

STATE OF ALABAMA )  
SHELBY COUNTY )

1993

AGREEMENT BETWEEN  
BROOK HILLS BAPTIST CHURCH, INC.  
AND  
SETON PROPERTY CORPORATION OF NORTH ALABAMA  
EXECUTED CONTEMPORANEOUSLY  
WITH SALE OF GREYSTONE COMMERCIAL LOT #1

September 26<sup>th</sup>, 1991

On this date, Brook Hills Baptist Church, Inc. ("Church") is selling and Seton Property Corporation of North Alabama ("Seton") is purchasing the following described real property situated in the City of Hoover, Shelby County, Alabama:

Lot 1, according to the Survey of Grey-stone, 3rd Sector, also known as Greystone Commercial Properties, as recorded in Map Book 14 Page 79 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama (the "Property").

Subject to any restrictions, covenants and easements of record.

The Church is selling and Seton is purchasing the Property pursuant to the terms and conditions set forth in the Commercial Real Estate Sales Contract executed by the parties on August 29, 1991. The terms and conditions of said Sales Contract are consideration for and integral to the sale and purchase of the Property. Two of these terms and conditions are subject to reaffirmation herein, without intent or inference that any other term or condition of said Sales Contract is waived or forgiven. The terms and conditions reaffirmed herein are as follows:

**(A) PROPERTY GRADING AND FILL.**

The Church agrees to grade and fill the Property in accordance with the grading plan for portions of the property prepared by Walter Schoel Engineering Company dated September 27, 1990 (the "Grading Plan", which is attached hereto as Exhibit A). The Church shall be responsible for all grading and fill work required for the Property in the Grading Plan, including, but not limited to, the work pertaining to the 7.3 acre portion outlined in black on the Grading Plan.

The Church owns the property adjacent to the Property made the subject of this Agreement (the "Adjacent Property")

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which is legally described below). It is contemplated by the parties that the Church will grade and fill the Property contemporaneously with the grading and filling of the Adjacent Property and that all grading and filling of the Property will be done within one year of this Agreement.

Upon completion of the grading and filling of the Property, the Church will notify Seton at Seton's offices that the Property is ready for inspection and Seton will forthwith inspect the Property for the purpose of determining compliance with the Grading Plan. If the grading and fill work satisfies the Grading Plan, Seton will notify the Church of its acceptance of the grading and fill work.

If the Church does not grade and fill the Property within one year of this Agreement or if the Church conveys the Adjacent Property, the Church shall pay to Seton in cash the cost of such grading and fill work ("Cost Payment"). To determine the amount of the Cost Payment, Seton, at its own expense, shall request a cost estimate from a qualified and reputable company engaged in the business of grading and filling. Such company shall render its report and present its estimate to each of the parties within thirty (30) days after said request. The Church may either accept such estimate or may secure a second estimate, at the Church's expense, from a qualified and reputable company engaged in the business of grading and filling. In the event the Church secures a second estimate, and the value of the two estimates are within ten percent (10%) of each other, then the average of the two estimates shall be the amount of the Cost Payment owed by the Church to Seton. If the two estimates differ by more than ten percent (10%), then the two companies who have submitted cost estimates shall appoint a third, independent company, engaged in the business of grading and filling, who shall then render its report and present its estimate (the "Independent Estimate") to both parties. The cost of the Independent Estimate shall be borne equally between the Church and Seton. If the average of Seton's estimate and the Church's estimate falls within a range of ten percent (10%) above or below the Independent Estimate, then the Independent Estimate shall be taken as the Cost Payment. If the average of the Church's and Seton's estimates does not fall within ten percent (10%) of the Independent Estimate, then the Cost Payment shall be determined by taking the average of the Independent Estimate and the estimate of that party, the Church's or Seton's, whose estimate is closest in value to the Independent Estimate. Said Cost Payment to Seton will be due and payable on the one-year anniversary of this Agreement or on the date of closing of the Church's conveyance of the Adjacent Property. This Cost Payment shall be made to Seton at Seton's offices located at:

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2701 9th Court South  
Birmingham, Alabama 35205

or at the offices of:

Dominick, Fletcher, Yeilding, Wood  
& Lloyd, P.A.  
2121 Highland Avenue South  
Birmingham, Alabama 35205  
Attention: Susan Dominick Doughton, Esq.

Upon Seton's acceptance of the grading and fill work, or upon Seton's acceptance of the cash payment in lieu thereof, Seton will record the satisfaction of the Church's obligation under this paragraph with the Probate Court of Shelby County, Alabama.

**(B) RIGHT OF FIRST REFUSAL**

The Adjacent Property is situated in the City of Hoover, Shelby County, Alabama and described as follows:

Lot 2, according to the Survey of Greystone, 3rd Sector, also known as Greystone Commercial Properties, as recorded in Map Book 14 Page 79 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

In the event the Church intends to sell, transfer or otherwise convey title to the Adjacent Property, the Church shall give Seton written notice of this intention. This notice shall specifically identify the following: the intended purchaser or transferee, the intended purchase price or other consideration, and the other terms and conditions of purchase or transfer. Attached to the notice shall be a copy of any written offer or agreement pertaining to the conveyance of the Adjacent Property.

Seton shall have the right of first refusal to purchase the Adjacent Property for the price and upon the terms and conditions set forth in the Church's written notice to Seton of the intention to sell, transfer or convey. Within thirty (30) days of receipt of said notice from the Church, Seton shall give written notice to the Church of whether Seton will exercise its right of first refusal. If Seton exercises its right of first refusal to purchase the Adjacent Property, Seton and the Church will execute a Sales Contract to that effect. If Seton chooses not to purchase the Adjacent Property or fails to timely exercise its right of first refusal, the Church shall be free to convey the Adjacent Property to the

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person, for the price and under the terms and conditions set forth in the Church's notice of intent to sell, transfer or convey.

The grading obligations and restrictions on transfer set forth herein, namely the Church's grading and fill obligation and Seton's right of first refusal, are independent of each other. The satisfaction or waiver of one of the obligations or restrictions in no way impacts, satisfies or waives the other, nor does it impact, satisfy or waive any other term or consideration of the aforementioned Commercial Real Estate Sales Contract.

The parties intend that this Agreement be legally binding. Furthermore, this Agreement shall be recorded in the Probate Court of Shelby County, Alabama.

IN WITNESS WHEREOF, said parties have caused this Agreement to be executed by their duly authorized representatives.

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ATTEST:

Suzanne A. Whitley  
Church Clerk

BROOK HILLS BAPTIST CHURCH, INC.,  
an Alabama not-for-profit  
corporation

By: Greta A. Whitley

Its: Trustee

ATTEST:

Suzanne A. Whitley  
Church Clerk

By: Robert P. Collins

Its: Trustee

SETON PROPERTY CORPORATIONS  
OF NORTH ALABAMA, INC.,  
an Alabama not-for-profit  
corporation

By: Curtis James  
Its: Secretary/Treasurer

STATE OF ALABAMA )  
                          :  
Jefferson COUNTY )

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Robert A. Whitley, whose name as Trustee of Brook Hills Baptist Church, Inc. an Alabama not-for-profit corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

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Given under my hand and official seal of office, this 26<sup>th</sup> day of September, 1991.

[NOTARIAL SEAL]

Mary P. Thornton  
Notary Public

My Commission Expires: 5/24/95

STATE OF ALABAMA )  
                          :  
Jefferson COUNTY )

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Betsy P. Collins, whose name as Trustee of Brook Hills Baptist Church, Inc. an Alabama not-for-profit corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with

full authority, executed the same voluntarily for and as the act of said corporation.

26<sup>TH</sup> Given under my hand and official seal of office, this day of September, 1991.

[NOTARIAL SEAL]

Mary P. Thornton  
Notary Public

My Commission Expires: 5/24/95

STATE OF ALABAMA )  
                                  :  
Jefferson COUNTY )

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Curtis James, whose name as Secretary/Treasurer of Seton Property Corporation of North Alabama, an Alabama not-for-profit corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

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26<sup>TH</sup> Given under my hand and official seal of office, this day of September, 1991.

[NOTARIAL SEAL]

Mary P. Thornton  
Notary Public

My Commission Expires: 5/24/95

MPT:hm:5

STATE OF ALA. SHERIFF  
I CERTIFY THIS  
INSTRUMENT WAS FILED

91 SEP 27 PM 2:57

[Signature]  
JUDGE OF PROBATE

1. Bond Fee	
2. Mfg. Fee	
3. Recording Fee	\$ 15.00
4. Indexing Fee	\$ 5.00
5. No Tax Fee	
6. Certified Fee	\$ 1.00
<b>Total</b>	<b>\$ 21.00</b>