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Please Record and Return To:

Terry L. Miller  
Mitchell & Mitchell, P.C.  
108 S. Thornton Ave.  
P. O. Box 668  
Dalton, GA 30722-668

## **STORM DRAINAGE EASEMENT AGREEMENT**

**Georgia, Whitfield County**

**This Storm Drainage Easement Agreement** (this “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), by and between the North Georgia Radio Group, L.P., a Georgia limited partnership (hereinafter called “Grantor”), and the **City of Dalton, Georgia**, a municipal corporation of the State of Georgia, party of the second part (hereinafter called “Grantee”), their respective heirs, administrators, successors and assigns:

### **WITNESSETH:**

**WHEREAS**, Grantor is the owner of certain real property and improvements in the City of Dalton, Whitfield County, Georgia, as described in Exhibit “A” attached hereto and incorporated herein by reference (the “North Georgia Radio Group, L.P. Property”); and

**WHEREAS**, Grantee is the owner of certain real property adjacent to the North Georgia Radio Group, L.P. Property and more particularly described as Riverbend Road (the “City Property”); and

**WHEREAS**, Grantee has constructed, or will construct, a storm sewer pipe and storm water structures on the North Georgia Radio Group, L.P. Property (collectively the “North Georgia Radio Group, L.P. Municipal Storm Sewer”); and

**WHEREAS**, Grantor acknowledges that the work to be performed in this Agreement may not alleviate all issues relating to the collection and drainage of stormwater on and from

the North Georgia Radio Group, L.P. Property; and

**WHEREAS**, Grantee requires non-exclusive access to and use of a portion of the North Georgia Radio Group, L.P. Property to discharge storm water originating from the City Property into the North Georgia Radio Group, L.P. Municipal Storm Sewer; and Grantor is willing to grant the requested access and use on and subject to the terms hereof; and

**WHEREAS**, Grantee desires non-exclusive temporary access and use of a portion of the North Georgia Radio Group, L.P. Property to construct the North Georgia Radio Group, L.P. Municipal Storm Sewer and Grantor is willing to grant the requested access and use on and subject to the terms hereof; and

**WHEREAS**, upon completion of the installation and construction of the North Georgia Radio Group, L.P. Municipal Storm Sewer, Grantee intends to be responsible for all costs associated with the use, maintenance, repair, replacement, inspection, and reconstruction of the North Georgia Radio Group, L.P. Municipal Storm Sewer, as it relates to maintaining reasonable drainage flow from the Riverbend Road right of way to the discharge point; and

**WHEREAS**, in order to evidence the understanding between Grantor and Grantee with respect to the North Georgia Radio Group, L.P. Municipal Storm Sewer, Grantor intends to declare, establish, create, grant, and/or convey certain easement rights to Grantee for and with respect to the installation, utilization, maintenance, repair and re-construction of the installations and utilization of the Storm Drainage Easement (as defined herein below), all as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid, the covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **Storm Drainage Easement**. Grantor, for itself and on behalf of its successors and assigns, and for and on behalf of anyone claiming by, through or under Grantor, does hereby grant, bargain, sell and convey unto Grantee and its successors and assigns, a perpetual, non-exclusive easement in, on, over, under, across and through that certain portion of the North Georgia Radio Group, L.P. Property shown as the "Proposed 15' Easement" on the Plat attached hereto as Exhibit "B" and incorporated herein by this reference (also the "Storm Drainage Easement"). The rights, benefits, privileges, and easement granted herein is for the purpose of the non-exclusive use and enjoyment of the Storm Drainage Easement to channel, distribute and transport storm water originating from and across the City's Property through the North Georgia Radio Group, L.P. Municipal Storm Sewer. Notwithstanding the foregoing, Grantor hereby agrees to accept such storm water discharge through the North Georgia Radio Group, L.P. Municipal Storm Sewer in its current intensity, rate, volume and location.

2. **Temporary Construction Easement**. Grantor, for itself and on behalf of its successors and assigns, and for and on behalf of anyone claiming by, through or under Grantor,

does hereby grant, bargain, sell and convey unto Grantee and its successors and assigns, a temporary, non-exclusive easement in, on, over, under, across and through the North Georgia Radio Group, L.P. Property described by the legal description attached hereto as Exhibit "A" and incorporated herein by this reference (the "Construction Easement"). The rights, benefits, privileges, and easement granted herein is for the purpose of construction of the North Georgia Radio Group, L.P. Municipal Storm Sewer. Said Construction Easement is temporary and shall expire upon completion of the North Georgia Radio Group, L.P. Municipal Storm Sewer.

3. **Additional Rights.** The Storm Drainage Easement granted herein shall include:

(a) all rights, benefits, privileges, and easements necessary or convenient for the full enjoyment and use of the Storm Drainage Easement for the purposes described herein;

(b) the right of entry into and upon the North Georgia Radio Group, L.P. Property for the purpose of access and ingress to and egress from the Storm Drainage Easement in order to effect the rights, privileges and easements set forth herein;

(c) the right to cut away and keep clear, remove and dispose of all trees, undergrowth or other obstructions now or as may exist on the Storm Drainage Easement, which removal is necessary for Grantee's use and enjoyment of easements, rights and privileges granted herein; and

(d) the right, when required by law, governmental regulation or necessity to conduct scientific, geotechnical, archaeological or other studies, investigation or other testing on or below the ground surface of the Storm Drainage Easement.

4. **Reservation of Rights.** Except for the rights, privileges, benefits and easements granted herein, Grantor hereby reserves all its right, title and interest in and to the Storm Drainage Easement appurtenant to its fee simple estate and for any and all purposes not inconsistent with Grantee's easement as expressly permitted herein.

5. **Conditions and Obligations of Easement Use.**

(a) The use of the Storm Drainage Easement by the Grantee shall be in accordance with all laws, ordinances, codes, and regulations of all governmental authorities having jurisdiction over the Storm Drainage Easement. Any such use of the Storm Drainage Easement by the Grantee shall be undertaken in such a manner as to minimize the disturbance to and interruption of Grantor's use of the North Georgia Radio Group, L.P. Property to the greatest extent practicable.

(b) Grantee shall operate, repair, replace and maintain continuously the North Georgia Radio Group, L.P. Municipal Storm Sewer on or within the Storm Drainage Easement.

(c) Grantee shall be solely responsible to maintain reasonable drainage flow

from the Riverbend Road right of way to the discharge point, which shall be at Grantee's absolute discretion. The North Georgia Radio Group, L.P. Municipal Storm Sewer and Storm Drainage Easement shall remain free and clear of all liens and other encumbrances arising out of the exercise by the Grantee of its rights hereunder.

(d) Any construction, maintenance, repair or other work or activities performed on the North Georgia Radio Group, L.P. Municipal Storm Sewer or within the Storm Drainage Easement by Grantee shall be done in a good, workmanlike manner and the Storm Drainage Easement shall be left in a clean and good condition, with all debris removed therefrom and with trenches and cuts properly filled so that all grades, paved areas, and permitted landscaped and grassed areas and other permitted improvements which may have been disturbed by such work are restored to their former condition as nearly as practicable; provided that if the affected area within the Storm Drainage Easement is natural and has not been improved, such areas shall be smoothed to commercial lawn grade and seeded with grass following such activity.

(e) Except in the event of an emergency, Grantee shall use commercially reasonable efforts to provide Grantor with at least ten (10) days prior written notice of any construction, maintenance, repair or other work or activities to be performed on the North Georgia Radio Group, L.P. Municipal Storm Sewer or within the Storm Drainage Easement by Grantee.

(f) In the event that the Grantee, its employees, agents, or assigns, shall damage the North Georgia Radio Group, L.P. Municipal Storm Sewer, the area within the Storm Drainage Easement or the North Georgia Radio Group, L.P. Property, then, at its sole cost and expense and within thirty (30) days after receipt of written notice from Grantor that Grantee has caused such damage, Grantee shall repair, or cause to be repaired, such damage in a good, clean, and workmanlike manner, and to their former condition as nearly as practicable.

6. **Covenants of Grantor.**

(a) Grantor waives all right to any further compensation for the use and enjoyment of the rights and privileges granted herein.

(b) Grantor does hereby covenant with the Grantee that Grantor is lawfully seized and possessed of the North Georgia Radio Group, L.P. Property above described, that it has a good and lawful right to convey said easement, rights and privileges granted herein.

(c) Grantor irrevocably binds itself to refrain from making any claim or demand, or to commence, cause, or permit to be prosecuted any action in law or equity against Grantee, or any other person, firm or entity claiming by or through Grantee on account of any damage by way of a "taking" or inverse condemnation from the installation or the operation of the Storm Drainage Easement.

7. **No Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift of dedication to the general public or for any general public use.

8. **Successors and Assigns.** The Storm Drainage Easement shall run with title to and burden the North Georgia Radio Group, L.P. Property and shall be binding upon and inure to the benefit of and be enforceable by the legal representatives, successors and assigns of Grantor and Grantee. All obligations of Grantor and Grantee hereunder shall be binding upon their respective heirs, administrators, successors-in-title and assigns.

9. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and may not be amended, waived or discharged except by instrument in writing executed by the party against which enforcement of such amendment, waiver or discharge is sought.

10. **Severability.** The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement, or any portion thereof, shall not affect the remaining portions thereof, or any part thereof, and this Agreement shall be modified to substitute in lieu of the invalid provision, a like and valid provision which reflects the agreement of the parties with respect to the covenant, agreement, condition or provision which has been deemed invalid.

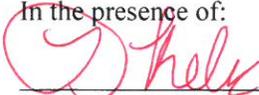
11. **Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and upon execution by the Grantor and Grantee, this Agreement shall be promptly recorded in the Deed Records of Whitfield County, Georgia.

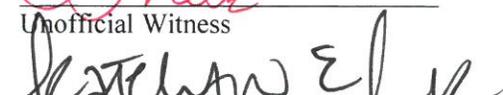
12. **Time of Essence.** Time is of the essence with respect to this Agreement.

13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

**IN WITNESS WHEREOF,** the Grantor has signed, sealed and delivered this Agreement as of the day and year first set forth above.

Signed, sealed and delivered  
In the presence of:

  
\_\_\_\_\_  
Unofficial Witness

  
\_\_\_\_\_  
Notary Public

My commission expires: 10.25.2023

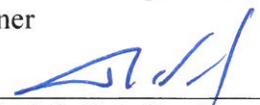
[Notarial Seal]



**Grantor:**

North Georgia Radio Group, L.P., a  
Georgia limited partnership

By Whitfield Communications, Inc., a  
Tennessee corporation, its general  
partner

  
\_\_\_\_\_  
Paul G. Fink, President (Seal)

**Grantee:**

**City of Dalton**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## **EXHIBIT "A"**

A tract or parcel of land lying and being in Land Lot 255 of the 12<sup>th</sup> District and 3<sup>rd</sup> Section of Whitfield County, Georgia and being more particularly described as follows:

To find the POINT OF BEGINNING proceed northerly along the westerly right-of-way of Riverbend Road (50-foot right-of-way) a distance of 157.28 feet from its intersection with the center line of Lavert Drive to an iron pin of 5/8-inch rebar which is the POINT OF BEGINNING; thence north 88 degrees 38 minutes 31 seconds west a distance of 400.00 feet to a point where an iron pin of ½ inch rebar is found; thence North 09 degrees 30 minutes 31 seconds west a distance of 400.00 feet to a point; thence south 88 degrees 38 minutes 31 seconds east a distance of 400.00 feet to a point on the west right-of-way of Riverbend Road (50-foot right-of-way) where an iron pin of ½-inch rebar is found; and thence south 09 degrees 30 seconds 31 minutes east along the westerly right-of-way of Riverbend Road (50-foot right-of-way) a distance of 400.00 to a point which is the POINT OF BEGINNING.

Said tract or parcel of land is shown on Plat of Survey for Clear Channel Broadcasting The City of Dalton dated November 23, 2021 by Christopher Lee Lewis, GRLS No. 3063. For vesting deed see Deed Book 3542, Page 260 of the Whitfield County, Georgia Deed Records and being Tax Parcel No. 12-255-07-000.

## EXHIBIT "B"

### CLEAR CHANNEL BROADCASTING INC. MUNICIPAL STORM SEWER EASEMENT

A tract or parcel of land lying and being in Land Lot 255 of the 12<sup>th</sup> District and 3<sup>rd</sup> Section of Whitfield County, Georgia and being more particularly described as follows:

To find the POINT OF BEGINNING for the Clear Channel Broadcasting Inc. Municipal Storm Sewer Easement proceed northerly along the westerly right-of-way of Riverbend Road (50-foot right-of-way) a distance of 157.28 feet from its intersection with the centerline of Lavert Drive to an iron pin of 5/8 inch rebar and then continue north 09 degrees 30 minutes 31 seconds west along the west right-of-way of Riverbend Road (50-foot right-of-way) a distance of 384.73 feet to a point which is the POINT OF BEGINNING for this Easement; thence north 88 degrees 38 minutes 31 seconds west a distance of 400.00 feet to a point; thence north 09 degrees 30 minutes 31 seconds west a distance of 15.27 feet to a point; thence south 88 degrees 38 minutes 31 seconds east a distance of 400.00 feet to a point on the west right-of-way of Riverbend Road (50-foot right-of-way) where an iron pin of 1/2 inch rebar is found; and thence south 09 degrees 30 minutes 31 seconds east a distance of 15.27 feet to a point which is the POINT OF BEGINNING.

Said Easement is shown and described as "Proposed 15' Easement" on that Plat of Survey for Clear Channel Broadcasting The City of Dalton dated November 23, 2021 by Christopher Lee Lewis, GRLS No. 3063.

**BOUNDARY SURVEY (EASEMENT PLAT)**  
**CLEAR CHANNEL  
BROADCASTING, INC.**  
**THE CITY OF DALTON**  
BEING TAX PARCEL NO. 12-255-07  
LOCATED IN LAND LOT 255, 12th DISTRICT, 3rd SECTION  
WHITFIELD COUNTY, GEORGIA

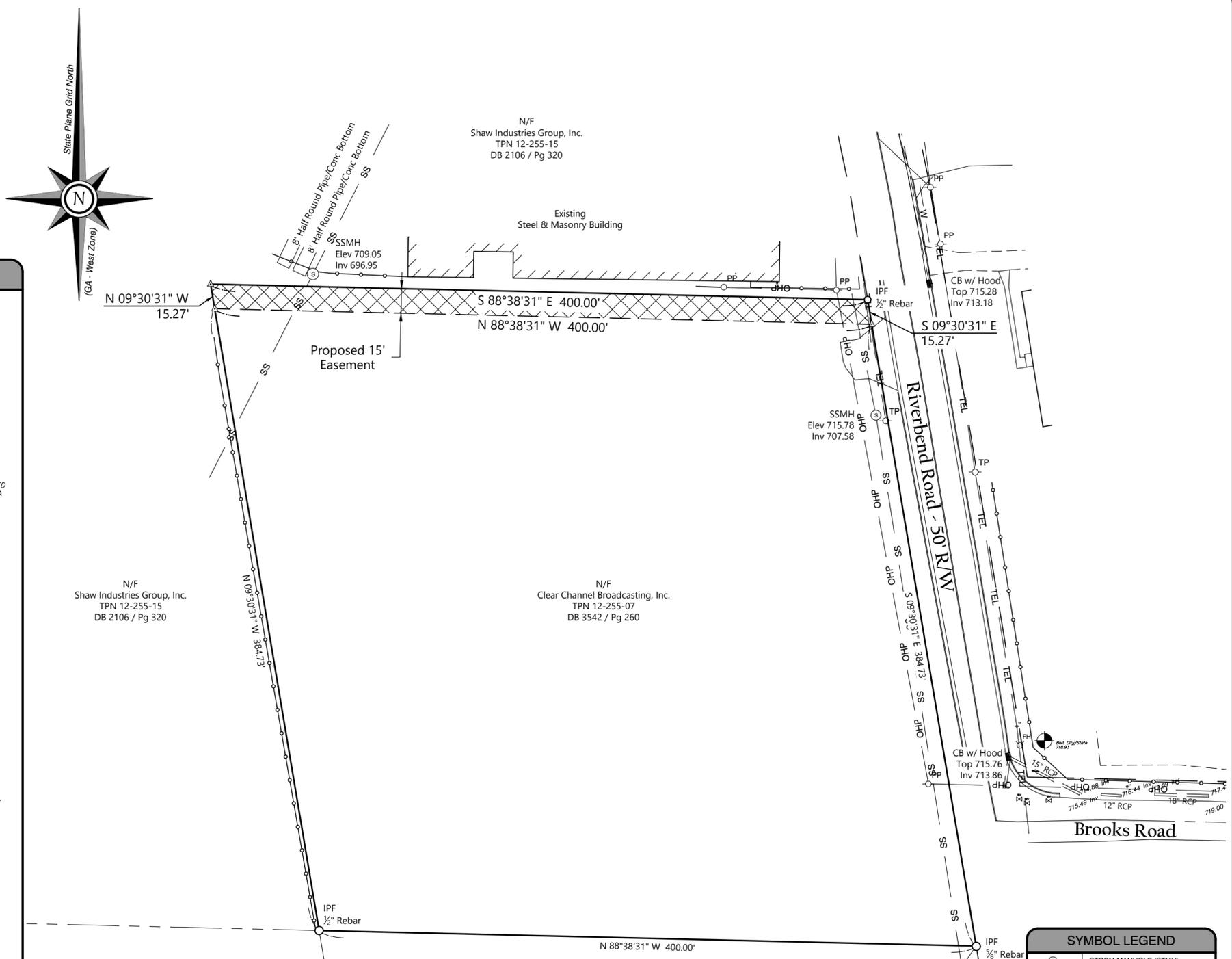
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GEORGIA PLS #3063  
TENNESSEE RLS #2824  
NORTH CAROLINA PLS #L-5329  
GEORGIA LSF #1169  
NORTH CAROLINA LSF #P-2042  
GSWCC LEVEL 2 #3115

SURVEY DATE	7/10/2021, 10/9/2021
SURVEY CREW	DSM, CLL
COMPUTED BY	CLL
DATE DRAWN	11/1/2021
DRAWN BY	CLL, DSM
CHECKED BY	CLL
REVISIONS	REVISION DATE

DRAWING FILE: 21-035 Staten-Riverbend Rd	
DWG SCALE	1"=50'
PROJ. NO.	21-035
SHEET NO. <b>1/1</b>	



**PLAT NOTES**

**CLOSURE STATEMENT**  
THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF 1':39,424' AND AN ANGULAR ERROR OF 02" PER ANGLE POINT.  
THE FIELD DATA WAS ADJUSTED USING LEAST SQUARES.  
THIS PLAT HAS A CLOSURE PRECISION OF 1':153,150.

**EQUIPMENT**  
ALL FIELD MEASUREMENTS WERE MADE USING A SOKKIA iX1003 ROBOTIC TOTAL STATION AND SOKKIA SHC5000 FIELD CONTROLLER.

**FLOOD STATEMENT**  
THE SUBJECT PROPERTY DOES NOT LIE WITHIN A 1% ANNUAL CHANCE SPECIAL FLOOD HAZARD AREA (ZONE X) AS SHOWN ON F.I.R.M. MAP NO. 13313C01390, EFFECTIVE DATE 09/19/2007.

**BASIS OF BEARINGS**  
BEARINGS ROTATED TO MONUMENTS FOUND AND SURVEY CONTROL POINTS LOCATED BY GPS OBSERVATION USING A SOKKIA GRX3 BASE ROVER SYSTEM WITH A SOKKIA SHC5000 FIELD CONTROLLER. ONSITE COORDINATES ESTABLISHED USING SAID SYSTEM OPERATING ON THE TRIMBLE REAL TIME GNSS NETWORK OPERATED BY eGPS SOLUTIONS, INC.

**SOURCE OF TITLE**  
TITLE TO THE SUBJECT PARCEL IS CURRENTLY VESTED IN CLEAR CHANNEL BROADCASTING, INC PER DEED BOOK 3542, PAGE 260.

**ZONING INFORMATION**  
THE SUBJECT PROPERTY IS CURRENTLY ZONED M-2

**BUILDING SETBACKS:**  
FRONT (MAJOR): 25'  
FRONT (MINOR): 20'  
SIDES: 15'  
REAR: 25'

**GENERAL NOTES**

- THIS PLAT WAS PREPARED BY THE SURVEYOR OR UNDER HIS DIRECT SUPERVISION BASED ON AN ACTUAL ON THE GROUND SURVEY.
- THE BOUNDARY CONDITIONS AND IMPROVEMENTS ARE CERTIFIED ONLY AS OF THE DATE OF PLAT PREPARATION AS LISTED IN THE TITLE BLOCK.
- NO TITLE REPORT WAS PROVIDED TO LEWIS & ASSOCIATES LAND SURVEYING, LLC, NOR WAS AN INDEPENDENT TITLE SEARCH PERFORMED BY LEWIS & ASSOCIATES LAND SURVEYING, LLC. ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED.
- ALL DIMENSIONS SHOWN ARE HORIZONTAL GROUND DISTANCES.
- LEWIS & ASSOCIATES LAND SURVEYING, LLC DOES NOT CERTIFY AS TO THE EXISTENCE OR NON-EXISTENCE OF ANY WETLANDS OR HAZARDOUS WASTE IN THE SURVEY AREA. NO UNDERGROUND INVESTIGATIONS HAVE BEEN PERFORMED.
- CERTIFICATION IS MADE ONLY TO THE PARTY(IES) NAMED ON THIS PLAT. CERTIFICATION DOES NOT EXTEND TO ANY UNNAMED PARTY(IES) WITHOUT AN EXPRESS RE-CERTIFICATION BY THE SURVEYOR.
- THIS SURVEY PLAT MAY NOT BE REPRODUCED, SCANNED OR ALTERED IN ANY WAY WITHOUT THE WRITTEN CONSENT OF LEWIS & ASSOCIATES LAND SURVEYING, LLC.
- COPIES OF THIS SURVEY ARE NOT VALID WITHOUT AN ORIGINAL SEAL AND SIGNATURE. COPIES WITHOUT AN ORIGINAL SIGNATURE SHOULD BE CONSIDERED PRELIMINARY AND ARE NOT VALID FOR RECORDING OR CONDUCTING LAND TRANSACTIONS.
- ALL IRON PINS SET TO BE 5/8" REBAR WITH YELLOW CAP BEARING THE REGISTRATION NUMBER OF THE SURVEYOR UNLESS NOTED OTHERWISE.
- THE TERM "CERTIFICATION" AS USED IN RULE "180-6-09(2) AND (3)" AND RELATING TO PROFESSIONAL ENGINEERING OR LAND SURVEYING SERVICES, AS DEFINED IN O.C.G.A. 43-15-2(6) AND (11), SHALL MEAN A SIGNED STATEMENT BASED UPON FACTS AND KNOWLEDGE KNOWN TO THE REGISTRANT AND IS NOT A GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED.
- THIS SURVEY COMPLIES WITH BOTH THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND THE OFFICIAL CODE OF GEORGIA ANNOTATED (OCGA) 15-6-67, IN THAT WHERE A CONFLICT EXISTS, THE REQUIREMENTS OF LAW PREVAIL.

**SURVEYOR'S CERTIFICATION**

AS REQUIRED BY SUBSECTION (d) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES, SIGNATURES, STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE CONFIRMED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.



CHRISTOPHER LEWIS  
GEORGIA PLS #11169 / GEORGIA LAND SURVEYING FIRM #1169  
TENNESSEE RLS #2824 / NORTH CAROLINA PLS #L-5329

11/3/2021  
DATE



**SYMBOL LEGEND**

	STORM MANHOLE (STMH)
	SANITARY SEWER MANHOLE
	WATER METER
	FIRE HYDRANT
	WATER VALVE
	UTILITY POLE
	TELEPHONE PEDESTAL
	LIGHT POLE
	IRON PIN FOUND (IPF)
	IRON PIN SET (IPS)
	BUILDING SETBACK LINE
	CENTERLINE
	OVERHEAD POWER LINE
	CHAIN LINK FENCE
	OPEN TOP PIPE
	CRIMPED TOP PIPE
	POINT OF BEGINNING
	DEED BOOK/PAGE
	PLAT BOOK/PAGE
	TAX PARCEL NUMBER

RESERVED FOR THE CLERK OF SUPERIOR COURT

