

**Prepared by and
after recording return to:**

Nancy Drummond, Esq.
King, Drummond & Dabbs, P.C.
Suite 180
100 Centerview Drive
Birmingham, AL 35216

Agreement with Respect to Alabama Power License

THIS Agreement with Respect to Alabama Power License (this "**Agreement**"), entered into as of the April 17, 2006, by and among HIGHWAY 31 ALABASTER, LLC ("**Alabaster One**"), an Alabama limited liability company, HIGHWAY 31 ALABASTER TWO, LLC ("**Alabaster Two**"), an Alabama limited liability company (Alabaster One and Alabaster Two being collectively called the "**Developers**" in this Agreement), and J. C. PENNEY PROPERTIES, INC. ("**Penney**"), a Delaware corporation.

RECITALS:

- A. The parties hereto have entered into a certain Construction, Operating And Easement Agreement (the "**Penney OEA**") dated March 16, 2006, recorded on March 16, 2006 as Instrument No. 20060316000123780 in the Office of the Judge of Probate of Shelby County, Alabama, and a certain unrecorded Supplemental Agreement of even date therewith (the "**Penney Documents**").
- B. Developers and Target Corporation, Inc. ("**Target**") have entered into that certain Operation And Easement Agreement (the "**Target OEA**") dated as of January 13, 2006, and recorded on January 17, 2006, as instrument number 20060117000026240 in the office of the Shelby County, Alabama, Judge of Probate.
- C. The parties together with Target, and The Commercial Development Authority of the City of Alabaster, Alabama, have granted to Alabama Power Company ("**Alabama Power**") an Easement agreement ("**Easement Agreement**") for overhead power lines, which agreement will be recorded in the in the Office of the Judge of Probate of Shelby County, Alabama.

- D. In connection with the Easement Agreement, the parties thereto have also entered into a License Agreement (herein so called, and together with the Easement Agreement, the “**Alabama Power Documents**”) regarding permitted parking and other encroachments into such easement, such license agreement being dated April 17, 2006.
- E. Developers and Penney wish to set forth their respective obligations with each other under the Penney Documents as affected by the Alabama Power Documents.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements contained herein, the parties, for themselves and their respective successors and assigns, in consideration of the respective undertakings of the parties hereunder, covenant and agree as follows (all of the recitals set forth above being hereby incorporated herein as fully as if set forth herein):

1. As between Developers and Penney, Developers agree that (i) Developers shall maintain the common area and perform all other obligations of Developers under the Penney Documents and the Target OEA, provided that Developers shall not be required to do anything that would violate the Easement of Alabama Power or any of the restrictions in the Alabama Power Documents governing the Strip Portions (as that term is defined in the License Agreement), and Developers’ obligation in this clause (i) shall include the performance of all obligations with respect to the Encroachment (as defined in the License Agreement) that otherwise would be Penney’s responsibility under the Alabama Power Documents unless such obligation arises from a violation of the Encroachment by Penney, (ii) the parking counts shall be the same as shown on the Site Plan attached to the Penney OEA, and the parking and drive lanes on the Penney Tract shall be configured as set forth in the Site Plan attached to the Penney OEA, (iii) the location of the 100 foot wide easement area burdened by the Easement and the location of the Penney Building shall be as shown on the Site Plan attached to the Penney OEA, and (iv) the location of points of entry of the utilities into the Penney Building shall be determined as set forth in the Penney Documents and not as shown in the exhibit to the License Agreement.

2. Developers at their expense shall record this Agreement in the Office of the Judge of Probate of Shelby County, Alabama within thirty days after the date of this Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed and delivered in multiple counterparts, each counterpart being deemed an original, to be effective as of the date first set forth above.

HIGHWAY 31 ALABASTER, LLC,
an Alabama limited liability company

By: [Signature]
Name: William Leitner
Delegated Authorized Signatory

THE STATE OF ALABAMA

COUNTY Jefferson

I, a Notary Public, in and for said County in said State, hereby certify that William Leitner whose name as a Delegated Authorized Signatory for HIGHWAY 31 ALABASTER, LLC, an Alabama limited liability company, is signed to the foregoing instrument or conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such Delegated Authorized Signatory and with full authority, executed the same voluntarily for and as the act of said trust and for and as the act of said limited liability company.

Given under my hand this the 26th day of April, 2006.

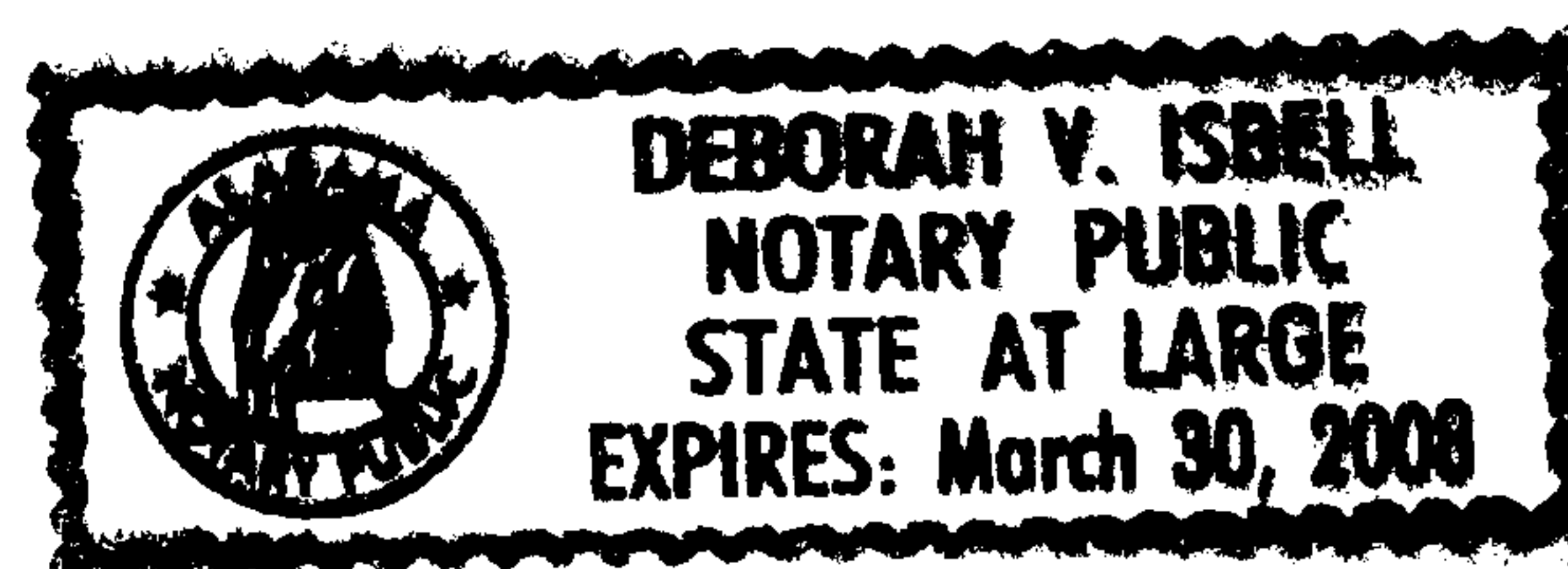
[Signature]

Notary Public

Print Name Deborah V. Isbell

My commission expires:

March 30, 2008



HIGHWAY 31 ALABASTER TWO, LLC,
an Alabama limited liability company

By: WJ
Name: William Leitner
Delegated Authorized Signatory

THE STATE OF ALABAMA

COUNTY Jefferson

I, a Notary Public, in and for said County in said State, hereby certify that William Leitner whose name as a Delegated Authorized Signatory for HIGHWAY 31 ALABASTER TWO, LLC, an Alabama limited liability company, is signed to the foregoing instrument or conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such Delegated Authorized Signatory and with full authority, executed the same voluntarily for and as the act of said trust and for and as the act of said limited liability company.

Given under my hand this the 26th day of April, 2006.

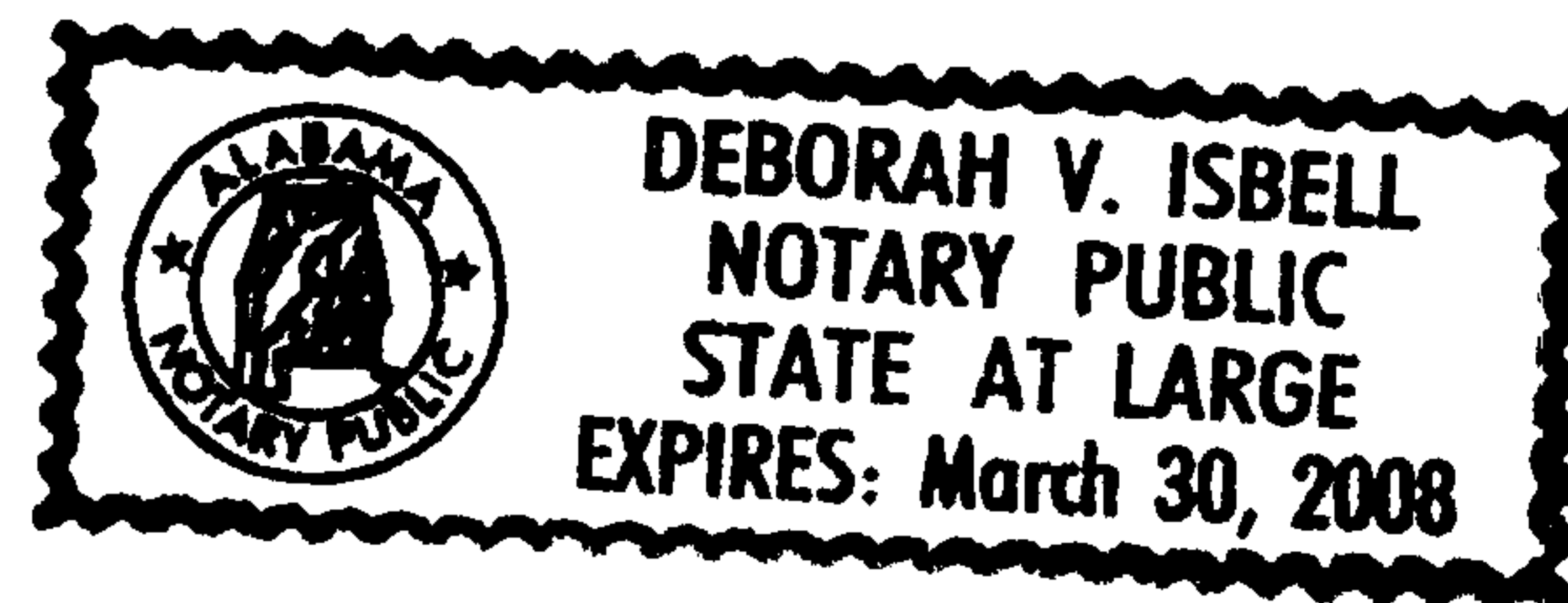
Deborah V. Isbell

Notary Public

Print Name Deborah V. Isbell

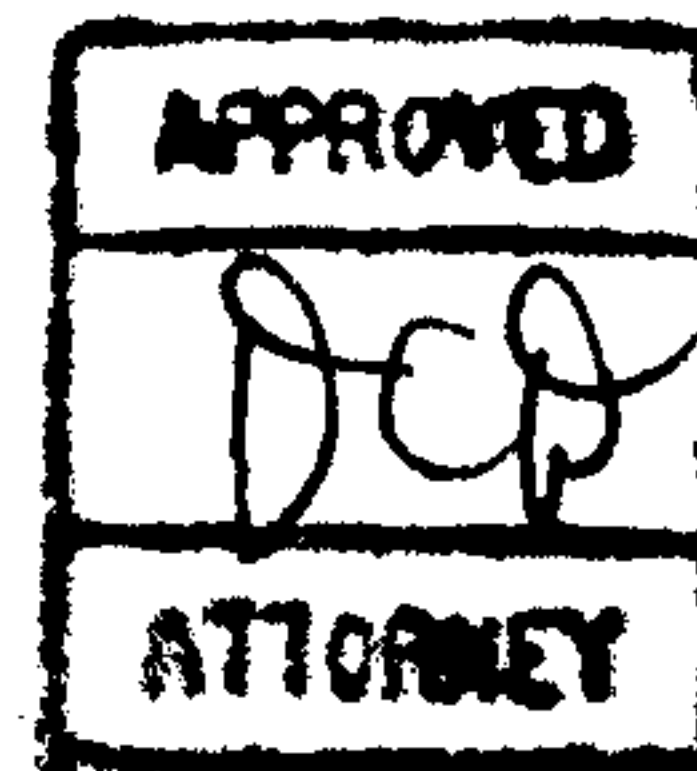
My commission expires:

March 30, 2008



J. C. PENNEY PROPERTIES, INC.
a Delaware corporation

By: 
Paul Freddo, President

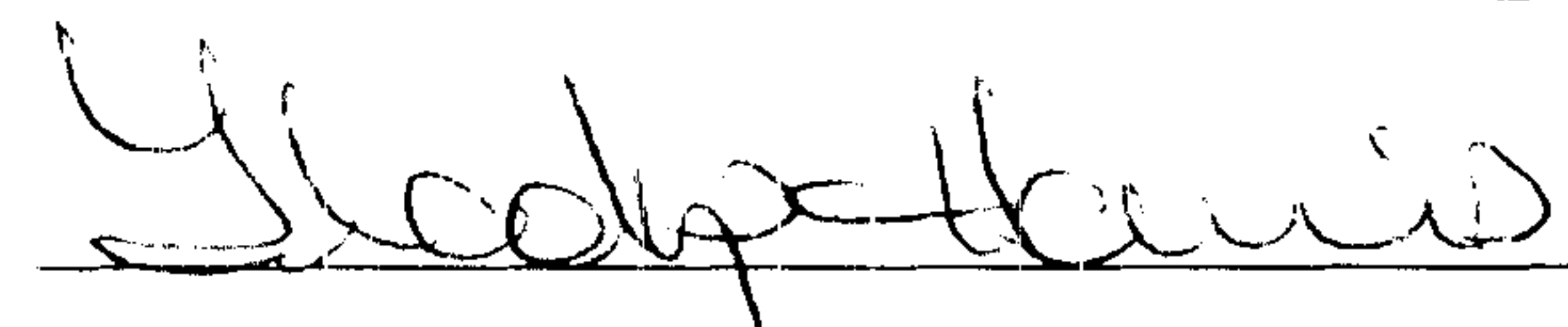


THE STATE OF TEXAS

COUNTY Collin

I, a Notary Public, in and for said County in said State, hereby certify that Paul Freddo, whose name as President of J. C. PENNEY PROPERTIES, INC., a Delaware corporation, is signed to the foregoing instrument or conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 14th day of April, 2006.



Notary Public

Print Name Gladys Harris

My commission expires:

1/20/2010

