### OPTION AND LEASE AGREEMENT

This Agreement, made	this 24th day of	June	, 1991,
between Cates Milk Hauling,	Inc.		hereinafter
designated LESSOR and BELLSOU	TH MOBILITY INC, I	nereinafter designat	ed TENANT.

#### **RECITALS:**

owner of certain real property located LESSOR is the in unincorporated area in Shelby County, State of Alabama, and TENANT desires to obtain an Option to lease a portion of said real property, containing approximately \_\_\_\_\_4950 \_\_\_\_ square feet, together with a right of way for access thereto (said leased parcel and right \*easement ef-way\* hereinafter called "Property"). The Property is more specifically \*easement described in and substantially shown outlined in red on Exhibit "A" attached hereto and made a part hereof.

THEREFORE, consideration NOW in of **sum** Dollars of <u>Five Hundred</u> ), hereinaster reserred to as "Option Money", to be paid by TENANT to the LESSOR, which TENANT will provide upon its execution of this Agreement, the LESSOR hereby grants to TENANT the right and Option to lease said portion of said real property including a=xight=of=way\*for access thereto \*an easement for the term and in accordance with the covenants and conditions set forth herein.

The Option may be exercised at any time on or prior to April 1, 1992.

At TENANT's election, and upon TENANT's prior written notification to LESSOR, the time during which the Option may be exercised may be further extended for one additional period of <u>twelve</u> months, through and including March 31, 19 93, with an additional payment Dollars of Five Hundred ) by TENANT to LESSOR for the Option Period so extended. The time during which the Option may be exercised may be further extended by mutual agreement in writing. If during said Option Period, or during the term of the lease, if the Option is exercised, the LESSOR decides to subdivide, sell or change the status of the Property or Lessor's property contiguous thereto, Lessor shall immediately notify TENANT in writing so that TENANT can take steps necessary to protect TENANT's interest in the Property.

LESSOR covenants that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants that there are no other liens, judgements or impediments of title on the Property.

This Option may not be sold, assigned, or transferred, at any time except to TENANT's principal, affiliates or subsidiaries of its principal. As to other parties, this Option may not be sold, assigned or transferred without the written consent of the LESSOR, such consent not to be unreasonably withheld.

BURR & FORMAN SUITE 3000, SOUTHTRUST TOWER 420 NORTH 20TH STREET BIRMINGHAM, ALABAMA 35203



Should TENANT fail to exercise this Option or any extension thereof within the time herein limited, all rights and privileges granted hereunder shall be deemed completely surrendered, this Option terminated, and LESSOR shall retain all money paid for the Option, and no additional money shall be payable by either party to the other.

The LESSOR shall permit TENANT during the Option Period, free ingress and egress to the Property to conduct such surveys, structural strength analysis, subsurface boring tests and other activities of similar nature, as TENANT may deem necessary, at the sole cost of TENANT.

Notice of the exercise of the Option shall be given by TENANT to the LESSOR in writing by certified mail, return receipt requested. Notice shall be deemed effective on the date it is posted. On the date of such notice the following Agreement shall take effect:

## LEASE AGREEMENT

1. LESSOR hereby leases to TENANT that certain parcel of real Property, containing approximately 4950 square feet, situated in Shelby County, State of Alabama, together with the nonexclusive Fight\*for ingress and egress, seven (7) days a week, twenty-four right\* (24) hours a day, on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, cables, conduits and pipes over under or along a <u>twenty</u> foot (30'20') wide = ight= if extending from \*easement the nearest public right of way \_\_State Route 25 to the leased parcel, said leased parcel and right of way for access being substantially as described herein in Exhibit "A" and as shown enclosed within red lines on Exhibit "A" attached hereto and made a part hereof. Said leased parcel and **zight==ef=way**=\*for access shall be hereinafter referred to as Property". LESSOR shall cooperate with TENANT in TENANT'S effort to obtain utility services along said <u>right of way</u>\* by signing such documents or easements as may be required by said utility companies. In the event any public utility is unable to use the aforementioned right of way, the LESSOR hereby agrees to grant an additional right of way either to the TENANT or to the public utility at no cost to the TENANT. LESSOR shall have the right of approval as to the location of any additional easement. Such approval not to be unreasonably

2. LESSOR also hereby grants to TENANT the right to survey said Property, and the legal description on said survey shall then become Exhibit "B", which shall be attached hereto and made a part hereof, and shall control in the event of discrepancies between it and Exhibit "A". LESSOR grants TENANT the right to take measurements, make calculations, and to note other structures, setbacks, uses, or other information as deemed by TENANT to be relevant and pertinent, as such information relates to LESSOR'S real property, leased or otherwise abutting or surrounding the Property. Cost for such survey work shall be borne by the TENANT.

3. This Agreement shall be for an initial term of five (5) years beginning on the date the Option is exercised by TENANT at an annual rental of Five Thousand One Hundred Dollars (\$ 5100.00) to be paid in equal monthly installments on the first day of the month, in advance, to <u>Cates Milk Hauling</u>, Inc. to such other person, firm or place as the LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date.

4. TENANT shall have the option to extend this lease for four (4) additional five (5) year terms by giving the LESSOR written notice of its intention to do so at least six (6) months prior to the end of the then current term.

\*easement

\*easement

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withheld or delayed.

- 5. (A) Rent shall be adjusted annually to equal the purchasing power of the previous year. The basic monthly rental shall be adjusted by any change in the Index now known as "United States Bureau of Labor Statistics, Consumer Price Index, for All Urban Consumers," hereinafter referred to as the "Index". If such Index shall be discontinued with no successor or comparable successor index, the parties shall attempt to agree upon a substitute formula, but if the parties are unable to agree upon a substitute formula, then the matter shall be determined by arbitration in accordance with the rules of the American Arbitration Association then prevailing. Such adjustment shall be accomplished by multiplying the aforementioned basic monthly rental by a fraction, the numerator of which shall be the most recently published monthly Index preceding the first day of the lease year for which adjustment is made, the denominator of which fraction shall be the corresponding monthly Index for the month preceding the first day of the previous lease year. Said sum is in addition to the base rent and is payable within thirty days after publication of the subject Consumer Price Index to cover the past due amounts and thereafter monthly until the next annual rent adjustment is computed and payable and shall be limited to a seven percent (7%) increase over the previous year's rent. A lease year is the twelve (12) months commencing with the anniversary of the lease date and terminating with the last day of the twelfth month thereafter.
- (B) The computation of the annual rent adjustment shall never result in a reduction from the base rent above provided so that the minimum rent hereunder shall never be less than the aforesaid base rent.
- 6. If at the end of the fourth (4th) five (5) year extension term this Agreement has not been terminated by either party by giving to the other written notice of an intention to terminate it at least six (6) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of such term. Monthly rental for this period shall be equal to the rent paid for the last month of the fourth (4th) five (5) year extension term.
- 7. TENANT shall use the Property for the purpose of constructing, maintaining and operating a Communications Facility and uses incidental thereto, consisting of a building or buildings as necessary now or in the future to shelter telecommunications equipment and related office space, a free standing monopole or three sided antenna structure of sufficient height now or in the future to meet TENANT's telecommunication needs and all necessary connecting appurtenances. A security fence consisting of chain link construction or similar but comparable construction may at the option of TENANT be placed around the perimeter of the Property (not including the access easement). All improvements shall be at TENANT's expense. LESSOR grants TENANT the right to use adjoining and adjacent land as is reasonably required during construction, installation, maintenance, and operation of the Communications Facility\* TENANT will maintain the Property in a reasonable condition. It is understood and agreed that TENANT's ability to use the Property is contingent upon its obtaining after the execution date of this Agreement, all of the certificates, permits and other approvals that may be required by any federal, state or local authorities. LESSOR shall cooperate with TENANT in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by TENANT. LESSOR agrees to sign such papers as required to file applications with the appropriate zoning authority and/or commission for the proper zoning of the Property as required for the use intended by the TENANT. TENANT will perform all other acts and bear expenses associated with the rezoning procedure. LESSOR agrees not to register any written or verbal opposition to the rezoning procedures. In the event that any of such applications should be finally rejected or any certificate, permit, license or approval issued to TENANT is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority or soil boring tests or radio frequency propagation tests are found to be unsatisfactory so that TENANT, in its sole discretion, will be unable to use the Property for its intended

<sup>\*</sup> including the construction and maintenance at Tenant's sole expense of an access roadway.



purposes, TENANT shall have the right to terminate this Agreement. Notice the TENANT's exercise of its right to terminate shall be given to LESSOR i. writing by certified mail, return receipt requested, and shall be effective upon receipt of such notice by the LESSOR as evidenced by the return receipt. All rentals paid to said termination date shall be retained by the LESSOR. Upon such termination, this Agreement shall become null and void and all the parties shall have no further obligations, including the payment of money, to each other.

8. TENANT shall indemnify and hold LESSOR harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the use and occupancy of the Property\*by the TENANT, its \*including servants or agents, excepting, however, such claims or damages as may be due to all easeor caused by the acts of the LESSOR, or its servants or agents.

ments and access road-

- 9. LESSOR agrees that TENANT may self-insure against any loss or ways. damage which could be covered by a comprehensive general public liability insurance policy.
- 10. TENANT will be responsible for making any necessary returns for and paying any and all property taxes separately levied or assessed against its improvements on the Property. TENANT shall reimburse LESSOR as additional rent for any increase in real estate taxes levied against the leased Property which are directly attributable to the improvements constructed by TENANT and are not separately levied or assessed against TENANT's improvements by the taxing authorities.
- 11. TENANT upon termination of this Agreement, shall, within a reasonable period, remove its personal property and fixtures and restore the Property to its original above grade condition, reasonable wear and tear excepted. At LESSOR's option when this Agreement is terminated and upon LESSOR's advance written notice to TENANT, TENANT will leave the foundation and security fence to become property of LESSOR. If such time for removal causes TENANT to remain on the Property after termination of this Agreement, TENANT shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of personal property and fixtures are completed.
- 12. Should the LESSOR, at any time during the term of this Agreement, decide to sell all or any part of his real property which includes the parcel of property leased by TENANT herein and / or the right of way thereto to a purchaser other than TENANT, such sale shall be under and subject to this Lease Agreement and TENANT's rights hereunder. LESSOR agrees not to sell, lease or use any other areas of the larger parcel upon which Property is situated for the placement of other communications facilities if, in TENANT'S sole judgment, such installation would interfere with the facilities in use by TENANT.
- 13. LESSOR covenants that TENANT, on paying the rent and performing the covenants shall peaceably and quietly have, hold and enjoy the Property.
- 14. LESSOR covenants that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants that there are no other liens, judgments or impediments of title on the Property.
- It is agreed and understood that this Agreement contains all agreements, promises and understandings between the LESSOR and TENANT and that no verbal or oral agreements, promises or understandings shall be binding upon either the LESSOR or TENANT in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing and signed by the parties.



- 16. This Lease Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State Of Alabama.
- 17. This lease may not be sold, assigned or transferred at any time except to TENANT's principal, affiliates or subsidiaries of its principal or to any company upon which TENANT is merged or consolidated. As to other parties, this Lease may not be sold, assigned or transferred without the written consent of the LESSOR, such consent not to be unreasonably withheld. TENANT may sublease this Lease upon notice to LESSOR.
- 18. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

TENANT: BellSouth Mobility Inc

15 Century Boulevard, Suite 200 Nashville, Tennessee 37214 Attn: Real Estate Department

LESSOR: Cates Milk Hauling, Inc. P.O. Box 1097 Columbiana, AL 35051

- This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto.
- 20. At LESSOR's option, this Agreement shall be subordinate to any mortgage by LESSOR which from time to time may encumber all or part of the Property or right of way; provided, however, every such mortgage shall recognize the validity of the Agreement in the event of a foreclosure of LESSOR's interest and also TENANT's right to remain in occupancy of and have access to the Property as long as Tenant is not in default of this Agreement. TENANT shall execute in a timely manner whatever instruments as may reasonably be required to evidence this subordination clause. In the event the leased Property is encumbered by a mortgage, the LESSOR, no later than ten (10) days after this lease is exercised, shall have obtained and furnished to TENANT a non-disturbance instrument in recordable form for each such mortgage.
- 21. If the whole of the leased premises or such portion thereof as will make the premises unusable for the purposes herein leased, are condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the time when possession thereof is taken by public authorities, and rental shall be accounted for as between LESSOR and TENANT as of that date. Any lesser condemnation shall in no way affect the respective rights and obligations of LESSOR and TENANT hereunder. Nothing in this provision shall be construed to limit or affect TENANT's right to an award of compensation of any eminent domain proceeding for the taking of TENANT's leasehold interest hereunder.
- 22. TENANT, at TENANT'S option, may obtain title insurance on the leased property. LESSOR, at LESSOR'S expense, shall cooperate with TENANT'S efforts to obtain such title insurance policy by executing documents or obtaining requested documentation as required by the title insurance company. At TENANT'S option, should the LESSOR fail to provide requested documentation within thirty days of TENANT'S request, or fail to provide the non-disturbance instrument(s) as noted in Paragraph 20 of this Agreement, TENANT may withhold and accrue the monthly rental until such time as the requested document(s) is (are) received.

23. LESSOR shall hold TENANT harmless from and indemnify TENANT against and from any damage, loss, expenses or liability resulting from the discovery by any person of hazardous substance generated, stored, disposed of, or transported to or over Property, as long as such substance was not stored, disposed of, or transported to or over the Property by TENANT, its agents, contractors, employees, or invitees. TENANT will be responsible for any and all damages, losses, and expenses and will indemnify LESSOR against and from any discovery by any persons or such hazardous wastes generated, stored, or disposed of as a result of TENANT'S equipment and uses of the aforementioned Property.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

Signed, sealed and delivered in the presence of:

LESSOR: CATES MILK HAULING, INC.

BY://John Lewis Cates

TITLE: President

(CORPORATE SEAL)

Signed, sealed and delivered in the presence of:

WITNESS

WITNESS

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NOTARY PUBLIC

TENANT: BELLSOUTH MOBILITY INC

BY:

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ATTESTED:

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(CORPORATE SEAL)

The State of	Alabama	
County ofS	helby	
I, the unders	igned authority, a Notary Public in and i	for sa
County in said St	tate, hereby certify that John Lewis Cates	5
**************************************	whose name as President	
of the Cates Mi	lk Hauling, Inc. , a corporation, i	s sig
to the foregoing	conveyance and who is known to me, acknowledged b	efore
on this day that,	being informed of the contents of the conveyance	e, he,
such officer and	with full authority, executed the same volunta	rily
and as the ac	t of said corporation.	
Given under my ha	and this the 30th day of april	, 19_
	Tiggy Lotso Notary AugoVic	
My Commission		
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# STATE OF GEORGIA

### COUNTY OF FULTON

I, Cathy H. Clayton, a Notary Public in and for the State and County aforesaid, hereby certify that Odie C. Donald, personally known to me to be the Vice President - Marketing & Administration of BellSouth Mobility Inc appeared before me this day in person in the State of Georgia, County of Fulton and acknowledged the execution and delivery of the foregoing instrument to be the free act and deed of BellSouth Mobility and his free act and deed as such officer thereof.

Notary Public

STATE OF GEORGIA COUNTY OF FULTON

### **AFFIDAVIT**

I, Odie C. Donald, Vice President - Marketing and Administration of BellSouth Mobility Inc, have delegation of authority for M. L. Neel, President of BellSouth Mobility Inc, to execute this Agreement on his behalf, and do hereby acknowledge the authority of Charleste G. McCoy, Assistant Secretary of BellSouth Mobility Inc, in the initialling of the attached Option and Lease Agreement.

Date:

Odie C. Donald

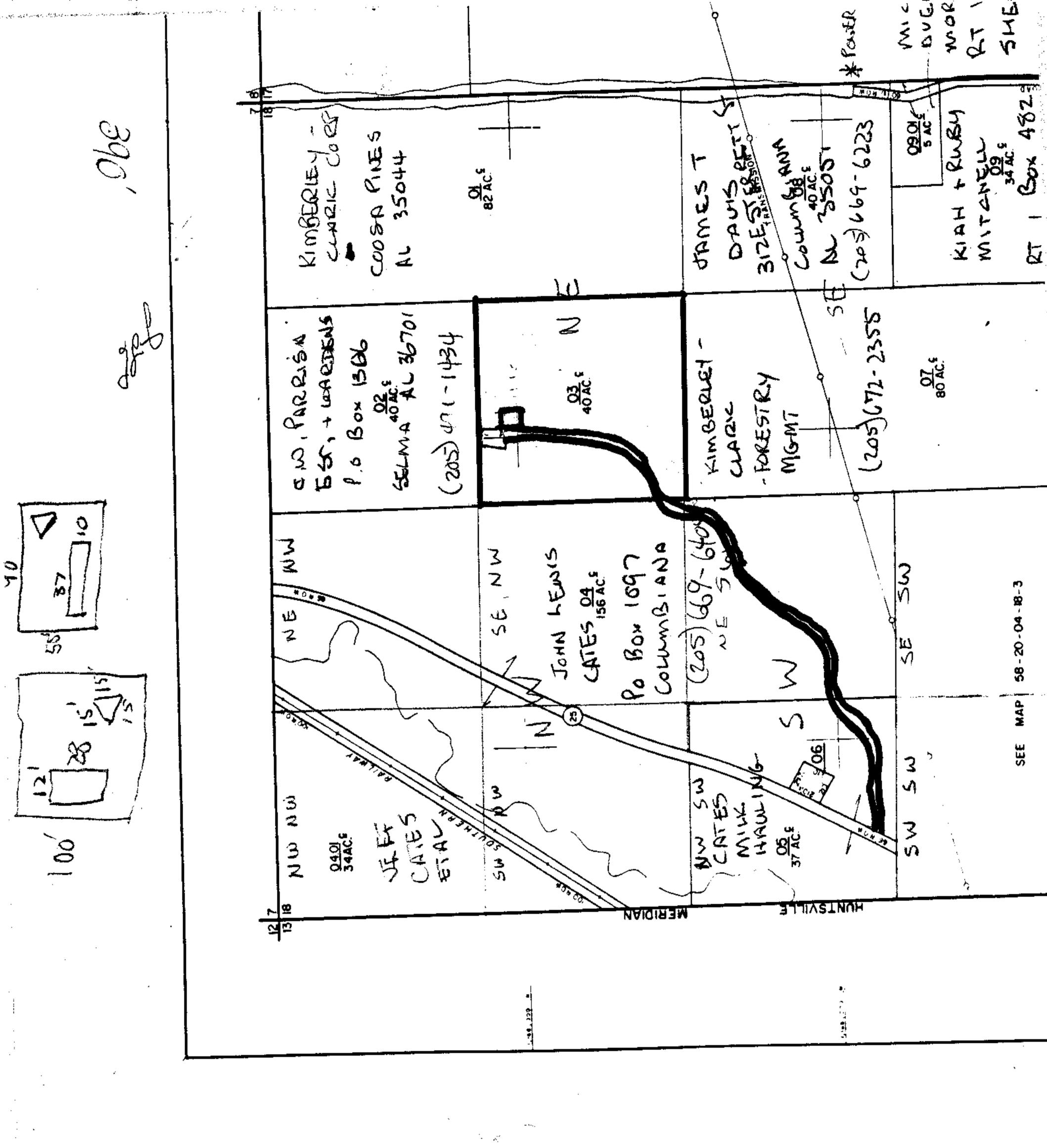
Witness

Witness

Sworn to and subscribed before me this 24 day

Notary Public

Cathy H. Clayton
Notary Public, Fulton County, Georgia
My Commission Expires May 23, 1994



DESCRIPTION: (Site)

A parcel of land situated in the Southwest Quarter of the Northeast Quarter of Section 18, Township 21 South, Range 1 East, Shelby County, Alabama, and being more particularly described as follows: Commence at the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 18, Township 21 South, Range 1 East, Shelby County, Alabama and run South 89°14'02" East along the North line of said Quarter-Quarter section for a distance of 390.00 feet; thence 90°00' right and run South 0°45'58" West for a distance of 147.58 feet; thence 90°00' left and run South 89°14'02" East for a distance of 46.00 feet to the point of beginning; thence continue South 89°14'02" East for a distance of 55.00 feet; thence 90°00' right and run South 0°45'58" West for a distance of 90.00 feet; thence 90°00' right and run North 89°14'02" West for a distance of 55.00 feet; thence 90°00' right and run North 0°45'58" East for a distance of 90.00 feet to the point of beginning. Containing 4950 Square Feet.

# DESCRIPTION: (30 Foot Easement for Roadway)

An easement for a roadway being 30 feet in width, on, over and across parts of the South half of the Northwest Quarter, the Northeast Quarter of the Southwest, and the Southwest Quarter of the Northeast Quarter, Section 18, Township 21 South, Range 1 East, Shelby County, Alabama, the centerline of said 30 foot wide easement for a roadway being more particularly described as follows: Commence at the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 18, Township 21 South, Range 1 East, Shelby County, Alabama and run South 89°14'02" East along the North line of said Quarter-Quarter Section for a distance of 390.00 feet; thence 90°00' right and run South 0°45'58" West for a distance of 147.58 feet; thence 90°00' left and run South 89°14'02" East for a distance of 46.00 feet; thence 90°00' right and run South 0°45'58" West for a distance of 90.00 feet; thence 90°00' left and run South 89°14'02" East for a distance of 15.07 feet to the point of beginning of the centerline of the 30 foot wide easement for a roadway; thence 95°33'15" right and run South 6°19'13" West along said centerline for a distance of 82.01 feet to the beginning of a curve to the right, said curve to the right having a radius of 7636.92 feet and a center angle of 0°54'01"; thence in a Southwesterly direction along the arc of said curve to the right and said centerline for a distance of 120.00 feet to the end of said curve to the right; thence at tangent to said curve run South 7°13'14" West along said centerline for a distance of 158.94 feet to the beginning of a curve to the right, said curve to the right having a radius of 432.79 feet and a central angle of 28°44'24"; thence in a Southwesterly direction along the arc of said curve to the right and said centerline for a distance of

217.09 feet to the end of said curve to the right; thence at tangent to said curve run South 35°57'38" West along said centerline for a distance of 291.01 feet to the beginning of a curve to the right, said curve to the right having a radius of 165.79 feet and a central angle of 33°33'57"; thence in a Southwesterly direction along the arc of said curve to the right and said centerline for a distance of 97.12 feet to the end of said curve to the right and the beginning of a curve to the left, said curve to the left having a radius of 214.99 feet and a central angle of 35°46'34"; thence in a Southwesterly direction along the arc of said curve to the left and said centerline for a distance of 134.24 feet to the end of said curve to the left; thence at tangent to said curve run South 33°45'01" West along said centerline for a distance of 43.61 feet to the beginning of a curve to the left, said curve to the left having a radius of 318.13 feet and a central angle of 36°07'53"; thence in a Southwesterly to Southeasterly direction along the arc of said curve to the left and said centerline for a distance of 200.61 feet to the end of said curve to the left and the beginning of a curve to the right, said curve to the right having a radius of 669.75 feet and a central angle of 18°08'08"; thence in a Southeasterly to Southwesterly direction along the arc of said curve to the right and said centerline for a distance of 211.99 feet to the end of said curve to the right and the beginning of another curve to the right which has a radius of 263.63 feet and a central angle of 48°55'13"; thence in a Southwesterly direction along the arc of said curve to the right and said centerline for a distance of 225.09 feet to the end of said curve to the right and the beginning of another curve to the right which has a radius of 394.11 feet and a central angle of 29°25'06"; thence in a Southwesterly to Northwesterly direction along the arc of said curve to the right and said centerline for a distance of 202.35 feet to the end of said curve to the right and the beginning of another curve to the right which has a radius of 385.75 feet and a central angle of 17°40'56"; thence in a Northwesterly direction along the arc of said curve to the right and said centerline for a distance of 119.05 feet to the end of said curve to the right and the beginning of another curve to the right which has a radius of 97.07 feet and a central angle of 93°49'36"; thence in a Northwesterly to Northeasterly direction along the arc of said curve to the right and said center for a distance of 158.96 feet to the end of said curve to the right; thence at tangent to said curve run North 25°36'07" East along said centerline for a distance of 37.31 feet to the beginning of a curve to the left, said curve to the left having a radius of 106.57 feet and a central angle of 50°16'04"; thence in a Northeasterly to Northwesterly direction along the arc of said curve to the left and said centerline for a distance of 93.50 feet to the end of said curve to the left; thence at tangent to said curve run North 24°39'57" West along said centerline for a distance of 36.22 feet to the beginning of a curve to the left, said curve to the left having a radius of 97.51 feet and a central angle of 34°12'08";

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thence in a Northwesterly direction along the arc of said curve to the left and said centerline for a distance of 58.21 feet to the end of said curve to the left; thence at tangent to said curve run North 58°52'05" West along said centerline for a distance of 170.40 feet to the beginning of a curve to the right, said curve to the right having a radius of 228.74 feet and a central angle of 36°18'24"; thence in a Northwesterly direction along the arc of said curve to the right and said centerline for a distance of 144.94 feet to the end of said curve to the right; thence at tangent to said curve run North 22°33'41" West along said centerline for a distance of 38.44 feet to the beginning of a curve to the left, said curve to the left having a radius of 274.17 feet and a central angle of 20°40'14"; thence in a Northwesterly direction along the arc of said curve to the left and said centerline for a distance of 98.91 feet to the end of said curve to the left; thence at tangent to said curve run North 43°13'55" West along said centerline for a distance of 29.02 feet to the beginning of a curve to the left, said curve to the left having a radius of 152.59 feet and central angle of 36°17'04"; thence in a Northwesterly direction along the arc of said curve to the left and said centerline for a distance of 96.63 feet to the end of said curve to the left; thence at tangent to said curve run North 79°30'59" West along said centerline for a distance of 49.10 feet to the beginning of a curve to the right, said curve to the right having a radius of 222.33 feet and a central angle of 25°20'54"; thence in a Northwesterly direction along the arc of said curve to the right and said centerline for a distance of 98.36 feet to the end of said curve to the right; thence at tangent to said curve run North 54°10'05" West along said centerline for a distance of 347.63 feet to a point in the center of the asphalt paved roadway of Alabama State Highway No. 25, said point being the point of ending of the 30 foot wide easement for a roadway. Except that part of said easement lying within the right of way of State of Alabama Highway No. 25.

See three-page plat recorded in Map Book 6 , Page 34.A.B 35-A.B

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04/20/1992-5071 09:55 AM CERTIFIED SHELBY COUNTY JUDGE OF PROBATE 013 MCD 58.00