

**STATE OF ALABAMA
COUNTY OF SHELBY**

20190627000227940 1/7 \$33.50
Shelby Cnty Judge of Probate, AL
06/27/2019 09:00:18 AM FILED/CERT

**CROSS EASEMENT AGREEMENT
COTTER PROPERTIES, LLC. & WESLEY GUY**

WHEREAS, Cotter Properties, L.L.C. ("Cotter"), is the owner of 1216 – 1st Street North, Highway 31, Alabaster, Alabama 35007 and the driveway located connecting to and currently providing ingress/egress to said property, being more particularly described as follows:

Lot 2-AA, according to the April 9, 2012 resurvey of CEDAR GROVE ESTATES known as the COTTER GROVE RESURVEY, as recorded in Map Book 42, Page 111, in the Probate Office of Shelby County, Alabama ("Cotter Property");

WHEREAS, Wesley Guy ("Guy"), a citizen and resident of Alabama (the "Grantee") is the owner of 1208 – 1st Street North, Highway 31, Alabaster, Alabama 35007 being more particularly described as follows:

Lot 3, according to the April 9, 2012 resurvey of CEDAR GROVE ESTATES known as the COTTER GROVE RESURVEY, as recorded in Map Book 42, Page 111, in the Probate Office of Shelby County, Alabama; previously, Lot 3, according to the Survey of CEDAR GROVE ESTATES, as recorded in Map Book 3, Page 53, in the Probate Office of Shelby County, Alabama ("Guy Property");

WHEREAS, each party hereto wishes to grant to the other party ("Guy Property" together with the "Cotter Property", collectively, the "Properties") certain cross easements ("Easement Area") described herein; provide for maintenance of the parking lots situated on the Properties; as well to provide for maintenance of the driveway currently located on Cotter Property connecting to and currently providing ingress/egress to Cotter Property, 1st Street North, Highway 31; and to place certain use restrictions on the Properties

NOW THEREFORE, each Party intending to be bound hereby agrees as follows:

1. Reciprocal Ingress/Egress Easement. Cotter does hereby give and grant Guy and its successors and assigns as to the Cotter Property and Guy does hereby give and grant Cotter and its successors as to the Guy Property a non-exclusive easement, right and privilege of passage over and use for the purpose of ingress and egress to all entrances to and driving lanes over the parking lots situated on the Properties. The easement hereby granted shall be an easement and covenant running with the land and shall inure to the benefit of the parties and

Page 1 of 7

Shelby County AL 06/27/2019
State of Alabama
Deed Tax: \$.50


Wesley Guy


Cotter Properties, LLC

**STATE OF ALABAMA
COUNTY OF SHELBY**

**CROSS EASEMENT AGREEMENT
COTTER PROPERTIES, LLC. & WESLEY GUY**

their respective successors and assigns and all persons claiming by, through and/or under them, and be binding upon the parties and their respective successors and assigns and all persons claiming by, through and/or under them, including but not limited to, their respective employees and invitees. All covenants, agreements, and restrictions shall be effective as of the date hereof and shall continue in full force and effect until this Agreement is modified or the Easement Area no longer exists.

2. Reciprocal Parking Easement. Cotter does hereby give and grant Guy and its successors and assigns as to the Cotter Property and Guy does hereby give and grant Cotter and its successors as to the Guy Property a non-exclusive easement, right and privilege to use the parking spaces in the parking lots situated on the Properties. The easement hereby granted shall be an easement and covenant running with the land and shall inure to the benefit of the parties and their respective successors and assigns and all persons claiming by, through and/or under them, and be binding upon the parties and their respective successors and assigns and all persons claiming by, through and/or under them, including but not limited to, their respective employees and invitees. All covenants, agreements, and restrictions shall be effective as of the date hereof and shall continue in full force and effect until this Agreement is modified or the Easement Area no longer exists.

3. Reciprocal Drainage Easement. Cotter does hereby give and grant Guy and its successors and assigns as to the Cotter Property and Guy does hereby give and grant Cotter and its successors as to the Guy Property a non-exclusive easement for surface drainage over the parking lots situated on the Properties and over any joint drainage structures installed in connection the construction of Guy's Building (as defined below). The easement hereby granted shall be an easement and covenant running with the land and shall inure to the benefit of the parties and their respective successors and assigns and all persons claiming by, through and/or under them, and be binding upon the parties and their respective successors and assigns and all persons claiming by, through and/or under them. All covenants, agreements, and restrictions shall be effective as of the date hereof and shall continue in full force and effect until this Agreement is modified or the Easement Area no longer exists.

4. Allowance. Guy acknowledges that Cotter currently uses the Property for parking required for its medical practice ("Cotter's Practice") on the Cotter Property.

**STATE OF ALABAMA
COUNTY OF SHELBY**

**CROSS EASEMENT AGREEMENT
COTTER PROPERTIES, LLC. & WESLEY GUY**

Guy agrees to pay all costs, related to necessary or required alterations or repairs to the parking, subsurface, ingress/egress and drainage needs of Cotter's Practice during and within ninety (90) days after completion of the construction of Guy's proposed office building on the Guy Property ("Guy's Building"), and any other costs required to be paid by Cotter relating to issues that arise during the City of Alabaster's review and approval of the site plan for Guy's Building or the construction of Guy's Building, including, without limitation, whether caused through negligence or willful action, issues related to parking, paving, drainage and/or ingress/egress needs of Cotter during or after construction, including demolition and clean up costs or permits, regardless of whose contractor does the work.

Guy agrees to pay all costs related to necessary or required additional paving and striping or other alterations required by civil or zoning authorities or as necessary to provide enough parking spaces on Cotter's Property so that it complies with the applicable zoning or other requirements without the need to park on the Guy Property,

5. Maintenance. Each party shall make reasonable repairs and maintain their respective parking lot, excepting as described in #6 below ("Shared costs - 1st Street North, Highway 31 ingress/egress and associated subjacent driveway part of the Cotter Property parking lot."), in a commercially reasonable manner. However, if one party damages the surface of the other party's parking lot (other than through normal wear and tear related to automobile and service vehicle parking and ingress and egress), then the damaging party shall pay to have the parking lot surface immediately restored to as nearly as possible the condition in which it existed prior to being damaged. In the event a party fails to maintain its parking lot or fails to pay for immediate restoration of damage to the other party's parking lot as provided herein within thirty (30) days after it is requested in writing to do so, then such failure shall be deemed a default under this Agreement and the non-defaulting party shall be entitled to cure such default by performing the required maintenance on the defaulting party's parking lot or restoring its own parking lot, as applicable, and claim a lien against the Property of the defaulting party for the costs of such maintenance or restoration and to bring suit for the enforcement of such lien and the reasonable costs of enforcement, including court costs and reasonable attorneys' fees. Such lien shall be subordinate to any mortgage lien on the applicable Property and, if required by any mortgagee of the Property, the parties shall confirm such subordination by signing a recordable




Wesley Guy


Cotter Properties, LLC

**STATE OF ALABAMA
COUNTY OF SHELBY**

**CROSS EASEMENT AGREEMENT
COTTER PROPERTIES, LLC. & WESLEY GUY**

subordination agreement. In the event of failure by either party to pay his required amount for any costs or expenses incurred hereunder, such costs and expenses shall, commencing thirty (30) days after the date of billing thereof, bear interest at the rate of twelve percent (12%) per annum until paid.

6. Shared Costs of the 1st Street North, Highway 31 ingress/egress and associated subjacent driveway portion of the Cotter Property parking lot.

Guy acknowledges that Cotter currently uses the 1st Street North, Highway 31 ingress/egress and associated driveway as the primary ingress/egress to the Cotter Property parking lot required for its medical practice ("Cotter's Practice") on the Cotter Property. As per this Agreement it is anticipated that substantial access to the "Guy Property" will be via this same ingress/ egress, it is agreed that as part of the consideration of the granting of this Cross Easement Agreement, commencing ninety-one (91) days after completion of the construction of the construction of Guy's proposed office building on the Guy Property ("Guy's Building") and continuing thereafter unless modified in writing, the parties shall share equally the cost of necessary or required maintenance, repair, or alteration, including but not limited to paving, drainage, or subsurface requirements of the 1st Street North, Highway 31 ingress/egress and associated driveway, whether caused through negligence, willful action, acts of nature or others, or as required by State or other civil authorities.

7. Insurance. Guy and Cotter shall maintain at their expense adequate personal injury and property damage insurance in amounts less than \$500,000.00 with respect to any one injury, \$1,000,000.00 with respect to any one accident, and \$250,000.00 with respect to property damage. Within the first 15 days of each renewal of the insurance, each party shall provide the other party with a copy of its respective certificates of insurance to show that such insurance is in effect or within 30 days after requested in writing by one or the other party.

8. Indemnification. In regard to the Easement Area and this Agreement, Grantee does hereby indemnify and agree to hold harmless Grantor from any and all liability for damages that may be asserted against Grantor by reasons of Grantee's actions or inactions, and such indemnification shall include Grantee's agreement to pay the reasonable attorney fees, costs, of court and expenses in defending any action or claim against Grantor.

WG

Wesley Guy



Cotter Properties, LLC

**STATE OF ALABAMA
COUNTY OF SHELBY**

**CROSS EASEMENT AGREEMENT
COTTER PROPERTIES, LLC. & WESLEY GUY**

9. Use Restriction. The use of the Properties shall be limited to medical clinics, business offices, and professional offices,

10. Runs with the Land; Successors in Interest. This Agreement runs with the land and inures to the benefit of and is binding on the assigns and successors in interest of the parties.

11. Termination. This Agreement may be terminated by either party, their successor or assign, by providing, in writing, to the owner of the other property thirty (30) days notice of such termination with notice as specified in section 13 of this Agreement. It may not be terminated by an oral agreement of the parties.

12. Damage. If one party damages or disturbs the surface of the other party's parking lot (other than through normal wear and tear related to automobile and service vehicle parking and ingress and egress), then the damaging party shall be responsible to immediately restore the parking lot surface to as nearly as possible the condition in which it existed prior to being damaged or disturbed.

13. Grant and Reservation. Grantor hereby reserves the right to grant access over the Easement Area to any utility company required by the State of Alabama, Shelby County, or the City of Alabaster including other utility vendors such as telephone and cable contractors or others necessary in order to conduct business; and to such equipment and vehicles necessary to maintain the drainage ditch at the rear of Cotter Property.

14. Notice. Any notice which may be required or permitted to be made under this Agreement shall be in writing and may be served personally by hand delivery or by mail. Any notice which is given by hand delivery shall be deemed to have been effectively given when it is delivered personally to the party or person indicated below. Any such notice shall be deemed to have been effectively given by mail when it has been deposited in the United States Mail, first class postage, certified mail, return receipt requested, postage prepaid, and addressed to the other party to this Agreement at the address for such party set forth in the Recitals to this Agreement or to such other address as any party may provide to the other using a method of notice provided herein.

15. Entire Agreement. All representations, understandings, warranties, and agreements made previously by and between the parties are merged in this Agreement, which alone fully and

Page 5 of 7



20190627000227940 5/7 \$33.50
Shelby Cnty Judge of Probate, AL
06/27/2019 09:00:18 AM FILED/CERT

Wesley Guy

Cotter Properties, LLC

**STATE OF ALABAMA
COUNTY OF SHELBY**

**CROSS EASEMENT AGREEMENT
COTTER PROPERTIES, LLC. & WESLEY GUY**

completely expresses the agreement of the parties regarding easements related to the subject matter hereof.


16. Modification. All modifications or amendments to this Agreement shall be in writing and signed by the owners of the properties benefited or burdened by the easement rights created herein. It may not be amended by an oral agreement of the parties.

17. No Joint venture. The parties do not intend to create a partnership or joint venture relationship by the execution of this Agreement

18. Governing Law; Severability. This Agreement shall be governed by the laws of the State of Alabama. If any provision of this Agreement is deemed to be unenforceable by statute, court decision, or otherwise, that provision shall be deemed severable and the balance of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the 2nd day of JUNE, 2019

Cotter Properties, L.L.C.


By: 

Its: Owner, President

Wesley Guy

By: 

Its: Owner


20190627000227940 6/7 \$33.50
Shelby Cnty Judge of Probate, AL
06/27/2019 09:00:18 AM FILED/CERT

Page 6 of 7


Wesley Guy


Cotter Properties, LLC

\$500

**STATE OF ALABAMA
COUNTY OF SHELBY**

**CROSS EASEMENT AGREEMENT
COTTER PROPERTIES, LLC. & WESLEY GUY**

STATE OF ALABAMA
COUNTY OF SHELBY


I, the undersigned, a Notary Public in and for the State at large hereby certify that Clement P. Cotter, Jr., whose name as the authorized member of Cotter Properties, LLC, a limited liability company, 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 this instrument, he, as such officer and with full authority executed the same voluntarily for and as act of said limited liability company.

Given under my hand and official seal this 27 day of June, 2019

Notary Public Emily Gremaldi

My Commission Expires:

STATE OF ALABAMA
COUNTY OF SHELBY


20190627000227940 7/7 \$33.50
Shelby Cnty Judge of Probate, AL
06/27/2019 09:00:18 AM FILED/CERT

I, the undersigned, a Notary Public in and for the State at large, hereby certify that Wesley Guy, a citizen and resident of Alabama 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 this instrument, he, with full authority executed the same voluntarily.

Given under my hand and official seal this 27 day of June, 2019

Notary Public Emily Gremaldi

My Commission Expires:

WG
Wesley Guy

CP
Cotter Properties, LLC