

Ent: 413735 - Pg 1 of 6
Date: 06/05/2015 01:09 PM
Fee: \$20.00
Filed By: cp
Jerry Houshton, Recorder
Tooele County Corporation
For: FORTSON BENTLEY AND GRIFFIN

This instrument was prepared by
and after recording return to:
Walter W. Hays, Jr.
Fortson, Bentley and Griffin, P.A.
2500 Daniell's Bridge Road
Building 200, Suite 3A
Athens, Georgia 30606
(706) 548-1151

COLLATERAL ASSIGNMENT OF LEASE

This Collateral Assignment of Lease (this "Assignment") is made and entered into this 29th day of May, 2015 by and among **WDG TOOELE, LLC**, a Utah limited liability company ("Landlord"), **MJM 5G, LLC**, a Nevada limited liability company ("Assignor"), and **ZAXBY'S FRANCHISING, INC.**, a Georgia corporation ("ZFI"); and

In consideration of the mutual promises and covenants herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party hereto, the parties agree as follows:

1. The Assignor hereby assigns, transfers and sets over unto ZFI all of Assignor's right, title and interest as tenant in, to and under that certain lease agreement dated November 10, 2014, and Rider to Lease Agreement dated March 12, 2015, between Landlord and Assignor (collectively, the "Lease"), for certain real property located in Tooele County, Utah, and more particularly described on the attached **Exhibit A** (the "Premises"). This Assignment is for collateral purposes only and except as specified herein, ZFI shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment unless ZFI shall exercise its rights by providing the ZFI Notice (as defined herein).

2. Assignor represents and warrants to ZFI that it has full power and authority to so assign the Lease and its interest therein and Assignor has not previously assigned or transferred, and is not obligated to assign or transfer, the Lease or any of its interest in the Lease or the Premises.

3. In the event (i) of any default by Assignor under the Lease which remains uncured after expiration of any applicable cure period; or (ii) that certain License Agreement dated May 29, 2015 and First Amendment to License Agreement dated May 29, 2015, between ZFI and Assignor, including all amendments and renewals thereof (collectively the "License Agreement"), for a Zaxby's[®] restaurant to be located at Premises should, for any reason, be terminated or expire, ZFI shall have the right for a period of thirty (30) days after the event in (i) or (ii) herein to exercise its rights pursuant to this Assignment by providing written notice to Landlord and Assignor ("ZFI Notice"). If ZFI exercises its rights by providing the ZFI Notice: (a) ZFI shall thereupon become tenant under the Lease with all rights and obligations of tenant commencing upon, first accruing and effective from and after the date of the ZFI Notice; (b) ZFI shall have the right to take possession of the Premises, expel Assignor therefrom without being guilty of trespass, forcible entry or detainer, or other tort; (c) Assignor shall have no further right, title or interest in the Lease or the Premises; and (d) Assignor shall peaceably and promptly vacate the Premises and (subject to ZFI's right to acquire any such property pursuant to the License Agreement) remove its personal property therefrom and

any property not removed or otherwise disposed of by the Assignor shall be deemed abandoned. Nothing in this Assignment shall restrict, limit, terminate, waive or otherwise affect Landlord's rights against Assignor.

4. In no event shall ZFI be or become liable for any liability or obligation of Assignor accruing or applicable to the period prior to the date of the ZFI Notice. All rents and other obligations under the Lease shall be prorated as of the date of the ZFI Notice. ZFI shall have no liability or obligation to the Landlord under the Lease unless and until it exercises its right by providing the ZFI Notice.

5. Assignor agrees it will not allow or permit any surrender, termination, amendment or modification of the Lease without the prior written consent of ZFI. Through the term of the License Agreement and any renewals thereof, Assignor agrees that it shall elect and exercise all options to extend the term of or renew the Lease not less than thirty (30) days prior to the last day that such option must be exercised, unless ZFI otherwise agrees in writing. Upon failure of ZFI to otherwise agree in writing, and upon failure of Assignor to so extend or renew the Lease as stated herein, Assignor hereby appoints ZFI as its true and lawful attorney-in fact to exercise such extension or renewal options in the name, place and stead of Assignor for the sole purpose of effecting such extension or renewal.

6. Anything herein to the contrary notwithstanding, and without waiving any rights ZFI may have under the License Agreement, in the event Assignor acquires fee simple title to the Premises during the term or any extension of the Lease, Assignor shall enter into an option agreement with ZFI (utilizing ZFI's then current form) granting ZFI the right to lease the Premises on the same terms as the Lease in the event Assignor ceases to own the Premises or the License Agreement should for any reason be terminated or expire.

7. Landlord consents to this Assignment and agrees to recognize ZFI as tenant under the Lease upon exercising the rights in favor of ZFI as set forth in this Assignment and in the Lease.

8. All notices (including the ZFI Notice) shall be deemed sufficient and properly given in writing (except as otherwise expressly provided herein) if delivered by one of the following methods: (i) by personal delivery or by a reputable delivery service at the street address specified below, or (ii) by first-class, registered or certified mail, postage prepaid, to the post office box specified below or to the street address if no post office box is given. The hand delivery address and mailing address for receipt of notice or other documents by such parties are as follows:

If to Landlord: WDG Tooele, LLC
 1178 Legacy Crossing Boulevard, Suite 100
 Centerville, Utah 84014
 Attention: Manager

If to Assignor: MJM 5G, LLC
 125 West Burton Avenue, Suite B
 Salt Lake City, Utah 84115
 Attention: Managing Members

If to ZFI: Zaxby's Franchising, Inc.
 1040 Founder's Boulevard, Suite 100
 Athens, Georgia 30606
 Attention: President

Any of the above-mentioned parties may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notice hereunder signed on behalf of the notifying party by its identified attorney at law shall be valid and effective to the same extent as if signed by such party. Any notice or other communications shall be deemed delivered when actually delivered to the address of the party to whom directed or, if sent by mail, three (3) days after such notice or document is deposited in the United States mail, as provided above.

9. Time is of the essence.

10. This Assignment shall inure to the benefit of and be binding upon their respective heirs, successors, representatives and permitted assigns.

11. This Assignment shall be governed by, and construed in accordance with the laws of the state in which the Premises are located.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed under seal the day and year written above.

Signed, sealed and delivered in the presence of:

Witness

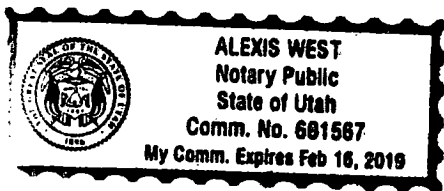
Witness

State of _____
County of _____

LANDLORD:
WDG TOOEELE, LLC

By: [Signature] [SEAL]
Name: Spencer Wright
Title: Manager

On this 27, day of May, 2015, personally appeared before me Spencer Wright, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is the Manager of WDG Tooele, LLC, a Utah limited liability company, and that he, as Manager, being authorized to do so, executed the foregoing on behalf of the company.



[Signature]
Notary Public

Signed, sealed and delivered in the presence of:

Witness

Witness

State of _____
County of _____

ASSIGNOR:
MJM 5G, LLC

By: _____ [SEAL]
Name: Ryan Howes
Title: Managing Member

On this _____, day of _____, 2015, personally appeared before me Ryan Howes, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is a Managing Member of MJM 5G, LLC and that he as Managing Member, being authorized to do so, executed the foregoing on behalf of the company.

Notary Public

10. This Assignment shall inure to the benefit of and be binding upon their respective heirs, successors, representatives and permitted assigns.

11. This Assignment shall be governed by, and construed in accordance with the laws of the state in which the Premises are located.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed under seal the day and year written above.

Signed, sealed and delivered
in the presence of:

LANDLORD:
WDG TOOELE, LLC

Witness

By: _____ [SEAL]
Name: Spencer Wright
Title: Manager

Witness

State of _____
County of _____

On this _____, day of _____, 2015, personally appeared before me Spencer Wright, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is the Manager of WDG Tooele, LLC, a Utah limited liability company, and that he, as Manager, being authorized to do so, executed the foregoing on behalf of the company.

Notary Public

Signed, sealed and delivered
in the presence of:

ASSIGNOR:
MJM 5G, LLC

Witness

By: _____ [SEAL]
Name: Ryan Howes
Title: Managing Member

Witness

State of Utah
County of Weber

On this 29, day of May, 2015, personally appeared before me Ryan Howes, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is a Managing Member of MJM 5G, LLC and that he as Managing Member, being authorized to do so, executed the foregoing on behalf of the company.

Notary Public

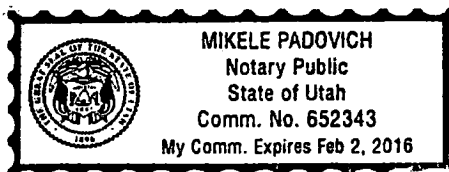


EXHIBIT A
LEGAL DESCRIPTION OF THE PREMISES

Beginning North 467.6 feet and West 1207.63 feet from the Southeast Corner of Section 16, Township 3 South, Range 4 West, Salt Lake Base and Meridian; being on the East line of State Highway 36, and the Southwest corner of Flinders Industrial Park; and running thence South 80°29' East 160 feet; thence South 6°50' West 240 feet; thence North 83°10' West 160 feet to said Right of Way Line; thence North 6°50' East 240 feet to the point of beginning.

Tax ID: 02-127-0-0006

Beginning at a point which is North 00°21'58" West 198.47 feet and South 89°38'02" West 1042.97 feet from the Southeast corner of said Section 16; thence North 80°46'37" West 38.55 feet; thence North 06°41'49" East 240.23 feet; thence South 80°46'37" East 38.55 feet; thence South 06°41'49" West 240.23 feet to the point of beginning.

Tax ID: 02-127-0-0058

Witness [Signature]

By: [Signature] [SEAL]
Name: Jeff Howes
Title: Managing Member

Witness [Signature]

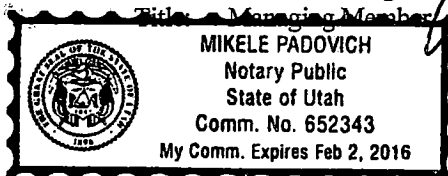
State of Utah
County of Wasatch

On this 29, day of May, 2015, personally appeared before me Jeff Howes, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is a Managing Member of MJM 5G, LLC and that he as Managing Member, being authorized to do so, executed the foregoing on behalf of the company.

Witness [Signature]

By: [Signature] [SEAL]
Name: Mike Cummings
Title: Managing Member

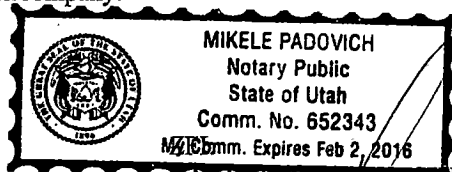
Witness [Signature]



State of Utah
County of Wasatch

On this 29, day of May, 2015, personally appeared before me Mike Cummings, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is a Managing Member of MJM 5G, LLC and that he as Managing Member, being authorized to do so, executed the foregoing on behalf of the company.

Signed, sealed and delivered in the presence of:



By: [Signature] [SEAL]
Name: Amy C. Pritchett
Title: Vice President of Franchise Development

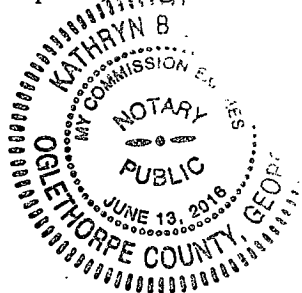
Witness [Signature]

Witness [Signature]

State of Georgia
County of Oconee

[CORPORATE SEAL]

On this 1, day of June, 2015, personally appeared before me Amy C. Pritchett, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that she is Vice President of Franchise Development of Zaxby's Franchising, Inc. and that she as Vice President of Franchise Development, being authorized to do so, executed the foregoing on behalf of the company.



[Signature]
Notary Public