

Prepared by and when recorded return to:

**Fidelity National Title - NCS DIV
Attn.: Kelli Vos
One East Washington Street Suite 450
Phoenix, AZ. 85004
602-343-7571**

Escrow No. : Z1723068-KJV

**DO NOT REMOVE THIS COVER SHEET. IT IS NOW PART OF
THE RECORDED DOCUMENT.**

DOCUMENT TO BE RECORDED:

**MEMORANDUM OF SUBLEASE AND SUBLEASE RECOGNITION
AGREEMENT**

(Space Above Reserved for Recording Information)

THIS INSTRUMENT PREPARED BY (AND WHEN RECORDED RETURN TO):

Lucas J. Frasz
Monroe Moxness Berg PA
7760 France Avenue South, Suite 700
Minneapolis, MN 55435-5844

**MEMORANDUM OF SUBLEASE AND
SUBLEASE RECOGNITION AGREEMENT**

This MEMORANDUM OF SUBLEASE AND SUBLEASE RECOGNITION AGREEMENT ("Agreement") is made and entered into as of the 8 day of May, 2017 (the "Effective Date"), by and between: **JDW PROPERTIES II, LLC**, an Alabama limited liability company ("Prime Lessor"), whose address is 2201 Holiday Inn Drive, Clanton, AL 35406; **WADSWORTH OIL COMPANY OF CLANTON, INC.**, an Alabama corporation ("Sublessor"), whose address is 2201 Holiday Inn Drive, Clanton, AL 35406; **TREADWELL RESTAURANTS OF ALABAMA, LLC**, a Missouri limited liability company ("Assignor"), whose address is 3880 W. Battlefield, Springfield, MO 65807; and **FQSR, LLC**, a Delaware limited liability company, d/b/a KBP Foods ("Assignee" or "Tenant"), whose address is 8900 Indian Creek Parkway, Suite 100, Overland Park, KS 66210.

RECITALS:

A. Prime Lessor is the fee owner of that certain real property commonly known as 630 Cahaba Valley Road, City of Pelham, County of Shelby, State of Alabama, and legally described on **Exhibit A** attached hereto (the "Property").

B. Prime Lessor leases the entirety of the Property to Sublessor pursuant to the terms and conditions of that certain unrecorded Lease Agreement dated February 15, 1992, as the same has been extended from time-to-time, and as the same was fully amended and restated by that certain Lease Agreement dated September 1, 2013, as further amended by that Amendment to Lease Agreement dated effective as of August 31, 2016 (collectively, the "Prime Lease").

C. Immediately prior to the Effective Date hereof, Sublessor and Assignor were parties to that certain Agreement of Sublease dated April 18, 1996, as amended and assigned and as more particularly described on **Exhibit B** attached hereto (the "Sublease").

D. Pursuant to the Sublease, immediately prior to the Effective Date hereof Sublessor leased to Assignor, and Assignor leased from Sublessor, that portion of the Property depicted on **Exhibit C** attached hereto, together with rights of non-exclusive access and use of the restrooms in and entrances to the building and all off-street parking areas, driveways and sidewalks located on the Property (collectively, the "Premises").

E. As of the Effective Date hereof, all right, title and interest of Assignor in the Premises and the Sublease has been and is hereby assigned and transferred to Assignee.

F. Prime Lessor, Sublessor, Assignor and Assignee desire to memorialize the Sublease and to set forth certain information with respect thereto, and to provide for certain agreements with respect thereto.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual covenants set forth in the Sublease and in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Prime Lessor, Sublessor, Assignor and Assignee hereby acknowledge and agree:

1. Assignment. Assignor hereby grants, assigns, transfers and conveys to Assignee, its successors and assigns, all of Assignor's rights, title, and interest in, to and under the Sublease and the Premises as of the Closing (as defined in the Purchase Agreement) for the balance of the respective term (including any extensions and renewals thereof), including, without limitation, all rights related to options to purchase and options to terminate, if any, and Assignor's interests in all buildings and improvements presently located on the Premises and any easements, appurtenances and nondisturbance rights in favor of or benefiting the Premises.

2. Assumption. Subject to the terms of this Agreement, Assignee hereby assumes Assignor's rights, title, and interest in, to and under the Sublease and shall pay, perform and discharge all obligations, liabilities and covenants arising under the Sublease after the Closing.

3. Landlord Consent. Landlord hereby consents to the foregoing assignment and assumption and agrees that Assignee shall be responsible under the Sublease only for the obligations, liabilities, terms, covenants or conditions under the Sublease arising or accruing after the Closing.

4. Purchase Agreement. This Agreement is intended only to affect the transfer of certain property transferred pursuant to the Purchase Agreement and the rights and obligations of the Assignor and Assignee relative thereto shall be governed entirely in accordance with the terms and conditions of the Purchase Agreement. The parties hereto agree and acknowledge that, except for the assignment and assumption of Assignor's rights, title and interest in, to and under the Sublease as provided herein, the Purchase Agreement does not affect any of the obligations, liabilities, terms covenants or conditions under the Sublease.

5. Incorporation. The covenants, terms and conditions of the Sublease are fully incorporated herein by reference, as if fully set forth in this Agreement. Capitalized terms used in this Agreement but not defined herein shall have their definitions as set forth in the Sublease.

6. Demise. The Premises have been and are hereby demised, let and leased by Sublessor to Tenant, and taken and accepted by Tenant from Sublessor, all pursuant to and in accordance with the terms and conditions of the Sublease. Prime Lessor has consented to the Sublease, and Prime Lessor and Sublessor have consented to the assignment of all right, title and interest of Assignor in the Premises and the Sublease to Tenant.

7. Term of Sublease; Renewal Options. The current term of the Sublease, as the same may have been previously renewed and/or extended, is set to expire on May 31, 2026. Following expiration of the current term of the Sublease, the Tenant has two (2) remaining five (5) year options to further extend the term of the Sublease, subject to the terms and conditions of the Sublease.

8. Rights of Tenant Regarding Prime Lease. From and after the Effective Date hereof, Prime Lessor, Sublessor and Tenant agree as follows:

a. Representations and Warranties Regarding Prime Lease. Prime Lessor and Sublessor warrant and represent to Tenant that, as of the Effective Date: (i) the Prime Lease is in full force and effect in accordance with its terms; (ii) the remaining term of the Prime Lease is not less than the remaining term of the Sublease, including renewal options with respect to the term of the Sublease; (iii) Sublessor has not waived, canceled or surrendered any of its rights under the Prime Lease; (iv) Sublessor is the sole owner of, and has good and marketable title to, the leasehold estate with respect to the Property; (v) Sublessor enjoys the quiet and peaceful possession of the leasehold estate with respect to the Property, and there are no defenses to Sublessor's enforcement of its rights under the Prime Lease; and (vi) there are no existing defaults by Prime Lessor or Sublessor under the Prime Lease, and no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a default under the Prime Lease.

b. Covenants Regarding Prime Lease; No Merger of Estates. During the term of the Sublease, including any renewals or extensions thereof, Sublessor shall: (i) pay all rent and other sums of money due and payable to Prime Lessor under the Prime Lease before delinquency; (ii) at all times promptly and fully perform, observe and comply with all other terms, covenants and conditions of the Prime Lease to be performed, observed and complied with by Sublessor, and enforce the obligations of Prime Lessor under the Prime Lease to the end that Tenant may enjoy all of the material rights granted to it under the Sublease; and (iii) exercise any renewal or extension options with respect to the term of the Prime Lease as necessary to continue the term of the Prime Lease throughout the full term of the Sublease, including any renewals or extensions thereof. During the term of the Sublease, including any renewals or extensions thereof, Sublessor shall not: (x) surrender the leasehold estate with respect to the Property to Prime Lessor or terminate or cancel the Prime Lease; or (y) subordinate the Prime Lease or the leasehold estate with respect to the Property to any mortgage, deed of trust or other lien on the Property. If Sublessor acquires the fee estate in the Property, there shall be no merger between the fee estate in the Property

and Sublessor's leasehold estate in the Property pursuant to the Prime Lease unless all persons having an interest in the Sublease, including Tenant, shall consent in writing to such merger.

c. Tenant's Right to Cure Defaults of Sublessor. Tenant shall be entitled to receive a copy of any notices of default under the Prime Lease given by either party thereto at the same time and in the same manner as the primary recipient of such notice. At any time after Tenant receives notice of a default by Sublessor with respect to the Prime Lease: (i) Tenant may (but shall not be obligated to) make any payment, perform any obligation, and take any other action Sublessor would have the right to pay, perform or take under the Prime Lease which Tenant deems necessary or desirable to cure any such default, and Tenant shall have a reasonable time, and in any event not less than thirty (30) days, to effect such cure; and (2) Tenant and its authorized agents shall have the right at any time or from time to time to enter the Property, or any part thereof, to such extent and as often as Tenant, in its discretion, deems necessary or desirable in order to cure any such default. For purposes of exercising its rights hereunder, Tenant shall be fully protected for any action taken or omitted to be taken by Tenant, in good faith, in reliance on any written notice from Prime Lessor stating that a default by Sublessor with respect to the Prime Lease has occurred and is continuing. All expenditures made by Tenant hereunder to cure a default by Sublessor with respect to the Prime Lease shall be credited to Tenant against rent next becoming due under the Sublease.

d. Recognition of Sublease. If the Prime Lease shall expire or terminate during the term of the Sublease for any reason other than condemnation or destruction by fire or other casualty, or if Sublessor shall surrender the Property to Prime Lessor during the term of the Sublease, Prime Lessor shall continue the Sublease with the same force and effect as if Prime Lessor and Sublessee had entered into a lease as of the effective date of such expiration, termination or surrender for a term equal to the then unexpired term of the Sublease and containing the same provisions as those contained in the Sublease. In such event, Sublessor shall promptly transfer any security deposit under the Sublease to Prime Lessor, and Sublessee shall attorn to Prime Lessor and Prime Lessor and Sublessee shall have the same rights, obligations and remedies as were had by Sublessor and Sublessee under the Sublease prior to such effective date, except that in no event shall Prime Lessor be (i) liable for any act or omission by Sublessor, or (ii) subject to any offsets or defenses which Sublessee had or might have against Sublessor.

9. Effect of Memorandum. The provisions of this Agreement memorializing the terms of the Sublease constitute only a general description of the Sublease with respect to the matters set forth herein. In the event of any discrepancy between the provisions of the Sublease and this Agreement, the provisions of the Sublease shall take precedence and prevail over the provisions of this Agreement; provided, however, that the terms set forth in Section 8 of this Agreement shall supersede and control with respect to any conflicting provisions in the Sublease or the Prime Lease.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date first set forth above.

ASSIGNOR:

**TREADWELL RESTAURANTS OF
ALABAMA, LLC**

a Missouri limited liability company

By: James M. Treadwell

Its: CEO

STATE OF Missouri)
) ss.
COUNTY OF Greene)

This instrument was acknowledged before me on May 16, 2017, by James M. Treadwell, as CEO of **TREADWELL RESTAURANTS OF ALABAMA, LLC**, a Missouri limited liability company, on behalf of the limited liability company.

(Seal, if any)

Cynthia M. Smading
(Signature of notarial officer)

Notary Public
Title (and Rank)

(My commission expires: _____)



CYNTHIA M. SMADING
My Commission Expires
September 18, 2020
Christian County
Commission #12451348

ASSIGNEE:

FQSR, LLC

a Delaware limited liability company

By: 

Barry W. Dubin

Its: Chief Development Officer

STATE OF Minnesota)
) ss.
COUNTY OF Hennepin)

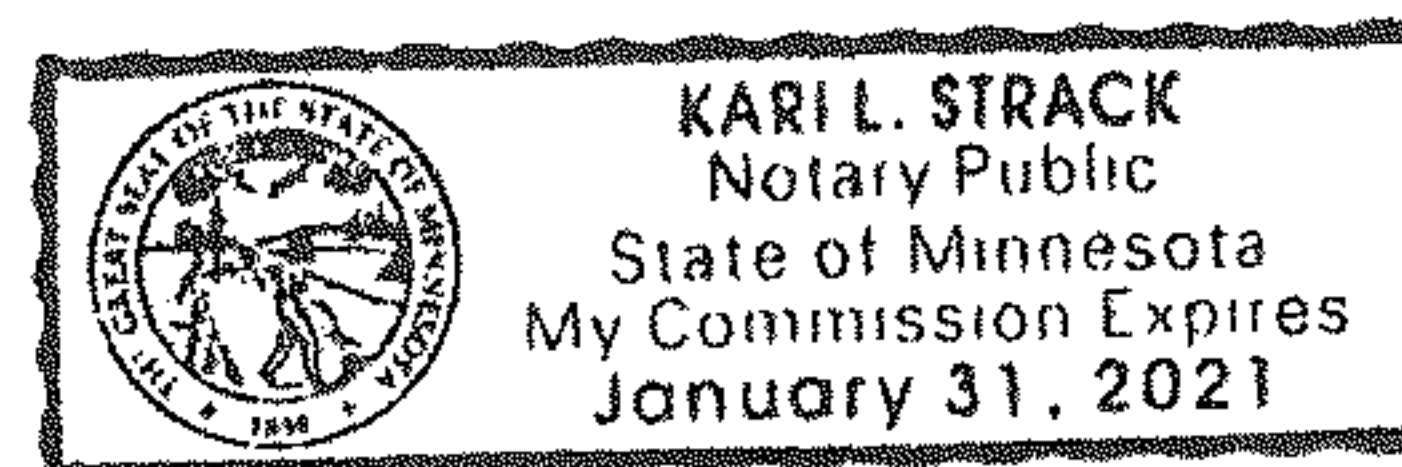
This instrument was acknowledged before me on the 28th day of April, 2017, by Barry W. Dubin, as Chief Development Officer of **FQSR, LLC**, a Delaware limited liability company, on behalf of the limited liability company.

(Seal, if any)


(Signature of notarial officer)

Notary Public
Title (and Rank)

(My commission expires: January 31, 2021)



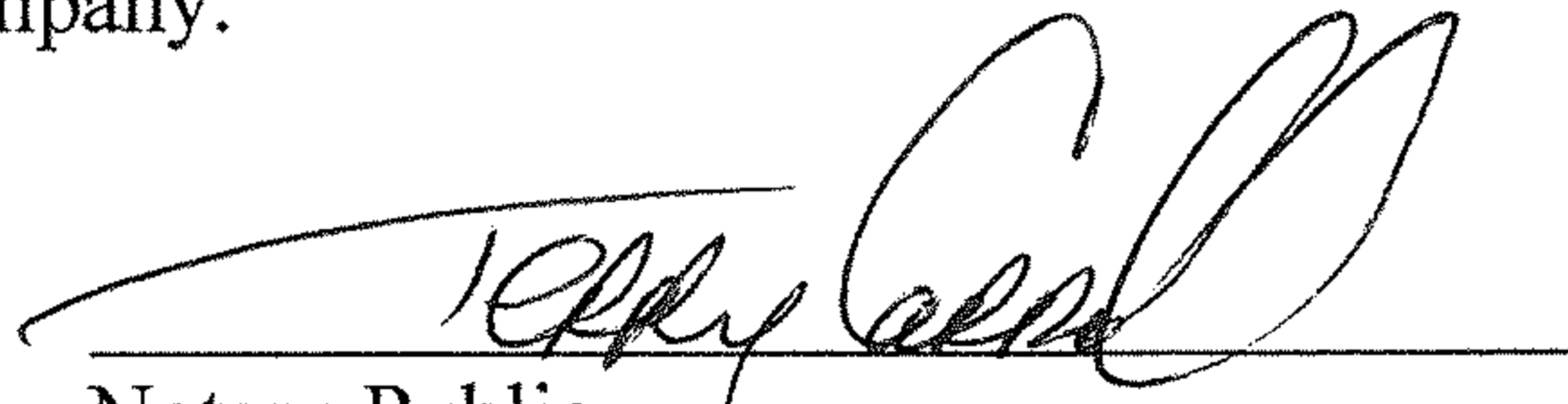
PRIME LESSOR:

JDW PROPERTIES II, LLC,
an Alabama limited liability company

By: 
Its: Principal

STATE OF ALABAMA)
COUNTY OF Chilton) ss.

This instrument was acknowledged before me on May 3rd 2017, by James D. Wadsworth, as Principal of **JDW PROPERTIES II, LLC**, an Alabama limited liability company, on behalf of the limited liability company.


Notary Public
Commission expires: 12-23-17

[NOTARIALSEAL]

SUBLESSOR:

**WADSWORTH OIL COMPANY
OF CLANTON, INC.,**
an Alabama corporation

By: James D. Wadsworth
Its: President

STATE OF ALABAMA)
COUNTY OF Chilton) ss.

This instrument was acknowledged before me on May _____, 2017, by James D. Wadsworth, as President of **WADSWORTH OIL COMPANY OF CLANTON, INC.**, an Alabama corporation, on behalf of the corporation.

Kerry Carroll
Notary Public
Commission expires: 12-23-17

[NOTARIAL SEAL]

EXHIBIT A

Legal Description of Property

A parcel of land lying in the Southeast Quarter of Section 31, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southeast Quarter of Section 31, Township 19 South, Range 2 West, Shelby County, Alabama; thence Easterly along the South line of said quarter section 1,826.71 feet to a point; thence turn a right interior angle of 57 degrees 00 minutes 07 seconds and run northwesterly 1,620.77 feet to a point on the Southeast right of way line of Alabama Highway #119, being 100 feet Southeasterly of the center line of said Highway; thence turn a left interior angle of 88 degrees 41 minutes 21 seconds and run Northeasterly and parallel to said highway centerline 253.07 feet to a point that is 100 feet Southeasterly of and at right angles to the centerline of said highway at station 37+00; thence turn a left interior angle of 165 degrees 57 minutes 50 seconds and run Northeasterly 103.08 feet to a point which is 125 feet Southeasterly of and at right angles to the centerline of said highway at station 38+00; thence turn a left interior angle of 194 degrees 02 minutes 10 seconds and run northeasterly and parallel to said highway centerline 200 feet to the point of beginning; said point is 125 feet Southeasterly and parallel to centerline of said highway; thence continue along last stated course parallel to said highway centerline 200 feet to a point that is 125 feet Southeasterly of and at right angles to the centerline of said highway at Station 42+00; thence turn a left interior angle of 117 degrees 13 minutes 27 seconds and run Southeasterly 153.02 feet to a point (concrete monument) that is 550 feet Southwesterly of and at right angles to the centerline of Project No. 1-65-2(37) at Station 265+00; thence turn a left interior angle of 167 degrees 53 minutes 47 seconds and run Southeasterly 60.22 feet to a point; thence turn a left interior angle of 86 degrees 19 minutes 21 seconds and leaving the highway right of way run Southwesterly 327.83 feet to a point; thence turn a left interior angle of 90 degrees 00 minutes 00 seconds and run northwesterly 387.21 feet to the point of beginning.

EXHIBIT B

Lease Agreement

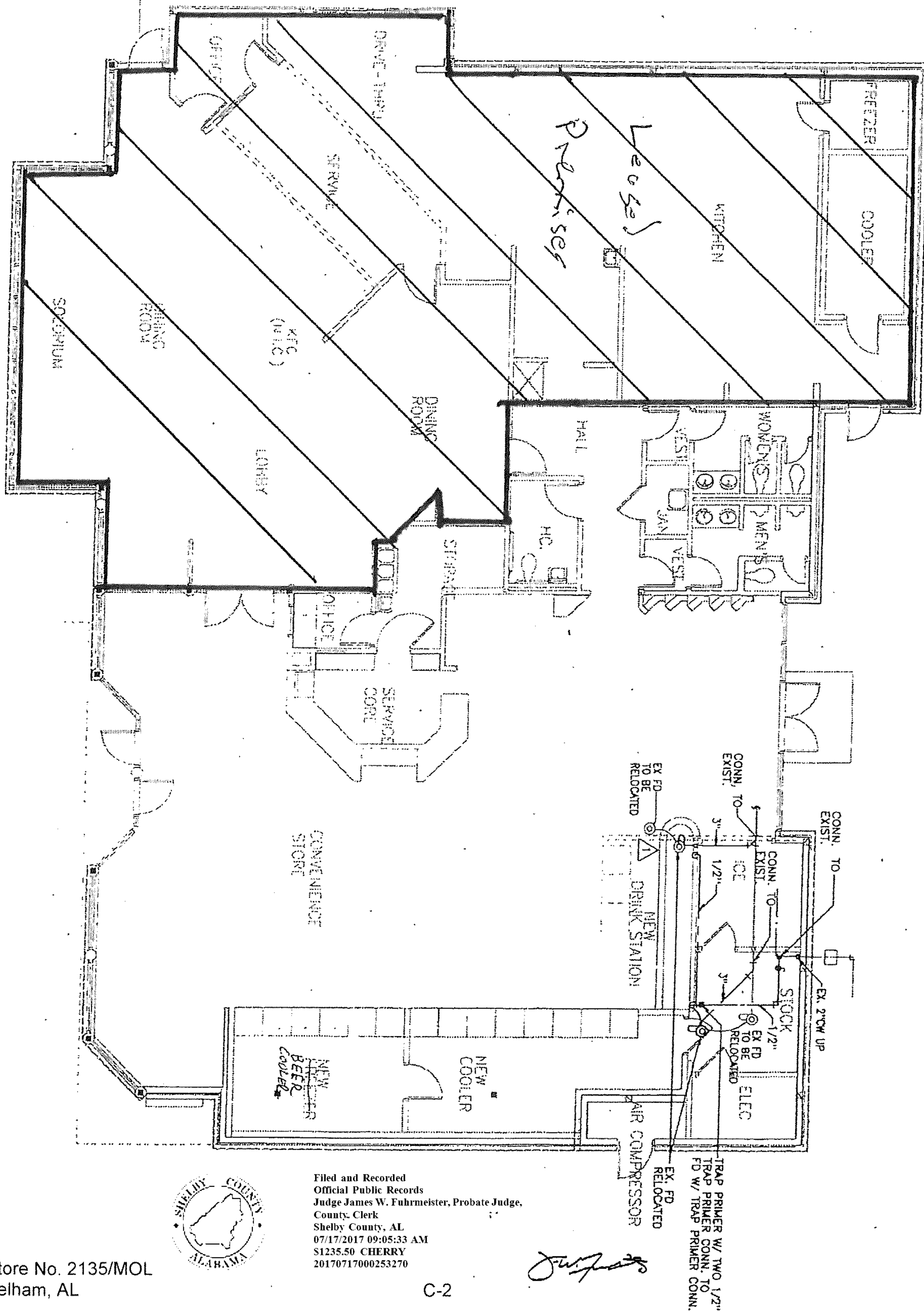
Agreement of Sublease dated 4/18/1996, between Wadsworth Oil Company of Clanton, Inc., as Landlord, and AJS Associates, as Tenant; First Amendment to Agreement of Sublease dated as of December 2006, between Wadsworth Oil Company of Clanton, Inc., as Landlord, and AJS Associates, as Tenant; Letter consenting to assignment of Sublease dated 4/28/2010, by Wadsworth Oil Company of Clanton, Inc., as Sublessor; Assignment and Assumption of Sub-Lease and Rents dated effective 4/28/2010, between AJS Associates, as Assignor, and Treadwell Restaurants of AL, LLC, as Assignee; and Letter Amendment dated 5/12/2016, between Wadsworth Oil Company of Clanton, Inc., as Landlord, and Treadwell Restaurants of Alabama, LLC, f/k/a Treadwell Restaurants of AL, LLC, as Tenant.

EXHIBIT C

Depiction of Premises

[ATTACHED]

4849-1105-6710, v. 7



Filed and Recorded
 Official Public Records
 Judge James W. Fuhrmeister, Probate Judge,
 County Clerk
 Shelby County, AL
 07/17/2017 09:05:33 AM
 S1235.50 CHERRY
 20170717000253270

Signature