

STATE OF ALABAMA)

SHELBY COUNTY)

RECIPROCAL EASEMENT AGREEMENT

Inst # 1998-01152

01/13/1998-01152
08:09 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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This Easement Agreement (this "Agreement") is made as of the 1 day of JAN., 1998, by and between The Shelby County Commission (hereafter referred to as "Shelby") and The Alabama Health Care Authority (hereinafter referred to as the "Authority," and together with Shelby, as a "Party" or the "Parties").

RECITALS

WHEREAS, Shelby owns a parcel of real property located in Shelby County, Alabama, as more particularly described in Exhibit A attached hereto, upon which it intends to construct a county services building and related common area amenities (the "Shelby Parcel");

WHEREAS, the Authority owns a parcel of real property adjacent and contiguous to the Shelby Parcel, which parcel of real property is more particularly described in Exhibit B attached hereto, upon which the Authority intends to construct a public health facility (the "Public Health Facility") to serve the citizens of Shelby County, Alabama (the "Authority Parcel") (the Shelby Parcel and the Authority Parcel are referred to herein singularly as a "Parcel" and collectively as the "Parcels");

WHEREAS, each of the Parties will be benefited by allowing the other Party the use of the common areas of the Parcel owned by such Party;

WHEREAS, Shelby and the Authority therefore desire to grant to each other certain easements for pedestrian and vehicular ingress and egress over the common areas of each Parcel and to grant certain rights to install and maintain utility lines within such common areas;

WHEREAS, Shelby and the Authority further desire to provide for certain obligations and restrictions with respect to parking and the operation and maintenance of their respective Parcel and related common areas;

WHEREAS, is the intention of the Parties that each Party shall have the right to grant to their respective tenants, subtenants, visitors, invitees, permittees and licensees, pursuant to the covenants, easements, restrictions and operating agreements created in this Agreement, the right to utilize the common areas of the Parcels in accordance with the terms and conditions of written lease agreements and subject to the terms, restrictions and limitations set forth herein.

NOW, THEREFORE, Shelby and the Authority, for good and valuable consideration, the receipt, delivery and sufficiency of which is hereby acknowledged, and intending to be legally bound, do hereby declare and establish the following covenants, easements and restrictions regarding the Parcels.

1. Definitions. For purposes of this Agreement except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in this Section shall have the meanings assigned to them below, such meanings to be applicable to singular and plural nouns and verbs of any tense;

(b) all references in this Agreement to designated Sections or other subdivisions are to the designated Sections and other subdivisions of this Agreement as originally executed and as amended from time to time; and

(c) the words "herein", "hereof", "hereunder" and other words of similar import refer to this Agreement as a whole.

"Building Area" shall mean the limited area within each Parcel within which buildings, including exterior walls and stairways to buildings, and related improvements are, or may be, constructed, placed or located, and which limited area does not include the Common Area within each Parcel.

"Common Area" shall mean, with respect to each Parcel, all entrances, exits, parking areas, signage, signals, lighting fixtures (other than those within the Building Area), parking spaces, walkways, sidewalks, roadways, driveways, traffic lanes, alleys, access ways and landscaped areas as may be located on each Parcel from time to time. "Common Areas" shall mean, collectively, the Common Area of both of the Parcels.

"Occupant" shall mean any natural Person who occupies a building located on a Parcel as a tenant thereof pursuant to any lease or similar agreement.

"Party" and "Parties" shall have the meaning ascribed to such terms in the recitals of this Agreement.

"Permittee" shall mean all Occupants in the visitors, invitees, licensees, permittees and subtenants of any Occupant or the Parties.

"Person" shall mean any individual, partnership, firm, association, corporation, limited liability company, trust or any other form of business or government entity.

2. Parking and Pedestrian Easements. Shelby hereby grants and conveys to the Authority and its Permittees a non-exclusive and perpetual easement for the passage and parking of vehicles over and across the roadways, driveways, curb cuts, parking spaces and aisles located in the Common Areas located on the Shelby Parcel. Shelby also hereby grants and conveys to the Authority a non-exclusive, perpetual easement for the passage and accommodation of pedestrians over and across the Common Areas, including, without limitation, driveways, parking areas and sidewalks, located on the Shelby Parcel, as the same may from time to time be constructed and maintained for such use.

3. Utility Easements. Each Party hereby grants and conveys to the other Party, a non-exclusive, perpetual and reciprocal easement in, to, over, under and across the Common Areas of the granting Party's Parcel for the purpose of installation, operation, maintenance, repair, replacement, relocation and removal of sewers, sewer lines, water and gas mains, electric power lines, telephone lines, and other underground utility lines ("Utility Lines") to serve the facilities located on the Parcel owned by such granting Party. The installation of any Utility Lines shall be subject, as to location, to the approval of the granting Party, which approval shall not be unreasonably withheld or delayed.

4. Maintenance of Utility Lines. The Utility Lines shall be serviced, maintained, repaired, replaced and paid for by the Party who owns the Property serviced by such Utility lines, at such Party's sole cost and expense, and such party shall have the right to enter upon the Parcel where all or any part of such Utility Lines are situated for purposes of repairing, maintaining and replacing same. Prior to exercising the rights granted in the foregoing sentence, other than with respect to routine maintenance, the Party that owns the Parcel serviced by Utility Lines shall first provide the other Party with a written statement describing the need to utilize such easement, identifying the nature and estimated duration of the work to be performed and also identifying the existing location of the affected Utility Lines (if not readily known) and furnishing a certificate of insurance evidencing that its contractor has obtained appropriate insurance coverage. The Party performing such work shall, at its sole cost and expense, repair any damage to any improvements and restore the Parcel as nearly as practicable too substantially the condition existing immediately prior to such work.

5. Temporary Construction Easement. In connection with any construction work to be performed by the Authority in the development of the Public Health Facility, Shelby

hereby grants to the Authority a temporary construction easement over and across the Common Areas located on the Shelby Parcel for the purpose of constructing the Health Care Facility on the Authority Parcel and for the accommodation of construction equipment, materials and excavated earth associated therewith. The grant of this temporary construction easement shall terminate thirty (30) days after the filing of the notice of completion of construction of the Public Health Facility.

6. Access Easement. Shelby hereby grants and conveys to the Authority and its Permittees a non-exclusive and perpetual easement over the roadways, driveways, curb cuts, aisles, walkways and sidewalks located in the Common Area of the Shelby Parcel for the purpose of providing ingress, egress and access to the Authority Parcel and the easements created hereby.

7. Self Help Easements. Each Party hereby grants and conveys to the other Party, non-exclusive rights of entry and easements over, across and under each Parcel for all purposes reasonable necessary to enable the other Party to perform any of the provisions of this Agreement which a defaulting Party has failed to preform.

8. Unimpeded Access. The Parties agree that no barricade or other divider will be constructed between the Parcels and the Parties will do nothing to prohibit or discourage the free and uninterrupted flow of pedestrians or vehicular traffic throughout the portions of the Common Areas designated for such purposes by the owner of each Parcel.

9. Maintenance of Common Areas. Each Party shall, at such Party's own expense, supervise, operate, manage, repair, replace and maintain all improved portions of the Common Areas located on its respective Parcel in good repair and in a sound and functional condition, free from refuse, rubbish and dirt and in conformity with all governmental regulations. If any portions of the Common Areas have not been improved, such areas shall be maintained in a sightly condition, free of trash and regularly mowed and attended to. Each Party shall repave, restripe and replace markings on the surface of the parking areas and driveways from time to time as and when necessary so as to provide for the orderly parking of automobiles and shall place or replace adequate exit and entrance and other traffic control signs to direct traffic in and out of said parking areas.

10. Taxes. Each Party shall pay prior to any penalty attaching thereto, all real estate taxes, assessments and personal property taxes, if any, imposed upon the land, improvements and equipment located on its respective Parcel.

11. Compliance. Each Party shall cause the Common Areas and all buildings and improvements located on its Parcel to comply with all applicable requirements of law and governmental regulations applicable thereto, provided, however, that a Party may contest any such law or regulation so long as such contest would not create any material danger of a loss of title to, or impairment in any way of, the use of all or any portion of the Common Areas for their intended purposes.

12. Legal Effect. The easements, rights, privileges, and covenants created hereunder are perpetual, run with the land, are intended to confer restrictions and benefits on and to the Parties, constitute equitable servitudes, and may be modified and/or terminated only upon the written agreement of the Parties or their respective successors and assigns, which agreement must be recorded in the filing office in which this Agreement is recorded.

13. Default.

(a) Except as otherwise provided herein, if any Party fails to comply or cause its Permittees to comply with any provision herein (the "Defaulting Party"), then the other Party (the "Non-Defaulting Party") may, upon ten (10) days prior written notice to the Defaulting Party, proceed to cure the default (and shall have a license to do so) by the payment of money or performance of any action on behalf of the Defaulting Party. The foregoing right to cure shall not be exercised if within the ten (10) day notice period (i) the Defaulting Party cures the default, or (ii) if the default is curable, but cannot be reasonably be cured within the ten (10) day time period, the Defaulting Party has begun to cure such default within such time period and is diligently pursuing such action to completion. The ten (10) day notice period shall not be required if, using reasonable judgment, the Non-Defaulting Party deems that an emergency exists which requires immediate attention. In the event of such an emergency, the Non-Defaulting Party shall not be required to give prior written notice to the Defaulting Party.

(b) Within ten (10) days of written demand (which shall include the provision of copies of invoices reflecting cost incurred) the Defaulting Party shall reimburse the Non-Defaulting Party for any sum reasonably expended by the Non-Defaulting Party to cure the default. Failure to so reimburse the Non-Defaulting Party shall give rise to the right of the Non-Defaulting Party to file a lien against the Parcel of the Defaulting Party.

(c) All remedies contained herein are cumulative and shall be deemed additional to any and all other remedies to which any Party may be entitled at law or in equity, including, without limitation, the right to collect damages. Each Party shall also have the right to restrain by injunction any violation or threatened violation by the other Party of any of the terms, covenants, or conditions of this Agreement by a Party or a Permittee, or to obtain a decree to compel performance of any such terms, covenants or conditions, it being agreed that the remedy at law for a breach of any such term, covenant or condition of this Agreement is not an adequate remedy.

(d) If performance of any action by any Party is prevented or delayed by act of God, war, labor disputes or other caused beyond the reasonable control of such Party, the time for the performance of such action will be extended for the period that such action is delayed or prevented by such cause.

14. No Termination. No breach of the Agreement will entitle any Party to cancel, rescind or otherwise terminate this Agreement. The forgoing limitation shall not affect, in

any manner, any other right or remedy which any Party might have by reason of any breach of this Agreement.

15. Eminent Domain. Subject to the remainder of this Section 15, in the event of a condemnation or a sale in lieu thereof concerning all or a portion of either Parcel, the award or purchase price paid for such taking shall be paid to the Party owning such property so taken or to such Party's mortgagee or tenants, as their interests may appear, and the other Party shall have no right to claim any portion of such award or purchase price by virtue of any interest created by this Agreement, provided, however, that such other Party may file a collateral claim with the condemning authority over and above the value of the land being so taken to the extent of any damage suffered by such Party resulting from the severance of the area so taken. In the case of a partial condemnation which does not render unfeasible the restoration/rebuilding of the Common Areas to a condition to allow the use thereof in substantially the same manner as contemplated hereunder, the Parties agree to use the proceeds to restore the Common Areas of their respective Parcels if reasonably possible, to construct on the remainder of their respective Parcels improvements equivalent to those taken, and to restore any improvements (including entrance ways to the Parcels) partially taken or so sold, as may be appropriate.

16. Singular and Plural. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.

17. Counterparts and Signature Pages. This Agreement may be executed in several counterparts, each of which shall be deemed an original. The signatures to this Agreement may be executed and notarized on separate pages and, when attached to this Agreement shall constitute one complete document.

18. Not A Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Parcels or any portion thereof to the general public, or for any public use or purpose, whatsoever. Except where herein specifically provided, no rights, privileges or immunities of any Party hereto shall inure to the benefit of any third party, nor shall any third party be deemed to be a beneficiary of any of the provisions contained herein.

19. Severability. The invalidation of any of the provisions contained in this Agreement, or the inapplicability thereof to any Person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person, and the same shall remain in full force and effect.

20. Amendments. This Agreement may be amended by, and only by, a written instrument signed by all of the then current owners of the Parcels and shall be effective only when recorded in the county and state where the Parcels are located. No consent to the amendment of this Agreement shall ever be required of any Permittee or Person other

than the owners of Parcels, nor shall any Permittee or Person other than the owners of Parcels have any right to enforce any of the provisions hereof.

21. Minimization of Damages. In all situations arising out of this Agreement, each Party shall attempt to avoid and minimize the damages resulting from the conduct of the other Party. Each Party hereto shall take all reasonable measures to effectuate the provisions of this Agreement.

22. Non-Waiver. The failure of any Party to insist upon strict performance of any or the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that Party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

23. Term. This Agreement and each easements, obligations and restrictions created hereunder shall continue in full force and effect so long as any easement created hereunder is used by either Party. This Agreement will terminate as to each easement on non-use of such easement for a period of twelve (12) consecutive months, unless simultaneously with the commencement of the period of nonuse, notice is given by the affected Party of an intention to resume use of such easement within twenty-four (24) months following the date on which the nonuse of the easement commenced, and such resumption occurs within such period.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed effective as of the day and year first above written.

THE ALABAMA PUBLIC HEALTH
CARE AUTHORITY

By: _____

Its: _____

THE SHELBY COUNTY COMMISSION

By: _____

Its: _____

STATE OF ALABAMA)

Montgomery COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that Donald E. Williamson, M.D. whose name as Chairman of the Alabama Public Health Care Authority, 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, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 9th day of January, 1998.

[SEAL]

Jaime P. Crook
Notary Public
My commission expires: 5/13/98

STATE OF ALABAMA)

Shelby COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that ALEX PUDLHOCK whose name as COUNTY MANAGER of The Shelby County Commission, 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, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 12 day of JAN, 1998.

[SEAL]

Frank Ellis
Notary Public
My commission expires: 9-9-99

EXHIBIT "A"

A parcel of land situated in the SW 1/4 of the NW 1/4 of Section 19, Township 20 South, Range 2 West, in Shelby County, Alabama and being more particularly described as follows:

Commence at the NE Corner of the SW 1/4 of the NW 1/4 of Section 19, Township 20 South, Range 2 West; thence N 39deg-52'-02" W along the northerly boundary of said 1/4-1/4 section a distance of 107.91' to the intersection of said northerly boundary of said 1/4-1/4 section and the centerline of Hogpen Creek, said point being the POINT OF BEGINNING; thence continue along the northerly boundary of said 1/4-1/4 section a distance of 1129.29' to a point on the northeasterly right-of-way line of Shelby County Highway No. 35 (180' R.O.W.); thence S 28deg-07'-17" E along said right-of-way line a distance of 47.72' to a point on a curve to the right having a radius of 1351.03' and a central angle of 24deg-52'-43"; thence along said right-of-way line and the arc of said curve a distance of 586.63', said arc subtended by a chord which bears S 14deg-01'-15" E a distance of 582.04', to the end of said curve and the northerly right-of-way line of a 50' Colonial Pipeline right-of-way; thence S 89deg-41'-22" E along said pipeline right-of-way line a distance of 490.61' to the centerline of Hogpen Creek; thence N 11deg-55'-23" E along said centerline a distance of 89.75'; thence N 35deg-21'-16" E along said centerline a distance of 95.87'; thence S 34 deg-09'-10" E along said centerline a distance of 56.36'; thence S 19deg-24'-15" E along said centerline a distance of 60.11'; thence N 21deg-51'-01" E along said centerline a distance of 66.97'; thence N 43deg-28'-18" E along said centerline a distance of 39.18'; thence N 7deg-35'-30" E along said centerline a distance of 58.04'; thence N 58deg-39'-27" E along said centerline a distance of 47.83'; thence N 41deg-16'-13" E along said centerline a distance of 71.67'; thence N 7deg-57'-08" W along said centerline a distance of 97.79'; thence N 0deg-09'-51" E along said centerline a distance of 65.03'; thence N 22deg-54'-48" E along said centerline a distance of 58.86' thence N 42deg-02'-36" E along said centerline a distance of 46.74'; thence S 83deg-58'-04" E along said centerline a distance of 52.93'; thence S 77deg-56'47" E along said centerline a distance of 76.52'; thence N 20deg-51'-01" E along said centerline a distance of 94.20' to the Point of Beginning.

EXHIBIT "B"

A parcel of land located in the SW 1/4 of the NW 1/4 of Section 19, Township 20 South, Range 2 West in Shelby County, Alabama, being more particularly described as follows:

Commence at the NW corner of the SW 1/4 of the NW 1/4 of said Section 19, thence S 89 deg-52'-02" E along the North line of said 1/4-1/4 section for a distance of 607.21'; thence S 0 deg-07'-58" W a distance of 85.90' to the POINT OF BEGINNING; thence S 49 deg-53'-26" E a distance of 77.75'; thence S 40 deg-06'-34" W a distance of 15.00'; thence S 49 deg-53'-26" E a distance of 163.00'; thence S 40 deg-06'-34" W a distance of 155.00'; thence N 49 deg-53'-26" W a distance of 241.00'; thence N 40 deg-06'-34" E a distance of 50.00'; thence N 49 deg-53'-26" W a distance of 58.00'; thence N 40 deg-06'-34" E a distance of 42.33'; thence N 76 deg-58'-45" E a distance of 97.08' to the Point of Beginning.

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