

PREPARED BY AND RETURN TO:
Berkowitz, Lefkovits, Isom & Kushner
A Professional Corporation
SouthTrust Tower
420 N. 20th Street, Suite 1600
Birmingham, Alabama 35203-5202

Inst # 2000-38869

11/08/2000-38869
12:45 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
010 MNB

RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT (this "Agreement") is made and entered into to be effective as of November 7, 2000 by and between **BAPTIST HEALTH SYSTEM, INC.** (the "Grantor") and **THE TERRACE, L.L.C.**, an Alabama limited liability company (collectively the "Grantee").

RECITALS:

A. Grantor is the record owner in fee simple and is in possession of that certain parcel of real estate being more particularly described in **Exhibit "A"** (the "Burdened Property") attached hereto and made a part hereof.

B. Grantee is the record owner in fee simple and is in possession of that certain parcel of real estate, adjacent to the Burdened Property, being more particularly described in **Exhibit "B"** (the "Benefitted Property") attached hereto and made a part hereof.

C. Grantor has agreed to grant to Grantee a non-exclusive easement over the Burdened Property for vehicular and pedestrian ingress and egress and parking as set forth hereinbelow, and Grantee has agreed to construct and pave a driveway and parking area on such easement, as shown on **Exhibit "C"** (the "Access and Parking Area Plans"), which have been approved by Grantor.

THEREFORE, for and in consideration of the mutual covenants herein contained together with other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

2. Grant. Grantor does hereby grant, bargain, sell and convey unto Grantee, its successors and assigns, a non-exclusive, perpetual easement for the purpose of pedestrian and vehicular ingress and egress over and across that certain cross-hatched area reflected on the Access and Parking Area Plans (the "Easement Parcel") which Easement Parcel is more particularly described in **Exhibit "D"** attached hereto. Grantor does further grant, bargain, sell and convey unto Grantee, its successors and assigns, a non-exclusive, perpetual easement for employee, customer and invitee parking on and/or in the Easement Parcel during the hours of

5:00 p.m. CST and 8:00 a.m. CST, Monday through Friday and for all hours on Saturdays and Sundays. The parties acknowledge that Grantee's and Grantor's employees, customers and invitees will use the Easement Parcel for such uses.

3. Grantor Representations and Warranties. Grantor hereby warrants and covenants: (i) that Grantor is lawfully seized of the Burdened Property, in fee simple subject to easements, utility permits, and road rights of way, and mineral and mining rights exceptions; (ii) that the Grantor does not reside on or within the Burdened Property, nor on any property contiguous therewith; and (iii) that the Burdened Property is not subject to any prior or other lien or encumbrance requiring mortgagee, lender or other consent.

4. Construction and Maintenance.

(a) Grantee, at its own cost and expense, shall be responsible for clearing, grading and constructing and paving the drive, the twenty-four (24) parking spaces and related improvements to be located on and within the Easement Parcel and as set forth in **Exhibit C** including the grading, paving and curbcuts and Grantee shall be responsible for landscaping the same, all in accordance with the Access and Parking Area Plans. Grantee shall not be responsible for any other construction on or other improvements to any area outside of such area. Grantor hereby grants to Grantee a temporary construction access easement over the Burdened Property to the extent reasonably necessary to complete the construction referenced above, which easement shall automatically terminate upon the full completion of construction. Grantee shall commence construction of the improvements on the later of (i) December 1, 2000, or (ii) with reasonable promptness after the City of Hoover approves the Access and Parking Area Plans, and shall diligently pursue the same to completion in a good and workmanlike manner. If Grantee does not substantially complete construction as set forth herein on or before December 1, 2001, then the grant of easement in Paragraph 2 shall terminate upon the filing by Grantor of a Termination of Easement in the Probate Office of Shelby County, Alabama, which document shall not have to be signed or joined by Grantee in order to make the same effective.

(b) Grantee covenants to maintain, at its own cost and expense, the drive and access area in the Easement Parcel in perpetuity. Grantee shall further maintain, at its own cost and expense, the twenty-four (24) parking spaces as set forth in **Exhibit C** and the landscaping and all other improvements in the Easement Parcel until December 1, 2001, after which time, the obligation, cost and responsibility for such maintenance shall belong to Grantor; except, however, that Grantee, its successors and assigns, shall be liable for any damage to the Easement Parcel or its surrounding area which is caused by Grantee, its successors, assigns and invitees or customers; provided, however, that the same is not caused by the Grantor's negligence or willful misconduct. Nothing contained herein shall be construed to require the Grantee to maintain any portion of the Burdened Property outside of the Easement Parcel. Grantor and Grantee shall, from time to time, within thirty (30) days of the reasonable request of either, pay the invoiced costs of repairing, maintaining or paving the Easement Parcel in accordance with the obligations set forth hereinabove as a maintenance assessment in the event a party fails to comply with this Paragraph 3(b). Unpaid maintenance assessments shall constitute a lien against the defaulting owner's lot.

5. Approvals. All such construction shall be completed by Grantee in accordance with the Access Area and Parking Plans, which are hereby approved by Grantor and any and all restrictive covenants or declarations applicable to the Burdened Property. Grantor shall use its best reasonable efforts to assist Grantee in obtaining all approvals necessary pursuant to any such encumbrances. In the event of any material change to the Access Area and Parking Plans, Grantee shall resubmit said Access Area and Parking Plans to Grantor for Grantor's written approval prior to commencing construction in the Easement Parcel. Grantor shall have ten (10) business days to review the revised Access Area and Parking Plans. In the event Grantor does not respond within said ten (10) business days, the same shall be deemed to have been approved by Grantor in accordance with this Paragraph 5.

6. Alterations and Modifications. Grantor shall not modify, change, or relocate the improvements within the Easement Parcel, including but not limited to, curbcuts, driveways, parking spaces and accessways onto public roads, without the prior written consent of Grantee, which consent shall not be unreasonably withheld if Grantor assumes all construction costs and if the same does not substantially interfere with Grantee's ingress and egress and access to parking.

7. Usage. The parties agree that each of them, their successors and assigns, shall conform to and with all governmental requirements, laws and regulations and the terms herein in the use and maintenance of the Easement Parcel.

8. Taxes and Assessments. Grantor shall have full responsibility for any and all taxes and assessments due or becoming due on the Easement Parcel on the Burdened Property.

9. Notice. Any and all notices required or contemplated hereunder shall be provided by hand delivery, or by overnight mail or by a nationally recognized courier service or by certified United States Mail, return receipt requested and postage prepaid to the following addresses:

If to Grantor: Baptist Health System, Inc.
c/o Shelby Medical Center
P. O. Box 488
Alabaster, Alabama 35007
Attention: President

If to Grantee: The Terrace, L.L.C.
7 Hazeltine Walk
Shoal Creek, Alabama 35242
Attention: Craig and Rita Kollars

10. Governing Law. This Agreement shall be governed by the laws of the State of Alabama.

11. Severance. The invalidity or unenforceability of any portion of this Agreement shall in nowise affect the remaining provisions and portions hereof.

12. Binding Effect. This Agreement shall constitute covenant running with the lands hereinabove referenced and shall bind the successors, heirs and assigns of the parties hereto.

13. Captions. The paragraph captions used throughout this Agreement are for the purpose of reference only and are not to be considered in the construction of this Agreement or in the interpretation of the rights or obligations of the parties hereto.

14. Time. Time is of the essence to this Agreement.

15. Entire Agreement. It is agreed that this document contains the entire agreement between the parties as to the matters herein contained and the Agreement shall not be modified in any respect except by an amendment in writing signed by all parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the day and year first above written.

GRANTOR:

BAPTIST HEALTH SYSTEM, INC.

By: Charles C. Colvin
Name: Charles C. Colvin
Its: Pres. SBMC

GRANTEE:

THE TERRACE, L.L.C.

By: Rita Kollars
Name: Rita Kollars
Its: Member

STATE OF ALABAMA)
Shelby COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Charles C. Cohen, whose name as President of Baptist Health System, Inc., a(n) Officer, is signed to the foregoing Reciprocal Easement Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Reciprocal Easement Agreement, he/she, in his/her capacity as such President SBMC 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 12 day of October, 2000.

Donna G. Jmelan
Notary Public
My Commission Expires: March 30, 2002

[NOTARIAL SEAL]

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Rita Kollars, whose name as Member of The Terrace, L.L.C., an Alabama limited liability company, is signed to the foregoing Easement Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, in his 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 7th day of November, 2000.

John J. Lynn
Notary Public

My Commission Expires: 2/28/04

[NOTARIAL SEAL]

EXHIBIT A

“The Burdened Property”

Commence at the Southeast corner of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 32, Township 18 South, Range 1 West, Shelby County, Alabama; thence run in a Westerly direction along the South line of said section line for 407.30 feet to a $\frac{3}{4}$ " rebar, said rebar being the Northeastern corner of Lot 1, Greystone Highlands Commercial Subdivision, as recorded in Map Book 20 Page 25, in the Office of the Probate Judge of Shelby County, Alabama, and the point of beginning of this Cross Parking and Ingress/Egress Easement; thence run Westerly along same section line and Northerly line of said Lot 1 for 200.00 feet; thence turn $110^{\circ} 49' 27''$ to the right and run Northeasterly 218.37 feet to a point on the Southerly right-of-way of U.S. Highway 280; thence turn $126^{\circ} 46' 52''$ to the right to become tangent to a curve to the right, said curve having a radius of 2,714.79 feet and subtending a central angle of $2^{\circ} 00' 10''$; thence run along the arc of said curve and said Southerly right-of-way of U.S. Highway 280 for 94.89 feet to a concrete right-of-way monument and end of said curve; thence turn an interior angle of $174^{\circ} 19' 28''$ from tangent of the last described curve and run Southeasterly along said Southerly right-of-way of U.S. Highway 280 for 143.10 feet to the point of beginning.

EXHIBIT B

“The Benifitted Property”

Lot 1, according to the Survey of Lots 1-7, Greystone Highlands Commercial Subdivision, as recorded in Map Book 20, page 25, in the Probate Office of Shelby County, Alabama.

EXHIBIT C

“Access and Parking Area Plans”

(See attached)

EXHIBIT C

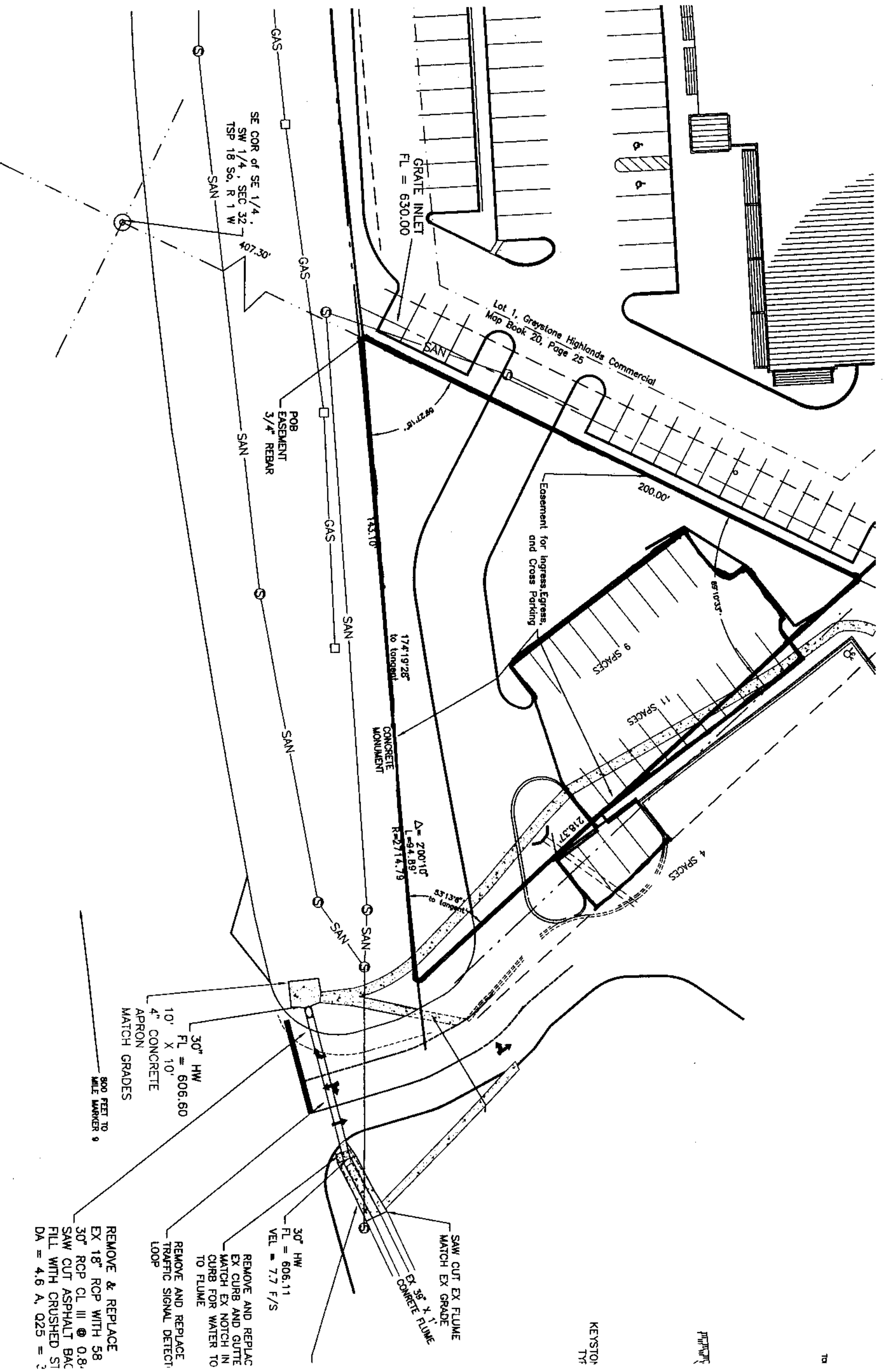


EXHIBIT D

"Easement Parcel"

Commence at the Southeast corner of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 32, Township 18 South, Range 1 West, Shelby County, Alabama; thence run in a Westerly direction along the South line of said section line for 407.30 feet to a $\frac{3}{4}$ " rebar, said rebar being the Northeastern corner of Lot 1, Greystone Highlands Commercial Subdivision, as recorded in Map Book 20 Page 25, in the Office of the Probate Judge of Shelby County, Alabama, and the point of beginning of this Cross Parking and Ingress/Egress Easement; thence run Westerly along same section line and Northerly line of said Lot 1 for 200.00 feet; thence turn $110^{\circ} 49' 27''$ to the right and run Northeasterly 218.37 feet to a point on the Southerly right-of-way of U.S. Highway 280; thence turn $126^{\circ} 46' 52''$ to the right to become tangent to a curve to the right, said curve having a radius of 2,714.79 feet and subtending a central angle of $2^{\circ} 00' 10''$; thence run along the arc of said curve and said Southerly right-of-way of U.S. Highway 280 for 94.89 feet to a concrete right-of-way monument and end of said curve; thence turn an interior angle of $174^{\circ} 19' 28''$ from tangent of the last described curve and run Southeasterly along said Southerly right-of-way of U.S. Highway 280 for 143.10 feet to the point of beginning.

Inst # 2000-38869

**11/08/2000-38869
12:45 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
010 MMB 38.00**