

This Instrument prepared by  
and after recording return to:  
Baker Donelson Bearman  
Caldwell & Berkowitz, PC  
420 20th Street North  
Birmingham, AL 35203  
Attention: Mary Palmer

20200630000269170  
06/30/2020 01:25:48 PM  
ESMTAROW 1/12

Source(s) of Title:  
Map Book 39, Page 52 and  
Instrument No. 20180419000132400  
as recorded in the Office of the Judge  
of Probate for Shelby County, AL.

STATE OF ALABAMA )  
COUNTY OF SHELBY )

UTILITY AND FIBER  
EASEMENT AGREEMENT

This UTILITY AND FIBER EASEMENT AGREEMENT ("**Agreement**"), dated the latter of the dates reflected in the signature blocks to this Agreement (the "**Effective Date**"), is executed by **Damnek Enterprise, LLC ("Grantor")** with an address of 1560 Woods of Riverchase Drive, Birmingham, AL 35244, in favor of **Cellco Partnership d/b/a Verizon Wireless ("Grantee")**, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920. This Agreement refers to Grantor and Grantee each as a "**Party**" and collectively as the "**Parties**".

BACKGROUND

A. Grantee leases a Small Cell facility in the Right of Way in Shelby County, Alabama, a portion of, and has acquired leasehold and easements rights in and to, the portions of the real property in Shelby County, Alabama more specifically described on Exhibit A attached to this Agreement (the "**Leased Property**") for the purposes of, among others, accessing and operating a communications facility and utilities.

B. Grantor owns the real property adjacent to the Leased Property, which is more specifically described on Exhibit B attached to this Agreement (the "**Easement Parcel**").

C. Grantor has agreed to convey to Grantee the rights and easements described in this Agreement to further Grantee's access to, and use of, the Easement Parcel for the purposes described in this Agreement.

ACCORDINGLY, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

1. GRANT OF EASEMENT.

(a) By Grantor's execution and delivery of this Agreement to Grantee, Grantor grants, bargains, sells, and conveys to Grantee and Grantee's lessees, sublessees, licensees, sublicensees, contractors, agents, employees, successors, and assigns a non-exclusive, irrevocable, non-terminable, perpetual, five-foot (5') wide right, interest, privilege, right-of-way, and easement, usable seven (7) days per week, twenty-four (24) hours per day, on foot or motor vehicles (including trucks) over, across, under, above, and through the Easement Parcel for the construction, installation, attachment, use, operation, repair, reconstruction, improvement, upgrading, replacement, and maintenance of utility wires, cables,

fiber (including fiber optic lines and cables), conduits, pipes, and related appliances and appurtenances, all below grade, as reflected and described and depicted on Exhibit C attached to this Agreement (the "Easement").

(b) This Agreement and the Easement are covenants running with the land, burdens on the Easement Parcel, and benefits to Grantee and all others entitled to use the Easement under the terms of this Agreement. Grantee and all others entitled to use the Easement will have peaceful and quiet possession, use, and enjoyment of the Easement, without any disturbance of their possession, use, and enjoyment. All of Grantee's material and equipment installed or placed upon the Easement Parcel will remain the property of Grantee, and Grantee may remove such material and equipment at will.

2. EASEMENT FEE: In consideration hereof, Grantee will pay Grantor the sum set forth on Exhibit D, attached hereto and incorporated herein, which may be removed for recording purposes.

3. OBSTRUCTIONS. Grantor will not place any permanent man-made structures within the easement path except for a boundary fence. Grantee accepts and agrees to be responsible for the removal by a professional service provider of any dead, dying or otherwise compromised tree attributed to the installation of the fiber conduit or any other utility installed within easement path by Grantee. Grantee also agrees to only remove trees/vegetation required to complete the installation of the conduit, no clear cutting of the easement path.

4. REPRESENTATIONS AND WARRANTIES. Grantor represents and warrants that: (a) Grantor has full right, power, and authority to enter into deliver this Agreement to Grantee and grant the Easement and other rights in this Agreement; (b) Grantor owns fee simple title to the Easement Parcel, and no third party owns or claims to own any portion of, or right, title, or interest in or to, the Easement Parcel that could reasonably be expected to prohibit the grant of, or interfere with the use of, the Easement or other rights granted to Grantee in this Agreement; (c) no third party has filed or threatened to file any claim, action, suit, or proceeding asserting ownership of the Easement Parcel, whether in whole or in part; (d) there is no judgment, lien, or impediment or pending or threatened claim, action, suit, or proceeding that could adversely affect Grantor's ability to enter into this Agreement or grant the Easement and other rights in this Agreement; (e) neither Grantor's execution nor delivery of this Agreement will violate, conflict with, or result in a breach of any provision of any understanding or agreement, whether oral or written, to which Grantor is a Party or by which Grantor or the Easement Parcel is bound (including any mortgage encumbering the Easement Parcel); and (f) Grantee shall have peaceful and quiet possession, use, and enjoyment of the Easement during the term of this Agreement, without any disturbance of Grantee's possession.

5. ASSIGNMENT. Grantee may sell, assign, transfer, lease, sublease, license, or sublicense Grantee's rights under this Agreement, both in whole and in part, only with Grantor's prior written consent and approval. Such approval or denial shall be rendered within thirty (30) days of submittal.

6. TAXES AND OTHER OBLIGATIONS. Grantor shall pay when due all taxes, assessments, and other obligations that are levied, assessed, or imposed upon, or which could become liens against, the Easement Parcel, excluding taxes imposed in connection with the execution, delivery, performance, or recordation of this Agreement. If Grantor fails to pay when due any taxes or other obligations affecting the Easement Parcel, Grantee may but shall not be required to pay such taxes or obligations on behalf of Grantor, and Grantor shall reimburse such amount to Grantee within sixty (60) days following Grantee's demand.

7. NO DEDICATION. This Agreement does not create any rights in favor of the general public.

8. GOVERNING LAW. This Agreement shall be construed and enforced according to the laws of Alabama, without giving effect to any choice of law principles.

9. VIOLATION. If Grantor breaches, violates, or defaults in the performance of any provision of this Agreement, Grantee will be entitled to an order of specific performance and other equitable relief to enforce this Agreement and, in addition, Grantee will be entitled to reimbursement from Grantor of Grantee's attorneys' and related legal fees, costs, and expenses.

10. MODIFICATIONS. This Agreement may be amended, modified, or changed only by a written instrument signed by the Parties.

11. NOTICES. All notices under this Agreement must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

Grantor: Damnek Enterprises, LLC  
1560 Woods of Riverchase Drive  
Birmingham, Alabama 35244

Grantee: Cellco Partnership  
d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

12. INCORPORATION BY REFERENCE. All exhibits referred to in, or attached to, this Agreement are incorporated in, and made a part of, this Agreement by reference.

13. ENTIRE AGREEMENT. This Agreement is the entire understanding and agreement of the Parties regarding its subject matter and supersedes any other prior or contemporaneous oral or written understandings or agreements between the Parties regarding its subject matter.

(Signatures Appear on Following Page)

IN WITNESS OF THIS AGREEMENT, Grantor has executed this Agreement in favor of Grantee on the Effective Date.

GRANTOR:

Damnek Enterprises, LLC

[Signature]  
Witness  
Sydney Smith  
Witness

By: [Signature]  
Name: Lucas B. Scoggin  
Its: Managing Director  
Date: 5/20/2020

GRANTEE:

Cellco Partnership  
d/b/a Verizon Wireless

Sher Ali Kalim  
Witness SHER ALI KALIM  
J. M. Redfield  
Witness

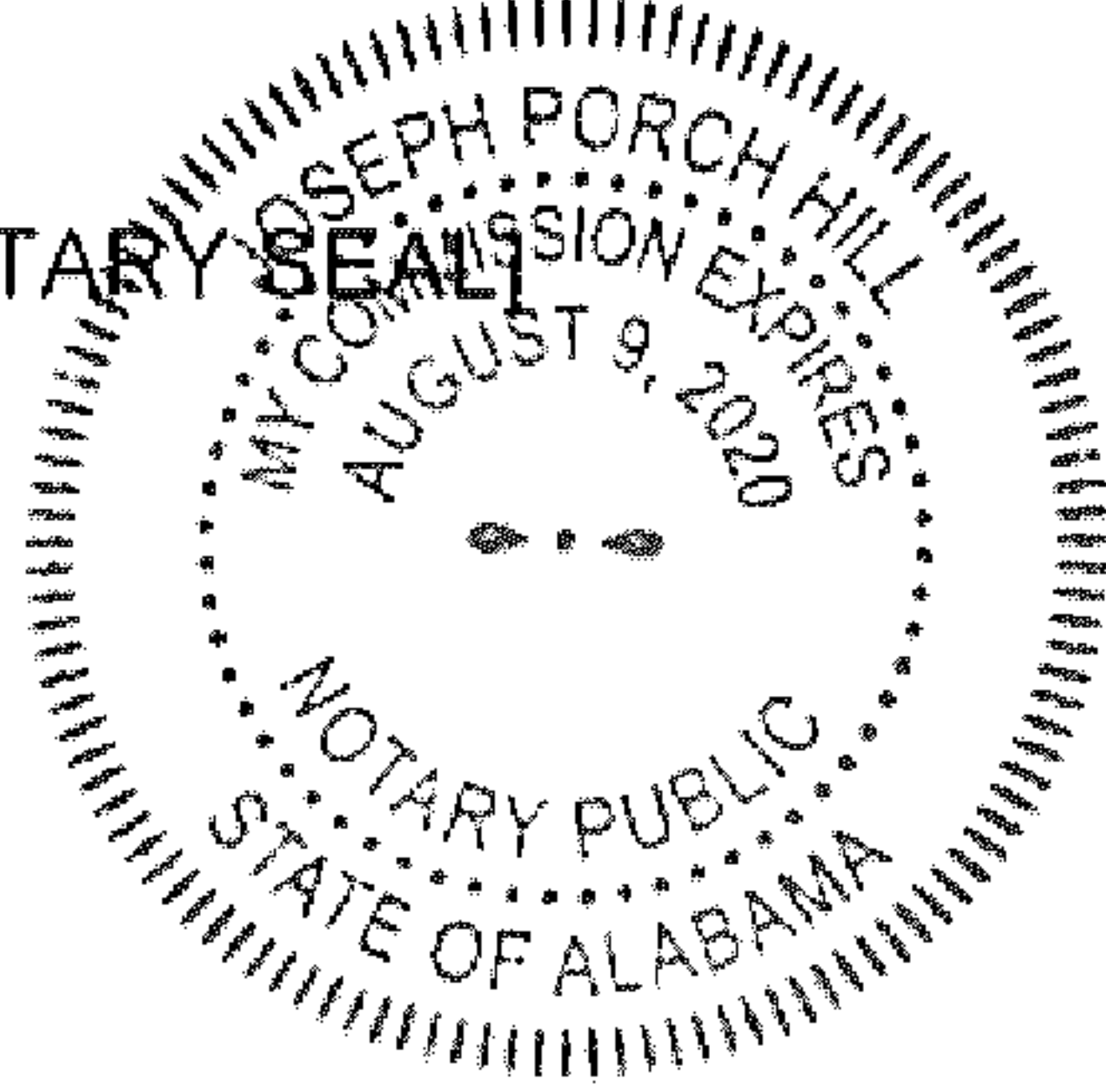
By: [Signature]  
Name: Michelle Christopher  
Title: Senior Manager - RE/Regulatory  
Date: 06/17/2020

STATE OF Alabama  
COUNTY OF Shelby

I, the undersigned Notary Public, certify that Lucas Scoggin, whose named as Managing Director of Damnek Enterprises, LLC, is signed to the preceding instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of such instrument, they executed such instrument voluntarily on the day such instrument bears date.

Given under my hand and official seal this the 20<sup>th</sup> day of May, 20 20.

[AFFIX NOTARY SEAL]

Joseph Porch Hill  
Notary PublicMy Commission Expires: 8-09-2020

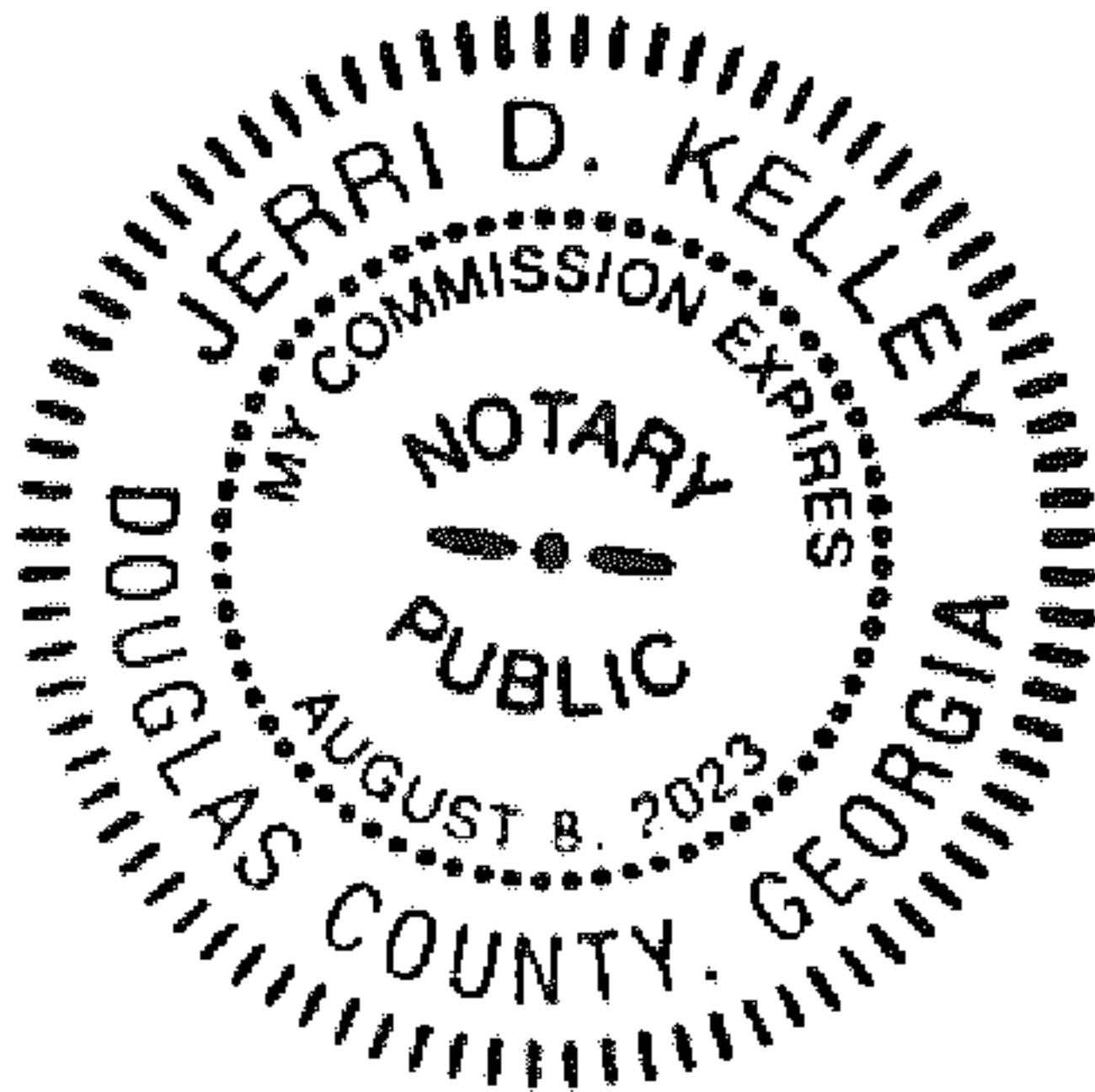
STATE OF GEORGIA

COUNTY OF FULTON

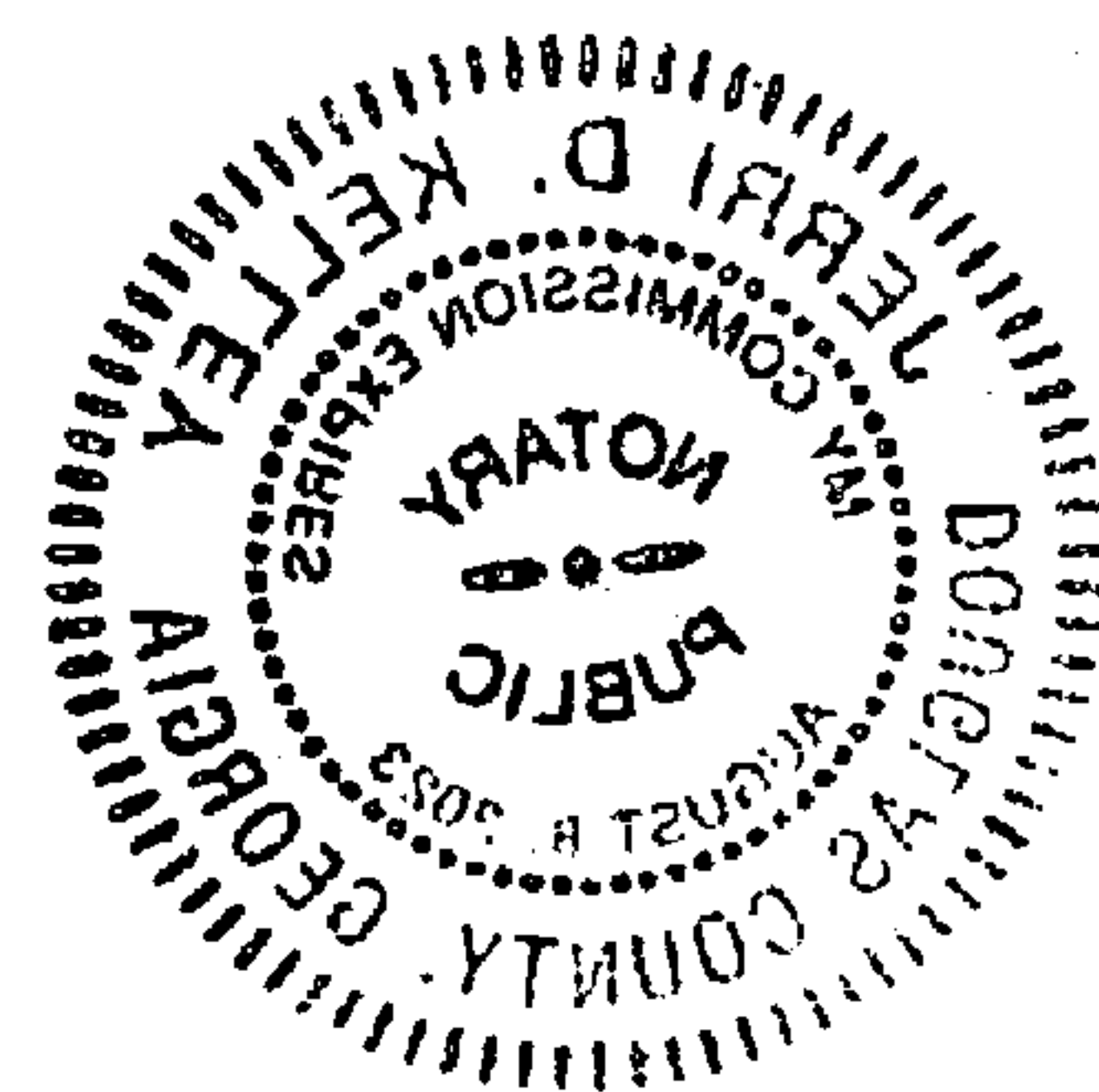
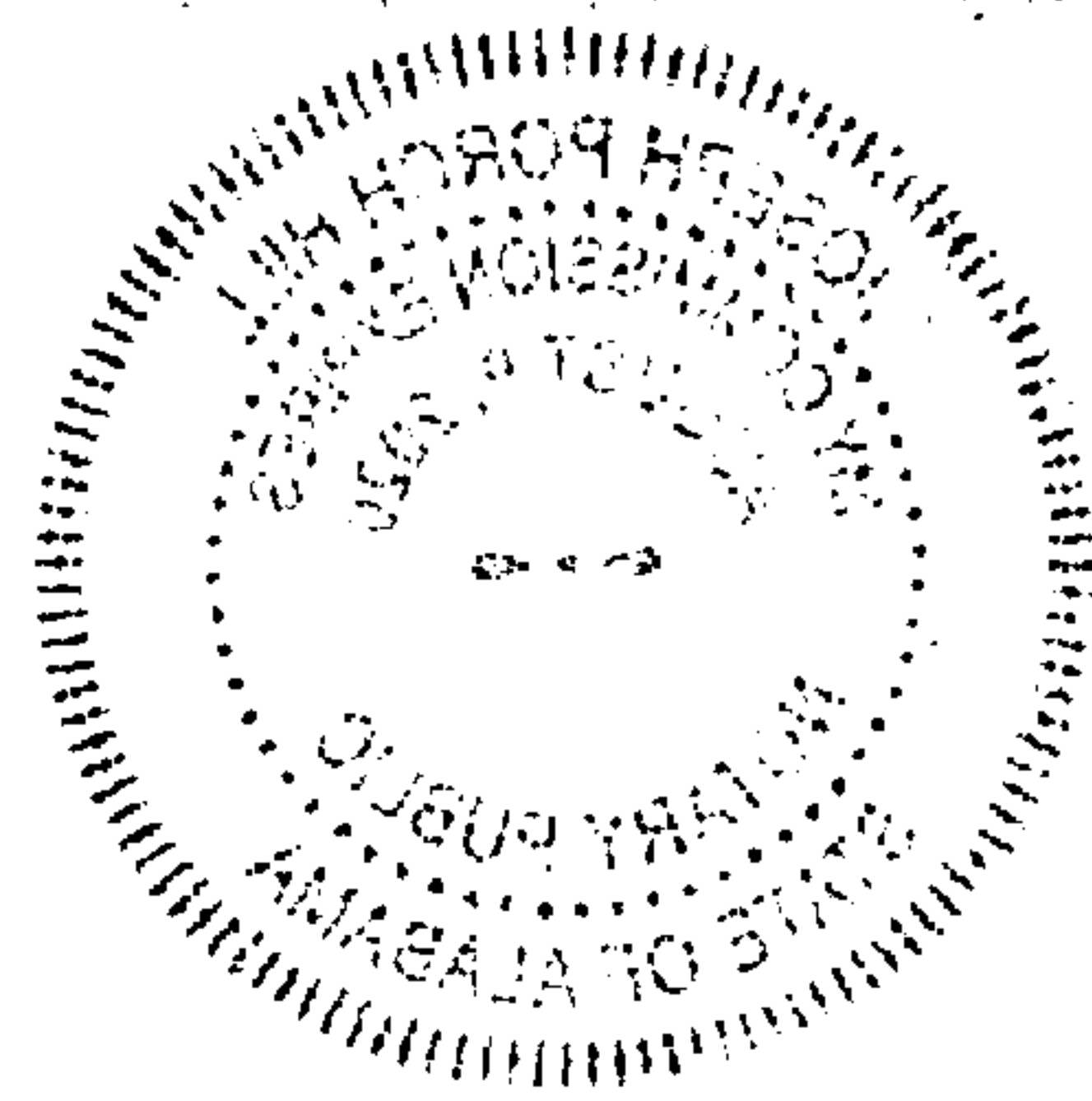
I, the undersigned Notary Public, certify that **Michelle Christopher**, whose name is signed to the preceding instrument as **Senior Manager - RE/Regulatory** of **Cellco Partnership d/b/a Verizon Wireless** and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, she executed such instrument voluntarily on behalf of such entity on the day such instrument bears date.

Given under my hand and official seal this the 17<sup>th</sup> day of June, 20 20.

[AFFIX NOTARY SEAL]

Jerri D. Kelley  
Notary PublicMy Commission Expires: 8-8-2023

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6/12



GRANTEE SITE NAME: HVR086

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EXHIBIT A

LEASED PROPERTY

Property Address:

1557 Woods of Riverchase Dr. - Node A  
Hoover, AL 35244

**EXHIBIT B**

**EASEMENT PARCEL**

Address: 1560 Woods of Riverchase Drive, Birmingham, AL 35244

Parcel Number: 10 9 30 0 001 004.0045

**Parcel Description:**

Lot 1A, according to the re-survey of Southwood Park Estates, 1st Addition to Hoover, as recorded in Map Book 39, Page 52, in the Probate Office of Shelby County, Alabama.

AND BEING the same property conveyed to Damnek Enterprises, LLC, an Alabama limited liability company from MakT's Investments, LLC, an Alabama limited liability company by Warranty Deed dated April 18, 2018 and recorded April 19, 2018 in Instrument No. 20180419000132400.

**Easement Parcel Description:**

All that land lying and being in Section 30, Township 19 South, Range 3 West, Shelby County, Alabama, and being a part of the lands owned by Damnek Enterprises, LLC., of record in Instrument No. 20180419-000132400, Office of the Probate Judge, Shelby County, Alabama, and being more particularly described as that land which lies 5 feet on each side of a Centerline described as follows:

COMMENCE at a Capped Iron Rod (found) in the Southeast region of aforesaid Property;  
Thence along a Chord Tie Line having a bearing N 40°21'32" W, a distance of 69.52 feet, to a point on the Southwest Right-of-Way Line of Woods of Riverchase Drive, which is the POINT OF BEGINNING;

Thence S 63°40'21" W, a distance of 50.78 feet to the POINT OF TERMINUS of the Centerline described herein.

Said tract contains 0.01 Ac (507 Square Feet), more or less, as shown in a survey prepared for Verizon Wireless by The Land Consultants, dated February 20, 2020

EXHIBIT C

EASEMENT DESCRIPTION AND DEPICTION

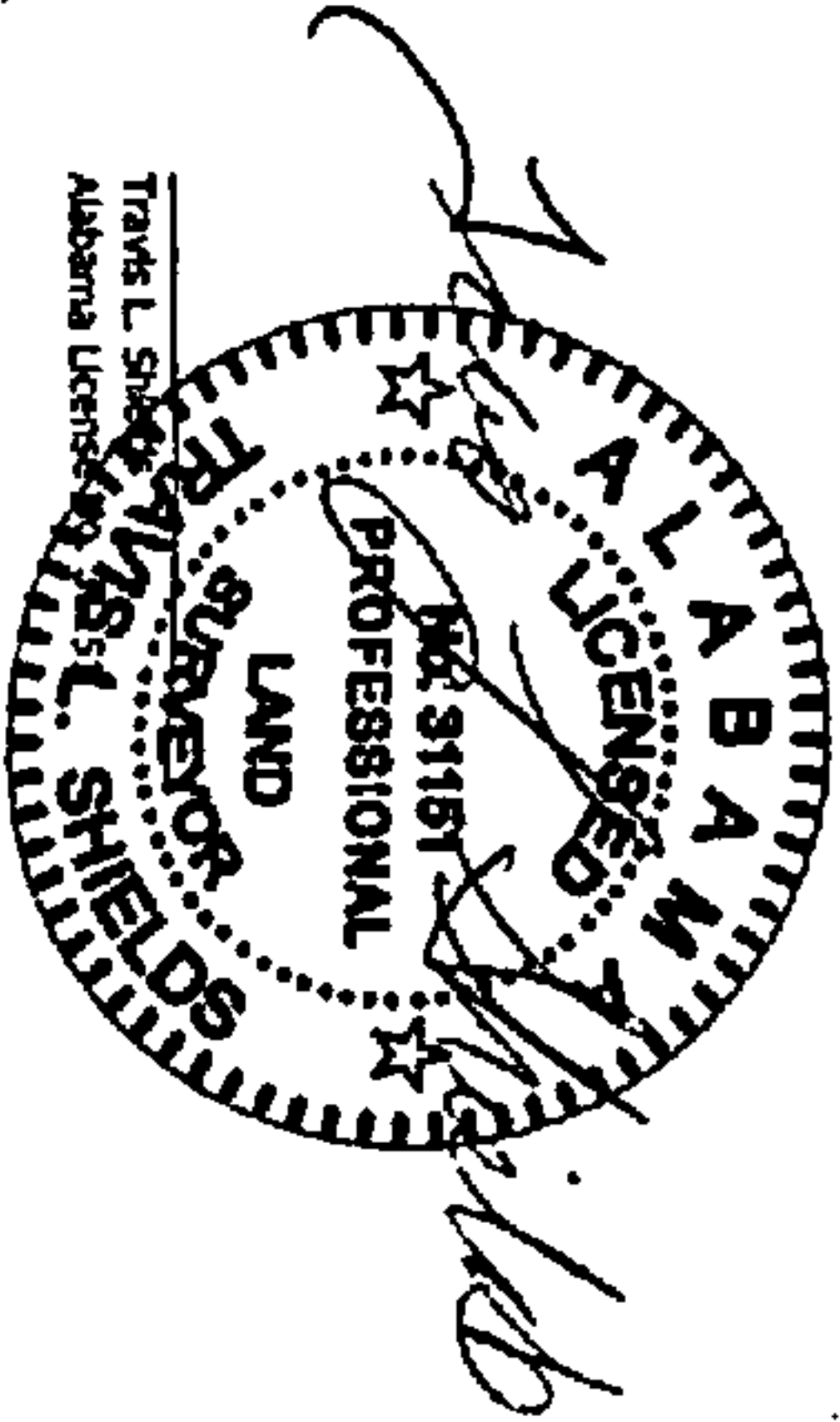
(Survey Attached)

GENERAL NOTES

1. This Specific Purpose Survey was prepared exclusively to show the location of Right-of-Way and Lessee Easements (if any), and shall not be used as an exhibit or evidence in the fee simple transfer of the Parent Parcel nor any portion or portions thereof. Boundary information shown hereon has been compiled from Tax Maps and Deed descriptions only. No Boundary of the Parent Parcel was performed. This drawing does not represent a Boundary Survey.
2. NORTH ORIENTATION: Alabama (West) State Plane Coordinate System, NAD 83 (CORS), determined by GPS Survey
3. ELEVATION DATUM: NAVD88, relative to Continuously Operating Reference Station (CORS) Benchmark as noted hereon. Onsite benchmark is as shown hereon
4. Instruments Used: Topcon GTS 212 and Prism, Topcon Hiperlite Plus GPS, TDS Nomad and/or Carlson Surveyor Data Collector.
5. Survey shown hereon conforms to the Minimum Requirements as set forth by the State Board for a Suburban Survey as stated in Certification. Field traverse did not require adjustment.
6. Improvements (Utilities, Buildings, Trees, Fences, etc) not located, unless specifically shown hereon in the vicinity of surveyed property.
7. No underground encroachments or building foundations were measured or located as a part of this survey, unless otherwise shown.
8. This Survey is prepared for the sole purpose of representing site conditions and a portion of Right-of-Way and is presented in the format required by Clients. Clients are advised that Official Jurisdictions may require the Survey to be presented in another format with additional notes and certifications. In the event other formats, notes or certifications are requested by applicable jurisdictions, it is the responsibility of the Client to request same be prepared by Surveyor.
9. Date of Field Survey: 10-09-2019.
10. Title Examination was available at time of Survey.
11. FLOOD ZONE DATA: By graphic plotting only, Surveyed Area and Proposed Equipment Location appear to lie within ZONE "X" per F.E.M.A Flood Insurance Rate Map Community Panel No. 01117C0206E with an effective date of 2/20/2013. Zone "X": "Areas of Minimal Flood Hazard".

SURVEYOR'S CERTIFICATION:

To: Kimberly Horn & Associates, Inc.  
I hereby certify (or state) that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief.



PROPOSED EQUIPMENT DATA

Latitude: 33° 21' 26.27" NORTH  
Longitude: 86° 47' 08.94" WEST  
Ground Elevation: 590.15 feet AMSL NAVD88  
CORS Benchmark: D12226 AL30

SURVEY RELEASE DATA

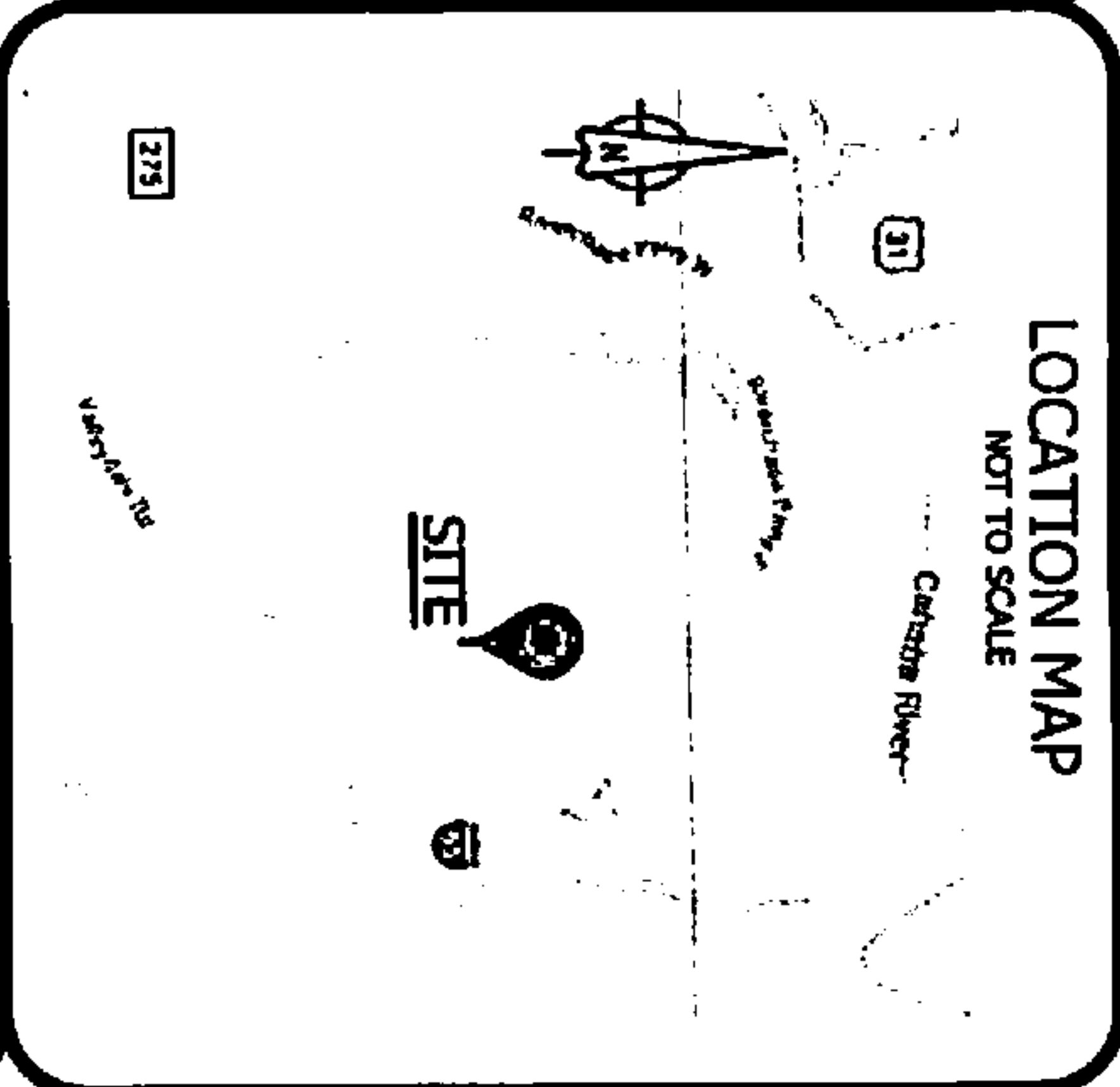
No.	DETAILS	DATE	BY
0	Original Survey Issue	10-22-2019	NB
1	Title Examination	10-22-2019	NB

LESSEES 10' UTILITY EASEMENT

All that land lying and being in Section 30, Township 19 South, Range 3 West, Shelby County, Alabama, and being a part of the lands owned by Darnack Enterprises, LLC, of record in Instrument No. 20180419-000132400, Office of the Probate Judge, Shelby County, Alabama, and being more particularly described as that land which lies 5 feet on each side of a Centerline described as follows:

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Said tract contains 0.01 Ac (507 Square Feet), more or less.

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**LEGEND**

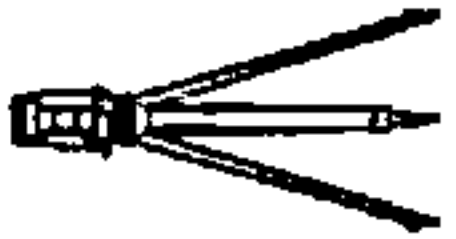
- IRON ROD FOUND
- TELECOM JUNCTION
- ⊖ WATER METER
- POC POINT OF COMMENCEMENT
- POB POINT OF BEGINNING
- POT POINT OF TERMINUS
- ESMT EASEMENT
- R/W RIGHT-OF-WAY
- PAVEMENT WITH CURB
- PUBLIC R/W
- TAX PARCEL BOUNDARY
- TIE LINE
- 5' CONTOURS
- 1' CONTOURS
- UOE MARKED UG ELECTRICAL
- UOT MARKED UG TELECOM
- W MARKED WATER LINE

THE LAND CONSULTANTS LLC  
5449 Highway 841  
Jasper, TN 37347  
(423) 304-8722

PREPARED FOR  
**verizon**  
VERIZON WIRELESS

SPECIAL PURPOSE SURVEY  
SITE NAME:  
**HVR086**  
SITE# 018985796  
WOODS OF RIVERCHASE DRIVE, HOOVER, AL 35244  
Section 30, Township 19 South, Range 2 West  
Shelby County, Alabama

ISSUE #: 1  
ISSUE DATE: 02-20-2020  
SEE ISSUE LIST, SHEET #1  
DRAWN BY: NB  
CHECKED BY: TLS  
APPROVED BY: TLS  
**COVER SHEET**  
SHEET 1 OF 3



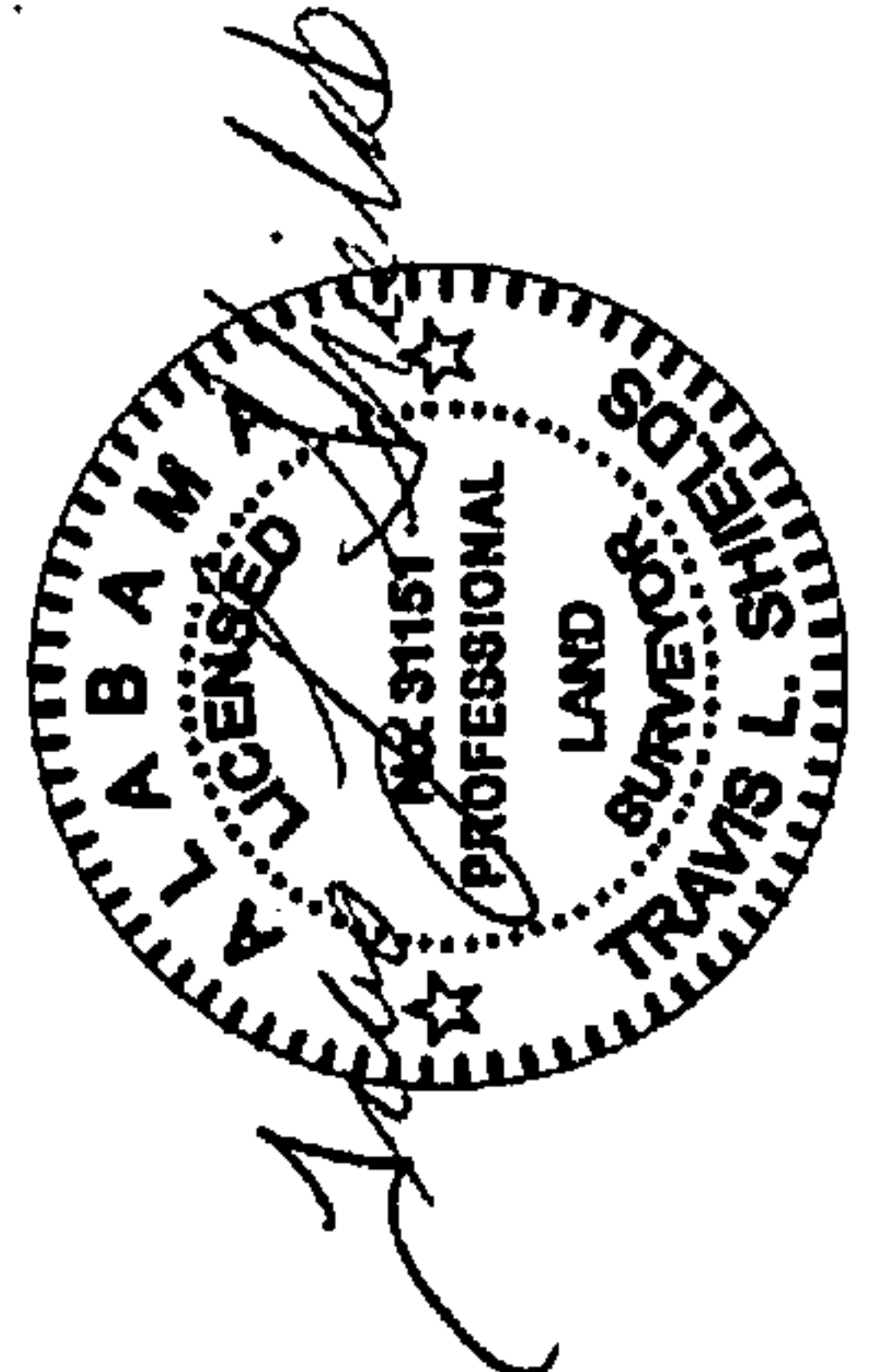
THE  
LAND CONSULTANTS  
LLC  
5449 Highway #41  
Jasper, TN 37347  
(423) 304-6722

PREPARED FOR  
**verizon**  
VERIZON WIRELESS

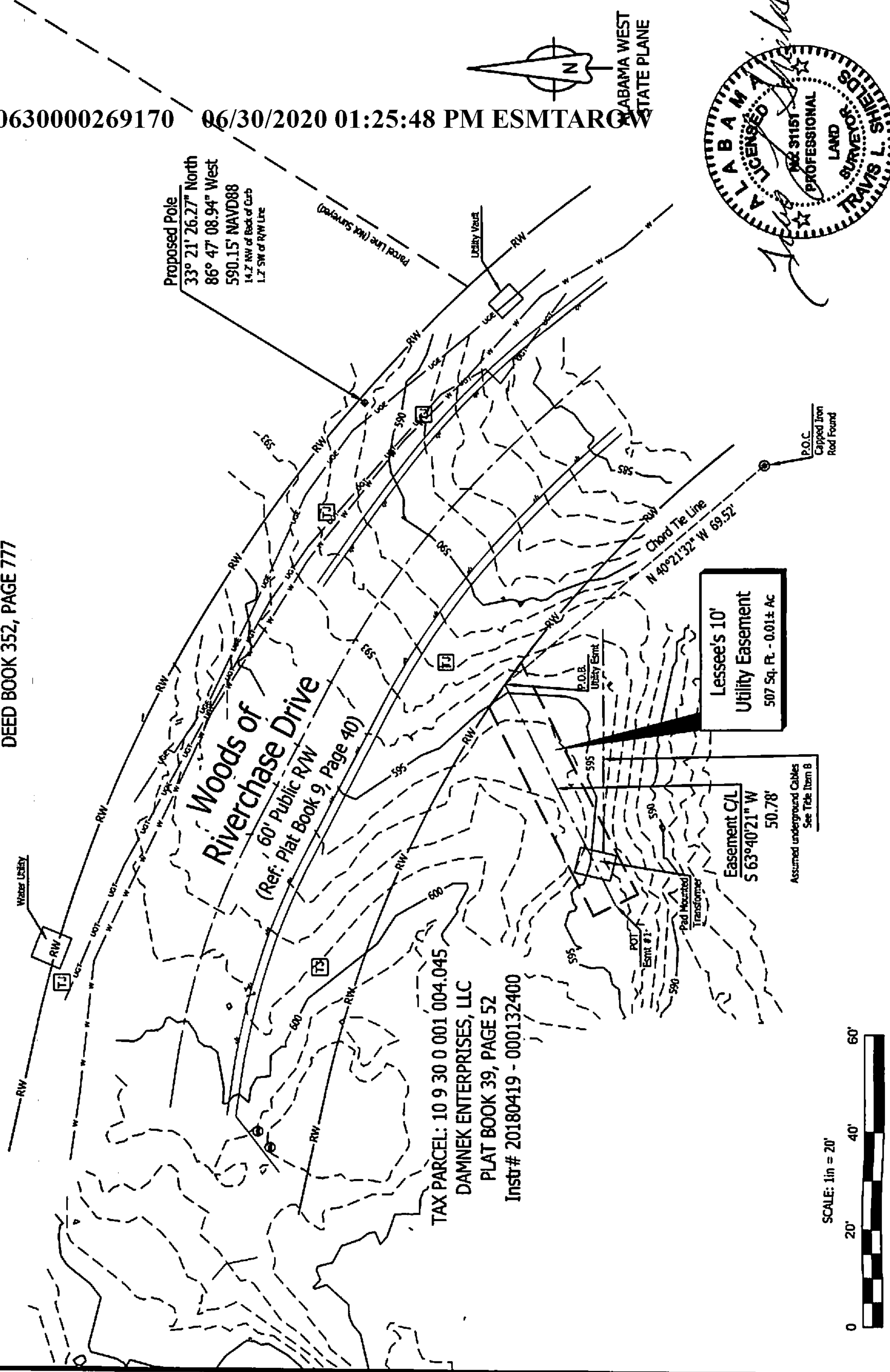
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ISSUE DATE: 02-20-2020  
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DRAWN BY: NB  
CHECKED BY: TLS  
APPROVED BY: TLS  
**SURVEY**  
SHEET 2 OF 3

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TAX PARCEL: 10 9 30 0 001 004.015  
100 COOPER RC, LLC., ET AL  
PLAT BOOK 9, PAGE 40  
DEED BOOK 352, PAGE 777



TAX PARCEL: 10 9 30 0 001 004.045  
DAMNEK ENTERPRISES, LLC  
PLAT BOOK 39, PAGE 52  
Instr# 20180419 - 000132400



**TITLE EXAMINATION**

(Surveyor's treatment of Title Examination Items is limited to the scope described in ALTA/ANSI 2016 requirements, Section 6, C. ii., and is limited to determination of the extent of land, that Title Items may influence, if any. Surveyor may indicate where review by Title Attorney may be warranted.)

Reference: Report of Title, Prepared by Fidelity National Title Insurance Company, File No. 30173722, Issue Date: Oct. 28, 2019, in respect of Parcel 10 9 30 0 001 004.045 ("Subject Parcel").

Item 1: Taxes: not addressed by Survey.

Item 2: Plat: PB 17-89: Previous Plat of Subject Parcel & surrounding Lands. No matters of relevance

Item 3: Restrictions, Deed 331-757: Deed is an earlier conveyance of larger vesting lands which may include the present Subject Parcel. Survey Does not address "Terms" or Restriction-type items that were blanket in nature for the vesting lands. Deed also includes a Sewer Easement, however the maps included with Deed do not impart the information necessary to relate the current Subject Parcel to the larger vesting lands described in this deed.  
(Note: Current Plat of Subject Parcel was not included in Title material).

Item 4: Easement to Alabama Power Company, Deed 345-673:  
Applies to lands other than Subject Parcel.

Item 5: Right-of-Way to Alabama Power Company, Deed 347-472:  
Applies to lands other than Subject Parcel.

Item 6: Easement to Alabama Power Company, Deed 323-685:  
Applies to lands other than Subject Parcel.

Item 7: Sewer Easement to Realty Development Corp, Deed 362-847:  
Applies to lands other than Subject Parcel.

Item 8: Easement to Alabama Power Company, Instrument #2015 04 24 000 133850: Blanket in nature for Subject Parcel (Deed includes a map showing certain electric facilities in vicinity of Lessee's Easement, as shown hereon).

Item 9: Mortgage, Instrument # 2018 04 19 000 132410:

Item 10: UCC Financing Statement Instrument # 2018 04 19 000 132430:  
Items apply to Subject Parcel - Not subject to mapping.

**LEGAL DESCRIPTION OF PARENT PARCEL**

Property located in Shelby County, Alabama

The following described real properties, located and situated in Shelby County, Alabama:

Lot 1A, according to the re-survey of Southwood Park Estates, 1st Addition to Hoover, as recorded in Map Book 39, Page 52, in the Probate Office of Shelby County, Alabama.

AND BEING the same property conveyed to Darnack Enterprises, LLC, an Alabama limited liability company from MakT's Investments, LLC, an Alabama limited liability company by Warranty Deed dated April 18, 2018 and recorded April 19, 2018 in Instrument No. 20180419000132400.

Tax Parcel No. 10 9 30 0 001 004.045

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Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
06/30/2020 01:25:48 PM  
\$56.00 JESSICA  
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*Allen S. Bayl*

THE  
LAND CONSULTANTS  
LLC

5449 Highway #41  
Jasper, TN 37347  
(423) 304-6722

PREPARED FOR  
**verizon**  
VERIZON WIRELESS

SPECIAL PURPOSE SURVEY  
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DRAWN BY: NB  
CHECKED BY: TLS  
APPROVED BY: TLS

**TITLE**  
SHEET 3 OF 3