
20060404000154760 1/4 \$20.00
Shelby Cnty Judge of Probate, AL
04/04/2006 11:56:50AM FILED/CERT

This instrument was prepared by
and after recording return to:
Walter W. Hays, Jr.
Fortson, Bentley and Griffin, P.A.
440 College Avenue, Suite 220
Athens, Georgia 30601

PROPERTY ADDRESS:
2636 Valleydale Road
Birmingham, Alabama

MEMORANDUM OF OPTION AGREEMENT

THIS MEMORANDUM OF OPTION AGREEMENT (this "Memorandum"), made and entered into this 9th day of December, 2005, by and among **CHICKEN SCRATCH, INC.**, an Alabama corporation, as "Licensee," **ZAXBY'S FRANCHISING, INC.**, a Georgia corporation, as "ZFI," and **CARTER MASON INVESTMENTS, LLC**, an Alabama limited liability company, as "Landlord";

W I T N E S S E T H:

THAT WHEREAS, Licensee, ZFI and Landlord have entered into that certain Option Agreement dated December 9, 2005 (said Option Agreement and any and all amendments thereto and renewals and extensions thereof being collectively referred to herein as the "Option Agreement") with respect to the real property described on **Exhibit "A"** attached hereto and by reference made a part hereof (the "Premises"); and

WHEREAS, pursuant to the Option Agreement, ZFI has an exclusive right and option to become the tenant of the Premises in place of Licensee, and Landlord is obligated to recognize ZFI as tenant in said event; and

WHEREAS, Licensee, ZFI and Landlord are desirous of restating certain of the terms and conditions of the Option Agreement;

NOW, THEREFORE, for and in consideration of the premises and Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which are hereby acknowledged, Landlord and Licensee hereby agree that ZFI shall, and does hereby, have an exclusive and irrevocable right and option to become tenant of the Premises in the event Licensee should, for any reason, cease to be the tenant of the Premises, or in the event the License Agreement between Licensee and ZFI should ever, for any reason, be terminated or expire.


All the terms, conditions, provisions and covenants of the Option Agreement are incorporated herein by reference as though written out at length herein, and both the Option Agreement and this Memorandum shall be deemed to constitute a single instrument or document. This Memorandum is not intended to amend, modify, supplement or supersede any of the provisions of the Option Agreement, and to the extent there may be any conflict or inconsistency between the Option Agreement and this Memorandum, the Option Agreement shall control.

IN WITNESS WHEREOF, the parties have hereunto set their hands, affixed their seals and delivered these presents as of the day and year first above written.

LICENSEE:


CHICKEN SCRATCH, INC.

Signed, sealed and delivered
in the presence of:

By: 
Name: Courtney H. Mason, Jr.
Title: President

[CORPORATE SEAL]

Witness


Witness


State of Alabama

County of Shelby

I, Deborah G Crabtree, the undersigned Notary Public in and for said County, in said State, hereby certify that Courtney H. Mason, Jr., whose name as President of Chicken Scratch, Inc., an Alabama corporation, is signed to the foregoing instrument, and who has properly identified himself to me, acknowledged before me on this day that, being informed of the contents of said instrument, he as said officer and with full authority, executed the same voluntarily on behalf of and as the act of said corporation.

Given under my hand and seal this 9th day of December, 2005.

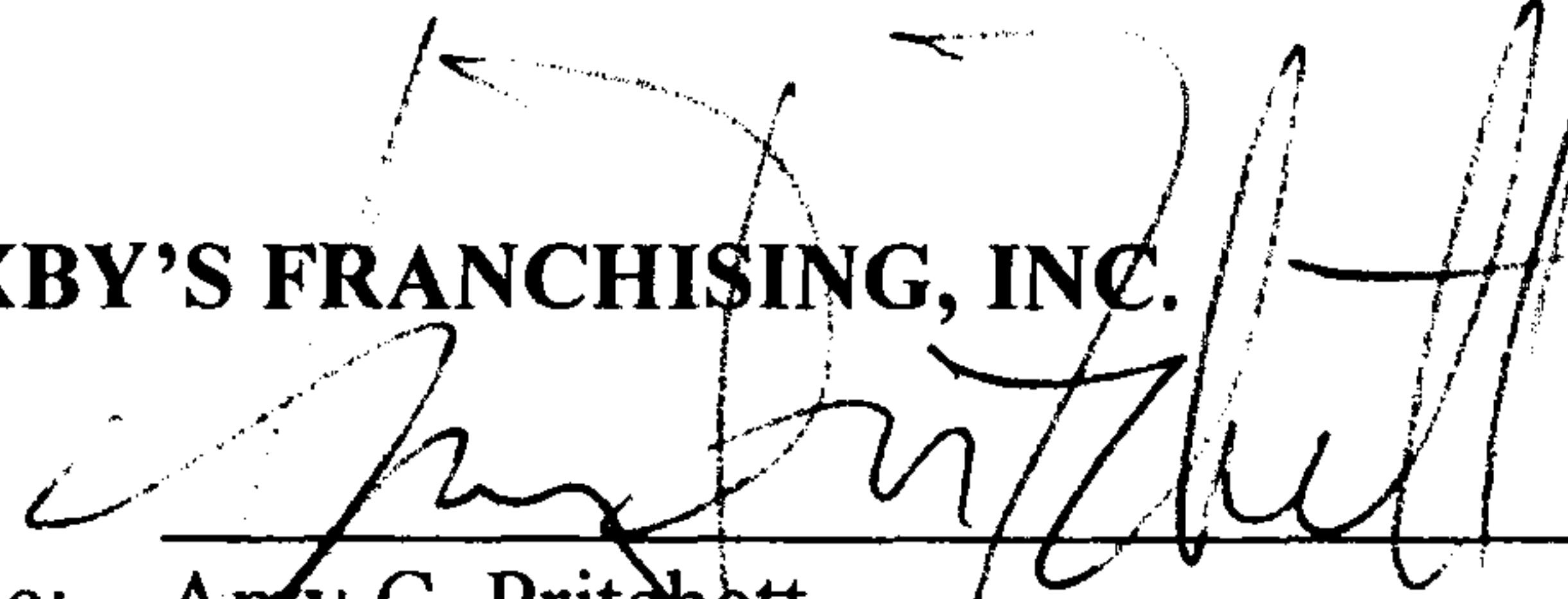
(NOTARY SEAL)


Notary Public
Commission Expiration: 5/4/08

ZFI:


ZAXBY'S FRANCHISING, INC.

Signed, sealed and delivered
in the presence of:

By: 
Name: Amy C. Pritchett
Title: Vice President of Franchise Administration

[CORPORATE SEAL]

Witness

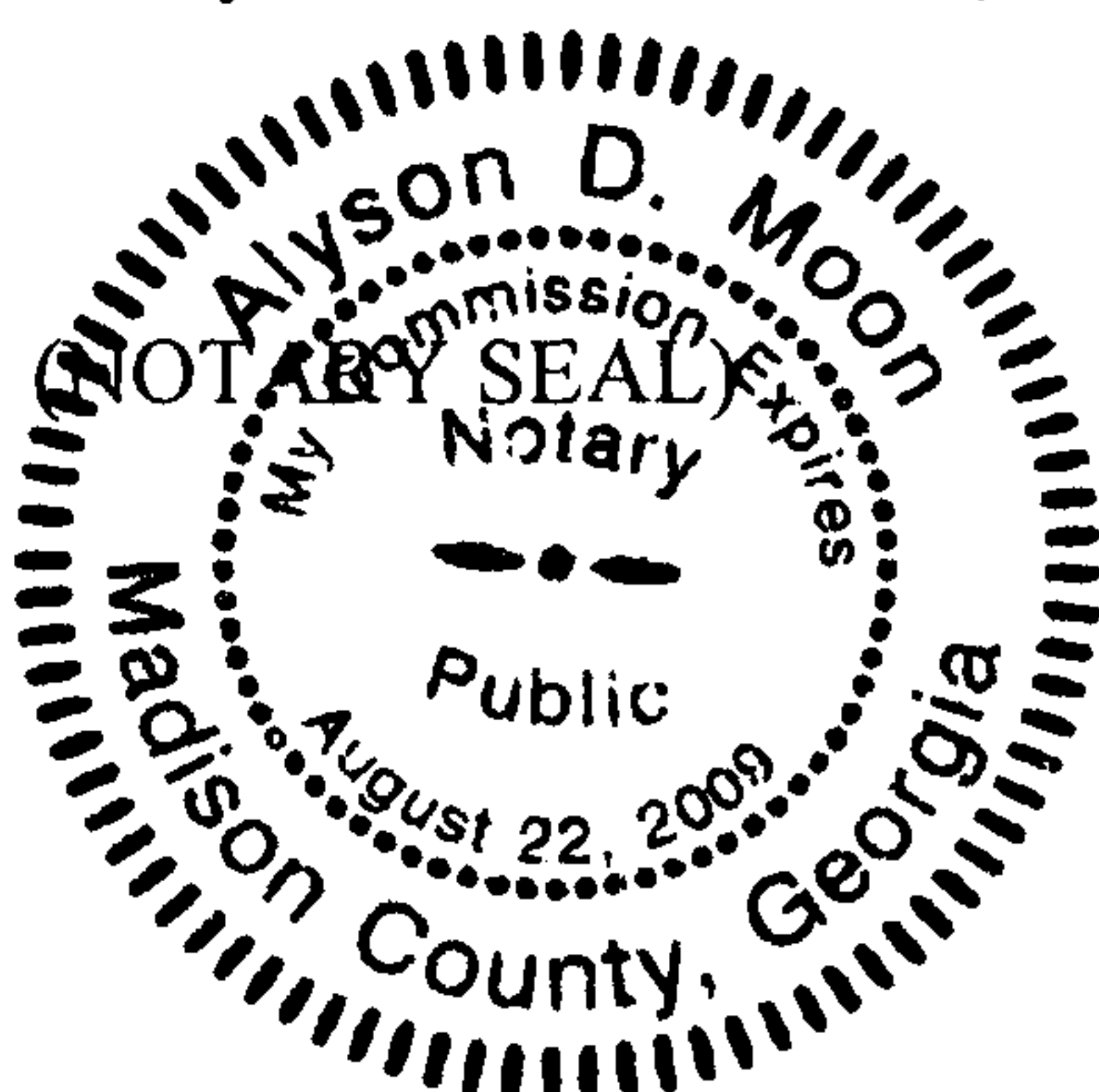

Witness

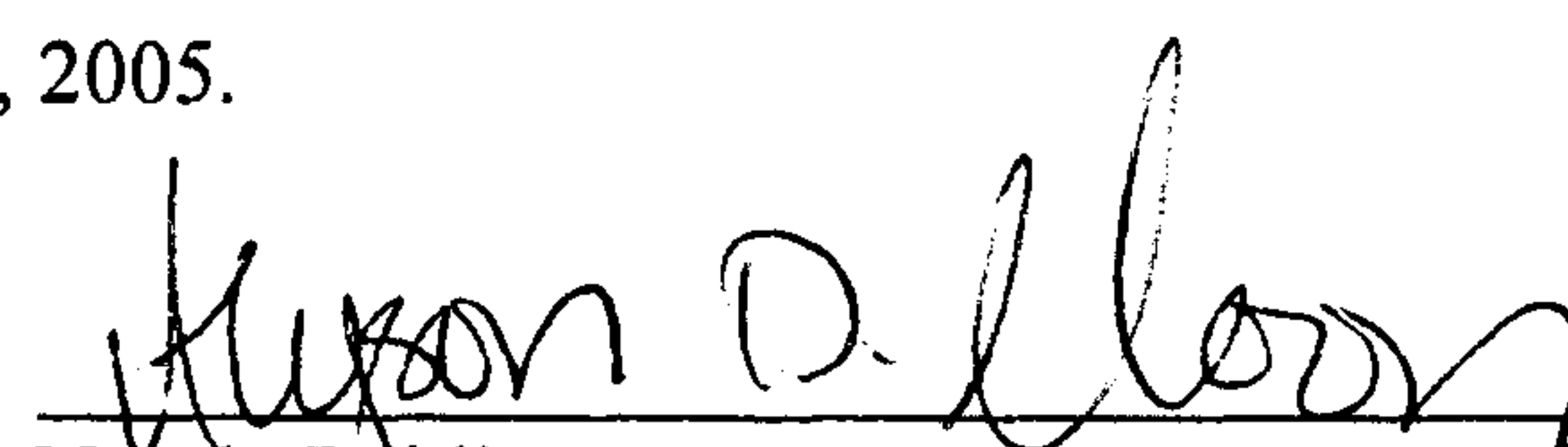
State of Georgia

County of Oconee

I, Alyson D. Moon, the undersigned Notary Public in and for said County, in said State, hereby certify that Amy C. Pritchett, whose name as Vice President of Franchise Administration of Zaxby's Franchising, Inc., a Georgia corporation, is signed to the foregoing instrument, and who has properly identified herself to me, acknowledged before me on this day that, being informed of the contents of said instrument, she as said officer and with full authority, executed the same voluntarily on behalf of and as the act of said corporation.

Given under my hand and seal this 31st day of December, 2005.




Notary Public
Commission Expiration: 8-22-09



20060404000154760 3/4 \$20.00
Shelby Cnty Judge of Probate, AL
04/04/2006 11:56:50AM FILED/CERT

LANDLORD:

CARTER MASON INVESTMENTS, LLC

Signed, sealed and delivered
in the presence of:

Witness

Witness

State of Alabama

County of Shelby


I, Deborah G Crabtree the undersigned Notary Public in and for said County, in said State, hereby certify that Courtney H. Mason, Jr. and Kerry Carter, whose names as Members of Carter Mason Investments, LLC, an Alabama limited liability company, are signed to the foregoing instrument, and who have properly identified themselves to me, acknowledged before me on this day that, being informed of the contents of said instrument, they as said Members and with full authority, executed the same voluntarily on behalf of and as the act of said company.

Given under my hand and seal this 9th day of December, 2005.

(NOTARY SEAL)

Notary Public

Commission Expiration: 2/4/08


20060404000154760 4/4 \$20.00
Shelby Cnty Judge of Probate, AL
04/04/2006 11:56:50AM FILED/CERT

**EXHIBIT A
TO
MEMORANDUM OF OPTION AGREEMENT**

DESCRIPTION OF PREMISES

Lot 1, according to the Survey of Lakeview Commercial Parc, as recorded in Map Book 35, Page 149, in the Probate Office of Shelby County, Alabama.