


Alabaster, AL  
Hwy 31 and I-65  
L/C: 001-0484  
File #43714

  
20070411000168550 1/12 \$2517.50  
Shelby Cnty Judge of Probate, AL  
04/11/2007 04:06:45PM FILED/CERT

Prepared by: Susanna Brown  
After recording, return to: Kim Warburton  
McDONALD'S CORPORATION  
One McDonald's Plaza  
Oak Brook, Illinois 60523

## MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is dated April 5, 2007 between **HIGHWAY 31 ALABASTER TWO, LLC, an Alabama limited liability company** ("Landlord") whose address is c/o Colonial Properties Trust, 3500 Blue Lake Drive, Suite 100, Birmingham, Alabama 55243, and **McDONALD'S USA, LLC, a Delaware limited liability company** ("Tenant") whose principal place of business is located at One McDonald's Plaza, Oak Brook, Illinois 60523.

1. LEASE: Landlord leases to Tenant the Premises with improvements and appurtenant easements, if any, in the City of Alabaster, County of Shelby, State of Alabama, described on Exhibit A attached ("Premises") and made a part of this Memorandum of Lease.

2. TERM: To have and to hold for a term commencing on March 22, 2007 and ending twenty (20) years from the date when a McDonald's Restaurant constructed on the Premises opens for business.

3. OPTION TO EXTEND: Landlord grants to Tenant the option to extend the term of the Lease at the expiration of the original term for four (4) successive periods of five (5) years each aggregating twenty (20) years.

4. COMMON AREA EASEMENT: Landlord grants to Tenant and Tenant's invitees, licensees, assigns, subtenants and patrons, during the term of the Lease and any extensions, a non-exclusive ingress/egress and parking easement to use all of those portions of the property described on Exhibit B, attached, ("Shopping Center") designated as common areas, parking areas and driveways.

5. STORM SEWER EASEMENT: Landlord grants to Tenant, during the term of the Lease and any extensions, a non-exclusive easement to connect to and use the storm sewer line and related facilities located in the Shopping Center and/or to surface drain over the Shopping Center.

6. MEMORANDUM: The rentals to be paid by Tenant and all of the obligations and rights of Landlord and Tenant are set forth in the Ground Lease dated \* ("Lease") executed by the parties. This instrument is merely a memorandum of the Lease and is subject to all of its terms, conditions and provisions. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail. This memorandum is binding upon and shall inure to the benefit of the heirs, successors, assigns, executors and administrators of the parties.

To indicate their consent to this agreement, the parties, or their authorized representatives or employees have signed this document.

LANDLORD:  
**HIGHWAY 31 ALABASTER TWO, LLC,**  
an Alabama limited liability company

TENANT: **McDONALD'S USA, LLC,**  
a Delaware limited liability company

929 By: [Signature]  
Its: Senior Vice-President Retail

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

ATTEST John L. Moss SVP

ATTEST

By: JOHN L. MOSS  
Its: SENIOR VICE PRESIDENT

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


WITNESS

Susan Dixon  
Jennifer Kelly

WITNESS

\_\_\_\_\_  
\_\_\_\_\_

Exhibit A – Legal Description of the Premises  
Exhibit B – Legal Description of the Shopping Center

  
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ACKNOWLEDGMENT

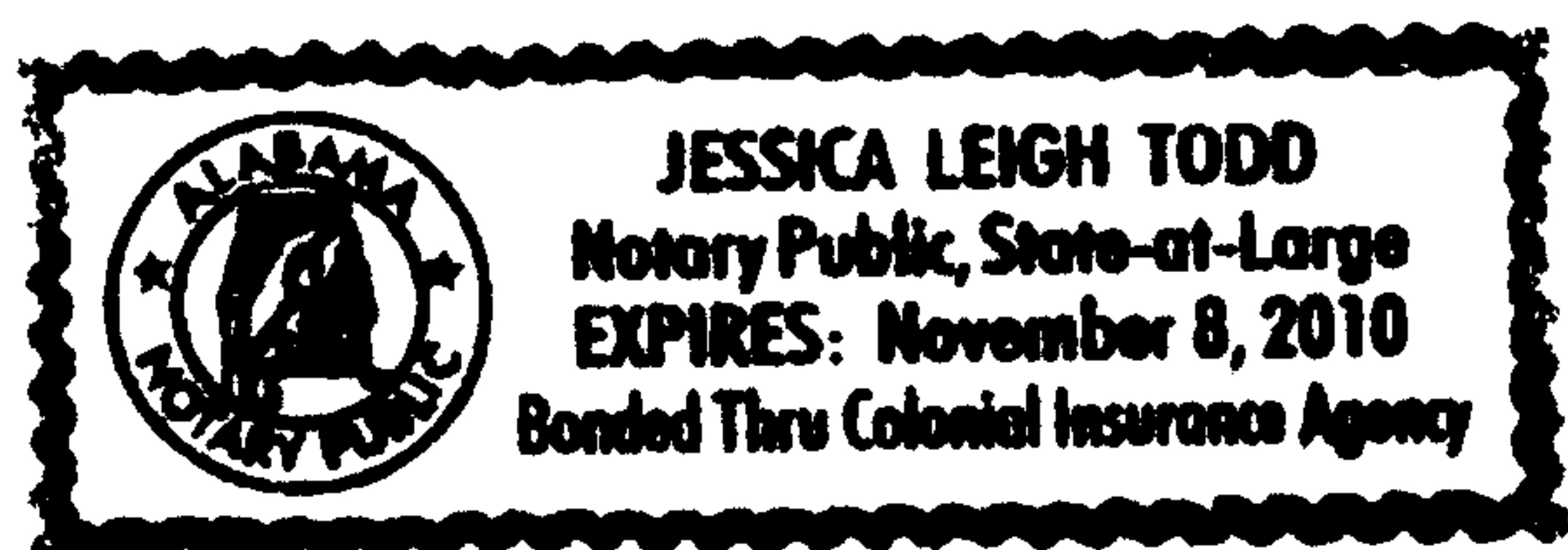
STATE OF Alabama,  
COUNTY OF Jefferson SS

I, Jessica Leigh Todd, a Notary Public in and for the county and state aforesaid,  
DO HEREBY CERTIFY that John L. Moss, as Senior Vice President and  
Landlord of Highway 31 Alabster Two,  
**LLC, an Alabama limited liability company**, who are personally known to me to be the  
persons whose names are subscribed to the foregoing instrument as such authorized parties,  
appeared before me this day in person and acknowledged that they signed, sealed and  
delivered the said instrument as their free and voluntary act as such authorized parties and as  
the free and voluntary act of said company for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 5<sup>th</sup> day of April, 2007.

Jessica Leigh Todd  
Notary Public

My commission expires Nov. 8, 2010.



To indicate their consent to this agreement, the parties, or their authorized representatives or employees have signed this document.

LANDLORD:  
**HIGHWAY 31 ALABASTER TWO, LLC,**  
an Alabama limited liability company

By: \_\_\_\_\_  
Its: Senior Vice-President Retail

ATTEST

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

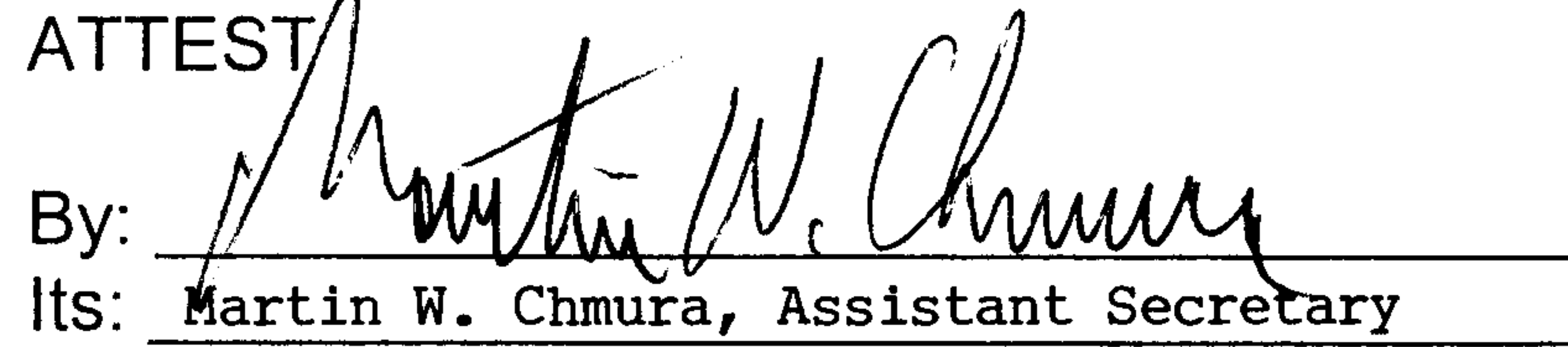
WITNESS

\_\_\_\_\_  
\_\_\_\_\_

TENANT: **McDONALD'S USA, LLC,**  
a Delaware limited liability company

By:   
Its: Catherine A. Griffin, Vice President

ATTEST

By:   
Its: Martin W. Chmura, Assistant Secretary

WITNESS

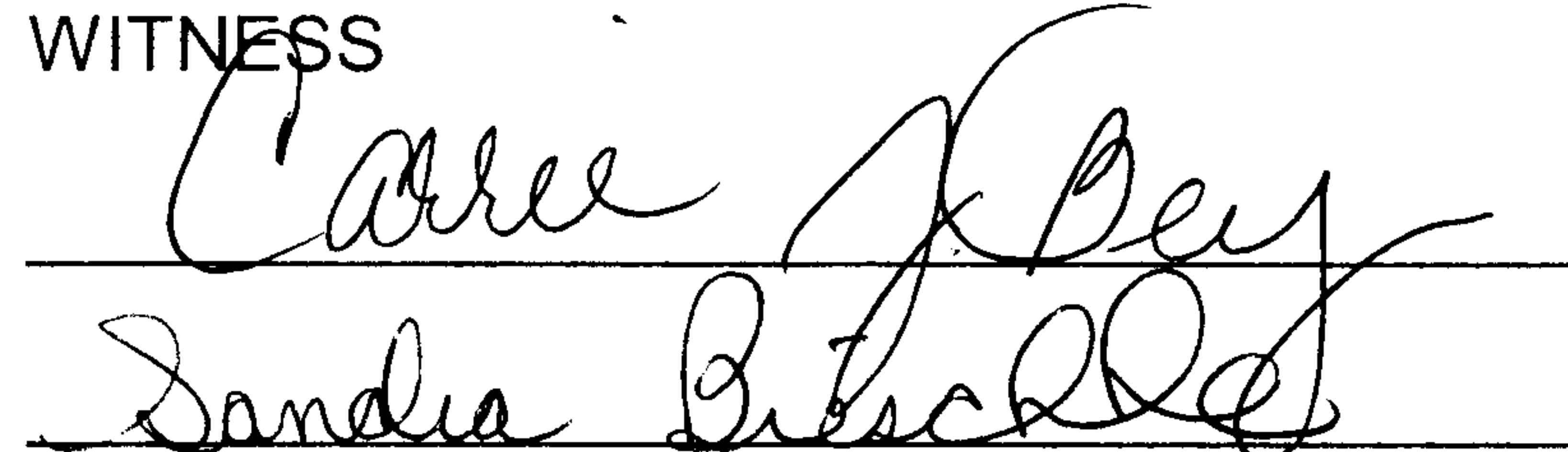
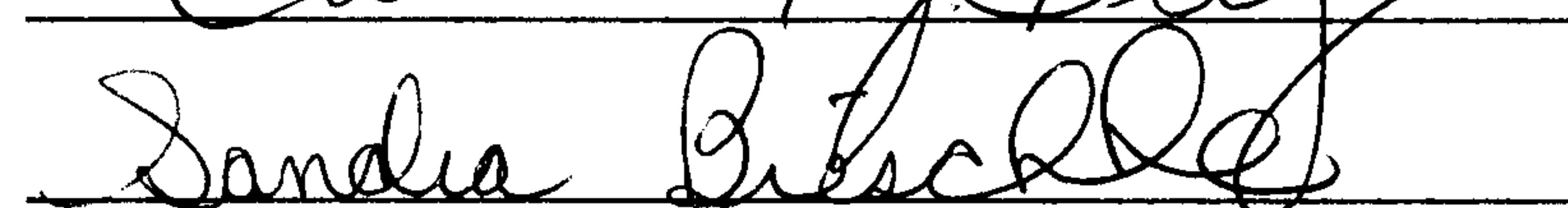

  


Exhibit A – Legal Description of the Premises  
Exhibit B – Legal Description of the Shopping Center



ACKNOWLEDGMENT - McDONALD'S  
(Attestation required)

  
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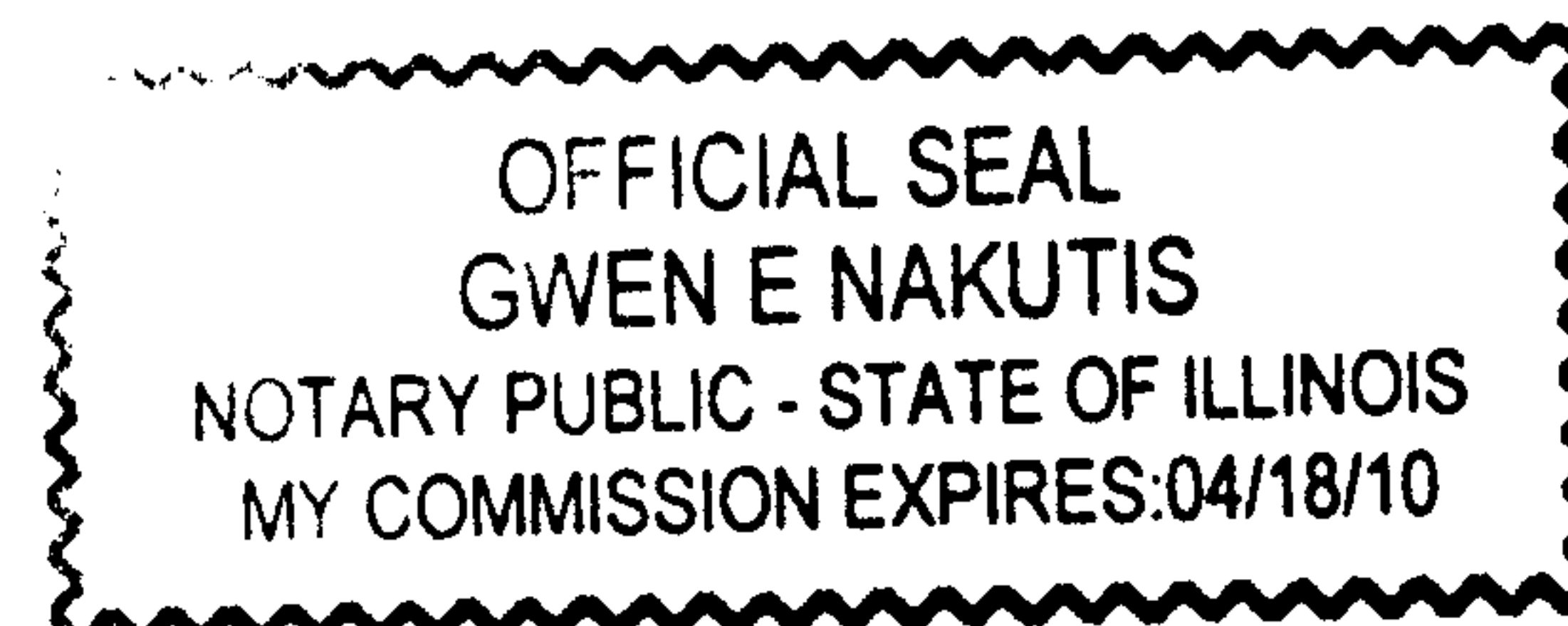
STATE OF ILLINOIS     )  
                                  ) SS  
COUNTY OF DUPAGE    )

I, Gwen E. Nakutis, a Notary Public in and for the county and state aforesaid,  
DO HEREBY CERTIFY that Catherine A. Griffin, as Vice President  
and Martin W. Chmura, as Assistant Secretary of  
**McDONALD'S USA, LLC, a Delaware limited liability company**, who are personally known to  
me to be the same persons whose names are subscribed to the foregoing instrument as such  
authorized parties appeared before me this day in person and acknowledged that they signed,  
sealed and delivered the said instrument as their free and voluntary act as such authorized  
parties and as the free and voluntary act of said company/corporation for the uses and  
purposes therein set forth.

Given under my hand and notarial seal, this 3 day of April, 2007.

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

My commission expires 04/18/10





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**EXHIBIT A**  
**Legal Description of the Premises**



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## LEGAL DESCRIPTION

### OUTPARCEL 4-1 – PROPOSED LOT 9

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 21 SOUTH, RANGE 3 WEST; THENCE RUN SOUTH 87 DEGREES 31 MINUTES 35 SECONDS EAST FOR A DISTANCE OF 673.67 FEET TO THE POINT OF BEGINNING; FROM THE POINT OF BEGINNING THUS OBTAINED, THENCE RUN NORTH 20 DEGREES 13 MINUTES 35 SECONDS WEST FOR A DISTANCE OF 93.26 FEET TO THE POINT OF COMMENCEMENT OF A CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 90 DEGREES 01 MINUTE 02 SECONDS AND A RADIUS OF 20.00 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 31.42 FEET; THENCE RUN NORTH 69 DEGREES 47 MINUTES 27 SECONDS EAST FOR A DISTANCE OF 201.44 FEET TO A POINT ON U.S. HIGHWAY 31; THENCE RUN SOUTH 20 DEGREES 39 MINUTES 53 SECONDS EAST ALONG SAID RIGHT OF WAY FOR A DISTANCE OF 127.40 FEET; THENCE RUN SOUTH 20 DEGREES 02 MINUTES 14 SECONDS EAST FOR A DISTANCE OF 78.74 FEET; THENCE RUN NORTH 87 DEGREES 31 MINUTES 35 SECONDS WEST, LEAVING SAID RIGHT OF WAY, FOR A DISTANCE OF 240.81 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 35,374.10 SQUARE FEET OR .81 ACRE.

The above described property is all or part of the property conveyed to Colonial Realty Limited Partnership by Ground Lease, dated December 1, 2005, a Memorandum of which dated as of December 1, 2005 and recorded January 11, 2006, as Instrument No. 20060111000019860, in the Shelby County Records; said interest being assigned to Highway 31 Alabaster Two, LLC by Assignment dated as of December 20, 2005 and recorded on January 11, 2006 as Instrument No. 2006011100019870 and Instrument No. 20060111000019880 in the Shelby County Records.

## EXHIBIT 2 SUBLEASED PROPERTY







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## LEGAL DESCRIPTION

### OUTPARCEL 4-2 – PROPOSED LOT 8

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 21 SOUTH, RANGE 3 WEST; THENCE RUN SOUTH 87 DEGREES 31 MINUTES 35 SECONDS EAST FOR A DISTANCE OF 673.67 FEET TO THE POINT OF BEGINNING; FROM THE POINT OF BEGINNING THUS OBTAINED, THENCE RUN NORTH 20 DEGREES 13 MINUTES 35 SECONDS WEST FOR A DISTANCE OF 93.26 FEET TO THE POINT OF COMMENCEMENT OF A CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 90 DEGREES 01 MINUTE 02 SECONDS AND A RADIUS OF 20.00 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 31.42 FEET; THENCE RUN NORTH 69 DEGREES 47 MINUTES 27 SECONDS EAST FOR A DISTANCE OF 201.44 FEET TO A POINT ON U.S. HIGHWAY 31; THENCE RUN SOUTH 20 DEGREES 39 MINUTES 53 SECONDS EAST ALONG SAID RIGHT OF WAY FOR A DISTANCE OF 127.40 FEET; THENCE RUN SOUTH 20 DEGREES 02 MINUTES 14 SECONDS EAST FOR A DISTANCE OF 78.74 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE LAST COURSE FOR A DISTANCE OF 14.03 FEET; THENCE RUN SOUTH 69 DEGREES 47 MINUTES 27 SECONDS WEST FOR A DISTANCE OF 202.12 FEET TO THE POINT OF COMMENCEMENT OF A CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 89 DEGREES 58 MINUTES 58 SECONDS AND A RADIUS OF 20.00 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 31.41 FEET; THENCE RUN NORTH 20 DEGREES 13 MINUTES 35 SECONDS WEST FOR A DISTANCE OF 86.90 FEET; THENCE RUN SOUTH 87 DEGREES 31 MINUTES 35 SECONDS EAST FOR A DISTANCE OF 240.81 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 13,347.26 SQUARE FEET OR .30 ACRE.


The above described property is all or part of the property conveyed to Landlord by Deed, dated January 12, 2006, recorded on January 13, 2006, as Instrument No. 20060113000022840, in the Shelby County Records.

### EXHIBIT 1 FEE OWNED PARCEL

LEGAL



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**EXHIBIT B**  
**Legal Description of the Shopping Center**  
(See Attached)



Exhibit A - Legal Description of Shopping Center

OVERALL  
LEGAL DESCRIPTION

A parcel of land situated in part of the East half of the Northwest quarter and part of the Northeast quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northeast corner of the Northeast one-quarter of the Northwest one-quarter of said Section and run South 00 degrees 28 minutes 59 seconds West along the East line for a distance of 59.73 feet to a point on the Southernmost right of way line of U.S. Highway 31 (right of way varies) and the POINT OF BEGINNING; thence run South 50 degrees 58 minutes 28 seconds East along said right of way for a distance of 290.23 feet to the point of commencement of a curve to the right, said curve having a radius of 2192.01 feet, a central angle of 14 degrees 27 minutes 05 seconds, a chord bearing of South 40 degrees 48 minutes 44 seconds East for a chord distance of 551.41 feet; thence run along the arc of said curve and along said right of way line for a distance of 552.88 feet; thence run South 56 degrees 37 minutes 09 seconds West along said right of way for a distance of 29.99 feet to the point of commencement of a curve to the right, said curve having a radius of 2162.01 feet, a central angle of 09 degrees 55 minutes 58 seconds, a chord bearing of South 28 degrees 40 minutes 35 seconds East for a chord distance of 374.33 feet; thence run along arc of said curve and along said right of way in a Southeasterly direction for a distance of 374.80 feet; thence run North 64 degrees 12 minutes 56 seconds East along said right of way for a distance of 28.61 feet; thence run South 20 degrees 39 minutes 53 seconds East along said right of way for a distance of 317.62 feet; thence run South 20 degrees 02 minutes 14 seconds East along said right of way for a distance of 290.64 feet to the point of commencement of a spiral curve to the left; thence run South 19 degrees 23 minutes 39 seconds East for a chord distance of 306.92 feet to the point of commencement of a curve to the left, said curve having a radius of 2401.83 feet, a central angle of 04 degrees 34 minutes 11 seconds, a chord bearing of South 24 degrees 09 minutes 33 seconds East for a chord distance of 191.51 feet; thence run along arc of said curve and along said right of way for a distance of 191.57 feet; thence run South 68 degrees 29 minutes 48 seconds West along said right of way for a distance of 9.96 feet to the point of commencement of a curve to the left, said curve having a radius of 2411.83 feet, a central angle of 10 degrees 42 minutes 14 seconds, a chord bearing of South 30 degrees 13 minutes 11 seconds East for a chord distance of 449.92 feet; thence run along arc of said curve and along said right of way in a Southeasterly direction for a distance of 450.57 feet; thence leaving said right of way, run South 14 degrees 14 minutes 05 seconds West for a distance of 196.57 feet; thence run South 41 degrees 36 minutes 27 seconds West for a distance of 23.06 feet; thence run South 02 degrees 27 minutes 46 seconds East for a distance of 36.91 feet to the Southeast corner of the Southwest one-quarter of the Northeast one-quarter of said Section; thence run North 87 degrees 51 minutes 24 seconds West along the South line of said quarter-quarter for a distance of 716.00 feet; thence leaving said South line, run North 22 degrees 00 minutes 08 seconds West for a distance of 295.00 feet; thence run North 89 degrees 10 minutes 01 seconds West for a distance of 297.23 feet to a point on the Easternmost right of way line of Interstate 65 (right of way varies); thence run North 24 degrees 39 minutes 45 seconds West



along said right of way for a distance of 445.56 feet; thence run North 64 degrees 14 minutes 34 seconds West along said right of way for a distance of 126.44 feet; thence run North 24 degrees 35 minutes 31 seconds West along said right of way for a distance of 344.56 feet to the point of commencement of a curve to the right, said curve having a radius of 3669.72 feet, a central angle of 10 degrees 59 minutes 37 seconds, a chord bearing of North 19 degrees 07 minutes 40 seconds West for a chord distance of 703.05 feet; thence run along arc of said curve and along said right of way in a Northwesterly direction for a distance of 704.13 feet; thence run North 01 degrees 24 minutes 20 seconds East along said right of way for a distance of 151.25 feet; thence leaving said right of way, run South 89 degrees 27 minutes 02 seconds East for a distance of 473.77 feet; thence run North 00 degrees 28 minutes 59 seconds East for a distance of 715.47 feet to the POINT OF BEGINNING. Said parcel contains 2,394,244 square feet or 54.96 acres more or less.

LESS AND EXCEPT THE FOLLOWING:

#### TARGET PARCEL

A parcel of land situated in part of the Southwest one-quarter of the Northeast one-quarter, Southeast one-quarter of the Northwest one-quarter and the Northwest one-quarter of the Northeast one-quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southeast corner of said Southwest one-quarter of the Northeast one-quarter and run North 87 degrees 51 minutes 24 seconds West along the South line of said quarter-quarter for a distance of 716.00 feet; thence leaving said South line, run North 22 degrees 00 minutes 08 seconds West for a distance of 295.00 feet; thence run North 89 degrees 10 minutes 01 seconds West for a distance of 297.23 feet to a point on the Easternmost right of way line of Interstate 65 (right of way varies); thence run North 24 degrees 39 minutes 45 seconds West along said right of way for a distance of 303.47 feet to the POINT OF BEGINNING; thence run along last described course and along said right of way for a distance of 142.09 feet; thence run North 64 degrees 14 minutes 34 seconds West along said right of way for a distance of 126.44 feet; thence run North 24 degrees 35 minutes 31 seconds West along said right of way for a distance of 344.56 feet; thence leaving said right of way, run North 38 degrees 23 minutes 35 seconds East for a distance of 214.72 feet to the point of commencement of a curve to the left, said curve having a radius of 330.92 feet, a central angle of 38 degrees 45 minutes 12 seconds, a chord bearing of South 89 degrees 41 minutes 18 seconds East for a chord distance of 219.59 feet; thence run along arc of said curve for a distance of 223.83 feet; thence run North 69 degrees 47 minutes 27 seconds East for a distance of 491.83 feet; thence run South 20 degrees 12 minutes 33 seconds East for a distance of 20.00 feet; thence run North 69 degrees 47 minutes 27 seconds East for a distance of 11.01 feet; thence run South 20 degrees 13 minutes 35 seconds East for a distance of 112.17 feet; thence run North 69 degrees 46 minutes 25 seconds East for a distance of 50.00 feet; thence run South 20 degrees 13 minutes 35 seconds East for a distance of 443.01 feet; thence run South 69 degrees 47 minutes 27 seconds West for a distance of 343.11 feet; thence run South 58 degrees 46 minutes 41 seconds West for a distance of 30.56 feet; thence run South 69 degrees 47 minutes 27 seconds West for a distance of 273.86 feet; thence run South 20 degrees 12 minutes 33 seconds East for a distance of 30.00 feet; thence run South 69 degrees 47



minutes 27 seconds West for a distance of 169.72 feet to the POINT OF BEGINNING. Said parcel contains 528,285 square feet or 12.13 acres more or less.

#### PENNEYS PARCEL

A parcel of land situated in part of the Southeast one-quarter of the Northeast one-quarter and the Southwest one-quarter of the Northeast one-quarter of Section 12, Township 21 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southeast corner of said Southwest one-quarter of the Northeast one-quarter and run North 87 degrees 51 minutes 24 seconds West along the South line of said quarter-quarter for a distance of 716.00 feet; thence leaving said South line, run North 22 degrees 00 minutes 08 seconds West for a distance of 379.31 feet; thence run North 69 degrees 47 minutes 27 seconds East for a distance of 135.72 feet; thence run North 20 degrees 12 minutes 33 seconds West for a distance of 207.90 feet; thence run North 69 degrees 47 minutes 27 seconds East for a distance of 241.45 feet; thence run North 20 degrees 12 minutes 33 seconds West for a distance of 20.00 feet; thence run North 69 degrees 47 minutes 27 seconds East for a distance of 145.77 feet to a point on a curve to the left, said curve having a radius of 287.00 feet, a central angle of 24 degrees 23 minutes 29 seconds, a chord bearing of South 42 degrees 38 minutes 39 seconds East for a chord distance of 121.26 feet; thence run along arc of said curve for a distance of 122.18 feet; thence run South 35 degrees 10 minutes 03 seconds West for a distance of 50.00 feet to the point of commencement of a curve to the left, said curve having a radius of 337.00 feet, a central angle of 44 degrees 47 minutes 15 seconds, a chord bearing of South 77 degrees 13 minutes 34 seconds East for a chord distance of 256.77 feet; thence run along arc of said curve for a distance of 263.43 feet to a point on the Westernmost right of way line of U.S. Highway 31 (right of way varies) and a point on a curve to the left, said curve having a radius of 2411.83 feet, a central angle of 00 degrees 27 minutes 46 seconds, a chord bearing of South 26 degrees 20 minutes 38 seconds East for a chord distance of 19.48 feet; thence run along arc of said curve and along said right of way for a distance of 19.48 feet; thence run South 63 degrees 25 minutes 29 seconds West for a distance of 37.52 feet; thence run South 02 degrees 07 minutes 39 seconds West for a distance of 297.41 feet to the point of commencement of a curve to the left, said curve having a radius of 25.00 feet, a central angle of 90 degrees 00 minutes 22 seconds, a chord bearing of South 42 degrees 52 minutes 33 seconds East for a chord distance of 35.36 feet; thence run along arc of said curve for a distance of 39.27 feet; thence run South 87 degrees 52 minutes 44 seconds East for a distance of 209.94 feet; thence run South 14 degrees 14 minutes 05 seconds West for a distance of 172.16 feet; thence run South 41 degrees 36 minutes 27 seconds West for a distance of 23.06 feet; thence run South 02 degrees 27 minutes 46 seconds East for a distance of 36.91 feet to the POINT OF BEGINNING. Said parcel contains 440,425 square feet or 10.11 acres more or less.

ALSO EXCLUDING OUTPARCELS 9 AND 10 WHICH ARE INTENDED FOR FUTURE NON-RETAIL DEVELOPMENT.

Shelby County, AL 04/11/2007  
State of Alabama

Deed Tax: \$2473.50

