

This Instrument Prepared By:  
Ray F. Robbins, III, Esq.  
The Westervelt Company  
Post Office Box 48999  
Tuscaloosa, AL 35404  
205-562-5431  
Source of Title:

STATE OF ALABAMA  
COUNTY OF SHELBY

**ACCESS EASEMENT AGREEMENT**

THIS ACCESS EASEMENT AGREEMENT (this "Agreement") is made and entered into as of the 10<sup>th</sup> day of June, 2020 (the "Effective Date"), by and between **The Westervelt Company, Inc.**, a Delaware corporation ("Grantor"), and **Anthony Mitchem and Candi Mitchem** ("Grantee").

Recitals:

WHEREAS, Grantee owns that certain parcel of real property located in SHELBY County, Alabama which is adjacent to the below described Grantor Property (the "Grantee Property");

WHEREAS, Grantor has agreed to grant Grantee a Ingress, Egress and Utility, permanent non-exclusive access easement over and across certain property owned by the Grantor for purposes of providing utilities, ingress, egress and access to and from the Grantee Property.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby covenant and agree as follows:

1. Rule of Construction. For the purposes of this Agreement, except as otherwise expressly provided herein to the contrary or unless the context otherwise requires:

(i) The terms "include", "including", and similar terms shall be construed as if followed by the phrase "without being limited to";

(ii) The terms "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Paragraph or other subdivision or Exhibit;

(iii) All Recitals set forth in, and all Exhibits to, this Agreement are hereby incorporated in this Agreement by reference; and

(iv) All references in this Agreement to Grantor and Grantee shall specifically include the respective successors and assigns of Grantor and Grantee.

2. Grant of Easement. Subject to the terms and provisions set forth in Paragraph 3 below, Grantor does hereby grant to Grantee, for no additional fee or charge other than that described herein for creating adequate consideration, a thirty (30) foot wide non-exclusive permanent access easement over and across certain real property owned by the Grantor located in \_\_\_\_\_ County, Alabama which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Easement Property") for purposes of providing utilities, ingress, egress and access to and from the Grantee Property. Grantor also reserves the right to replace the easement conveyed herein with another easement at a reasonable location, provided said replacement easement shall be of a similar quality as the one replaced. The route shall not be moved until the alternate route is in substantially the same condition as the original route. Any expense or cost relating to the moving or altering the route shall be paid by the Grantor.

3. Nature of Easements.

(a) The easements granted by Grantor to Grantee pursuant to Paragraph 2 above are granted subject to the terms and provisions of Paragraph 3(b) through (c) below and (i) shall be and are appurtenant to and shall serve and benefit the Grantee Property and any other real property owned by Grantor, (ii) shall be and are covenants running with the land, and (iii) shall be used in common by Grantor and Grantee.

(b) Notwithstanding anything provided herein to the contrary, Grantee shall not make any modifications to the Easement Property without Grantor's prior written consent. Further, Grantee shall make no alterations to the Easement Property that will result in damage to Grantor's timber operations, as determined in Grantor's sole and absolute discretion.

(c) Notwithstanding anything provided herein to the contrary, Grantee may improve the condition of the Easement Property, but Grantee agrees that in the event the easement is paved or modified from its current condition, Grantor will not be responsible for any damage or destruction caused by Grantor, its agents, contractors, employees or assigns to any improvements beyond the current condition as a passable unpaved woods road. Further, Grantor shall also not be responsible for damages to utilities installed by Grantee, to the extent such damages are caused by normal timber transportation, managing or harvesting operations. Any gates installed on the Grantor's property by Grantee must be approved by Grantor.

4. Insurance and Indemnity from Grantee. Grantee, his heirs and assigns, does hereby indemnify, agree to defend and hold Grantor, its successors and assigns, harmless from and against any and all claims, demands, damages, costs, liabilities and expenses, including reasonable attorneys' fees and expenses, which Grantor or any of its successors and assigns may suffer, pay or incur as a result of any negligent acts or omissions or willful or intentional acts or omissions of Grantee or any of his agents, contractors or invitees.

5. Non-Waiver. The failure of either party hereto to insist upon strict performance of any of 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 in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

6. Binding Effect. The terms of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns which become owners of the Easement Property, the Grantee Property or any portion thereof.

7. Captions; Pronouns. The captions in this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement. Whenever the context hereof admits or requires, words in the singular may be regarded as in the plural and vice-versa, and personal pronouns may be read as masculine, feminine and neuter.

8. Severability. Invalidity of any of the provisions contained in this Agreement shall in no way affect any of the other provisions hereof or the application thereof to any other person or entity, and the remainder of this Agreement shall remain in full force and effect.

9. Applicable Law. It is expressly understood and agreed that this Agreement and all questions arising hereunder shall be construed according to the laws of the State of Alabama.

10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

11. Time is of the Essence. Time is of the essence in the performance by each party hereto of its respective obligations hereunder.

12. Entire Agreement. This Agreement, embodies the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior written or oral agreements or undertakings of the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Agreement to be executed by and through their respective duly authorized representatives effective as of the day and year first written above.



**GRANTOR:**

**THE WESTERVELT COMPANY INC.,** a  
Delaware corporation

By: Robert A. Rimer  
Robert A. Rimer  
Corporate Land Manager

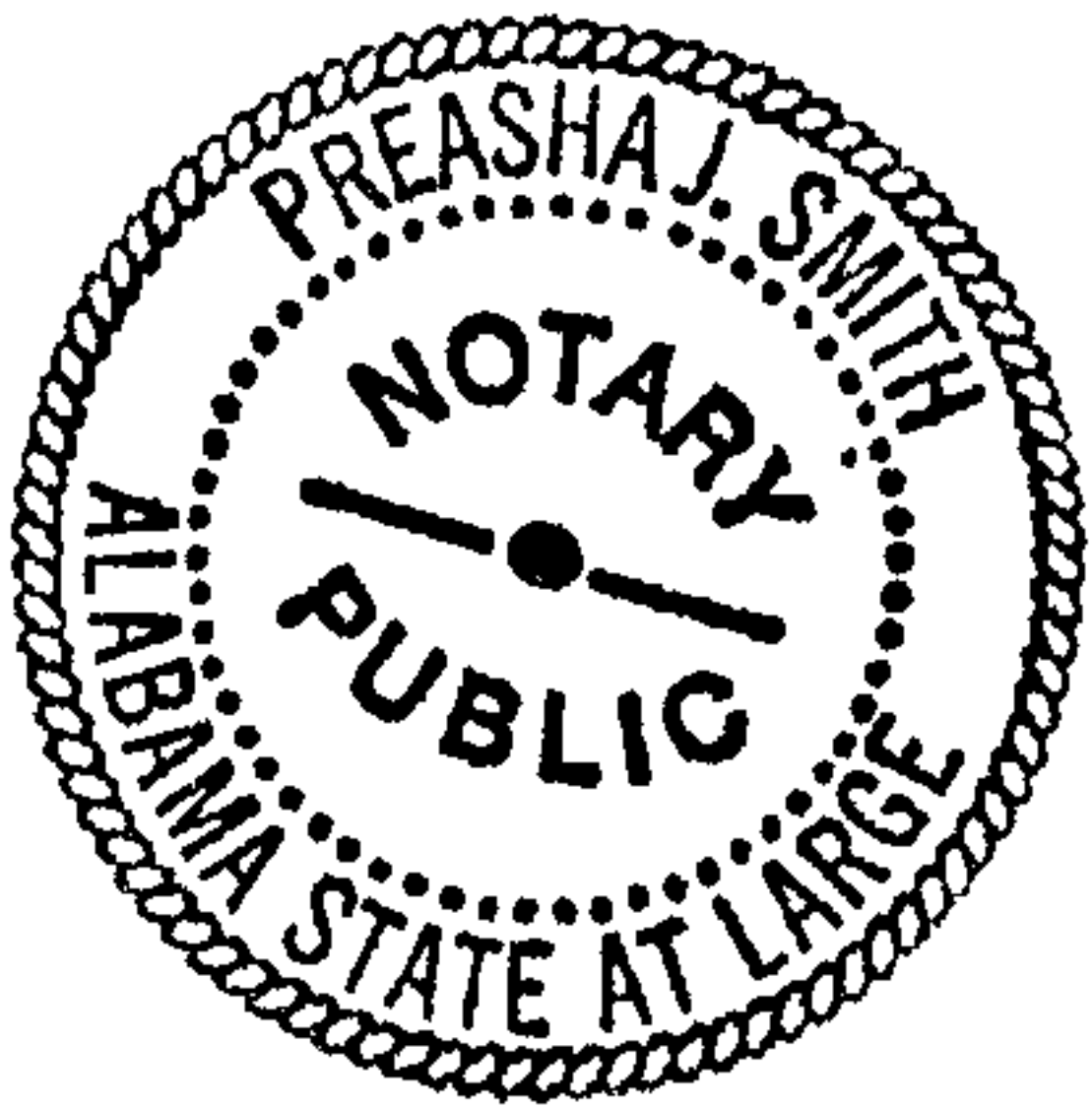
STATE OF ALABAMA

COUNTY OF TUSCALOOSA

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Robert A. Rimer, whose name as Corporate Land Manager of The Westervelt Company, Inc., a Delaware 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 instrument, he/she, as such officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and official, notarial seal on this the 16<sup>th</sup> day of June, 2020.

{SEAL}



Preasha J. Smith  
Notary Public  
My Commission Expires: 10/16/2023

**GRANTEE:**

By: Anthony Mitchem  
Name:

STATE OF ALABAMA )

SHELBY COUNTY )

Candi Mitchell

I, the undersigned authority, a Notary Public in and for said county, in said state, hereby certify that Anthony Mitchem acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and official, notarial seal on this the 22 day of June, 2020.

{SEAL}

\* Candi Mitchell



Michael T. Atchison  
Notary Public  
My Commission Expires: 9.22.20

**EXHIBIT "A"**  
**Description of Easement Property**

Ingress, Egress and utilities along un-named county road as shown on tax map 16-5, also represented on Exhibit A, attached hereto and made a part of.

\* Exhibit B

NOTE:

This Parcel shown and described herein may be subject to setbacks, Right-of-Ways, easements, zoning and restrictions that may be found in the Probate Office of said County.

**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF THE PROPERTY**

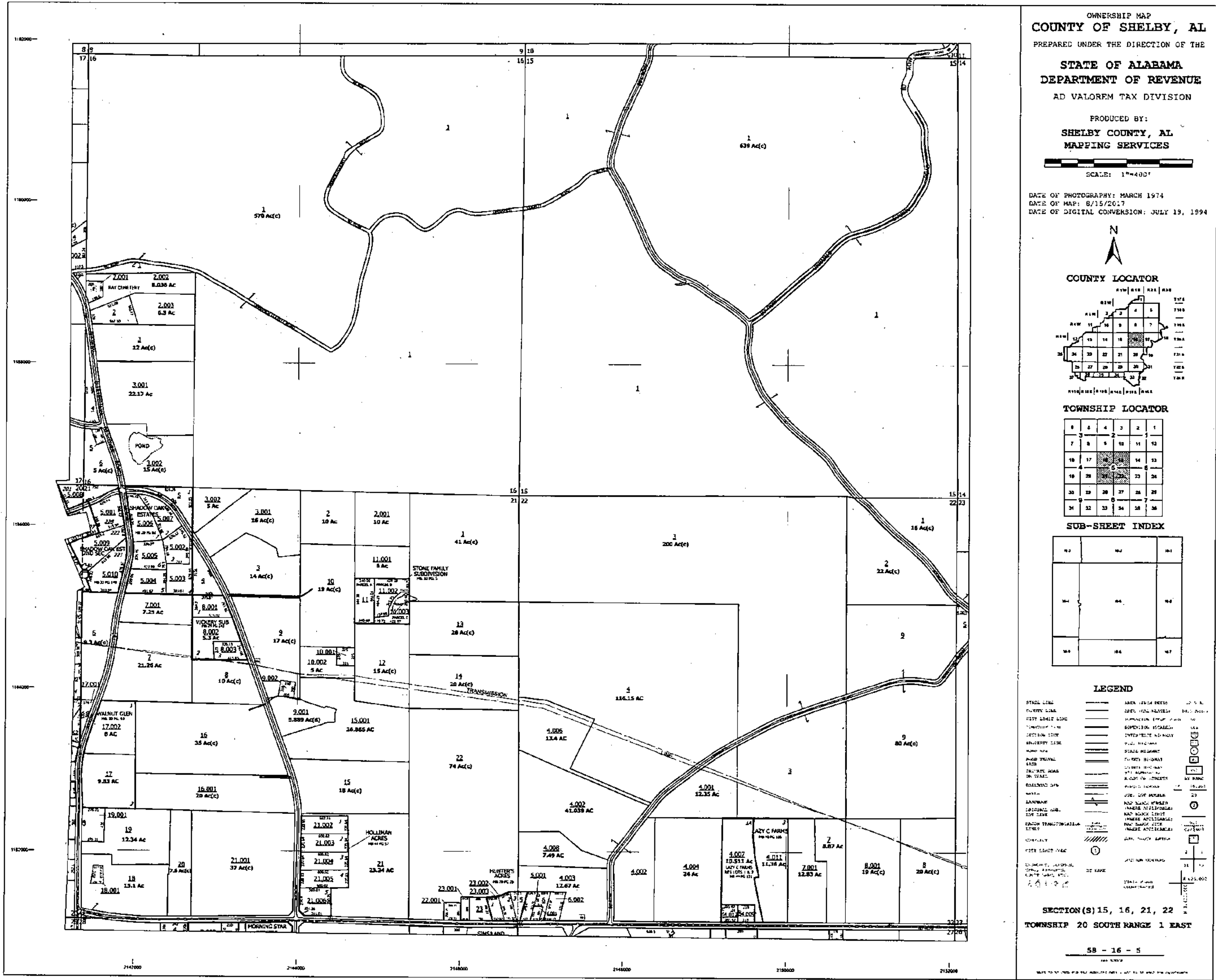
**PARCEL OF LANDS CONTAINING OF +/- 80 ACRES,  
LOCATED IN SHELBY COUNTY, ALABAMA AND BEING  
MORE PARTICULARLY IDENTIFIED ON THE BELOW  
MAP.**

Parcels/Partial

16 2 09 0 000 003.000



Exhibit B



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk

Shelby County, AL  
06/22/2020 04:07:23 PM  
\$40.00 JESSICA  
20200622000254780



Ann S. Byrd