00'
Δ=62°57'17"
T=122.45'
L=219.75'
Ch.Br.=S2°51'26"E

N61°22'48"W
488.00'
S28°37'12"W
190.00'