

For Registration Willie L. Covington
Register of Deeds
Durham County, NC
Electronically Recorded
2016 Apr 21 10:29 AM NC Rev Stamp: \$ 0.00
Book: 7913 Page: 585 Fee: \$ 26.00
Instrument Number: 2016011961
MEMO

Prepared By: James E. Roberts
Bob Evans Farms, LLC
8111 Smith's Mill Road
New Albany, Ohio 43054

After Recording, Return To:

Nathan Heinz
Fidelity National Title Insurance Company
4111 Executive Parkway, Suite 304
Westerville, Ohio 43081

MEMORANDUM OF LEASE

This Memorandum of Lease (this "Memorandum of Lease") memorializes a lease entered into by and between BE Portfolio, LLC, a Delaware limited liability company, whose address is c/o Mesirow Realty Sale-Leaseback, Inc., 353 North Clark Street, Chicago, Illinois 60654 ("Landlord"), and Bob Evans Farms, LLC, an Ohio limited liability company, whose address is 8111 Smith's Mill Road, New Albany, Ohio 43054 ("Tenant").

The Landlord and Tenant executed a Master Lease Agreement dated the 14 day of April, 2016 (as the same may be modified and amended from time to time, the "Lease"), covering the real property more fully described on Exhibit A attached hereto and made a part hereof (the "Property").

The Landlord and Tenant desire to record this Memorandum of Lease for the purpose of placing third parties on notice of inquiry as to the specific provisions, terms, covenants, and conditions of the Lease, all of which are incorporated by reference as if fully set forth herein. Specifically, the Lease contains, among other things, the following terms or provisions:

1. Initial Term. The Lease has an initial term of twenty (20) years commencing April 14, 2016 and ending at midnight on April 14, 2036 (the "Initial Term"). 3

[Store 321]

submitted electronically by "wyatt Early Harris wheeler LLP"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Durham County Register of Deeds.

- 2. **Extension Options:** Tenant has the right and option to extend the Initial Term for five (5) additional successive periods of five (5) years each, pursuant to the terms and conditions of the Lease.

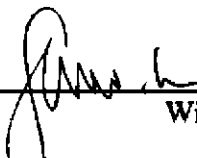
Nothing contained in this Memorandum of Lease is intended to or does change, modify, or affect any terms or provisions of the Lease or the rights, duties, obligations, and covenants running with the land created thereby, all of which remain in full force and effect.

IN WITNESS WHEREOF, the undersigned parties hereto have, by their duly authorized representatives, executed this Memorandum of Lease as of the 14 day of April, 2016.

LANDLORD:

BE PORTFOLIO, LLC,
a Delaware limited liability company

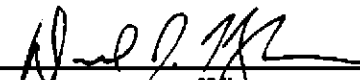
By: **MESIROW REALTY,**
SALE-LEASEBACK, INC., an Illinois corporation, its Manager



Witness
Name: CAROL W. WITEN
(print)

By: 

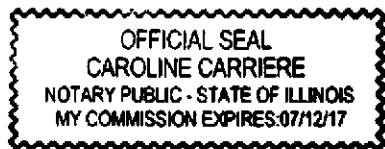
Name: Douglas Barker
Its: Senior Managing Director




Witness
Name: Daniel J. Nyhan
(print)

STATE OF ILLINOIS,
COUNTY OF COOK, SS.

The foregoing instrument was acknowledged before me the 12th day of April, 2016, by Douglas Barker, the Senior Managing Director of Mesirow Realty Sale-Leaseback, Inc., an Illinois corporation, the Manager of BE Portfolio, LLC, a Delaware limited liability company, on behalf of said corporation and limited liability company.





Notary Public

TENANT:

BOB EVANS FARMS, LLC, an Ohio limited liability company

By: Mark E Hood
Mark E. Hood, Manager and Chief Financial Officer

T. Alan Ashworth
(signature)
Name: T. Alan Ashworth
(print)

James E Roberts
(signature)
Name: James E Roberts
(print)

STATE OF OHIO,
COUNTY OF FRANKLIN, SS.

The foregoing instrument was acknowledged before me the 12th day of April, 2016, by Mark E. Hood, the Manager and Chief Financial Officer of Bob Evans Farms, LLC, an Ohio limited liability company, on behalf of said limited liability company.

Jennie L Church
Notary Public



JENNIE L. CHURCH
NOTARY PUBLIC - STATE OF OHIO
My Commission does not expire
Section. 147.03 O.R.C.

EXHIBIT A

LEGAL DESCRIPTION

**STORE # 321
EXHIBIT A
LEGAL DESCRIPTION**

Lying and being in Durham County, North Carolina, and more particularly described as follows:

Tract 1:

All of that parcel of land lying and being in Triangle Township, Durham County, North Carolina, and being more particularly described as follows:

COMMENCING at an existing iron pipe lying at the intersection of the southerly right-of-way of US Highway 15-501 (a 260 foot wide public right-of-way) and the westerly right-of-way of Ladel Drive (a 50 foot wide public right-of-way), said point being a property corner of that parcel of land as conveyed to Winn Limited Partnership, recorded in Deed Book 2040, Page 893, Durham County, North Carolina Registry of Deeds, and shown on plat recorded in Plat Book 126, Page 170, aforesaid records; thence following the southerly right-of-way of US Highway 15-501 S 61° 08' 27" W, a distance of 3.00 feet to an iron pipe set on the southerly right-of-way of US Highway 15-501, to the POINT OF BEGINNING;

thence following a property line of the aforesaid Winn Limited Partnership tract S 28° 51' 33" E, a distance of 300.00 feet to an iron pipe set at a common corner with the aforesaid Winn Limited Partnership tract;

thence following a property line of the aforesaid Winn Limited Partnership tract S 61° 08' 27" W, a distance of 174.88 feet to an existing iron pipe, said point lying on the easterly property line of that tract of land as conveyed to Donald M. Penny as as recorded in Deed Book 1336, Page 340, aforesaid records;

thence following the easterly property line of the aforesaid Donald M. Penny tract N 28° 51' 33" W, a distance of 300.00 feet to an iron pipe set on the southerly right-of-way of US Highway 15-501, said point also being the northeasternmost property corner of the aforesaid Donald M. Penny tract;

thence following the southerly right-of-way of US Highway 15-501 N 61° 08' 27" E, a distance of 174.88 feet to an iron pipe set on the southerly right-of-way of US Highway 15-501, to the POINT OF BEGINNING, containing 1.20 acres of land, more or less, and being all of that parcel of land as conveyed to Wade H. Penny, Jr. and Donald M. Penny, as recorded in Deed Book 2041, Page 687, aforesaid records.

The land is the same as described in that certain survey prepared by Rodney J. McCarter of Civil & Environmental Consultants, Inc., dated February 15, 2016, as follows:

Situated in the State of North Carolina, County of Durham, City of Durham, being the same property as described in Deed Book 2040, Page 893, (all references being to the records of the Recorder's Office, Durham County, North Carolina), and being more particularly described as follows:

Beginning at a open top pipe at the intersection of the southern right of way of Durham Chapel Hill Blvd. and the western right of way of Ladle Drive. Said pipe also being located S13°04'25"W, 41.32' from the centerline intersection of Ladle Drive and Watkins Road, (a public frontage service road). Thence; with the western right of way of Ladle Drive S28°51'21"E, 300.32' to an open top pipe in the line of Moriah LLC (Deed Book 002882/000506). Thence; with the northern line of said property S61°09'53"W, 174.88' to a iron pin set in the line of Durham County Habitat for Humanity (Deed Book 006211/000687).

Thence; with the eastern line of said property N28°49'47"W, 299.97' to an iron pin in the southern right of way of Durham Chapel Hill Blvd. Thence; with said right of way N61°02'52"E, 174.75' to the Point of Beginning containing 1.205 acres as surveyed by Civil & Environmental Consultants, Inc., Rodney J. McCarter PLS Number L-5190. Survey dated February 15, 2016, and bearing Project Number 154-026.78.

Tract 2:

Non-exclusive easement rights contained in that Easement Agreement executed by and between Bob Evans Farms, Inc. and Winn Limited Partnership recorded in Book 2249, Page 141 Durham County Registry, North Carolina.

Tract 3:

Non-exclusive easement rights contained in that Easement Agreement executed by and between Bob Evans Farms, Inc. and Donald M. Penny recorded in Book 2275, Page 157 Durham County Registry, North Carolina.

Store #: 321
Address: 5419 Chapel Hill Blvd., Durham, NC