

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

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

NON-DISTURBANCE AND ATTORNMENT AGREEMENT (FEE OWNER)

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is dated _____, 2007, between **McDONALD'S USA, LLC, a Delaware limited liability company** ("Sublessee") and **COMMERCIAL DEVELOPMENT AUTHORITY OF THE CITY OF ALABASTER, ALABAMA, an Alabama municipal corporation** ("Fee Owner").

PRELIMINARY STATEMENTS

A. Sublessee has executed a Sublease dated March 22, 2007 ("Sublease") with **Highway 31 Alabaster Two, LLC, an Alabama limited liability company**, ("Sublessor") for the premises ("Premises") described in Exhibit A. Fee Owner acknowledges receipt of a copy of the Sublease.

B. Fee Owner has leased the Premises or a portion of the Premises to Sublessor by a lease dated December 1, 2005, which was assigned to Sublessor by Assignment dated December 20, 2005 and (collectively, the "Head Lease").

C. Fee Owner and Sublessee desire to establish certain rights, safeguards, obligations and priorities with regard to their respective interest by means of this Agreement.

TERMS OF THE AGREEMENT

IN CONSIDERATION of the mutual covenants of the parties and other good and valuable consideration, Sublessee and Fee Owner agree as follows:

1. Fee Owner consents to the execution and delivery of the Sublease.
2. Provided the Sublease is in full force and effect and Sublessee is not in default under the Sublease, (beyond any period given Sublessee to cure the default), then:
 - a) Sublessee's right of possession to the Premises and Sublessee's other rights, duties and obligations arising out of the Sublease shall not be disturbed, modified, enlarged or otherwise affected by Fee Owner in the exercise of its rights or in the performance of its obligations, or in any other manner under the Head Lease. Further, Sublessee shall not be named as a party defendant in any proceedings resulting from a default of Sublessor nor in any other way be deprived of its rights under the Sublease.
 - b) If the current term of the Head Lease or any renewal shall terminate before the expiration of the term of the Sublease, as the Sublease may be renewed in accordance with its terms, the Sublease, if then in existence, shall continue as a Lease between Fee Owner as Landlord, and Sublessee as Tenant, with the same force and effect as if Fee Owner as Landlord, and Sublessee as Tenant, had entered into a Lease as of the date of termination of the Head Lease, containing the same terms, covenants and conditions as those contained in the Sublease, including the rights of renewal, for a term equal to the unexpired term of the Sublease.

c) If any term, provision, covenant or condition of the Sublease is or shall be contrary, contradictory, conflicting or silent with respect to any term, provision, covenant or condition of the Head Lease, except as provided above, the Sublease shall control and determine Sublessee's rights, duties and obligations with respect to Sublessee's possession, use and enjoyment of the Premises.

d) In the event that Fee Owner exercises any of its remedies in the event of a default by Sublessor, as provided for in the Head Lease, the Sublease shall not be terminated or affected by the default or actions of either party. Sublessee covenants and agrees to attorn to Fee Owner as its new Landlord if Sublessor's rights under the Head Lease are terminated, and the Sublease shall continue in full force and effect as a direct lease between Sublessee and Fee Owner, upon all of the terms, covenants, conditions, and agreements as set forth in the Sublease. However, in no event shall Fee Owner be:

(i) liable for any act or omission of Sublessor; or

(ii) bound by any payments of rent or additional rent made by Sublessee to Sublessor for more than one month in advance unless such pre-paid or additional rent was paid pursuant to the terms of the Lease.

3. The above provisions shall be self-operative and effective without execution of any further instruments on the part of either party. However, Sublessee agrees to execute and deliver to Fee Owner or to any other person to whom Sublessee agrees to attorn such other instruments as either shall request in order to comply with these provisions.

4. This Agreement may not be modified other than by an agreement in writing signed by the parties or by their respective successors in interest.

5. This Agreement shall run with the land and inure to the benefit of and be binding upon the parties and their successors and assigns.

5. This agreement may be signed in counterparts and shall have the same force and effect as if all parties executed one document.

[SIGNATURE PAGE FOLLOWS]



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To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this Agreement.

FEE OWNER:
COMMERCIAL DEVELOPMENT AUTHORITY OF
THE CITY OF ALABASTER, ALABAMA
an Alabama municipal corporation

By Dennis Rother
Its CHAIRMAN

ATTEST:
By Nancy Burns
Its _____

WITNESS:


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

By _____
Its _____

ATTEST:
By _____
Its _____

WITNESS:

EXHIBIT A – Legal Description of the Premises


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To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this Agreement.

FEE OWNER:
**COMMERCIAL DEVELOPMENT AUTHORITY OF
THE CITY OF ALABASTER, ALABAMA**
an Alabama municipal corporation

By _____
Its _____

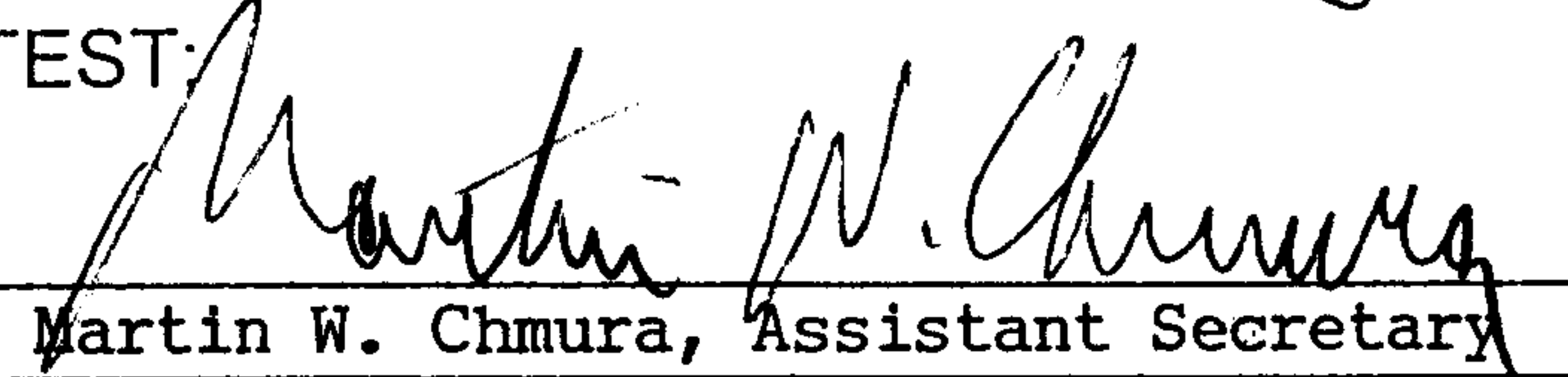
ATTEST:

By _____
Its _____

WITNESS:

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

By  *Kt*
Its Catherine A. Griffin, Vice President

ATTEST: 
By Martin W. Chmura, Assistant Secretary
Its _____

WITNESS:

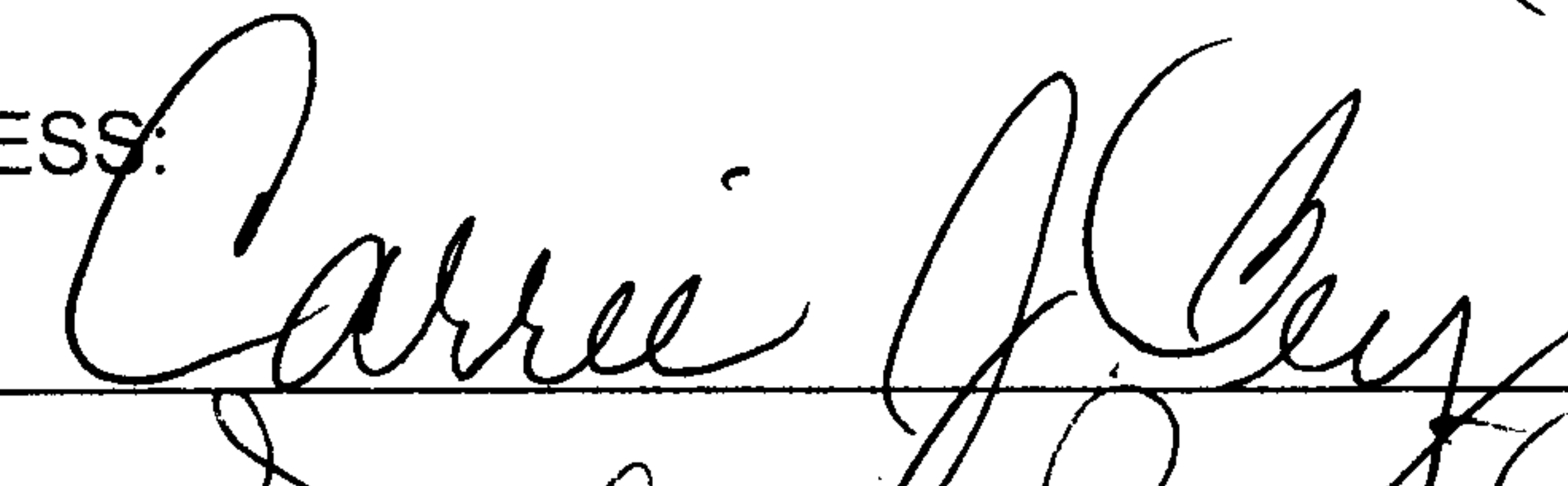
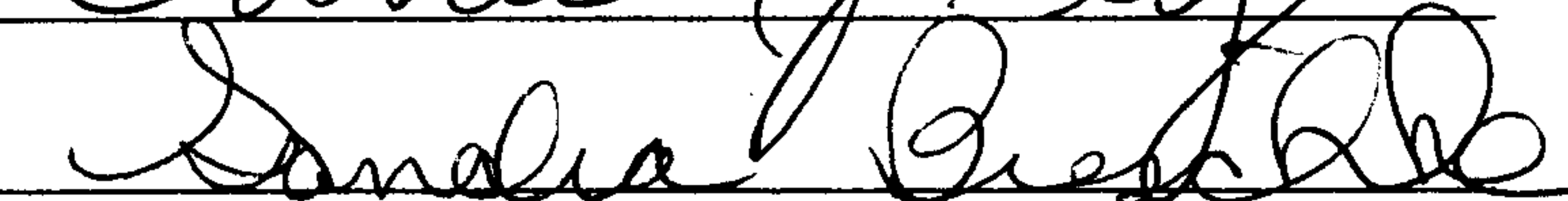




EXHIBIT A – Legal Description of the Premises




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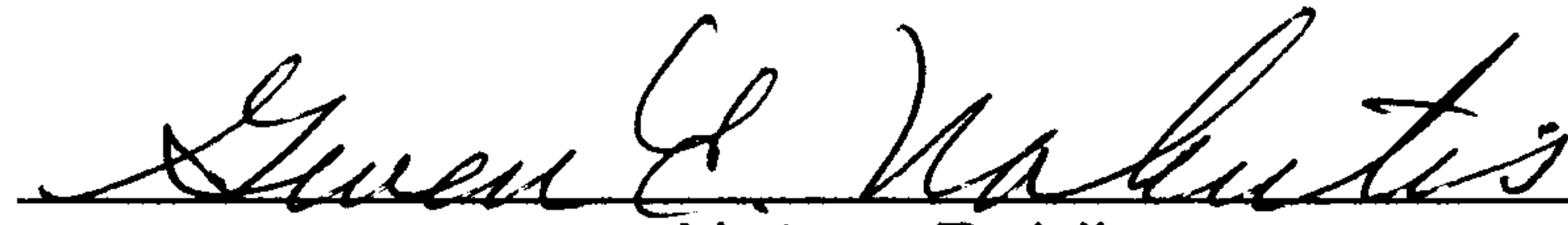
ACKNOWLEDGMENT - McDONALD'S

(Attestation required)

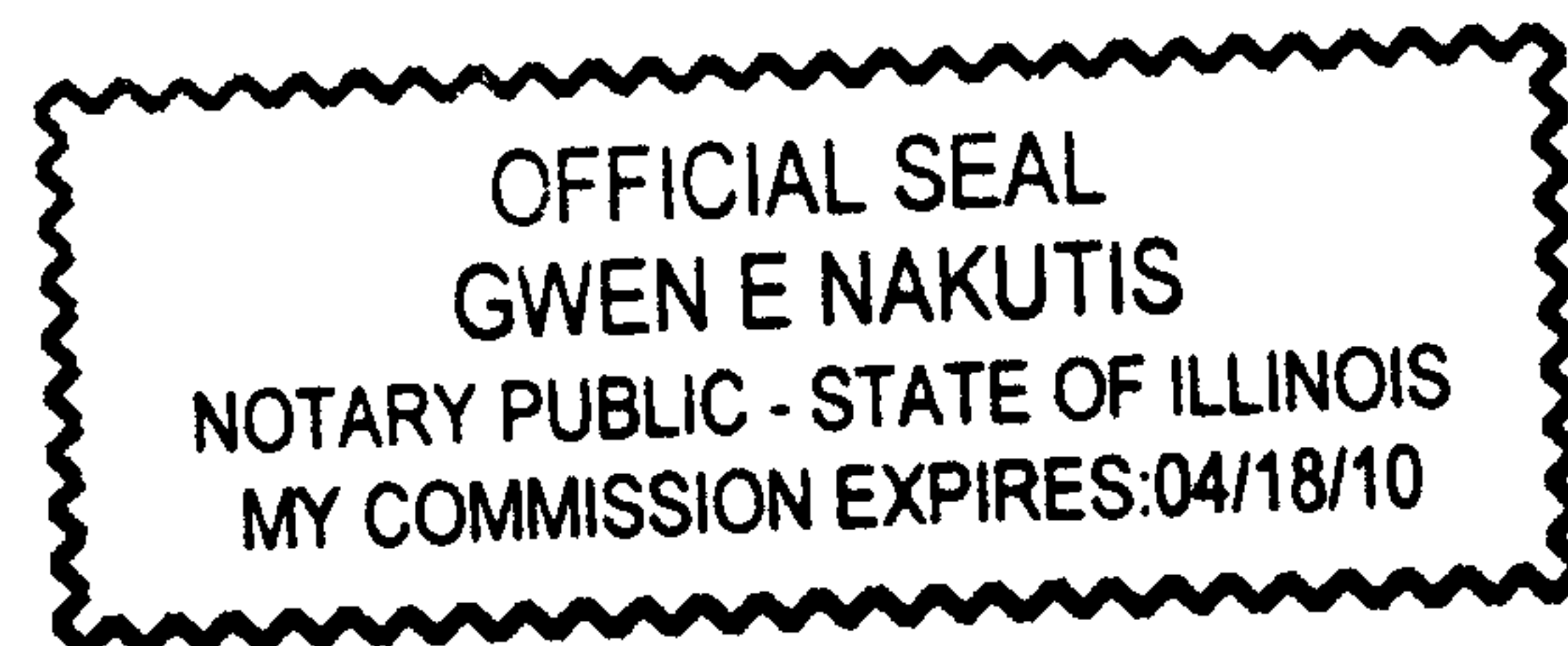
STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)


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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ACKNOWLEDGMENT

STATE OF Alabama
COUNTY OF Shelby) SS


I, Lori Conklin, a Notary Public in and for the county and state aforesaid,
DO HEREBY CERTIFY that Dennis Rother, as Chairman and
as _____ of, **COMMERCIAL
DEVELOPMENT AUTHORITY OF THE CITY OF ALABASTER, ALABAMA, an Alabama municipal
corporation**, 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 corporation
for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 11th day of April, 2007.

Lori L. Conklin
Notary Public


MY COMMISSION EXPIRES NOV. 5, 2007

My commission expires _____.


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EXHIBIT A
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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.


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LEGAL