FORM B10 (Official Form 10) (4/01)

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UNITED STATES BANKRUPTCY COURT — THE DISTRICT OF DELAWARE

ORIGINAL

PROOF OF CLAIM

Name of Debtor	Case Number
FLEMING FOODS OF TEXAS, LP	**03-10955**

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (The person or other entity to whom the debtor owes money or property): Robert D. Burch as Trustee of The Managing General Partners of Allegro Associates and Contemporary Partners

Name and address where notices should be sent:
Gibson, Dunn & Crutcher LLP
4 Park Plaza, Suite 1400
Irvine, CA 92614-8557
Attn: Kenneth A. Glowacki Jr.
Telephone number: (949) 451-3800

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check box if you have never received any notices from the bankruptcy court in this case.

☐ Check box if the address differs from the address on the envelope sent to you by the court.

THIS SPACE IS FOR COURT USE ONLY

Account or other number by which creditor identifies debtor:

Check here if this claim ☐ replaces ☐ amends a previously filed claim, dated _____

1 Basis for Claim

☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☒ Other: Landlord Claim -- See Exhibit A attached hereto

☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)
☐ Wages, salaries, and compensation (fill out below)
Your SS # _____
Unpaid compensation for services performed
from _____ (date) to _____ (date)

2 Date debt was incurred: 1973 to present

3 If court judgment, date obtained:

4 Total Amount of Claim at Time Case Filed: $3,275,000.00
If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.
☒ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5 Secured Claim

☐ Check this box if your claim is secured by collateral (including a right of setoff).
Brief Description of Collateral:
☐ Real Estate ☐ Motor Vehicle
☐ Other _____
Value of Collateral: $ _____
Amount of arrearage and other charges at time case filed included in secured claim, if any: $ _____

6 Unsecured Priority Claim

☐ Check this box if you have an unsecured priority claim.
Amount entitled to priority: $ _____
Specify the priority of the claim.
☐ Wages, salaries, or commissions (up to $4,650)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).
☐ Up to $2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
☐ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(___).
*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date adjustment.

7 Credits The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8 Supporting Documents *Attach copies of supporting documents,* such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9 Date-Stamped Copy To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

THIS SPACE IS FOR COURT USE ONLY

Fleming Companies Claim
13656

FILED
SEP 15 2003
BMC

Date	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)
9/11/03	Robert D. Burch, Trustee

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	)	Chapter 11
	)	
Fleming Companies, Inc , et al ,	)	Case No 03-10945 (MFW)
	)	
Debtors	)	Jointly Administered
	)	
In re	)	Chapter 11
	)	
Fleming Foods of Texas, LP	)	Case No 03-10955 (MFW)
	)	
Debtor	)	Jointly Administered

EXHIBIT "A" TO PROOF OF CLAIM FILED AGAINST THE ESTATE OF FLEMING FOODS OF TEXAS, LP BY THE TRUSTEE OF ALLEGRO ASSOCIATES AND CONTEMPORARY PARTNERS

Robert D Burch, (the "Trustee") the duly appointed Trustee of the managing general partners[1] of Allegro Associates, a California partnership ("Allegro"), and Contemporary Partners, a Nevada partnership ("Contemporary," together with Allegro, the "Lessor"), files the attached proof of claim (the "Claim") on behalf of the Lessor against Fleming Foods of Texas, LP ("Lessee") in its above-referenced bankruptcy case, with reference to the following

I Background

On or about July 17, 1973, Lessor's predecessor-in-interest, Santa Fe Land Improvement Company ("Santa Fe") and Lessee's predecessor-in-interest, Furr's, Inc ("Furr's"), entered into that certain Lease Agreement (the "Original Lease") whereby Furr's leased the fee-owned real property located at 5824 Elm Avenue, Lubbock, Texas, together with the improvements constructed thereon (the "Property"), as a grocery distribution center and storage warehouse [2]

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[1] The managing general partner of Allegro Associates is "Robert D Burch as Trustee of the August 4, 1983 Trust " The managing general partner of Contemporary Partners is "Robert D Burch as Trustee of the July 20, 1984 Trust "

[2] The Property (as defined above) is jointly owned by Allegro and Contemporary Allegro owns 100% of the land and 34 197% of the improvements, and Contemporary owns 65 803% of the improvements

The Property, which spans approximately 45 74 acres, has a main warehouse with refrigerated areas and fifty-eight (58) bays that encompass 375,663 square feet, warehouse offices, a mezzanine, and ancillary structures including a 7,600 square foot returns building with seven (7) bays, a 17,310 square foot truck service facility with six (6) bays, a guard house, and a fire equipment building The Original Lease terminated by its own terms on July 1, 2000

A **Furr's Duty to Maintain Property and Right To Remove Personal Property Under the Original Lease**

The Original Lease set forth Furr's duty to maintain the Property in good condition Specifically, Section 12 of the Original Lease entitled "Maintenance" states that Furr's "agrees that it will at its own expense maintain the premises, Improvements, and appurtenances thereto in at least as good condition as they were received, except for ordinary wear and tear " [Orig Lease at ¶ 12]

In addition, the Original Lease provided that Furr's could remove only certain personal property from the Property at the end of the lease Specifically, Section 29 of the Original Lease entitled "Removal of Lessee's Property" provides that upon termination of the lease, Furr's may remove from the Property "any machinery and equipment installed therein or thereon" at Furr's own expense other than replacement machinery or equipment required under Section 12 [Orig Lease at ¶ 29] A true and correct copy of the Original Lease is attached hereto as **Appendix 1**

B **Furr's Expanded Duty to Maintain Property Under the Second Supplement To Original Lease**

Although the First Supplement to the Original Lease was silent on the issue, the Second Supplement to the Original Lease (the "Second Supplement") substantially expanded Furr's duty to maintain the Property in good condition The Second Supplement, which was executed by Santa Fe and Furr's on November 15, 1976, expanded Furr's Section 12 "Maintenance" duties to include keeping the "roof, foundation, and structural soundness of the exterior walls windows, doors, interior walls and finish works, floors and floor coverings, gutters, heating and air conditioning systems, plumbing work and fixtures" in good repair, all at Furr's own cost and expense [Second Supp at ¶ 3] In addition, the Second Supplement required Furr's to "care for the grounds around the Improvements on the premises and keep the parking areas, driveways and alleys in clean and sanitary condition," also at its own cost and expense [*Id*]

Moreover, the Second Supplement added an attorneys' fees provision to the lease, whereby Furr's agreed to pay Santa Fe's attorneys' fees in the event it became necessary for Santa Fe to place the enforcement of the lease into the hands of an attorney or initiate legal action against Furr's because of a breach of the lease thereby [Second Supp at ¶ 13] A true and correct copy of the Second Supplement is attached hereto as **Appendix 2**

C **Lessee's Duty to Maintain Property Under the Amended and Restated Lease**

On or about June 30, 2000, prior to the termination date of the Original Lease, the Lessor and Lessee (successors-in-interest to Santa Fe and Furr's, respectively) entered into the Amended and Restated Lease (the "Amended Lease") which (1) extended the lease term until December

31, 2002 [Amend Lease at ¶ 1], (2) further expanded the Lessee's duty to maintain the Property to include "HVAC systems, electrical systems and plumbing pipes, lines and fixtures" at Lessee's own cost and expense [Amend Lease at ¶ 8], (3) expanded the attorneys' fees provision so that either the Lessee or Lessor, rather than just the Lessor, may recover reasonable attorneys' fees and costs in the event either party successfully brings an action against the other to enforce rights provided by the Amended Lease [Amend Lease at ¶ 21], (4) added a Lessee's fault provision whereby Lessee is liable to the Lessor for the cost of repair if any portion of the Property is damaged as a result of Lessee's act, omission or breach of the Amended Lease [Amend Lease at ¶ 10(b)], and (5) included a surrender provision which, upon lease termination, (i) requires Lessee to surrender the Property in good condition and (ii) expressly excludes from the term "reasonable wear and tear" the Lessee's failure to perform required maintenance, repairs or replacements [Amend Lease at ¶ 14] A true and correct copy of the Amended Lease is attached hereto as **Appendix 3**

On or about September 12, 2002, the Lessor and Lessee entered into the First Amendment to Amended and Restated Lease (the "First Amendment to Amended Lease"), thereby extending the term of the Amended Lease until March 31, 2003 A true and correct copy of the First Amendment to Amended Lease is attached hereto as **Appendix 4** The Amended Lease would ultimately terminate on such date by its own terms A true and correct copy of the letter from the Lessee to the Lessor noticing the lease expiration is attached hereto as **Appendix 5**

D Lessee's Post-Petition Month-To-Month Lease Extension

On April 1, 2003, the Lessee and Fleming Companies, Inc ("Fleming") filed their chapter 11 petitions (the "Petition Date") Also on the Petition Date, the Lessee/Fleming and the Lessor entered into a month-to-month lease to extend the Amended Lease "on the same terms and conditions" until May 31, 2003 A true and correct copy of the letter from Fleming to the Lessor confirming the Lessee's month-to-month lease extension is attached hereto as **Appendix 6** As discussed in Part III B, Lessee's actions during, and at the culmination of, this two month post-petition lease extension is the basis for the Trustee's administrative expense claim

E Fleming Companies, Inc 's Lease Guaranty

On or about March 11, 1991, Fleming executed a guaranty (the "Guaranty") in favor of the Lessor that guaranteed the lease obligations of the Lessee Such Guaranty was reaffirmed by Fleming as of the execution dates of the Amended Lease and the First Amendment to the Amended Lease (the "Reaffirmations") True and correct copies of the Reaffirmations are included in the Amended Lease and the First Amendment to the Amended Lease attached hereto

II Damages Arising from Lessee's Breach of Lease

A Lessee's Damage to, Failure to Maintain, and Failure to Properly Surrender, the Property

As evidenced by the foregoing, in the thirty (30) year period between the inception of the Original Lease in 1973 and the termination of the Amended Lease in 2003, the Lessee and its predecessor-in-interest, Furr's, had a duty to maintain the Property in a good condition at its own

cost and expense In fact, the Amended Lease included a fault provision which holds the Lessee liable to the Lessor for the cost of repair of any portion of the Property that is damaged as a result of Lessee's act, omission or breach of the Amended Lease [Amend Lease at ¶ 10(b)] Nevertheless, over the last several years of the Lease, the Lessee damaged and neglected to maintain the Property, which is a material breach of the Original Lease, the Second Supplement, the Amended Lease, and the First Amendment to the Amended Lease (collectively, the "Lease") The Lessee further breached the Lease at its termination by surrendering the Property to the Lessor without performing the required maintenance, repairs and replacements [Amend Lease at ¶ 14] Accordingly, the Lessee is liable to the Lessor for damages in the amount of **$3,270,000 00** to restore the Property to a condition that would be in compliance with the terms of the Lease

The Trustee retained experts in various disciplines to inspect and survey the condition of the Property The experts concluded that the Property is in poor to fair condition overall (see below for a detailed discussion) In general, the experts found that preventive maintenance had been limited over the past several years, and that the costs to restore the Property to a good condition would be in the millions Attached hereto as **Appendix 7** is a table setting forth the projected costs for repairing the damage to the Property caused by the Lessee's abuse and neglect, and restoring the Property to the condition prescribed by the Lease

1 **Environmental Inspection**

The Trustee retained URS Corporation ("URS") to inspect the Property for compliance with state and federal environmental regulations and to provide the Trustee with an understanding of the environmental issues associated with the Lessee's vacating the Property The following problems were identified, amongst others

a There are five (5) underground tanks ("USTs") still in place which must be either removed or stabilized/re-registered as "Out of Service" according to Texas law

b Should the tanks remain, the above USTs must maintain leak detection compliance, open vent lines and corrosion protection

c There is an existing ground water remediation system which has completed its task and must be shut down per Texas Commission on Environmental Quality ("TCEQ") requirements

d The existing monitoring wells need to be shut down and plugged

e The truck service shop requires an environmental cleanup which consists of the removal of numerous drums, tires, and waste streams per state and federal regulations with proper documentation for disposal All scrap tires must be removed from the Property via registered transporters and disposed of in a manner consistent with current laws which includes maintaining manifest records of the disposal activity

f A formal shutdown must be made of the ammonia refrigeration systems for the freezer and cooler in accordance with EPA guidelines

The Lessee had a duty to maintain and restore the Property grounds to a good and sanitary condition at its own expense As evidenced by the foregoing environmental problems with the Property, the Lessee breached its duty According to URS, the foregoing actions, which should have been taken while the Lessee was in possession of the Property, must now be taken to restore the Property to a usable and legally compliant condition The total cost is estimated at **$173,000 00** Attached hereto as **Appendix 8** are the Phase I and Phase II environmental assessments provided by URS, which explain the foregoing environmental cleanup actions in greater detail URS's entire report, although too voluminous to attach hereto, will be provided to the Lessee or Fleming upon written request

2 Roof Systems

The Trustee retained Division Seven Roof Consultants, Inc ("DSRC") to conduct a limited visual inspection and analysis of the existing roof systems at the Property It is the opinion of DSRC that the roof systems for the Property have not been maintained properly by the Lessee over the last several years In addition a portion of the roof was reworked by the Lessee with a material and fastening system not suited for the type of deck material (*i e* , gypsum) The resulting penetrations of the gypsum deck by the Lessee's use of improper materials and fasteners over the approximately 80,000 square feet of roof surface have substantially deteriorated the structural integrity of the deck material

As expressly provided in the Lease, the Lessee had a duty to maintain and restore the roof systems of the Property to a good condition at its own expense However, according to the DSRC report, the Lessee breached that duty by failing to maintain, and by using improper materials to repair, the roof systems resulting in vast open seams, torn flashings, broken downspouts, cut membranes, and other serious damage DSRC estimates that it will cost over **$2,200,000 00** for the Property's roof systems to be brought up to the minimum safety standards recommended by the National Roofing Contractors Association ("NRCA"), which is comparable to a "good condition " DSRC's entire report, although too voluminous to attach hereto, will be provided to the Lessee or Fleming upon written request

3 Architectural, Building, and Site

The Trustee retained Karson and Associates, Inc ("K&A") to conduct a site review of the Property, including, but not limited to, the interior warehouse, offices, mezzanine, returns building, truck service facility, guard house and fire equipment building K&A found substantial deficiencies in the Lessee's maintenance and repair efforts over the past several years As expressly provided in the Lease, the Lessee had a duty to maintain and restore the Property at its own expense to the condition similar to the property management standard utilized by the Lessor at other properties across the country (*i e* , good condition) As evidenced by K&A's site review, the Lessee breached that duty According to K&A's findings and restoration recommendations, which are contained in the detailed summary and expense estimation schedule attached hereto as **Appendix 9**, it will cost approximately **$135,000 00** to restore the buildings at the Property to a good condition as required by the Lease K&A's entire report, although too voluminous to attach hereto, will be provided to the Lessee or Fleming upon written request

4 Building Dock Systems

The Trustee retained Johnson Equipment Company through W E Carlson Corp ("JEC") to conduct a dock equipment survey of the Property, including, but not limited to, the dock enclosures, bumper assemblies, Kelley flip ramps, dock levers, sectional door panels, brush seals on sectional doors, strip curtains and dock lights JEC's survey found that the doors, levelers, bumpers, and dock light equipment were either damaged or worn beyond useful life to operational capacities originally provided in the building The Lessee had a duty to maintain and restore the building dock systems of the Property to a good condition at its own expense As evidence by the JEC survey, the Lessee breached that duty Over the past several years, the Lessee should have either better maintained or replaced the damaged or worn pieces of the building dock system as required by the Lease Because restoration of the building dock systems to a low minimum standard by repair only may not be possible due to the age of the original equipment and unavailability of parts (and is also not recommended by JEC since it could create future liability issues), the only realistic method by which to restore most of the building dock systems is by replacement According to JEC's survey results and damage estimations, which are attached hereto as **Appendix 10**, it will cost approximately **$286,000 00** to restore the building dock systems at the Property to a good condition as required by the Lease JEC's entire survey, although too voluminous to attach hereto, will be provided to the Lessee or Fleming upon written request

5 HVAC Systems

The Trustee retained Freer Mechanical Contractors, Inc ("Freer") to perform an HVAC systems evaluation and service at the Property The completion of this condition report will be forthcoming and the Trustee retains the right to amend this Claim to reflect the results As expressly provided in the Lease, the Lessee had a duty to maintain and restore the HVAC systems on the Property to a good condition at its own expense Based on the Trustee's preliminary inspection of the HVAC system, and as will be shown by the upcoming Freer report, the Lessee breached that duty Prior to the report, the Trustee estimates that the HVAC systems will have to be replaced, which could cost upwards of **$92,000 00**, given current market values

6 Rack Removal

The Trustee has not retained an expert to conduct a formal rack removal cost estimation Nevertheless, the Trustee estimates that it will cost over **$260,000 00** to remove the giant metal racks[3] that the Lessee used to store and organize grocery products in the warehouse at the Property Indeed, the Lessee may remove the racks so long as the Lessee repairs any damage caused by such removal [Orig Lease at ¶ 29, Amend Lease at ¶ 14] The rack removal process is extremely labor intensive First, the pipes and sprinkler system that winds through the racks like a maze of tunnels must be removed Then, each of the giant racks must be dismantled by

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[3] Visualize a giant "erector set" that fills up the entire warehouse

hand Once dismantled, the racks' foundation must be pulled from the concrete floors and walls, creating massive holes that must be properly filled

Although the Lessee's right to remove the racks is expressly prescribed in the Lease, the Lessee's duty to dismantle and remove the racks is not expressly provided for in the Lease Nevertheless, the Lessee must pay the cost of dismantling and removing the racks based on the theory of promissory estoppel Specifically, the Lessee's removal the first two sets of racks upon its surrendered of the Property, as well as other indications, gave the Lessor the impression that the Lessee was going to dismantle and remove all of the racks However, after removing the first two sets of racks, and without warning or explanation, the Lessee failed to remove the remainder of the racks Believing that the Lessee would be removing all of the racks, the Lessor began marketing the Property in a "rack free" capacity Various potential lessee's have shown interest in the Property, but will only lease the Property if the racks are removed Accordingly, the Lessee is liable for the cost to dismantle and remove the racks because (i) the Lessee had begun its removal of the racks, which act evidences the Lessee's intent or promise to remove them, and (ii) the Lessor relied to its detriment upon the Lessee's initial removal activities by marketing the Property as "rack free "

B Damages Arising From Lessee's Removal of Prohibited Equipment Upon Surrender

As explained above, the Lease provides that upon termination of the lease and surrender of the Property, any machinery and equipment installed therein or thereon at Lessee's expense, other than replacement machinery or equipment required under Section 12 of the Original Lease (*i e* , equipment installed for maintenance purposes), may be removed by the Lessee so long as the Lessee repairs any damage caused by such removal [Orig Lease at ¶ 29, Amend Lease at ¶ 14] Upon the Lessee's surrender of the Property, the Lessee removed from the Property the equipment listed in **Appendix 11** Such removal by the Lessee was improper, and a material breach of the Lease, because such equipment was either a fixture not installed by the Lessee, or was installed by the Lessee pursuant to its duty to maintain the Property Accordingly, the Lessor may recover from the Lessee the value of the equipment, which is estimated at **$5,000 00** based upon the purchase amount offered for such equipment by D&J Investments A true and correct copy of the D&J Investments purchase offer letter is included in **Appendix 11**

C Attorneys' Fees Related To the Trustee's Enforcement of the Lease

As discussed above, the Lease includes an attorneys' fees provision that entitles the Lessor to recover reasonable attorneys' fees and costs from the Lessee in the event the enforcement of the Lease is placed into the hands of an attorney or legal action is initiated against the Lessee because of a breach of the Lease by Lessee [Second Supp at ¶ 13, Amend Lease at ¶ 21] In order to preserve the Lessor's right to recovery against the Lessee and Fleming in these bankruptcy cases, the Trustee has retained Gibson, Dunn & Crutcher LLP to represent its interests, in part by drafting and filing this Claim based upon the Lessee's breach of the Lease Accordingly, pursuant to the Lease, the Trustee may recover reasonable attorneys' fees and costs in an amount to be determined at a later date

III Miscellaneous Provisions

A Trustee's Reservation of Right to Amend Claim

The Trustee reserves the right to amend this Claim to the extent additional information becomes available regarding additional damages sustained

B Trustee's Administrative Expense Claim

As discussed in Part I D above, the Lessee/Fleming and the Lessor entered into a post-petition month-to-month lease to extend the Amended Lease "on the same terms and conditions" until May 31, 2003 During those two months, the Lessee continued to damage and neglect to maintain the Property, which is a post-petition breach of the extended Lease The Lessee further breached the month-to-month Lease at its expiration by surrendering the Property to the Lessor without performing the required maintenance, repairs and replacements [Amend Lease at ¶ 14]

At this time, it is difficult to determine exactly what amount of the total damages were caused by the Lessee during the post-petition Lease period Accordingly, the Trustee reserves the right to assert any and all such post-petition claims pursuant to sections 503 and 507 of the Bankruptcy Code when it is determined which of the Lessee's breaches of the Lease give rise to administrative expense or priority claims

Summary of the Trustee's Pre-Petition Claim

Lessee's Failure to Maintain/Surrender Property (II A)	$3,270,000 00
Lessee's Removal of Prohibited Equipment (II B)	$5,000 00
Attorneys' Fees and Costs (II C)	Amount to be determined
TOTAL	$3,275,000 00

List of Appendices To Trustee's Pre-Petition Claim

1	Original Property Lease between Santa Fe and Furr's
2	Second Supplement to Original Property Lease between Santa Fe and Furr's
3	Amended and Restated Lease between Lessor and Lessee
4	First Amendment to Amended and Restated Lease between Lessor and Lessee
5	Notice Letter from the Lessee to the Lessor Re Lease Expiration
6	Confirmation Letter of the Lessee's Month-to-Month Lease Extension
7	Table of Projected Costs for Repairing Damages to Property
8	Phase I and Phase II Environmental Assessment Reports by URS
9	K&A Building Site Review and Expense Estimation
10	JEC's Survey Results and Damage Estimations
11	List of Prohibited Equipment Removed From Property and D&J Offer Letter

30321384_1 DOC

FAX TRANSMISSION

RICHMOND ASSET MANAGEMENT
A Division of Richmond Associates Inc.
5401A West 65th Street, Suite 200 Bedford Park IL 60638
Phone 708/594-1010 Fax. 708/594-5602

Date September 3 2003 Pages to follow 55

FROM	TO:
Robert J Richmond	Ken Glowacki
COMPANY NAME. Richmond Asset Management	COMPANY NAME. Gibson, Dunn & Crutcher
PHONE 708/594-1010	PHONE. 949/451-4034
FAX. 708/594-5602	FAX. 949/475-4701

The original of the transmitted document will be sent by

() First Class Mail () Messenger () Overnight Mail (x) This will be the only form of delivery

MESSAGE

Re: 5824 Elm Avenue Lubbock, Texas

Enclosed please find.

1. Lease Agreement between Santa Fe Land Improvement Company and Furr's Inc
2. First Supplement to Lease Agreement between Santa Fe Land Improvement Company and Furr's Inc.
3. Second Supplement to Lease Agreement between Santa Fe Land Improvement Company and Furr's Inc.
4. Amended and Restated Lease between Allegro Associates and Contemporary Partners and Fleming Foods of Texas L.P
5. Pre-Vacancy Inspection letter to Dave Stegman (Fleming)
6. Memo to Dave Stegman (Fleming)
7. Spreadsheet showing cost breakdown for space rehab.

We have cleaned the space for minimal showing set up security and reset the fire alarm system Should you have any questions or need any further information please do not hesitate to contact our office.

We are transmitting from a Xerox Telecopier 7038 If there is any problem with this transmission, please call 708/594-1010 and report the problem

PLEASE NOTE: The information in the transmitted documents is private and confidential and intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error please immediately notify us by telephone and return the original message to us at the address above via the U S Postal Service. Thank you.

(1)

THE STATE OF TEXAS)

COUNTY OF LUBBOCK) LEASE AGREEMENT

THIS LEASE AGREEMENT is made this 17th day of July 1973 between SANTA FE LAND IMPROVEMENT COMPANY a California corporation with a permit to do business in the State of Texas, hereinafter called either Landlord or Lessor and FURR S INC a Texas corporation hereinafter called either Tenant or Lessee and the parties hereto mutually covenant and agree as follows

1 DESCRIPTION OF LAND Lessor owns a parcel of land located in Lubbock Lubbock County Texas which land is fully described in Exhibit A attached hereto and made a part hereof for all purposes

2 PROPOSAL TO LEASE Lessee is desirous of leasing the above described premises as a site for a warehouse complex for the storage and distribution of grocery drug and general mercantile products for the production storage and distribution of bakery and dairy items for the storage maintenance and repair of vehicles used in its business and for any other lawful purpose similar or necessary to the above and Lessor is willing to lease said premises to Lessee for such purposes under the terms and conditions provided hereinafter in this Lease Agreement

3 PROPOSAL TO CONSTRUCT IMPROVEMENTS Lessee desires Lessor to construct erect and install upon said premises certain

Appendix 1

improvements to be used by Lessee consisting of warehouse buildings together with appurtenant loading and unloading docks and necessary auxiliary facilities

4 COVENANTS OF LESSOR. In consideration of the rental hereinafter provided to be paid by Lessee to Lessor and other covenants and undertakings of Lessee hereinafter set forth and upon the condition of the faithful performance of the same by Lessee, Lessor agrees as follows

A Construction of Improvements Lessor will construct, build, erect, and install or cause to be constructed, built, erected, or installed upon said premises warehouse buildings, together with appurtenant loading and unloading docks, rail spur tracks paving fencing freezing equipment, air-conditioning equipment, racks, and other necessary facilities, hereinafter together collectively called "Improvements",

B Plans and Specifications and Construction Costs The work to be performed by Lessor as provided by subparagraph A above shall be done in a good workmanlike manner in conformity with plans and specifications which, together with the cost of said Improvements shall be subject to written approval of Lessee Should the aforesaid plans and specifications and/or the cost of said Improvements not be approved by Lessee prior to ~~January 1,~~ APRIL 1, 1974, then all obligations of Lessee under this Lease Agreement shall terminate, however, in the event of such

termination, Lessee agrees to reimburse Lessor for any cost incurred by Lessor in preparation of plans and specifications, but not more than $ 300,000.00.

C Date of Completion Construction of said Improvements will be carried on with reasonable dispatch It is anticipated the Improvements will be completed in accordance with said plans and specifications and ready for occupancy by ~~January 1~~ June 1, 1975 The period of time for completion of construction shall be extended for and throughout the period of time as such construction is prevented or delayed due to strikes, acts of God or the public enemy, governmental action, unavailability of needed materials, or other cause beyond the control of Lessor or the contractors employed in the construction of said Improvements provided however, in the event such construction is not begun by July 1, 1974, Lessee may cancel this lease upon giving sixty (60) days' written notice to Lessor that such lease will be canceled if construction of the Improvements is not begun prior to September 1, 1974

D Term Lessor will lease and does hereby lease, rent and let unto Lessee the said premises, together with the Improvements to be built, constructed, erected, and installed thereon as hereinabove provided, for a term beginning on the date of this lease and terminating ~~December 31, 1999~~ July 1, 3000; said premises and Improvements to be used by Lessee for the purposes enumerated in paragraph 2, above

5. LOSS OR DAMAGE If the said improvements, including any additional improvements hereafter constructed on the premises, should be partially or totally destroyed by fire or any other casualty during the first 15 years hereof, Lessor shall, as far as practicable, with reasonable diligence, reinstate the Improvements to their condition at the time the premises are fully occupied by the Lessee Lessor shall endeavor as far as practicable to confine the cost of rebuilding or restoring to the amount received by Lessor from the insurance covering casualty causing the damage and any further amount that may be necessary to repair or restore the Improvements shall be supplied by Lessor

A Prior to commencement of restoration or repair Lessor shall submit to Lessee a firm bid for such restoration or repair for Lessee's approval If such bid is unacceptable to Lessee, Lessee shall have the right to secure two other contract bids from construction companies satisfactory to both parties, and the company submitting the lowest bid will be awarded the contract Lessee agrees to reimburse Lessor for such further amount within 30 days from receipt of bill therefor, or to pay, in addition to the rent and other charges assumed by Lessee, a further annual rent in equal monthly installments during the then remaining term of this lease equal to 10 1/4 % of the difference between the cost to the Lessor of repairing or replacing said Improvements and the amount actually received by the Lessor from said insurance

B It is agreed that the impairment or destruction, either partial or total, of said Improvements, including any additional improvements, by fire or any other casualty, shall not have the effect of automatically terminating this lease, except as provided in Subparagraph C hereinbelow

C If the fire or other casualty should occur during the last ten (10) years of the term of this lease, and such fire or other casualty should result in the loss of the Improvements or damage to the said Improvements amounting to more than 75 percent of the total replacement cost at the time of the damage, then either party, by written notice given to the other party within 30 days after such loss or damage, may elect to terminate the lease

6 LESSEE'S AGREEMENT TO LEASE Lessee agrees to and does hereby lease and rent from Lessor the above-described premises and Improvements to be placed thereon and constructed in connection therewith for a term beginning on the date of this lease and ending on ~~December 31, 1999~~ July 1, 2000, unless this lease shall be earlier terminated as herein provided

7. OCCUPANCY OF THE PREMISES Time being of the essence, Lessee will totally occupy the premises and Improvements upon completion and may occupy a portion thereof before completion if such may be done safely and without unreasonably interfering with construction of the Improvements

8 SUPPLEMENTAL AGREEMENT Upon the completion of the Improvements, a supplemental agreement shall be made and entered into by and between the Lessor and the Lessee setting forth the exact amount of the basic monthly rental, computed as set forth in Paragraph 9, and the date for commencement of the payment of basic monthly rent

9 BASIC MONTHLY RENTAL Lessee agrees to pay throughout the term of this lease monthly in advance to Lessor beginning on the day when the Improvements are totally occupied or completed, whichever is earlier, as rental for the leased premises and Improvements to be constructed on the premises, an amount equal to one-twelfth (1/12th) of 10 ½% of the total cost of the Improvements and land value The total cost of the Improvements and the land value upon which said rental is based includes the following

A All costs paid by Lessor for the construction of the Improvements, both direct and indirect, including architectural and engineering fees, together with the cost of Lessor's supervisor of construction, and any assistants, which, in the opinion of Lessor, are necessary to properly execute and supervise the construction of said Improvements, plus $210,000 00 representing the land value Such fees and costs must be agreed upon by Lessor and Lessee prior to commencement of construction

B All amounts paid by Lessor to Lessee in order to refund to Lessee all sums ~~paid~~ by Lessee to Austin Company for architectural and engineering fees ~~and cost of supervising the construction~~, not to exceed $ 60,000.00 It is agreed that such expenditures by Lessee shall be payable by Lessor to Lessee on the date for commencement of payment of the basic monthly rental

C An amount computed at 10 1/4% per annum of the costs and land value set forth in A above for the period from date of ~~expenditure by~~ Lessor or, as to the land value, from the date of this lease, until the Improvements are totally occupied by Lessee or completed by Lessor, whichever is earlier

10 ADDITIONAL RENTAL Lessee agrees to pay to Lessor any sums or additional rents provided elsewhere in this Lease

11. PARTIAL RENTAL Lessee agrees that if it occupies a portion of the Improvements prior to the completion of all of the Improvements, it will pay to Lessor as rental for this partial occupancy a sum which is in the same proportion to the total actual rental due upon completion of Improvements as the area being occupied bears to the total area of the Improvements which Lessee will occupy under this lease If the total cost of constructing said Improvements is not known at the time Lessee occupies a portion of the Improvements, the parties hereby

agree that said rental shall be based on the estimated total cost of such construction and shall be adjusted at a later date when such total cost is known Such Rental shall be due only from the date the Lessee commences shipping merchandise out of the leased premises

12 MAINTENANCE Lessee agrees that it will at its own expense maintain the premises, Improvements, and appurtenances thereto in at least as good condition as that in which they were received, except for ordinary wear and tear, and the provisions of Paragraph 5 above

13 LESSOR'S RIGHT OF INSPECTION Lessee agrees to allow Lessor or its agents to enter the premises and Improvements, at reasonable hours, to examine same

14 OTHER CHARGES AS ADDITIONAL RENTAL

A Taxes As additional rental and before delinquency, Lessee shall pay assessments, utilities and all taxes, real and personal, which may be assessed on the real estate, Improvements, or personal property located thereon

B Fire and Extended Coverage Insurance Commencing with any occupancy and continuing throughout the term hereof, Lessee shall maintain, at its sole cost and expense, fire and extended coverage insurance in a company or companies authorized to do business in the State of Texas and having a Best Rating of A plus AAAAA in an amount equal

cert of ins.

to 100% of the full replacement cost of the Improvements, including any additional improvements, located on the premises Such insurance shall include a Loss of Rents Endorsement. Such insurance shall name the Lessor as the insured In the event that Lessee shall neglect to insure said Improvements as required by this lease, Lessor may effect such insurance as the agent of the Lessee, by taking the policies in a company satisfactory to the Lessor and the amount of the premium paid for such insurance by the Lessor with 12 % interest, shall be deemed rent, and shall be payable with the next installment of rent

15. GOVERNMENTAL REGULATIONS In using the premises and the Improvements thereon Lessee shall comply with and execute, at Lessee's own cost and expense, any and all requirements imposed by Federal or State statutes, or by ordinances, orders, or regulations of any governmental body having jurisdiction thereof

16 BUILDING CODES In the event the premises or Improvements shall be used for the loading, unloading, storing, or otherwise handling of any petroleum products, Lessee shall comply with all applicable regulations and recommendations from time to time promulgated by the Bureau of Explosives of the Association of American Railroads, or any successor agency All artificial lighting in pump houses, warehouses, or other enclosures upon the premises, whether oil or other inflammable fluid supplies are handled or stored by Lessee, except in

unbroken original containers, shall be by electricity, and such electrical installation and any other electrical installation upon the premises shall at all times conform to and be maintained in accordance with the provisions of the then current edition of the National Electrical Code with respect to Class I hazardous locations

17. ALTERATIONS The Lessee shall have the right to make such alterations of and modifications to the leased premises as it may desire without the necessity of obtaining prior consent thereto from the Lessor, except that the Lessee shall not have the right to make any repairs or alterations which would affect the structural portions of the Improvements on the leased premises without the consent of the Lessor The Lessee shall not be required to restore the leased premises to the condition in which they were prior to any such alterations and modifications at the expiration of this lease Lessee shall promptly pay and discharge any and all liens arising out of any construction, modification, alterations or repair work done, or suffered or permitted to be done, by Lessee on the premises and/or Improvements Lessor is hereby authorized to post any notices or take any other action upon or with respect to the premises and Improvements that is or may be permitted by law to prevent the attachment of any such liens to the premises or Improvements, provided, however, that the failure of Lessor to take any such action shall not relieve Lessee of any obligation or liability under this or any other paragraph hereof

18 EXPANSION OF IMPROVEMENTS If during the term of this lease Lessee desires to have additional improvements constructed on the leased premises, Lessor may at its option construct such additional improvements according to plans and specifications mutually agreed upon by Lessor and Lessee Upon completion of such additional improvements the rent shall be increased so as to amortize the total cost of construction of such additional improvements over the balance of the twenty-five (25) year term of this lease on the same basis and interest factor as used to determine the initial basic monthly rental

A If any such additional improvements are constructed by Lessor when there is an unexpired lease term of less than ten years, upon completion of such additional improvements the rent shall be increased by an amount which would amortize the total cost of construction of such additional improvements over a period of 15 years from the date of such completion on the same basis and interest factor as used to determine the initial basic monthly rental

B On or before ~~July 1, 1999,~~ JULY 1, 2000 Lessee shall have the right to elect to either (1) pay to Lessor on or before ~~December 31, 1999,~~ JULY 1, 2000 that portion of total costs, plus interest, of any additional improvements constructed by Lessor pursuant to Subparagraph A above which would remain unamortized on ~~December 31, 1999~~, JULY 1, 2000 or (2) to extend this lease for a period ending 15 years from the date of completion of the last constructed additional improvements, subject to the rental provisions set forth in Subparagraph C below

C The rental during such extended term for each additional improvement constructed pursuant to Subparagraph A above shall continue until the total costs, plus interest, thereof shall have been fully amortized, and thereafter for the remaining period of said extended term shall be an amount negotiated, together with the rental for the premises, Improvements and all other additional improvements, by Lessor and Lessee prior to the commencement of the extended term

D If the parties are unable to negotiate a mutually satisfactory rental for the extended term, as provided in Subparagraph C above, such shall be determined by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof

E In the event Lessee desires additional improvements, and Lessor elects not to construct such additional improvements, Lessee shall have the right to construct the additional improvements, and if there is an unexpired lease term of less than 10 years, to elect to extend the term of the lease in the same manner as if Lessor had built such improvements except that there will be no rental due on such additional improvements

F The parties agree that the extent to which the additional improvements shall be made shall be limited to the maximum permitted by deed restrictions and zoning ordinances, if any, concerning said property

19 PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

Lessee shall provide and maintain, during the term of this lease and any extension thereof, at its sole cost and expense, a policy or policies of comprehensive general liability insurance issued by an insurance company

or companies authorized to do business in the State of Texas having a Best Rating of A plus AAAAA in combined single limits of not less than $3 million in any occurrence for injury to or death of person or persons and property damage liability The aforesaid limits shall be increased from time to time at Lessor's request, but such increases shall not be unreasonable Lessee shall furnish Lessor with copies of such policies or certificates of such coverage describing such insurance coverage, which shall provide that notice shall be given to Lessor at least 30 days prior to cancellation or material change in the form of such coverage The said policy or policies shall name Lessor and Lessee as joint assureds and shall insure said assureds against any claims or demands of any and all persons for injury, including death, sustained by any person or persons or damage to or loss of property resulting from, arising out of, or in anywise connected with the maintenance of said leased premises or any improvements thereon, or the use and occupancy by the Lessee of said leased premises and Improvements

20. MISCELLANEOUS CONSTRUCTION REQUIREMENTS

Lessee shall at all times keep a space of 6 feet from the nearest rail of any railroad track entirely clear of structures, material and obstructions of every sort and shall observe an overhead clearance of not less than 25 feet above the top of rail, but, nevertheless for convenience in handling freight to and from cars on any railroad track serving the premises, the Lessee may install, use and maintain loading or unloading cranes or other devices not nearer than 6 feet

from the nearest rail of such track and no part of which shall at any time project or extend in the direction of such track except when crane or device is being used for loading or unloading freight, provided, however, if by statute or order of competent public authority different clearance shall be required, then Lessee shall strictly comply with such statute or order. Irrespective of anything in Paragraph 19 hereof contained, in case of a breach of the obligations contained in this Paragraph 20, or any of them, Lessee assumes and agrees to indemnify Lessor against all liability for loss, damage, injury or death resulting therefrom, and to reimburse Lessor for any sums which Lessor may have been required to pay in the way of damages, fines penalties or other expense resulting, in whole or in part, from the failure of Lessee to comply with any of the provisions hereinabove in this Paragraph 20 contained

21. SUB-LEASE OR ASSIGNMENT The Lessee shall have the right, power and authority to transfer or assign this lease without further consent of the Lessor to any subsidiary or affiliated company, a company resulting from the merger of Furr's, Inc with some other company, or to any assignee purchasing all or a major part of the retail stores of Furr's, Inc. provided the Lessee shall remain liable

for the payment of all rents and for the performance of all of the terms, conditions and covenants of this lease. Except for the authorized transfers or assignments mentioned above, the Lessee agrees that it will not assign, transfer or sublet in any manner whatsoever this lease or any estate or interest therein without prior written consent of the Lessor, which consent shall not be withheld unreasonably by the Lessor

At the option of Lessor, this lease shall be forfeited by any such unauthorized voluntary sublease or assignment or by any assignment thereof by operation of law

22 EMINENT DOMAIN If any portion of the principal warehouse building on the leased premises or if 4 acres or more of the premises shall be taken by any public authority under the power of eminent domain, then the Lessee shall have the right to terminate this lease or to continue in possession of the remainder of the leased premises Lessee shall notify Lessor in writing of the Lessee's election within thirty (30) days after first notice of such proposed taking In the event Lessee elects to remain in possession, all of the terms herein provided shall continue in effect, except that the basic monthly rent shall be reduced in proportion to the amount of the Improvements and/or premises taken and Lessor shall, at its own cost and expense, not to exceed damages awarded Lessor as damages resulting from this specific obligation, make all necessary

repairs or alterations to the improvements and grounds so as to constitute the remaining premises a complete commercial unit satisfactory for the operation of the Lessee's business

A In any event, all damages awarded for such taking under the power of eminent domain, whether for the whole or a part of the Improvements shall belong to and be the property of the Lessor, whether such damages shall be awarded as compensation for diminution in value to the Lessor's leasehold or to the fee of the premises, provided, however, the Lessor shall not be entitled to any award made to Lessee for loss in the leasehold estate, loss of business, depreciation to, and cost of removal of stock and fixtures

B The term "eminent domain" shall include the taking by condemnation proceedings or the exercise of any similar governmental power and any purchase or other acquisition in lieu of condemnation

C Notwithstanding anything herein to the contrary or apparently to the contrary, it is agreed that the provisions of this Paragraph shall not apply in the event any governmental agency requires any of the leased premises for the construction or improvement of streets along the north and/or west boundaries of the leased premises, and the rental payable shall not be reduced, and Lessee shall pay all assessments due and payable as a result of such construction or improvements of streets

23. WAIVER OF SUBROGATION RIGHTS In that standard fire insurance policies used in Texas contain a subrogation clause

providing in effect that the insurance company may require from the insured an assignment of all rights of recovery against any party for loss to the extent that payment therefor is made by the insurance company, the undersigned parties desire that the lease contain an express waiver of their respective rights of recovery and waiver of all rights of subrogation

A Each of the undersigned parties do hereby waive in writing, prior to loss, all of such party's rights of recovery from the other party, its successors or assigns, due to loss or damage to the leased improvements from fire, explosion and/or any other cause covered by such insurance policy which is incurred as a result of negligence or omission of the Lessee, the Lessor, or their respective agents or employees. The undersigned parties agree that any and all of the insurance carriers shall not be subrogated, either at law or in equity, to any such cause of action

B The provisions for waiver of subrogation rights set forth in this paragraph shall be effective during the term of the lease so long as such provisions do not invalidate any insurance policy and so long as such provisions do not prohibit securing insurance coverage from insurance companies approved to do business in the State of Texas having a Best Rating of A plus AAAAA

24. FIRST RIGHT OF REFUSAL If Lessor should desire to sell the leased property, except as provided in Paragraph 25, it shall

notify the Lessee in writing thirty (30) days in advance of such intended date of sale. Such notice shall set forth the terms and conditions of such proposed sale and shall contain a representation that the proposed purchaser has submitted to it a bona fide written offer to acquire the leased property on such terms and conditions Such notice shall be deemed to be and treated as an offer by Lessor to sell to the Lessee all of the leased property upon the same terms and conditions as contained in the offer received by Lessor from the proposed purchaser Lessee's acceptance shall be evidenced by written notice served upon the Lessor within thirty (30) days after receipt of the initial notice If Lessee does not give notification of acceptance within such thirty-day period, the Lessee shall be deemed to have rejected such offer If Lessee shall elect to accept such offer, such purchase shall be consummated within the time and within the mode and manner as provided in such offer

25. MORTGAGE If any financial institution should require any modification of the terms and provisions of this lease as a condition to approving a loan to the Lessor, and if the Lessee should refuse to approve and execute any such required modification, then the Lessor shall have the right to cancel this lease if Lessee still refuses to modify the lease after thirty (30) days' notice has been given by the Lessor to the Lessee

Lessee agrees that this lease shall be subordinate to any mortgage or deed of trust that may be placed upon the leased property

hereafter and to any and all advances to be made thereunder, and to the interest thereon, and all renewals and extensions thereof, provided that in the event of foreclosure, the mortgagee or trustee or beneficiary named in said mortgage or deed of trust shall agree to recognize the validity of this lease for so long as the Lessee is not in default.

26 LESSOR'S TITLE The Lessor covenants that it is the owner in fee simple of the above mentioned land, subject to possible roadway easement along the west side of said leased premises, and that it has the power and authority to make and enter into this lease contract

27. DEFAULT BY LESSEE If Lessee defaults in the payment of rent, including taxes, assessments or any other payment required to be made as additional rental, or defaults on the performance of any of the other covenants or conditions hereof, Lessor may give Lessee notice of such default, and if Lessee does not cure any default in payment of any rental within 10 days, or other default within 30 days, after the receipt of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within 30 days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this lease on not less than 10 days' notice to Lessee, and on the date specified in said notice the term of this lease shall terminate, and Lessee shall then quit and surrender the premises and Improvements to Lessor, but

Lessee shall remain liable as hereinafter provided. If this lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the premises and Improvements by any lawful means and remove Lessee or any other occupants and their effects

28. LESSOR'S RIGHTS AFTER REPOSSESSION In any case where Lessor has recovered possession of the premises and Improvements by reason of Lessee's default, Lessor may, at Lessor's option, occupy the premises and Improvements or cause the premises and Improvements to be redecorated, altered, divided, consolidated with other adjoining premises, or otherwise changed or prepared for reletting, and may relet the premises and Improvements or any part thereof as agent of Lessee or otherwise, for a term or terms to expire prior to, at the same time as, or subsequent to, the original expiration date of this lease, at Lessor's option, and receive the rent therefor Rent so received shall be applied first to the payment of such expenses as Lessor may have incurred in connection with the recovery of possession, redecorating altering, dividing, consolidating with other adjoining premises, or otherwise changing or preparing for reletting, and the re-letting, including brokerage fees, and then to the payment of damages in amounts equal to the rent hereunder and to the cost and expenses of performance of the other covenants of Lessee as herein provided Lessee

agrees, in any case, whether or not Lessor has relet, to pay to Lessor damages equal to the rent and other sums herein agreed to be paid by Lessee, less the net proceeds of the reletting, if any, as ascertained from time to time, and the same shall be payable by Lessee on the several rent days above specified In reletting the premises and Improvements as aforesaid, Lessor may grant rent concessions, and Lessee shall not be credited therewith No such reletting shall constitute a surrender and acceptance or be deemed evidence thereof If Lessor elects, pursuant hereto, actually to occupy and use the premises and Improvements, or any part thereof during any part of the balance of the term as originally fixed or since extended, there shall be allowed against Lessee's obligation for rent or damages as herein defined, during the period of Lessor's occupancy, the reasonable value of such occupancy not to exceed in any event the rent herein reserved and such occupancy shall not be construed as a release of Lessee's liability hereunder

29. REMOVAL OF LESSEE'S PROPERTY- That upon the termination of this lease, Lessee shall have the right to remove from the leased premises and Improvements, any machinery and equipment installed therein or thereon at Lessee's cost other than replacement machinery or equipment required pursuant to Paragraph 12, provided same be removed within 30 days from the date of such termination, and Lessee shall repair all damage to said Improvements caused by such

removal and shall restore the premises and Improvements to substantially their former state, provided, further that Lessee shall not remove any of its machinery or equipment pursuant to this paragraph unless all rent due and payable to the date of such removal shall have been paid Any machinery and equipment not removed within such period of time shall become the property of the Lessor

30 CONTINUED POSSESSION BY LESSEE If Lessee fails to surrender to Lessor the premises and Improvements, upon any termination of this lease, all the liabilities and obligations of Lessee hereunder shall continue in effect until the premises are surrendered, and no termination hereof shall release Lessee from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or the date, if later, when the machinery and equipment are removed and the premises restored or Lessor elects to take and hold the machinery and equipment as its sole property as hereinabove in Paragraph 29 provided

31. SHORT FORM LEASE Lessor and Lessee agree to execute a short form of this lease in form permitting its recording at any time upon the request of the other party

32 CONSENT Wherever by the terms of this lease it is prerequisite that the consent of either party be first had and obtained by the other, such other party agrees that such consent will not be unreasonably withheld and that it will act promptly

33. NOTICE Whenever notice of any kind is authorized or required to be made from one party to the other party under the terms of this lease, such notice shall be considered as given as of the fifth day after the deposit of same in the United States Registered or Certified Mail, all postage prepaid, return receipt requested, and addressed to the other party at the address given below, or to such different address as either party hereto may file by registered or certified mail in a similar manner with the other party from time to time, as follows

Address of Lessor	Santa Fe Land Improvement Company 900 Polk Amarillo, Texas 79171
Address of Lessee	Furr's, Inc P O Box 1650 Lubbock, Texas 79408

34 WAIVER OF DEFAULT No waiver by either party of its rights to enforce any provisions hereof after any default on the part of the other party shall be deemed a waiver of such party's right to enforce each and all of the provisions hereof upon any further or additional default on the part of such other party

35 SEVERABILITY If any provision of this lease shall be determined to be void or unenforceable by any court of competent jurisdiction, such determination shall not affect any other provision of this lease, but all other provisions of this lease shall remain in full force and effect as if such void or unenforceable provision had not been included herein If any provision of this lease is susceptible to two or more

constructions, one of which would render the provision valid, that provision shall be given the meaning which rendered the same valid

36 TOPIC HEADINGS The topic headings at the beginning of each paragraph in this lease are inserted for convenience only, and shall not modify, eliminate, enlarge or affect in any way the terms contained in the body of this lease agreement

37. SUCCESSORS AND ASSIGNS All of the terms, provisions, covenants and conditions of this lease shall inure to the benefit of and shall be binding upon the undersigned parties, their respective successors and assigns, but nothing in this paragraph shall change or alter the restrictions on assigning the lease or subletting the leased premises.

EXECUTED IN QUADRUPLICATE ORIGINALS, this the 17th day of July, A. D., 1973

SANTA FE LAND IMPROVEMENT COMPANY,

ATTEST

I. A. Kaufman
Assistant Secretary

By J. R. Scott
President

FURR'S, INC.,

ATTEST

Secretary

By
President

LESSEE

(2)

Secy's Contract
No. SELI-1612 B
25

THE STATE OF TEXAS (
COUNTY OF LUBBOCK) FIRST SUPPLEMENT TO LEASE AGREEMENT

WHEREAS, on the 17th day of July, 1973, SANTA FE LAND IMPROVEMENT COMPANY, as Landlord or Lessor, and FURR'S, INC , as Tenant or Lessee, made and entered into that certain Lease Agreement covering and affecting the following described land situated in the City of Lubbock, Lubbock County, Texas, to-wit

> 48.209 acres of land out of Section One (1), Block E, G C & S F Survey, situated in Lubbock County, Texas, being more particularly described by metes and bounds in said lease agreement, reference to which lease is hereby made for all lawful purposes,

WHEREAS, the building and improvements located upon the leased premises have been completed in accordance with the plans and specifications agreed upon by the parties, and as between the Landlord and the Tenant the premises have been accepted by the Tenant and the parties desire to comply with the terms and provisions of Paragraph or Section 8 of said Lease Agreement,

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

THAT for and in consideration of the premises, this First Supplement to Lease Agreement is made and entered into this the 5th day of September, 1975, by and between SANTA FE LAND IMPROVEMENT COMPANY, a California corporation with a permit to do business in the State of Texas, hereinafter called either Landlord or Lessor, and FURR'S, INC , a Texas corporation, hereinafter called either Tenant or Lessee, as follows, to-wit

1 The undersigned Landlord and Tenant do hereby agree that the total cost of improvements and land value as described in paragraph or section 9 of said lease is the sum of SEVEN MILLION AND NO/100 DOLLARS ($7,000,000 00), and that the basic monthly rental set forth in said paragraph or section 9 shall be the sum of

FIFTY-NINE THOUSAND SEVEN HUNDRED NINETY-ONE AND 67/100 DOLLARS ($59,791.67), and that the date for commencement of the payment of basic monthly rental shall be the first day of October, 1975.

2 The undersigned Landlord and Tenant do hereby ratify, confirm and approve the above mentioned Lease Agreement dated July 17, 1973, as amended by this First Supplement to Lease Agreement

EXECUTED IN QUADRUPLICATE ORIGINALS, this the 5th day of September, 1975

ATTEST

/s/ J E Fahey
Assistant Secretary

SANTA FE LAND IMPROVEMENT COMPANY

By /s/ J P. Scott
President

LANDLORD AND LESSOR

ATTEST

C R Cummings, Secretary

FURR'S, INC

By /s/ Roy K Furr
Roy K. Furr President

TENANT AND LESSEE

APPROVED AS TO FORM ONLY
CRENSHAW, DUPREE & MILAM
By /s/

Form Approved
/s/ Robert Bateson
General Attorney

Form Approved
/s/ J L McMahon
General Attorney

(3)

SECOND SUPPLEMENT TO LEASE AGREEMENT

THESE amendments made and entered into as of the 15th day of November, 1976, by and between Santa Fe Land Improvement Company, as Landlord or Lessor (hereinaft referred to as "Lessor"), and Furr's, Inc., as Tenant or Lessee (hereinafter refer to as "Lessee").

W I T N E S S E T H

WHEREAS, by Lease dated July 17, 1973 (said Lease as subsequently amended by instrument dated September 5, 1975, hereinafter called the "Lease"), Lessor leased to Lessee the land described in Exhibit A attached hereto and made a part hereof f all purposes (together with improvements to be constructed thereon, said improveme having been completed according to the terms of the Lease as of the date hereof),

WHEREAS, Lessor and Lessee now desire to amend the Lease as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the Lease and the agreements set forth and contemplated therein, and other good and valuable consideratio the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee mutually covenant and agree that the Lease is amended as follows (said amendments to be effective as of the aforementioned date of this instrument)

1. The lead-in paragraph to Section 5., captioned LOSS OR DAMAGE, is hereby deleted in its entirety and the following is substituted therefor

> "If the said Improvements, including any additional improvements hereafter constructed on the premises, should be partially or totally destroyed by fire or any other casualty during the first 15 years hereof, Lessor shall, as far as practicable, with reasonable diligence, reinstate the Improvements to their condition immediately prior to such casualty. Lessor shall endeavor as far as practicable to confine the cost of rebuilding or restoring to the amount received by Lessor from the insurance covering casualty causing the damage and any further amount that may be necessary to repair or restore the improvements shall be supplied by Lessor, subject to Lessee's reimbursement or payment obligation as provided in subparagraph A below."

2 The last sentence in subparagraph A of Section 5., captioned LOSS OR DAMAGE, is hereby deleted in its entirety and the following is substituted therefor

> "Lessee agrees to reimburse Lessor for any further amounts over and above insurance proceeds (as referred to in the preceding paragraph) within thirty (30) days from receipt of bill therefor, or to pay, in addition to the rent and other charges assumed by Lessee, a further annual rent in equal monthly installments during the then remaining term of this lease equal to 10-1/4% of the difference between the cost to the Lessor of repairing or replacing said Improvements and the amount actually received by the Lessor from said insurance."

3. Section 12 , captioned MAINTENANCE, is hereby deleted in its entirety and the following is substituted therefor.

"Lessee agrees that it will, at its own expense, maintain the leased premises, Improvements thereon and appurtenances thereto, specifically, but without limitation, Lessee will maintain the roof, foundation, and the structural soundness of the exterior walls of the building in good repair, reasonable wear and tear excepted and also including but not limited to windows, doors, interior walls and finish work, floors and floor covering, gutters, heating and air conditioning systems, plumbing work and fixtures. Lessee shall, at its own cost and expense, care for the grounds around the Improvements on the premises and will keep the parking areas, driveways and alleys in clean and sanitary condition. Lessee's obligations hereunder shall be subject to the loss or damage provisions of paragraph 5 above In the event the premises are served by rail track or spur track, then the Lessee, notwithstanding the provisions of any rail track agreements to the contrary (including but not limited to that Contract for Industry Track between the Atchison, Topeka & Santa Fe Railroad Company and Santa Fe Land Improvement Company dated May 23, 1974), shall be liable and responsible for maintaining, or reimbursing the rail carrier for the maintenance of the portion of the track and related facilities adjacent to the premises "

4 Subparagraph B, captioned Fire and Extended Coverage Insurance, of Section 14 , captioned OTHER CHARGES AS ADDITIONAL RENTAL, is hereby deleted in its entirety and the following is substituted therefor

"Commencing with any occupancy and continuing throughout the term hereunder, Lessee shall maintain, at its sole cost and expense, fire and extended coverage insurance in a company or companies authorized to do business in the State of Texas and being satisfactory to Lessor and Lessor's First Mortgagee under a mortgage constituting a first lien upon the leased premises in an amount to be satisfactory to Lessor and said First Mortgagee but, in any event, in an amount not less than 100% of the full replacement cost of the Improvements, including any additional improvements, located on the premises Such insurance shall include a Loss of Rents Endorsement providing for a minimum of six (6) months rental insurance. The hazard insurance shall name the Lessor and Lessor's First Mortgagee as the insureds Additionally, the hazard policy shall be delivered to Lessor or Lessor's First Mortgagee to be held in their possession if so requested. In the event that Lessee shall neglect to insure said Improvements as required by this Lease, Lessor may effect such insurance as the agent of Lessee, by taking the policies in a company satisfactory to Lessor and the amount of the premium paid for such insurance by the Lessor with 10% interest, shall be deemed rent, and shall be payable with the next installment of rent "

5 The first sentence of Section 17 , captioned ALTERATIONS, is hereby deleted in its entirety and the following is substituted therefor

"The Lessee shall have the right to make such alterations of and modifications to the leased premises as it may desire without the necessity of obtaining prior consent thereto from the Lessor, except that the Lessee shall not have the right to make any repairs or alterations which would affect the structural portions of the Improvements on the leased premises or which would diminish the value thereof without the prior written consent of Lessor and of Lessor's First Mortgagee "

6. An additional subparagraph to be lettered G is hereby added to Section 18., captioned EXPANSION OF IMPROVEMENTS, and shall read as follows

"G Notwithstanding anything herein contained which may give the Lessee the right to construct or cause to be constructed additional Improvements on the leased premises, Lessee shall not allow any liens to attach to the leased premises as a result of such construction "

7. Section 19., captioned PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE, is hereby deleted in its entirety and the following is substituted therefor

"Lessee shall provide and maintain, during the term of this Lease and any extension thereof, at its sole cost and expense, a policy or policies of comprehensive general liability insurance issued by an insurance company or companies authorized to do business in the State of Texas and being satisfactory to Lessor and Lessor's First Mortgagee under a mortgage constituting a first lien upon the leased premises in an amount satisfactory to Lessor and said First Mortgagee but, in any event, in combined single limits of not less than $3 million in any occurrence for injury to or death of person or persons and property damage liability. The aforesaid limits shall be increased from time to time at Lessor's or Lessor's First Mortgagee's request, but such increases shall not be unreasonable Lessee shall furnish Lessor and Lessor's First Mortgagee with copies of such policies or certificates of such coverage describing such insurance coverage, which shall provide that notice shall be given to Lessor at least thirty (30) days prior to cancellation or change in the form of such coverage. The said policy or policies shall name Lessor and Lessor's First Mortgagee as additional insureds, and shall insure said insureds against any claims or demands of any and all persons for injury, including death, sustained by any person or persons or damage to or loss of property resulting from, arising out of, or in anywise connected with the maintenance of said leased premises or any Improvements thereon, or the use and occupancy by the Lessee of said leased premises and Improvements

Lessee will protect, indemnify and save harmless Lessor from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Lessor by reason of (a) ownership of the leased premises or any interest therein, or receipt of any rent or other sum therefrom, (b) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or about the leased premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault space, if any, streets or ways, (c) any use, non-use or condition of the leased premises or any part thereof or the adjoining sidewalks, curbs, vaults or vault space, if any, streets or ways, (d) any failure on the part of Lessee to perform or comply with any of the terms of this lease or (e) performance of any labor or services or the furnishing of any materials or other property in respect of the leased premises or any part thereof Lessee's indemnification of Lessor as aforementioned shall not include indemnification for liabilities, obligations, claims, damages, penalties, causes of action, costs, expenses and attorneys' fees that are attributable or arise by virtue of any negligent act or omissions of the Lessor or any agent, servant or employee of Lessor In case any action, suit or proceeding is brought against Lessor or Lessor's First Mortgagee by reason of any such occurrence, Lessee, upon Lessor's request and/or Lessor's First Mortgagee's request, will at Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted and defended by counsel designated by Lessee and approved by Lessor and Lessor's First Mortgagee The obligations of Lessee under this section arising by reason of any such occurrence taking place shall survive any termination of this Lease "

8. The lead-in paragraph of Section 22 , captioned EMINENT DOMAIN, is hereby deleted in its entirety and the following is substituted therefor

"If any portion of the principal warehouse building on the leased premises (but not additional improvements which might be constructed in the future under the terms of this Lease) or, if eight acres or more of the 45 74 acres constituting the net leased premises as of the date of this Second Supplement to Lease Agreement (being "net" in that it excludes 3.65 acres previously dedicated or reserved as right-of-way under the plat and dedication recorded

in Volume 1380 at Page 346 et seq of the Deed Records of Lubbock County, Texas) shall be taken by any public authority under the power of eminent domain, then the Lessee shall have the right to terminate this Lease or to continue in possession of the remainder of the leased premises, provided, however, that if the premises or any Improvements thereon, or any part thereof shall be condemned and taken for public use under the power of eminent domain and if it is feasible to restore the remaining property and the buildings thereon for the continued use and occupancy of Lessee's business, and if Lessor so elects, then it is agreed herein that all awards made to Lessor and Lessee as a result of said condemnation shall be applied to the repairs of the leased premises so that, after the completion of such repair, the premises shall be, as nearly as possible, in a condition as good as the condition thereof immediately prior to such taking or injury, except for ordinary wear and tear. Such awards and amounts received shall be turned over to and held by a trustee satisfactory to Lessee, Lessor and Lessor's First Mortgagee without payment or allowance of interest thereon and shall be paid out from time to time and applied toward repairing the damaged property or toward constructing new Improvements thereof against monthly certificates of an authorized representative of Lessor and to the costs of such work and the material delivered to the site preceding the date of such certificate At Lessor's First Mortgagee's request, any amount remaining after such repair and restoration shall be applied toward the payment of the indebtedness secured by a first lien on the leased premises Should Lessor elect to make such repair or restoration as aforementioned, then Lessee shall not have the right to terminate this Lease due to taking by eminent domain and during the period in which said repairs or restoration continues (such repairs and restoration to be made with dispatch) all of the terms herein provided shall continue in effect, except that the basic monthly rent shall be reduced in proportion to the amount of Improvements and/or premises taken However, after such condemnation, should it not be feasible to fully restore the remaining property and the buildings thereon for Lessee's continued use or occupancy in Lessee's business, then if Lessee elects to remain in possession, all of the terms herein provided shall continue in effect except that the basic monthly rent shall be reduced in proportion to the amounts of the Improvements or premises taken and Lessor shall, at its own costs and not to exceed damages awarded Lessor as damages resulting from this specific obligation, make all necessary repairs or alterations to the Improvements and grounds so as to constitute the remaining premises as a commercial unit satisfactory to the operation of Lessee's business "

9. Subparagraph A of Section 22 , captioned EMINENT DOMAIN, is hereby deleted in its entirety and the following is substituted therefor

"Subject to the provisions of the preceding paragraph, all damages awarded for such taking under the power of eminent domain, whether for the whole or the part of the Improvements, shall belong to and be on the property of the Lessor, whether such damages shall be awarded as compensation for diminution in value to the Lessor's leasehold or to the fee of the premises, provided, however, the Lessor shall not be entitled to any award made to Lessee for loss of business, depreciation to and cost of removal of stock and fixtures owned by Lessee All awards to Lessee for loss in leasehold estate shall be the property of Lessor and are hereby assigned by Lessee to Lessor "

10. The following sentence is hereby added as the final sentence of Section 24 , captioned FIRST RIGHT OF REFUSAL

"In connection with its first right of refusal hereunder, Lessee agrees to either assume full liability for the obligations (including payment of said debt) under and the payment of the indebtedness secured by a first mortgage lien on the leased premises or to continue recognizing the existence of its obligations (including the obligation

to pay rental) under this Lease and to evidence its intention (and Lessor's intention) to so recognize the continued existence of the Lease by including non-merger language acceptable to Lessor's First Mortgagee in the Deed of Conveyance of Fee Ownership to Lessee under its first right of refusal, or any other manner requested by Lessor's First Mortgagee."

11. The second paragraph of Section 25., captioned MORTGAGE, is hereby deleted in its entirety and the following is substituted therefor

"Lessee agrees to execute such instruments or other documents subordinating this Lease as Lessor and Lessor's First Mortgagee may request In the event of such subordination, if the interest of Lessor in the leased premises is transferred to any First Mortgagee or any other party by reason of foreclosure or other proceedings by a First Mortgagee for enforcement of any such First Mortgage or First Deed of Trust or by Deed in Lieu of Foreclosure, Lessee shall be bound to the transferee under the terms, covenants and conditions of this Lease Agreement for the balance of the term remaining hereunder with the same force and effect as if the transferee were the Lessor hereunder and Lessee agrees to attorn to the transferee as the Lessor of Lessee. Such attornment to be effective and self-operative without the execution of any further instruments upon the transferee succeeding to the Lessor hereunder, provided, however, if so requested by the transferee, Lessee shall enter into a new lease with said transferee for a term equal to the duration of the unexpired portion of the term remaining under this Lease at the time of such transfer and under the same terms and conditions, without negotiation, as presently exist under this Lease Lessee's aforementioned obligation to recognize and attorn to the transferee as its landlord is subject to such transferee agreeing to recognize the validity of this Lease (or executing a new lease as aforementioned) for so long as Lessee is not in default."

12. A new paragraph is hereby added as a second and final paragraph to Section 27., captioned DEFAULT BY LESSEE, and it shall read as follows

"Pursuit of any of the foregoing remedies by Lessor shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law (including the right to proceed against Lessee for rentals in the event of nonpayment), nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due hereunder or of violations of the terms, provisions and covenants herein contained Lessor's acceptance of rent following an event of default hereunder shall not be construed as Lessor's waiver of such a default."

13. A new Section is hereby added to the Lease and shall read as follows

"Should it become necessary for Lessor, because of a breach of Lessee to place the enforcement of this Lease or any part thereof, or the collection of any rent due, or to become due hereunder, or the recovery of the possession of the premises in the hands of an attorney or file suit upon the same, Lessee agrees to pay Lessor reasonable attorneys' fees in connection therewith "

Lessor and Lessee agree that in all other respects, the Lease is ratified, confirmed and approved

This instrument has been executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Second Supplement to Lease Agreement to be signed by their duly authorized officers, attested by their respective secretaries (or assistant secretaries) and their corporate seals affixed hereto, all done as of dated written below

LESSOR

ATTEST

SANTA FE LAND IMPROVEMENT COMPANY

Secretary

By: J R Scott
President

11/22/
Date

LESSEE

ATTEST

FURR'S, INC

Secretary

By: B C McMinn
Exec Vice President

11-19-
Date

EXHIBIT A

48.209 acres of land out of Section One (1), Block E, G C & S F. Survey, situated in Lubbock County, Texas, being more particularly described by metes and bounds in said lease agreement, reference to which lease is hereby made for all lawful purposes,

(4)

AMENDED AND RESTATED LEASE

This AMENDED AND RESTATED LEASE is made and entered into as of the 30th day of June 2000 by ALLEGRO ASSOCIATES, a California partnership, and CONTEMPORARY PARTNERS, a Nevada partnership (collectively, "Lessor"), and FLEMING FOODS OF TEXAS, L.P , a Texas limited partnership ("Lessee"), with respect to the following circumstances.

A Lessor's predecessor-in-interest, Santa Fe Land Improvement Company, and Lessee's predecessor-in-interest, Furr's, Inc., entered into a Lease Agreement dated July 17, 1973 (the "Original Lease"), relating to the real property described as Tract "A," Second Installment Crawford Industrial Addition to the City of Lubbock, Lubbock County, Texas, in accordance with the Certificate of Dedication recorded in Volume 1380, Page 346, Deed Records, Lubbock County, Texas (the "Land"), and all of the improvements thereon (the "Improvements," and, together with the Land, the "Property"),

B The Original Lease has heretofore been amended by a First Supplement to Lease Agreement dated September 5, 1975 and a Second Supplement to Lease Agreement dated November 15, 1976 (as so amended, the "Lease");

C. The Term of the Lease will expire on June 30, 2000. Lessee desires to continue to occupy the Property for an additional period, as hereinafter set forth, and Lessor is willing to continue to lease the Property to Lessee on the terms and conditions hereinafter set forth.

D Lessor and Lessee therefore desire to further amend the Lease and to restate the Lease, as heretofore and hereby amended, in its entirety.

NOW, THEREFORE, in consideration of the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Lease is hereby amended, effective as of July 1, 2000, to read in full as follows.

LEASE

Lessor hereby leases the Property to Lessee and Lessee hereby accepts the Property from Lessor on the terms and conditions herein set forth

1. Term The term of this Lease (the "Term"), which was to expire on July 1, 2000, is hereby extended to December 31, 2002. The period from July 1, 2000 to December 31, 2002 is referred to herein as the "First Extension Term." Provided that Lessee is not then in default of any of its obligations under this Lease, Lessee may further extend the term of this Lease to December 31, 2003 (the "Second Extension Term") by giving written notice to Lessor on or before September 1, 2002 of Lessee's election to so extend the term. Provided that Lessee is not then in default of any of its obligations under the Lease, and provided that Lessee timely exercised its option to extend the term for the Second Extension Term, Lessee may further extend the term of this Lease to December 31, 2004 (the "Third Extension Term") by giving written notice to Lessor on or before September 1, 2003 of Lessee's election to so extend the term Lessee shall have no rights to extend the term beyond the Third Extension Term.

2 Rent. The base rent ("Base Rent") during the First Extension Term shall be Eighty Thousand Eight Hundred Sixty and 21/100 Dollars ($80,860 21) per month (396,050 rentable sq ft x $2 45/sq.ft./year ÷ 12) If Lessee timely exercises its option to extend the term for the Second Extension Term, the Base Rent during the Second Extension Term shall be Eighty-Six Thousand Nine Hundred Twenty-Four and 72/100 Dollars ($86,924 72) per month If Lessee timely exercises its option to extend the term for the Third Extension Term, the Base Rent during the Third Extension Term shall be Eighty-Nine Thousand Five Hundred Thirty-Two and 47/100 Dollars ($89,532 47) per month All Base Rent shall be payable monthly in advance on the first day of each month commencing on July 1, 2000. Lessee shall pay the Base Rent to Lessor, at such address as Lessor may designate in writing to Lessee, without the need for notice or demand, on the first day of each calendar month. All sums other than Base Rent that Lessee is obligated to pay under this Lease shall be deemed to be additional rent due, regardless of whether those sums are designated as additional rent. The term "Rent" means the Base Rent and all additional rent payable under this Lease.

3 Utilities Lessee shall make all arrangements for and shall pay all charges for water, sewer, telephone, gas, electricity and other utilities supplied to or used on the Property Lessor will not be liable to Lessee for any interruption in or curtailment of any utility service, nor will any interruption or curtailment constitute constructive eviction or grounds for abatement of rent Lessor shall cooperate with Lessee, as reasonably requested by Lessee, to the extent Lessor's cooperation may be necessary or useful to Lessee in seeking the restoration of any such interrupted or curtailed service

4 Property Taxes Lessee shall pay to the proper taxing authorities, as they become due, all Real Property Taxes applicable to the Property. The term Real Property Taxes includes, but is not limited to, (i) real property taxes, (ii) possessory interest taxes, (iii) any other assessments, levies, fees or charges, general and special, ordinary and extraordinary, unforeseen and foreseen that are assessed, levied, charged, confirmed or imposed by any public authority upon the Property (or any real property comprising any portion of the Property) or its operations, (iv) all taxes, assessments, or other fees imposed by any public authority on or measured by any Rent or other charges payable under this Lease, and (v) any tax imposed in substitution, partially or totally, of any tax previously included within the above definition of Real Property Taxes or any additional tax the nature of which was previously included within such definition. Nothing contained in this Lease shall require Lessee to pay any franchise, corporate, estate or inheritance tax of Lessor, or any income, profits or revenue tax or charge on the net income of Lessor Real Property Taxes for any tax fiscal year that falls both within and outside the Term shall be prorated Lessee's obligations for Real Property Taxes for the last full or partial tax fiscal year prior to the end of the Term shall survive the expiration or earlier termination of this Lease. Lessee shall also pay, prior to delinquency, all taxes and assessments levied on trade fixtures, alterations, additions, improvements, inventories and other personal property located or installed in or on the Property by Lessee Lessee shall provide to Lessor, (a) not later than thirty (30) days after the first due date of the Real Property Taxes represented thereby, a copy of each tax bill relating to Real Property Taxes payable hereunder, and (b) not later than thirty (30) days after the due date thereof, evidence of payment of each installment of Real Property Taxes payable hereunder

5 Triple Net Lease This is a triple net lease, and the Rent shall be paid by Lessee and be received by Lessor without any deduction or offset whatsoever by Lessee, foreseeable or unforeseeable Except as may be expressly provided to the contrary in this Lease, Lessor shall

not be required to make any expenditure, incur any obligation or incur any liability of any kind in connection with this Lease or the ownership, construction, maintenance, operation or repair of the Property

6 Use. The Property shall be used as a warehouse complex for the storage and distribution of grocery, drug and general mercantile products, for the production, storage and distribution of bakery and dairy items, for the storage, maintenance and repair of vehicles used in Lessee's business and for any other lawful purpose similar or necessary to the above Such use shall comply with all applicable federal, state and local laws, ordinances, statutes and orders, including without limitation any laws regulating hazardous materials or designed for protection of the environment. Lessee shall not commit waste, overload the floors or structure of the Property, subject the Property to any use that would cause damage or raise or violate any insurance coverage, permit any unreasonable odors, smoke, dust, gas, substances, noise or vibrations to emanate from the Property, take any action that would constitute a nuisance, take any action that would abrogate any warranties, or use or allow the Property to be used for any unlawful purpose Lessee shall promptly comply with the reasonable requirements of any board of fire insurance underwriters or other similar body now or later constituted.

7 Insurance, Indemnification.

(a) Casualty Insurance. Lessee shall, at Lessee's expense, obtain and keep in force at all times during the Term a policy of casualty insurance insuring the Improvements against fire and extended coverage (including all risk coverage, earthquake and volcanic action, and flood and surface water insurance, if applicable) for the full replacement cost of the Improvements, which policy shall name Lessor as the loss payee thereunder. Lessee shall also, at Lessee's expense, obtain and keep in force at all times during the Term business interruption/extra expense insurance in an amount not less than the amount of Rent for a period of six (6) months commencing on the date of loss

(b) Liability Insurance Lessee shall, at Lessee's expense, obtain and keep in force at all times during the Term a policy or policies of commercial general liability insurance (occurrence form) covering its operations at the Property having a combined single limit of not less than Five Million Dollars ($5,000,000) per occurrence (with no aggregate limit), providing coverage for, among other things, blanket contractual liability, property, products and completed operations, and personal and advertising injury coverage Each such policy shall name Lessor as an additional insured thereunder Such insurance shall be primary, without right of contribution from insurance of Lessor Any umbrella liability policy or excess liability policy shall also be primary with respect to any insurance carried by Lessor The limits of insurance maintained by Lessee will not limit Lessee's liability under this Lease.

(c) Insurers Insurance required to be maintained by Lessee hereunder shall be written by companies licensed to do business in the State of Texas

(d) Certificates For all insurance required to be maintained by Lessee hereunder, Lessee shall deliver to Lessor a copy of such policy or a certificate of insurance describing such insurance and providing that notice shall be given to Lessor at least thirty (30) days prior to any cancellation of such policy or any change in the form of such coverage At least ten (10) days prior to the expiration of each policy, Lessee shall furnish Lessor with certificates of renewal or binders Each

certificate shall expressly provide that the policies are not cancelable or otherwise subject to modification except after thirty (30) days' prior written notice to Lessor However, in the case of cancellation for nonpayment of premium, the cancellation will not take effect until at least (10) days' notice has been given to Lessor If Lessee fails to maintain any insurance required in this Lease, Lessee shall be liable for all losses and costs resulting from that failure, Lessor shall have the right, but not the obligation, to obtain insurance on behalf of Lessee, and Lessee shall immediately on demand pay Lessor the premiums for such insurance (together with interest thereon at the rate of 10% per annum until paid), and Lessor may declare a default under this Lease

(e) Waiver of Subrogation. Each of the parties hereby waives, prior to loss, all of such party's right of recovery from the other party, its successors or assigns, due to loss or damage to such party's property from any cause covered by an insurance policy, whether or not such loss or damage was the result of the negligence or omission of such other party. The parties hereby agree that none of the insurers shall be subrogated, either at law or in equity, to any such rights of recovery. The provisions contained in this paragraph (e) shall remain effective so long as such provisions do not prohibit securing insurance coverage from insurers approved to do business in the State of Texas having a Best Rating of A, 10

(f) Lessee's Indemnities Lessee will protect, indemnify and save harmless Lessor from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Lessor by reason of (a) ownership of the leased premises or any interest therein, or receipt of any rent or other sum therefrom, (b) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or about the leased premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault space, if any, streets or ways, (c) any use, non-use or condition of the leased premises or any part thereof or the adjoining sidewalks, curbs, vaults or vault space, if any, streets or ways, (d) any failure on the part of Lessee to perform or comply with any of the terms of this Lease or (e) performance of any labor or services or the furnishing of any materials or other property in respect of the leased premises or any part thereof Lessee's indemnification of Lessor as aforementioned shall not include indemnification for liabilities, obligations, claims, damages, penalties, causes of action, costs, expenses and attorneys' fees that are attributable or arise by virtue of any negligent act or omissions of the Lessor or any agent, servant or employee of Lessor In case any action, suit or proceeding is brought against Lessor by reason of any such occurrence, Lessee, upon Lessor's request, will at Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted and defended by counsel designated by Lessee and approved by Lessor The obligations of Lessee under this Section 7(f) arising by reason of any such occurrence taking place shall survive any termination of this Lease

8 Repairs and Maintenance Lessee shall, at its own cost and expense, maintain in good repair, reasonable wear and tear excepted, the entire Property, including without limitation the roof, foundation and exterior walls, windows, doors, interior walls, finish work, floors and floor coverings, gutters, HVAC systems, electrical systems and plumbing pipes, lines and fixtures Lessee shall, at its own cost and expense, care for the grounds around the Improvements and shall keep the parking areas, driveways, walk ways and alleys in clean and sanitary condition. Lessee's obligations hereunder shall be subject to the provisions of Section 10 below Lessee shall also be responsible for maintaining, or reimbursing the rail carrier for the maintenance of, any rail track and related facilities that may service the Property Lessor shall not have any

obligation to make any repairs to the Property or to maintain any portion thereof during the Term Lessee waives any right to repair at the expense of Lessor under any applicable governmental laws, ordinances, statutes, orders or regulations now or later in effect

9 Alterations Lessee shall have the right to make additions, alterations, installations or improvements in or to the Property (collectively, "Alterations"), except that no Alterations may be made that would affect the structural portions of the Improvements or which would diminish the value of the Property without the prior written consent of Lessor For any Alteration that is visible from outside the Property, the proposed Alteration must, in the opinion of Lessor, also be architecturally and aesthetically harmonious with the remainder of the Property. If a Notice of Completion is required for the work, Lessee shall file it and provide Lessor with a copy Lessee shall provide Lessor with a set of as-built drawings for any work Lessee shall promptly pay and discharge all claims for labor performed, supplies furnished and services rendered at the request of Lessee and shall keep the Property free from all mechanics' and materialmen's liens resulting from such labor, supplies and services Lessee shall provide at least ten (10) days' prior written notice to Lessor before any labor is performed, supplies are furnished or services are rendered at the Property, and Lessor shall have the right to post notices of nonresponsibility on the Property If any lien is filed as a result of work done by or at the request of Lessee, Lessor may take any necessary action to remove the lien, and Lessee shall pay Lessor any amounts expended by Lessor, together with interest at the rate of 10% per annum from the date of expenditure Lessee shall have the right to contest the validity or amount of any such claim of mechanics' lien, upon providing to Lessor reasonable assurance that Lessee will pay the amount due when and to the extent that the lien is finally determined to be valid and owing. Lessee's right to contest any lien shall not extend beyond the time when Landlord's title to the Property is in danger of being lost. If at any time a sale, foreclosure or forfeiture of the Property, or any portion thereof or interest therein, is imminent, Lessor shall have the right, upon five (5) days written notice to Lessee, to pay such sums as are reasonably required to prevent such action, and Lessee shall pay Lessor any amounts expended by Lessor, together with interest at the rate of 10% per annum from the date of expenditure

10. Damage and Destruction.

(a) Casualty If the Improvements are damaged or destroyed by fire or other casualty, Lessee shall give immediate written notice to Lessor Within twenty (20) days after the damage or destruction, Lessee shall notify Lessor whether or not the reasonably estimated cost to restore the Improvements (the "Estimated Restoration Cost") exceeds 75% of the reasonably estimated cost to replace all of the Improvements had there been a total loss ("Total Replacement Cost").

(i) If the Estimated Restoration Cost is less than 75% of the Total Replacement Cost, this Lease will not terminate and, provided that sufficient insurance proceeds (together with such additional funds, if any, that Lessee has committed to such restoration work) are available to fully repair the damage, Lessor shall promptly commence and diligently prosecute to completion the restoration of the Property However, Lessor shall not be required to rebuild, repair or replace any Alterations placed on the Property by Lessee.

(ii) If the Estimated Restoration Cost exceeds 75% of the Total Replacement Cost, then either Lessor or Lessee may terminate this Lease by giving written notice to the other within ten (10) days after the notice from Lessee regarding the Estimated Restoration Cost If neither party elects to terminate this Lease, Lessor shall promptly commence and diligently

prosecute to completion the restoration of the Property, provided that sufficient insurance proceeds (together with such additional funds, if any, that Lessee has committed to such restoration work) are available to fully repair the damage However, Lessor shall not be required to rebuild, repair or replace any Alterations placed on the Property by Lessee

(b) Lessee's Fault If any portion of the Property is damaged as a result of Lessee's act or omission or a breach of this Lease by Lessee, Lessee shall be liable to Lessor for the cost of the repair to the extent the cost is not covered by insurance proceeds

(c) Uninsured Casualty Lessee is responsible for and shall pay to Lessor any deductible amount under the property insurance covering the Improvements If any portion of the Improvements is damaged and is not fully covered by insurance proceeds received by Lessor, (and Lessee does not elect to pay any difference), Lessor shall have the right to terminate this Lease by delivering written notice of termination to Lessee within thirty (30) days after the date of the damage. All further rights and obligations under this Lease will cease and terminate as of the date of such termination.

(d) Waiver. With respect to any damage or destruction that Lessor is obligated to repair or may elect to repair, Lessee waives all rights to terminate this Lease pursuant to any rights presently or subsequently accorded by law to Lessee, except as provided in paragraph 10(a)(ii) above

11 Eminent Domain

(a) Total Condemnation. If all of the Property is condemned by eminent domain, inversely condemned or sold in lieu of condemnation for any public or quasi-public use or purpose (each, a "Taking"), this Lease will terminate as of the date of title vesting in that proceeding and the Rent shall be abated from the date of termination.

(b) Major Condemnation. If any portion of the principal warehouse building on the Property, or at least eight (8) acres of the 45.74 net acres comprising the Land (after excluding the 3.65 acres previously dedicated or reserved for rights-of-way), is the subject of a Taking, then Lessee shall have the right to terminate this Lease by written notice to Lessor given within thirty (30) days after the Taking, in which case the Rent shall be abated from the date of termination Notwithstanding the preceding sentence, however, any such notice of termination shall be of no force or effect if, within thirty (30) days after receipt of such termination notice, Lessor shall commit to restore the remaining portion of the Property to a condition that is, as nearly as possible, as good as the condition thereof immediately prior to the Taking, except for ordinary wear and tear, and in such a manner that the remaining portion of the Property can be used and occupied as a commercial unit satisfactory for the operation of Lessee's business, in which even the Rent shall be abated during the period of restoration based upon the reduced utility of the Property for use in Lessee's business

(c) Minor Condemnation. In the event a Taking of any portion of the Property is not covered by (a) or (b) above, then this Lease will terminate as to the portion of the Property taken as of the date of title vesting or order of immediate possession in that proceeding, and the Rent shall be abated from and after such date of termination based upon the reduced utility of the Property for use in Lessee's business Lessor shall promptly restore the Property, excluding the

portion lost in the Taking, to the extent of any condemnation proceeds received by Lessor, and this Lease shall thereafter continue in full force, except that after the date of the title vesting the Rent shall be adjusted to reflect the reduced utility of the Property for use in Lessee's business

(d) Award If all or any portion of the Property is the subject of a Taking, Lessor shall be entitled to the entire award paid for the condemnation, and Lessee waives any claim to any part of the award from Lessor or the condemning authority However, Lessee shall have the right to recover from the condemning authority any compensation that may be separately awarded to Lessee for loss of business and/or depreciation to and cost of removal of Lessee's merchandise, furniture, fixtures, leasehold improvements and equipment to a new location. Lessee hereby assigns to Lessor any claims Lessee might otherwise have for loss of, or damage to, Lessee's leasehold estate under this Lease If Lessor is obligated under this Section 11 to restore any portion of the Property after a Taking, then any award to which Lessor would otherwise be entitled shall be turned over to, and held by, a trustee mutually satisfactory to Lessor and Lessee until such restoration is completed.

(e) Temporary Condemnation. In the event of a temporary condemnation, this Lease shall remain in effect, Lessee shall continue to pay Rent, and Lessee shall receive any award made for the condemnation. If a temporary condemnation remains in effect at the expiration or earlier termination of this Lease, Lessee shall pay Lessor the reasonable cost of performing any obligations required of Lessee with respect to the surrender of the Property. If a temporary condemnation is for a period that extends beyond the Term, this Lease will terminate as of the date of occupancy by the condemning authority and any award shall be distributed in accordance with Section 11(d)

12 Assignment and Subletting Lessee shall not assign this Lease or sublet the Property or any portion thereof, whether voluntarily or involuntarily or by operation of law, without Lessor's prior written approval, which will not be unreasonably withheld The merger of Lessee with any other entity or the transfer of any controlling interest in Lessee shall constitute an assignment under this Lease. Any purported assignment or subletting contrary to the provisions of this Lease will be void. If Lessee receives rent or other consideration for any transfer in excess of the Rent, or, in the case of a sublease of a portion of the Property, in excess of the Rent that is fairly allocable to that portion, after appropriate adjustments to assure that all other required payments are appropriately taken into account, Lessee shall pay Lessor fifty percent (50%) of the difference between each payment of rent or other consideration and the required Rent. Lessor may, without waiving any rights or remedies, collect rent from the assignee, subtenant or occupant and apply the net amount collected to the Rent reserved herein and apportion any excess rent collected in accordance with the terms of the preceding sentence Lessee will continue to be liable as a principal and not as a guarantor or surety to the same extent as though no assignment or subletting had been made Lessor may consent to subsequent assignments or subletting of this Lease or amendments or modifications to the Lease by assignees of Lessee without notifying Lessee or any successor of Lessee and without obtaining their consent. No permitted transfer will be effective until there has been delivered to Lessor a counterpart of the transfer instrument in which the transferee agrees to be and remain jointly and severally liable with Lessee for the payment of Rent pertaining to the space and for the performance of all the terms and provisions of this Lease arising on or after the date of the transfer Notwithstanding anything in this Section 12 to the contrary, Lessee shall have the right,

without obtaining the consent of Lessor, to assign this Lease to a wholly-owned subsidiary of Lessee or to an entity which controls, or is under common control with, Lessee

13 Defaults, Remedies

(a) Events of Default The occurrence of any of the following events will, at Lessor's option, constitute an event of default ("Event of Default")

(i) failure to pay Rent on the date when due, the failure continuing for a period of ten (10) days after written notice that such payment is overdue,

(ii) failure to perform any of Lessee's covenants under this Lease (except default in the payment of Rent), the failure continuing for a period of thirty (30) days after written notice of such failure, provided that if such default is susceptible of cure but is of such a nature that it cannot be completely cured within such thirty (30) day period, then such default shall not constitute an Event of Default so long as Lessee commences the cure of such default within the thirty (30) day period and thereafter diligently prosecutes the cure to completion, or

(iii) the making of a general assignment by Lessee for the benefit of creditors, the filing of a voluntary petition by Lessee, or the filing of an involuntary petition by any of Lessee's creditors seeking the rehabilitation, liquidation or reorganization of Lessee under any law relating to bankruptcy, insolvency or other relief of debtors and, in the case of an involuntary action, the failure to remove or discharge the petition within sixty (60) days of the filing, the appointment of a receiver or other custodian to take possession of substantially all of Lessee's assets or this leasehold, Lessee's insolvency or inability to pay Lessee's debts or failure generally to pay Lessee's debts when due, any court entering a decree or order directing the winding up or liquidation of Lessee's debts when due, any court entering a decree or order directing the winding up or liquidation of Lessee or substantially all of Lessee's assets, Lessee taking any action toward the dissolution or winding up of Lessee's affairs, or the attachment, execution or other judicial seizure of substantially all of Lessee's assets or this leasehold.

(b) Remedies.

(i) Termination. In the event of the occurrence of any Event of Default, Lessor shall have the right to give a written termination notice to Lessee and, on the date specified in that notice, which shall not be earlier than ten (10) days after the date of the termination notice, this Lease will terminate. Following termination, without prejudice to any other remedies Lessor may have, Lessor may (1) peaceably re-enter the Property on voluntary surrender by Lessee; (2) remove Lessee and any other persons occupying the Property, using any legal proceedings that may be available; (3) repossess the Property or relet the Property or any part thereof for any term (which may be for a term extending beyond the Term), at any rental and on any other terms and conditions that Lessor in Lessor's sole discretion may determine, with the right to make reasonable alterations and repairs to the Property, and (4) remove all personal property Lessor shall have all the rights and remedies of a landlord provided by applicable law, including the right to recover from Lessee damages equal to the unpaid Rent and the Rent payable for the balance of the Term, less the net proceeds to Lessor of the reletting, if any, of the Property by Lessor (or the reasonable value of Lessor's use of the Property or a portion thereof during the balance of the Term, not to exceed the Rent reserved hereunder, if Lessor elects to occupy and

use the Property or such portion thereof), plus any other amounts, including court costs, necessary to compensate Lessor for all detriment proximately caused by Lessee's default

(ii) Continuation Even though an Event of Default may have occurred, this Lease will continue in effect for so long as Lessor does not terminate Lessee's right to possession Also, Lessor may enforce all of Lessor's rights and remedies under this Lease, including the right to recover Rent as it becomes due, and Lessor, without terminating this Lease, may, during the period Lessee is in default, enter the Property and relet the same, or any portion thereof, to third parties for Lessee's account Lessee will be liable to Lessor for all costs Lessor incurs in reletting the Property, including, without limitation, brokers' commissions, expenses of remodeling the Property and similar costs Reletting may be for a period shorter or longer than the remaining Term. Lessee shall continue to pay the Rent on the date that it is due No act by Lessor under this Lease, including acts of maintenance, preservation or efforts to lease the Property or the appointment of a receiver on application of Lessor to protect Lessor's interest under this Lease, will terminate this Lease unless Lessor notifies Lessee that Lessor elects to terminate this Lease. In the event that Lessor elects to relet the Property, the rent that Lessor receives from reletting shall be applied to pay the following in the order listed

(A) any indebtedness from Lessee to Lessor other than Base Rent and other amounts owing to Lessor under this Lease;

(B) all costs, including maintenance, incurred by Lessor in reletting, and

(C) Base Rent and other amounts owing to Lessor under this Lease

After deducting the payments referred to above, any sum remaining from the rental Lessor receives from reletting shall be held by Lessor and applied in payment of future Rent as it becomes due under this Lease. In no event will Lessee be entitled to any excess rent received by Lessor If, on the date Rent is due under this Lease, the rent received from the reletting is less than the Rent due on that date, Lessee shall pay to Lessor, in addition to the remaining Rent due, all costs, including maintenance, that Lessor incurred in reletting that remain after applying the rent received from reletting So long as this Lease is not terminated, Lessor shall have the right to remedy any default of Lessee, to maintain or improve the Property, to cause a receiver to be appointed to administer the Property and new or existing subleases, and to add to the Rent all of Lessor's reasonable costs in so doing, with interest from the date of the expenditure at the rate of 10% per annum.

(c) Cumulative Each right and remedy of Lessor provided for in this Lease or now or later existing at law, in equity, by statute or otherwise, will be cumulative and will not preclude Lessor from exercising any other right or remedy provided for in this Lease or now or later existing at law or in equity, by statute or otherwise No payment by Lessee of a lesser amount than the Rent, or any endorsement on any check or letter accompanying any check or payment as Rent, will be deemed an accord and satisfaction of full payment of Rent. However, Lessor may accept any such payment without prejudice to Lessor's right to recover the balance of Rent or to pursue other remedies.

14 Surrender Upon the expiration or termination of this Lease or termination of Lessee's right to possession of the Property, Lessee shall surrender the Property, together with all keys, in good condition and repair, reasonable wear and tear and damage caused by casualty

excepted Conditions existing because of Lessee's failure to perform maintenance, repairs or replacements required by this Lease shall not be deemed reasonable wear and tear Provided no Event of Default then exists, Lessee shall have the right to remove from the Property, within thirty (30) days after such expiration or termination, any machinery and equipment installed therein or thereon at Lessee's cost, provided Lessee repairs all damage to the Improvements caused by such removal Any machinery and equipment not so removed by Lessee within such thirty (30) day period shall thereupon become the property of Lessor

15 Holding Over If Lessee continues to occupy the Property or any part of the Property after expiration of the Term, the holding over will constitute a month-to-month tenancy, at a rent equal to one hundred thirty percent (130%) of the Base Rent in effect immediately prior to the holding over This paragraph shall not be construed as Lessor's permission for Lessee to hold over Acceptance of Rent by Lessor following expiration or termination shall not constitute a renewal of this Lease

16. Lessor's Title Lessor represents and warrants to Lessee that Lessor is the owner in fee simple of the Property, subject to a possible roadway easement along the west side of the Land, that there are no mortgages or deeds of trust encumbering the Property or any portion thereof, and that Lessor has the necessary power and authority to make and enter into this Lease

17 Estoppels Upon written request by Lessor, Lessee shall deliver to any proposed mortgagee or purchaser of the Property an estoppel certificate duly executed (and acknowledged, if required by any lender) by Lessee stating that (a) this Lease is in full force and effect, without modification except as may be represented by Lessor; (b) there are no uncured defaults in Lessor's performance and Lessee has no right of offset, counterclaim or deduction against Rent; and (c) no more than one period's Base Rent has been paid in advance, or stating any exceptions to those statements needed to make such statements accurate.

18 Lessor's Right to Enter Lessor reserves the right to enter the Property upon reasonable notice to Lessee (except in case of an emergency, in which case no notice would be required) to inspect the Property or the performance by Lessee of the terms and conditions of this Lease, to show the Property to prospective purchasers or lenders, and, during the last six months of the Term, to show the Property to prospective tenants

19 Notices All notices to be given under this Lease shall be in writing and mailed, postage prepaid, by certified or registered mail, return receipt requested, or delivered by personal or courier delivery, or sent by telecopy (immediately followed by one of the preceding methods), to the following address:

If to Lessor·	c/o Robert D Burch, Trustee 2029 Century Park East Suite 4000 Los Angeles, CA 90071	If to Lessee	Fleming Foods of Texas, L P 5824 Elm Lubbock, Texas

Either party may change its address for notices by giving written notice thereof to the other party Notices will be deemed served on the earlier of actual receipt or five (5) days after the date of mailing

20 First Right of Refusal. If Lessor shall, at any time during the Term, desire to sell the Property, it shall give written notice to Lessee at least thirty (30) days prior to the proposed date of sale, setting forth the terms and conditions of the proposed sale and containing a representation that the proposed purchaser has submitted a bona fide written offer to acquire the Property on such terms and conditions, which notice shall constitute an offer by Lessor to sell the Property to Lessee on such terms and conditions Lessee shall have the right to accept such offer, but only by giving written notice of such acceptance within thirty (30) days of receiving Lessor's notice If Lessee fails to accept such offer by giving such written notice of acceptance within such thirty (30) day period, Lessee shall be deemed to have rejected such offer, and Lessor shall thereafter be free to sell the Property to the original offeror on the terms and conditions set forth in the offer or, within ninety (90) days thereafter, to any other purchaser (other than a competitor of Lessee or other person reasonably objectionable to Lessee as its landlord under this Lease) on substantially the same terms and conditions

21. Attorneys' Fees In any action that either party brings to enforce rights under this Lease, the unsuccessful party shall pay all costs incurred by the prevailing party, including reasonable attorneys' fees, to be fixed by the court. Those costs and attorney fees shall be considered a part of the judgment in that action.

22 Short Form Lease. Lessor and Lessee each agrees to execute a short form of this restated Lease, in a form to permit its recording, at the request of the other party

23 Entire Agreement. This Lease sets forth all the agreements between Lessor and Lessee concerning the Property, and there are no other agreements, either oral or written, other than as set forth in this Lease

24 No Waiver No waiver of any default or breach under this Lease shall be implied from any omission to take action on account of this Lease, regardless of any custom and practice or course of dealing No waiver shall affect any default other than the default specified in the waiver, and then the waiver shall be operative only for the time and to the extent stated in the waiver. Waivers of any covenant shall not be construed as a waiver of any subsequent breach of the same covenant. No waiver by either party of any provision under this Lease will be effective unless in writing and signed by that party.

25 No Brokers Each party hereby represents to the other that such party has had no contact with any broker or finder in connection with this transaction, and that no broker or finder can properly claim a right to a commission or a finder's fee based on contacts between the claimant and such party Each party shall indemnify, defend by counsel acceptable to the other, protect, and hold the other party harmless from any loss, cost, or expense, including, but not limited to, attorneys' fees and cost, resulting from any claim for a fee or commission by any broker or finder in connection with this Lease claimed to be due by virtue of contacts with the indemnifying party

26 Reasonable Consents. Whenever the consent of one of the parties is required by this Lease, such party agrees that such consent shall not, absent a specific provision to the contrary, be unreasonably withheld or delayed

27 Authorization Each individual executing this Lease on behalf of one of the parties hereby represents and warrants that she or he is duly authorized to execute and deliver this Lease on behalf of such party and that the execution is binding upon such party

28 Severability If any provision of this Lease or the application of any provision is held by a court of competent jurisdiction to be invalid, void or unenforceable to any extent, the remaining provisions of this Lease and the application thereof will remain in full force and will not be affected, impaired or invalidated

29 Governing Law This Lease shall be construed and enforced in accordance with the laws of the State of Texas

30 Headings The headings and captions contained in this Lease are for convenience only and shall not modify, eliminate, enlarge or affect in any way the terms contained in the body of this Lease.

31 Successors and Assigns This Lease shall be binding upon and inure to the benefit of the successors and assigns of Lessor and, to the extent assignment is permitted hereunder, Lessee.

This instrument may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Amended and Restated Lease to be executed by their duly authorized officers or representatives as of the date and year first written above

LESSOR.

ALLEGRO ASSOCIATES,
a California partnership

By: _____
Robert D Burch, as Trustee
U/D/T dated July 20, 1984

CONTEMPORARY PARTNERS,
a Nevada partnership

By: _____
Robert D. Burch, as Trustee
U/D/T dated July 20, 1984

LESSEE

FLEMING FOODS OF TEXAS, L.P
a Texas limited partnership

By Fleming Companies, Inc , an Oklahoma corporation, its general partner

By: _____

27 Authorization Each individual executing this Lease on behalf of one of the parties hereby represents and warrants that she or he is duly authorized to execute and deliver this Lease on behalf of such party and that the execution is binding upon such party.

28 Severability If any provision of this Lease or the application of any provision is held by a court of competent jurisdiction to be invalid, void or unenforceable to any extent, the remaining provisions of this Lease and the application thereof will remain in full force and will not be affected, impaired or invalidated.

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This instrument may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Amended and Restated Lease to be executed by their duly authorized officers or representatives as of the date and year first written above

LESSOR.

ALLEGRO ASSOCIATES,
a California partnership

By: _____
Robert D. Burch, as Trustee
U/D/T dated July 20, 1984

CONTEMPORARY PARTNERS,
a Nevada partnership

By _____
Robert D Burch, as Trustee
U/D/T dated July 20, 1984

LESSEE:

FLEMING FOODS OF TEXAS, L.P.
a Texas limited partnership

By Fleming Companies, Inc., an Oklahoma corporation, its general partner

By: _____

REAFFIRMATION OF GUARANTY

By executing this Amended and Restated Lease, the undersigned Guarantor does hereby confirm and acknowledge that its Guaranty Agreement dated as of March 11, 1991 shall remain in full force and effect with respect to the Lease, as amended and restated thereby, and does hereby agree that any notices that may or must be sent to Guarantor pursuant to such Guaranty Agreement may be sent to it at the address set forth above for Lessee.

FLEMING COMPANIES, INC.
an Oklahoma corporation

By: _____

C 07101-00179
OF

FIRST AMENDMENT TO AMENDED AND RESTATED LEASE

This First Amendment to Amended and Restated Lease (the "Amendment") is made and entered into this 12th day of August, 2002 by and among ALLEGRO ASSOCIATES, a California partnership, and CONTEMPORARY PARTNERS, a Nevada partnership (collectively, "Lessor"), and FLEMING FOODS OF TEXAS, L P , a Texas limited partnership ("Lessee"), with respect to the following circumstances

A Lessor and Lessee entered into that certain Amended and Restated Lease dated as of June 30, 2000 (the "Lease"), relating to the real property described as Tract "A," Second Installment Crawford Industrial Addition to the City of Lubbock, Lubbock County, Texas, in accordance with the plat and dedication recorded in Volume 1380 at Page 346 et seq of the Deed Records of Lubbock County, Texas, except those portions thereof dedicated for street rights-of-way, alleys or other public properties and except Reserve "A" as shown thereon (the "Land"), and all of the improvements thereon (the "Improvements," and, together with the Land, the "Property")

B Pursuant to Section 1 of the Lease, the Term of the Lease will expire on December 31, 2002, provided, however, that in Section 1 of the Lease, Lessee was granted two consecutive one-year options to extend the Term of the Lease to December 31, 2004 (which two one-year option periods were defined therein as the "Second Extension Term" and the "Third Extension Term," respectively)

C Lessor and Lessee desire to extend the "First Extension Term" (as defined in the Lease) for a period of ninety (90) days, and also to extend for a period of ninety (90) days the date on or prior to which Lessee must deliver notice to Lessor of Lessee's intention to extend the Term of the Lease for the Second Extension Term

In consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree to amend the Lease as follows

1 Modification of Section 1 of the Lease Section 1 of the Lease is hereby modified as follows

(a) The First Extension Term shall be extended for a period of ninety (90) days, and shall expire on March 31, 2003 The Lease shall terminate on March 31, 2003, unless Lessee timely exercises its option to extend the Term of the Lease as provided in Section 1(b) below

(b) In the event that Lessee desires to extend the Term of the Lease for the Section Extension Term, Lessee shall deliver written notice of its intention to do so on or before December 1, 2002

(c) If Lessee timely exercises its option to extend the Term for the Second Extension Term, the Second Extension Term shall be for a period of nine (9) months commencing April 1, 2003 and ending December 31, 2003

2 Rent Through and including March 31, 2003, Lessee shall continue to pay Base Rent to Lessor in the amount of Eighty Thousand Eight Hundred Sixty and 21/100 Dollars ($80,860 21) per month as provided in Section 2 of the Lease

3 No Other Changes Except as specifically provided herein, the Lease remains unmodified and in full force and effect

4 Counterparts This Amendment may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute but one and the same instrument

5 Governing Law The Lease as amended by this Amendment shall be construed and enforced in accordance with the laws of the State of Texas

6 Headings The headings and captions contained in this Amendment are for convenience only and shall not modify, eliminate, enlarge or affect in any way the terms contained in the body of this Amendment

7 No Brokers Each party hereby represents to the other that such party has had no contact with any broker or finder in connection with this Amendment and the transactions contemplated herein, and that no broker or finder can properly claim a right to a commission or a finder's fee based on contacts between the claimant and such party Each party shall indemnify, defend by counsel acceptable to the other, protect, and hold the other party harmless from any loss, cost, or expense, including, but not limited to, attorneys' fees and cost, resulting from any claim for a fee or commission by any broker or finder in connection with this Lease claimed to be due by virtue of contacts with the indemnifying party

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Amendment to be executed by their duly authorized officers or representatives as of the date and year first written above

LESSOR

ALLEGRO ASSOCIATES,
a California partnership

By _____
Robert D Burch, as Trustee
U/D/T dated July 20, 1984

CONTEMPORARY PARTNERS,
a Nevada partnership

By _____
Robert D Burch, as Trustee
U/D/T dated July 20, 1984

LESSEE

FLEMING FOODS OF TEXAS, L P
a Texas limited partnership

By Fleming Companies, Inc , an Oklahoma corporation, its general partner

By _____
Charles [illegible]
Senior Vice Pr[illegible]

REAFFIRMATION OF GUARANTY

By executing this First Amendment to Amended and Restated Lease, the undersigned Guarantor does hereby confirm and acknowledge that its Guaranty Agreement dated as of March 11, 1991 shall remain in full force and effect with respect to the Lease, as amended thereby

FLEMING COMPANIES, INC
an Oklahoma corporation

By _____

Charles L. Hall
Senior Vice President

LA_10628497_1 DOC

G 07101-00179
OF

Fleming

1945 Lakepointe Dr
PO Box 299013
Lewisville, TX 75029
telephone 972 906 8000

November 4, 2002

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Allegro Associates
C/o Robert D Burch, Trustee
2029 Century Park East
Los Angeles, CA 90067

RE **South Warehouse**
5824 S Elm Street, Lubbock, TX
TX-321

Dear Mr Burch

The Lease for the above-referenced property will expire on March 31, 2003 This letter shall serve as notification that Fleming Companies, Inc will allow the lease to expire effective March 31, 2003

Should you have any issues regarding the expiration of the lease, or the surrender of the leased premises, please submit them in writing to Fleming's Real Estate Department located at

Fleming Companies, Inc
Att Lease Administration
1945 Lakepoint Drive
Lewisville, Texas 75057

Sincerely,

Brian Lake

Brian Lake
Manager, Lease Administration

cc Division President

Fleming.

1945 Lakepointe Dr.
PO Box 299013
Lewisville, TX 75029
telephone 972 906.8000

January 27, 2003

Allegro Associates
c/o Mr Robert Burch, Trustee
2029 Century Park East
Los Angeles, CA 90071

RE MONTH-TO-MONTH LEASE ACKNOWLEDGMENT
South Warehouse
5824 S Elm Street
Lubbock, TX
Fleming Lease File # TX-321.F

Dear Mr. Burch.

Pursuant to our telephone conversation, this letter is to confirm and acknowledge our agreement to extend the existing lease on the above-mentioned property The said extension will be on a "month-to-month" basis, commencing upon the termination date of the existing lease (March 31,2003), with all terms and conditions to remain "as is"

This month-to-month agreement can be terminated by either Lessor or Lessee upon (30) thirty-day written notice

If you are in agreement with the above-mentioned terms and conditions for the said month-to-month lease arrangement, please acknowledge with your signature in the space provided below and return to my attention via fax at 972/906-2303 If you have questions or comments, please feel free to call My direct line is 972/906-2259

Respectfully,

Kent Ferren
Lease Administration

I am in agreement with the above terms and conditions related to the proposed month-to-month lease extension.

BY _____

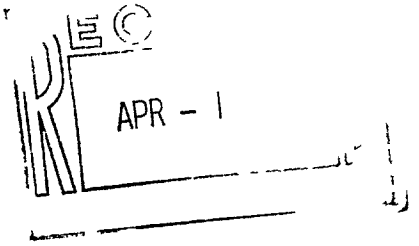
TITLE Gen'l Partner

DATE 1/27/03

	DESCRIPTION OF DAMAGES CAUSED BY LESSEE'S ABUSE AND FAILURE TO MAINTAIN PROPERTY		ONE TIME COST FOR RESTORATION TO MIN BUILDING STANDARD LEVEL	
10	**ENVIRONMENTAL**			
a	REMOVE (5) UST'S ACCORDING TO TEXAS LAW		$100,000 00	
b	SHUT DOWN GROUND WATER REMEDIATION SYSTEM		$5,000 00	
c	SHUT DOWN EXISTING MONITORING WELLS		$4,500 00	
d	ENVIRONMENTAL CLEANUP FOR TRUCK SERVICE SHOP		$46,000 00	
e	FORMAL SHUTDOWN OF AMMONIA COOLING SYSTEM		$17,500 00	
	SUBTOTAL		**$173,000 00**	
20	ROOF SYSTEMS			
a	RESTORE ROOF AND DECK ACCORDING TO NRCA SPECS		$2,200,000 00	
	SUBTOTAL		**$2,200,000 00**	
30	ARCHITECTURAL, BUILDING, AND SITE			
a	RESTORE BUILDING AND SITE TO OWNERSHIP STANDARD		$135,000 00	
	SUBTOTAL		**$135,000 00**	
40	BUILDING DOCK SYSTEMS			
a	REPLACE DOORS, LEVELERS, BUMPERS, ETC		$286,000 00	
	SUBTOTAL		**$286,000 00**	
50	HVAC SYSTEMS			
a	REPLACE UNITS (ALLOWANCE)		$92,000 00	
	SUBTOTAL		**$92,000 00**	
60	MISCELLANEOUS			
a	REPLACE HOSE RACKS		$9,000 00	
b	CANOPY LIGHTING		$15,000 00	
c	PAIN (SANITARY GRADE, BLOW DOWN, DRY FOG PAINT)		$100,000 00	
	SUBTOTAL		**$124,000 00**	
	SUBTOTAL		**$2,978,000 00**	
70				
a	*RACK REMOVAL		$175,000 00	
b	PIPE REMOVAL		$40,000 00	
c	FLOOR/WALL REPAIR		$25,000 00	
d	SPRINKLER SYSTEM RELOCATION / RECONFIGURE (MAY NEED NEW PANEL)		$20,000 00	
	SUBTOTAL		**$260,000 00**	
	GRAND TOTAL		**$3,270,000 00**	

* IN THE EVENT OWNERS MUST REMOVE RACKING ETC

URS



March 20, 2003

Mr Robert Richmond
Richmond Asset Management as agent for
Allegro Associates, a California partnership and
Contemporary Partners, a Nevada partnership
5401 W 65th Street
Suite 200
Bedford Park, Illinois 60638

Subject **Phase I Environmental Site Assessment**
Fleming Foods - Grocery Distributor
5824 Elm Street
Lubbock, Texas

Dear Mr Richmond

URS Corporation (URS) is pleased to respond to your request for additional information as a follow-up to the Phase I Environmental Site Assessment (ESA) for the former Flemming Foods grocery distributor located at 5824 Elm Street in Lubbock, Texas URS' has reviewed Texas regulations and general information in order to provide Richmond Asset Management (Richmond) with an understanding of the potential issues with the lessee vacating the property

BACKGROUND

The facility has been leased to a grocery distributor since 1973, who will be vacating the property in the near future The facility has a main warehouse encompassing 375,000 ft^2, with several outbuildings The facility conducted vehicle maintenance onsite in an existing garage URS conducted a Phase I ESA for the facility in February 2003 It should be noted that the water tank was referred to in the report as having a capacity of 250,000 gallons The original construction documents refer to the installation of a 300,000-gallon tank.

ISSUES

URS' February 2003 Phase I ESA Report identified the following recognized environmental conditions (RECs) in relation to the Property URS has provided additional information and recommendations for these RECs and additional issues raised by Richmond in italics below

RECs

1 Records indicate that three 10,000 gallon diesel USTs have been removed from the Property These tanks were removed in 1992 Sampling of groundwater prior to this removal indicated that the groundwater in the area of the tanks was contaminated, and analysis of the soil samples taken during the removal confirmed that the tanks had been leaking A pump-and-treat groundwater remediation system is currently active at the site, however, due to significantly lowered levels of benzene, toluene, ethylbenzene, and xylenes (BTEX) contamination, the Texas Commission on Environmental Quality (TCEQ) issued a February 22, 2002 letter closing the site from any further remedial action, pending documentation of the plugging of the existing monitoring wells

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The TCEQ has issued a letter of No Further Action Required otherwise known as a "closure letter", which includes the current groundwater remediation system (pump & treat) As such, the system may be shut down after the date of the letter The TCEQ has recommended that the system should be shut down and the remaining wells should be properly plugged and abandoned Once that is completed and documented, the LUST file will be closed Approximate costs for well abandonment are $1500/day (2-3 days)

2 A 500-gallon used oil UST was removed in 1993 Soil analytical results indicated levels of contaminants below the action level

No further action is required of the former used oil UST at this time

3 Records indicate that five USTs are currently in use at the Property three 20,000-gallon diesel fuel tanks, one 2,500-gallon new oil tank, and one 2,500-gallon used oil tank

Tanks that are not currently in use must be registered as out-of-service tanks by completing a change in status registration form within 30 days of realizing the status change (Status changes include change of ownership for the UST) After changing the status, the "Temporarily Out of Service USTs" must maintain up-to-date registration, leak detection compliance, open vent lines, and corrosion protection Fees associated with the out-of-service tanks are the same as active tanks in that the owner/operator is required to pay $50 per tank per year in accordance with the billing schedule arranged by the TCEQ when the tanks are registered The tank may remain out-of-service indefinitely as long as the following requirements are met during the period that the UST system remains temporarily out of service

(1) The UST system shall be adequately protected from corrosion in accordance with the applicable requirements of §334 49 of this title (relating to Corrosion Protection)

(2) Unless the UST system has been emptied of all regulated substances at the time it is temporarily removed from service, the UST system shall be monitored for releases in accordance with the applicable requirements of §334 50 (relating to Release Detection)

When reactivating a UST that is out-of-service for more than 6 months, the UST must be tank tightness tested, the status changed back to active, and updated to meet current compliance standards The TCEQ must also be notified using the construction notification form specified in the PST rules

For the subject property, the EDR database does not clearly indicate the presence of the gasoline, used or new oil UST nor does the database indicated what the constructions (fiberglass or steel) are for these tanks The database indicates that five tanks are present at the site, but lists all five as diesel fiberglass tanks, 2 2500 gal and 3-20000 gallon This is likely a registration problem or an EDR data entry error If it were a registration problem, then the new owner would correct the problem when the tanks status are changed

There are several options in regards to the existing USTs The owner can require the previous tenant to remove the USTs Or the owner can choose to leave the USTs in place for a potential new tenant The existing USTs are of fiberglass construction Therefore, the tanks may remain

out-of-service indefinitely The registration for the USTs requires an annual update The tank status can be changed at this time

4 Ideal Lease is currently operating the truck shop on the Property URS observed approximately 25 drums along the outside of the building The drums contained various materials including antifreeze, transmission fluid, and grease The drums were in poor condition due to exposure to the elements, and several were not properly labeled In addition, building materials and old tires were stored behind the truck shop

The various drums of antifreeze, transmission fluid, and grease can be disposed by one of several firms The owner should require the tenant to remove all drums, tires, and waste streams in the appropriate manner, with proper documentation for the disposal Sampling of these areas should be conducted in order to determine if the soil has been impacted Removal of impacted soils should be the responsibility of the former tenant

Scrap tires must be managed to prevent fires and control disease vectors (mosquitoes, rats, and snakes) Anyone who stores more than 500 scrap tires must register with the TNRCC, however, the scrap tire rules apply to all generators and handlers, regardless of whether or not they are registered Good reusable tires are not considered to be scrap tires if they are stacked, sorted, classified, and arranged in an organized manner for sale Good used tires that are stored in stockpiles are scrap tires A registered transporter must haul scrap tires to an authorized facility, either a permitted landfill or a scrap tire facility All facilities must keep manifest records showing the disposition of scrap tires

The hauling to the landfill and disposal cost would account for most of the total cost Hulcher is in the process of providing general costs for several of the potential issues for the Property

Hulcher Services Inc - (713) 674-0776
85 Oates Road
Houston, TC 77013

Duncan Disposal (806) 762-2650
1408 N Martin L King Blvd
Lubbock, TX

Home Town Haulers (806) 745-2288
2402 52nd St
Lubbock, TX

5 A metal tank of unknown liquid was observed in the mechanical room of the truck shop The tank contained an unknown liquid that was apparently steaming The floor in this area was wet and stained In addition, hydrocarbon absorbent material was observed on the floor

The tank is a wash tank and contains water Power washing is recommended for the stained areas within the truck shop Heavy-duty industrial vacuums should be used in conjunction with the power washing The owner should require the former tenant to properly clean and dispose of wastes generated from the cleaning Hulcher (noted above) can provide this service An estimate to complete the work can be provided by Hulcher

6 As part of the limited visual mold inspection, black staining was noted around the exhaust vents of the cooling system in the meat and produce storage area

URS conducted a limited visual inspection to identify areas potentially containing mold A detailed evaluation was not conducted The suspect areas identified should be further evaluated, and if mold is present, the area should be properly cleaned The owner should require the former tenant to clean/remove the mold

Additional Information

7 The current refrigeration system utilizes ammonia Is this type of system regulated that would require some sort of formal shutdown process or licensed individual Does the local fire department have any sort of regulations on ammonia systems, such as providing emergency SCBA on-site in case of a release?

URS has contacted a local HVAC system specialist as to the requirements for proper maintenance of Ammonia-based refrigeration systems We are awaiting a response The EPA provides some guidance in a document titled "Hazards of Ammonia releases at Ammonia Refrigeration Facilities" A copy can be provided

8 Were there are triple basin systems onsite? Are there recommended maintenance actions (i e routine clean-out) for these and sumps?

There is most likely a triple-basin system within the truck maintenance facility Such systems should be checked routinely and cleaned out as appropriate Hulcher can provide this service If the facility maintains grit trap, TCEQ provides a guidance document (RG-87), which can be found at http //www tnrcc state tx us/admin/topdoc/rg/087 pd The grit trap sediment must be sampled at the rate of one sample /50 cubic yards

Please let us know if you need additional information on these or other issues URS can provide a proposal to provide oversight for the completion of these issues We appreciate the opportunity of this project, and we look forward to working with you on this assignment If you have any questions regarding this proposal, please call Chris Albrecht at (312) 939-1000

Very truly yours,

URS

Christopher A Albrecht

Christopher A Albrecht
Project Manager

Daniel J. Banaszek

Daniel J Banaszek, P E
Vice President

CAA caa

URS

April 11, 2003

Mr Robert Richmond
Richmond Asset Management as agent for
Allegro Associates, a California partnership and
Contemporary Partners, a Nevada partnership
5401 W 65th Street
Suite 200
Bedford Park, Illinois 60638

Subject Proposal Phase II Environmental Site Assessment and Site Cleanup
Fleming Foods – Grocery Distributor
5824 Elm Street
Lubbock, Texas
Proposal Number 03-149-ELM

Dear Mr Richmond

URS is pleased to submit this proposal to Richmond Asset Management to perform a Phase II Environmental Site Assessment (ESA) at the Fleming Foods facility at 5824 Elm Street in Lubbock, Texas The facility is a grocery distribution center consisting of a 370,000-ft2 warehouse, a returns dock, and a vehicle maintenance garage The facility was developed in 1973, and has been utilized as a grocery distribution center since that time It is URS' understanding that Fleming Foods will be vacating the property in the near future

1 0 BACKGROUND

URS conducted a Phase I ESA and site reconnaissance on February 10, 2003 The project area is shown on the attached site location figure The following is a summary of findings from the Phase I ESA

- Records indicate that three 10,000-gallon diesel underground storage tanks (USTs) have been removed from the Property These tanks were removed in 1992 Sampling of groundwater prior to this removal indicated that the groundwater in the area of the tanks was contaminated, and analysis of the soil samples taken during the removal confirmed that the tanks had been leaking A pump-and-treat groundwater remediation system is currently active at the site, however, due to significantly lowered levels of benzene, toluene, ethylbenzene, and xylenes (BTEX) contamination, the Texas Commission on Environmental Quality (TCEQ) issued a February 22, 2002 letter closing the site from any further remedial action, pending documentation of the plugging of the existing monitoring wells
- A 500-gallon used oil UST was removed in 1993 Soil analytical results indicated levels of contaminants below the action level No further action is recommended
- Records indicate that five USTs are currently in use at the Property three 20,000-gallon diesel fuel tanks, one 2,500-gallon new oil tank, and one 2,500-gallon used oil tank

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- Ideal Lease is currently operating the vehicle maintenance garage on the Property URS observed approximately 25 drums along the outside of the building The drums contained various materials including antifreeze, transmission fluid, and grease The drums were in poor condition due to exposure to the elements, and several were not properly labeled In addition, building materials and old tires were stored behind the truck shop
- A metal tank of wash water was observed in the mechanical room of the truck shop The floor in this area was wet and stained In addition, hydrocarbon absorbent material was observed on the floor
- As part of the limited visual mold inspection, black staining was noted around the exhaust vents of the cooling system in the meat and produce storage area

2 0 SCOPE OF SERVICES

The scope of URS' Phase II ESA is comprised of these six tasks

- Task 1 - Site cleanup/Grit Trap Characterization,
- Task 2 – Well abandonment,
- Task 3 – UST Removal Notification and Work Plan,
- Task 4 - Surface Soil Evaluation,
- Task 5 – Mold Evaluation, and
- Task 6 - Evaluation and Reporting

The scope of each of these tasks is described below

Task 1 – Site Cleanup

URS proposes to characterize and dispose of identified material at the site and, as needed, verify the condition of the associated surface soil Wastes identified during the Phase I include drums of waste fluid, scrap tires, and oily stained concrete surfaces In addition, URS suspects a triple basin in the vehicle maintenance shop, which may contain petroleum-contaminated sediments that require proper disposal

Based on the observed wastes, URS proposes to contract one of our preferred vendors to implement the site cleanup on a time-and-material basis Typically, URS will collect samples needed to characterize the waste and profile the material for acceptance at the local landfill or recycling facility URS anticipates collecting three samples for waste profiling one from representative drums contents, one from stained soil, and one from the triple basin sediment Samples will be analyzed for Volatile Organic Compounds (VOCs) by EPA Method 8260, Semivolatile Organic Compounds (SVOCs) by EPA Method 8270, Total Petroleum Hydrocarbons (TPH) by Texas Method 1005, RCRA metals and polychlorinated biphenyls (PCBs) by Method 8280 URS' contractor will profile the waste stream and schedule the waste for off removal and proper disposal The actual waste removal costs are dependent on the characterization data and therefore the actual costs for hauling the waste off site are not included

in this proposal at this time Disposal costs can be estimated upon completion of the waste characterization The various drums of antifreeze, transmission fluid, and grease will be removed, as will the scrap tires The triple basin sediment will be evacuated from the trap in accordance with TCEQ regulations URS proposes to clean the trap and check for cracks

Stained concrete will be power washed by the URS remediation contractor For the purpose of this proposal, URS estimates 1,000 square feet of stained concrete will require high-pressure washing URS proposes to use an industrial vacuum/contained pressure washing system and removed the wash water along with the wash water identified in the onsite tank URS has estimated a total of three days for the URS contract (with the appropriate support vehicle and equipment) to complete this task

In addition, URS will have a local HVAC system specialist determine the requirements for proper maintenance of the ammonia-based refrigeration systems

Task 2 – Well Abandonment

URS proposes to contract a Texas well drilling company to mobilize to the site and abandon five site recovery wells that were part of the active groundwater remediation system Well abandonment will be in accordance with TCEQ guidance in that well equipment such as pumps and pipe will be removed initially before the contractor attempts to removed the entire well by pulling the casing and screen from the ground If successful, the borehole will be filled with bentonite grout If the casing or screen is broken, the remaining well pipe will be drilled out and the resulting borehole annulus will be filled with a bentonite grout URS anticipates the well abandonment can be conducted in one day

Task 3– UST Removal Notification

URS does not intend to propose removing the five onsite UST at this time, however, should Richmond choose to remove the five tanks in the future, the estimated cost for UST removal and tank disposal would be between $20,000 and $25,000, including the URS' environmental assessment of the excavations for evidence of soil contamination URS can complete a proposal for UST removal at Richmond's request URS is including as part of this proposal anticipated consulting costs to notify the TCEQ of the change in tank status' or (as needed) Richmond's plans for UST removal In addition, URS will develop a work plan and costs for the actually removing

Task 4 – Surface Soil Evaluation

URS proposes to collect surface soil samples from the site The objective of this task is to evaluate soil quality around the area of the vehicle maintenance garage URS proposes to collect samples from six locations two from identified waste areas and four from potentially impacted areas surrounding the building Photographs will be taken to document Phase II activities and conditions encountered during the sampling effort

Surface soıl samples wıll be collected usıng a stainless-steel hand auger or by drıvıng a 3 5-ınch dıameter splıt-spoon ınto the shallow soıl Surface soıls wıll be field-screened for vısual and olfactory evıdence of contamınatıon Soıls wıll also be field screened usıng a photoıonızatıon detector (PID) calıbrated to an ısobutylene standard for evıdence of petroleum hydrocarbons Based on the PID readıngs, sıx samples wıll be ıdentıfied for laboratory analysıs, one sample from each locatıon

The selected samples wıll be analyzed for selected for laboratory analysıs of Volatıle Organıc Compounds (VOCs) by EPA Method 8260, Semıvolatıle Organıc Compounds (SVOCs) by EPA Method 8270, Total Petroleum Hydrocarbons (TPH) by Texas Method 1005, and prıorıty pollutant metals The samples wıll be submıtted to a certıfied laboratory for analysıs on a standard ten workıng day turnaround tıme

Task 5– Mold Evaluatıon

URS proposes to contract a mold testıng laboratory fırm to analyze fıve samples collected from the sıte at locatıons observed to be suspected mıcrobıal ımpact areas URS wıll evaluate the data for ımpacts and possıble remedıatıon URS antıcıpates that the mold samplıng wıll requıre access to elevated portıons of the buıldıng and that the URS envıronmental remedıatıon contractor wıll provıde logıstıcal support to access these areas usıng a ladder, forklıft or safety manlıft equıpment URS recognızes that the presence of mold and water damaged buıldıng materıals may be ındıcatıve of more severe mıcrobıal ımpacts As a result, the URS Houston wıll consult wıth URS certıfied ındustrıal hygıenıst, Martha Boss of our Omaha office regardıng the ınıtıal and subsequent observatıons and fındıngs Ms Boss wıll revıew the analytıcal data ın an attempt to evaluate the potentıal severıty of sıte property damage and to ıdentıfy estımated remedıatıon costs Costs to complete the remedıatıon are not ıncluded ın thıs proposal

Task 6 – Evaluatıon and Reportıng

In thıs task, URS wıll revıew and evaluate the ınformatıon collected durıng the sıte cleanup and ınvestıgatıon and assess the envıronmental condıtıons We wıll revıew avaılable sıte plans and prevıous soıl and groundwater analyses, ıf avaılable The sample analytıcal results wıll be compared to relevant Texas screenıng crıterıa The report wıll descrıbe the condıtıon of the soıl at the sıte

Wıthın three weeks followıng receıpt of analytıcal data, URS wıll prepare and submıt a draft report to Rıchmond Asset Management that wıll ınclude documentatıon of sıte cleanup actıvıtıes, (manıfests photographs and volumes of waste and scrap tıres), sample analytıcal data, conclusıons, and recommendatıons The report wıll ınclude fıgures, photographs, appendıces, and recommendatıons for further work or mıtıgatıon measures, ıf approprıate Once your comments are receıved and ıncorporated ınto the fınal text and the report wıll be prepared

3 0 SCHEDULE AND FEES

URS proposes to conduct the scope of work descrıbed ın Sectıon 2 0 ın accordance wıth the condıtıons and schedule of charges ın the exıstıng contract URS' work can commence

following our receipt of a signed copy of the attached work order For the purposes of this proposal, URS has prepared an estimate of the costs to initiate site cleanup activities, verify soil conditions, and prepare a report This estimate is based on data collected from the Phase I ESA Actual disposal costs are not include in this proposal since overall disposal costs are based on waste profile and shipping distance to the disposal facilities Unit rates from URS contractors were used to estimate site cleanup costs Revisions to the scope-of-work may be suggested during the cleanup URS will identify changes in scope and the associated costs for approval by Richmond prior to any changes

As a basis for estimate the project cost, URS assumed that the site cleanup will take no more than five days with a typical remediation crew consisting of an URS environmental professional, and URS' contractor project manager, site supervisor, equipment operator and technician Equipment typical for the proposed activities includes support truck, backhoe, all terrain forklift, pressure washer and vacuum truck system

The URS subcontractor will complete site sampling after the majority of the site has been cleanup Sampling and analysis costs will include the field labor to collect samples, shipping costs and laboratory expenses Any variations in the schedule, scope of services, or site description presented herein may require a modification of the project fee Our cost estimate for conducting the proposed site cleanup and Phase II scope of work is summarized in the table below

Description	Professional Services	Equipment	Sub-Contractor Costs*	Totals
Field Work/Prep	$11,480	$2,825	$22,253	$36,558
Laboratory Analysis	$0	$0	$8,849**	$8,849
Reporting	$5,408	$150	$0	$5,558
Project Management	$1,135	$0	$0	$1,135
Sub-Total	$18,023	$2,975	$31,102	$52,100

* Disposal and waste transportation costs will be identified after profiling the waste

** The laboratory analysis is based on a 10-day analytical schedule

If you have any questions regarding our proposal or require any additional information, please call

Very truly yours,

Chris Albrecht
Project Manager

Daniel J. Banaszak
for John Salvino
Senior Geologist

karson and associates, inc.
architects planners creative consultants

April 7, 2003

Mr Robert Richmond
Richmond Asset Management
5401A West 65th Street Suite 200
Bedford Park, Illinois 60638

Re Site Review of Property/Tenant Interior Warehouse
Office Area Conditions for-
5824 Elm Avenue-Lubbock, Texas
Flemming Foods Tenant Space-3/19-20/03

Dear Mr Richmond

Please find photos of the above referenced locations for your review and files The photos indicate the areas of concern as noted from our recent walkthrough of the Offices, Grocery Warehouse and Refrigerated areas, Mezzanine Warehouse Offices and ancillary spaces, Returns Building, Truck Service Facility, Guard House and Fire Equipment buildings as well as discovered conditions encountered on 3/19-20/03 at the above noted Tenant location I have listed the items of note by the date of my review for your information These indicate the various changes observed during my visit with respect to use and conditions encountered

3/19/03-3/20/03 Observations-

Building Exterior

1 At the exterior of the facility the site is enclosed by a security fence with controlled access points There were several areas of damage to the fence due to previous hits by vehicles
2 Truck docks and Shelters were damaged and worn in many areas of the buildings on site Their current condition shows little or no maintenance
3 Paving was principally concrete cast in place at all traffic areas It exhibited wear and various levels of damage subject to the intensity of use by location The paving should be repaired to correct pothole and deteriorated conditions in the main Truck Drive and staging areas, as well as where joint conditions are deteriorated There were no areas observed of pavement damaged sufficient to close an area or cause major concern
4 There is an abandoned fuel/underground recapture area at the North of the Truck Service Facility, this appears to be still in operation Also observed were several test wells in the vicinity of the Returns Warehouse and the Truck Service Facility
5 Lighting poles and fixtures on site are out dated and many are damaged Pole bases and standards have taken hits from vehicles in many places

847-498-2823
1960 raymond drive
northbrook
illinois 60062-6715

6 At night several fixtures along the underside of the Truck Dock canopy, light pole standards at the parking lots and security lights for the facility were not operational During the daylight hours many fixtures were still illuminated after 8 30 AM around the building This may be due to a time clock not being set correctly, but in no case should the lights be on that long into the daytime
7 At the Guard house and fence enclosure area, several at grade conduits were displaced and broken with wiring for control/lighting exposed
8 Edges of the Guard Shack roof had previous damage to the cap and trim at its perimeter Interior of the Guard Shack had controls and alarms, some were non-functioning or inoperable Ventilation/heating was being augmented by a fan and window AC unit
9 Several areas had fence damage and debris accumulation These can be remedied by normal maintenance and cleaning

Main Grocery Warehouse Facility

1 Along the South side of the Grocery and Refrigerated Warehouse docks the shroud/shelters and leveler/bumpers appear to be in various states of damage from lack of maintenance At one dock the edge of dock leveler and bumpers have fallen off the building Many dock seal/shrouds at this side are damaged and worn There does not appear to be any maintenance activity to correct these numerous situations
2 Along the North side at the Refrigerated/Freezer docks the same damage as noted above was observed The difference at this side is the type of leveler and door system installed All these devices and systems need to be checked for operational integrity
3 At the Mechanical Room for the Refrigeration Equipment, equipment was operating with no observed difficulty A great deal of ice was built up on refrigeration lines, valves, devices and equipment to the extent that a butane torch was present to melt ice for access to valve equipment This area could possibly be better ventilated to reduce the amount of moisture vapor present and reduce the buildup of ice observed Only one exhaust fan was observed in use at this area With air infiltrating from the Grocery Warehouse or Freezer, this may be the source of the observed accumulations of ice
4 There were two spare compressor systems present for the refrigeration equipment One on line never connected and minus a motor set and one in plastic wrap stored in the room
5 Typical at all areas Fire Alarm Pull Station devices had been either disconnected or removed at the perimeter exits of the building
6 Discoloration at the Refrigerated Warehouse area ceilings and wall surfaces appeared to be from dirt and usage Some areas of the roof deck had excessive penetrations through the decking from previously installed repairs or rework of the roof system The areas of "dirt" on the surface did not correspond to the areas observed of these penetrations which may or may not be construed as mold present

7 The majority of the Refrigerated Warehouse areas had racking in place with many locations of damaged rack fire protection piping Sanitary wall, curb and insulated cover damage at these areas was observed Floor drains in this area also appeared to be plugged with debris All drains should be cleaned out and made operational
8 At the wall between the Freezer and Refrigerated warehouses, there is an area along the top of the separation wall that exhibited damage and a break in the wall masonry surface It was apparent that the moisture from one or either side has compromised the wall by the observed buildup of ice at the Freezer side of the space This area needs to be repaired and made vapor tight to alleviate the condition
9 The docks at the Southeast side of the Warehouse and the former Fruit and Vegetable rooms (part of the Cooler area) adjacent there to, were shut down and not in use The dock doors and dock equipment was worn and damaged Sprinkler risers in this area had out-dated inspection tags with 2001 as the most recent date on them (This was also noted on the Sprinkler Control Panel in another area)
10 The only observed column damage was at the area of the Grocery Warehouse under the Mezzanine and adjacent to the Dock areas Various columns had forklift hits and damage present
11 At the Grocery Warehouse dock areas racks have been installed over the full length of the overhead doors, approximately +680 LF These are all supported from the exterior wall and the bottom chord of the roof framing This addition/type of additional load to the roof framing system is not recommended and can result in excessive loading not designed for the roof framing members that are attached thereto Dock lights were also added to these racks with cordsets, not a recommended practice, and a violation of Electric Codes
12 At the one roof expansion joint running North/South-there were openings to daylight observed at the center of the joint These were principally observed at the Grocery Dock area
13 During the review of the facility, over two days, water was observed only at the North side of the Grocery Warehouse on the floor This was due to the recent rain that took place and was the only observed infiltration of water into the building envelope This was at the North end along aisles "E" through "J"
14 Several unit heaters had some observed forklift truck damage to them in the Warehouse areas
15 Rack and aisles at the center East/West main cross aisle had damage to waste and vent lines installed to drinking fountains along the aisle
16 At the Refrigerated dock area, over the Rytec doors, a black substance appearing to be dirt or possibly mildew was observed at the southwest corner of the dock Simple cleaning/maintenance may be all that is in order to

correct this condition The strip curtains need replacement/maintenance in the various Refrigerated Warehouse areas

17 At the Refrigerated dock area electrical and transformer equipment needs a protective bollard/rail installed infront of these devices

18 The only physical breaks in the wall or jointery was observed at the Southwest corner of the building It was apparent that this was an old problem as the interior side of this condition had corner flashing covers installed at the interior of a Closet at this location

19 The Truck Dock Canopy at the South and North side of the facility exhibited a great deal of neglect and need of repair/painting From the damaged dock shelter/shrouds to the levelers and lighting, these areas will all require repair

20 Many downspouts and gutters were damaged at the North and South sides of the facility A great deal of wall staining from overflow or leaks was observed at the gutters along these areas Some downspouts had areas at their splash blocks eroded out to the point that the splash block was suspended above grade

21 Areas of the West side Grocery Warehouse-Cigarette Room had missing exit and emergency devices in the space This may be due to the secure nature of the use but this needs to be returned to functional use in compliance with Life Safety Codes

Returns Building

1 The dock shelters and many dock levelers at this building exhibited wear and worn condition at the North and South sides

2 The facility was being used and there exists a small refrigerated unit, which had an undetermined drain location for it

3 ADA access for this facility is from the East side at grade ramp along the building No facilities exist for other compliance there-in

4 Many miscellaneous signal and alarm wires along with a single alarm panel were present It was not determined whether or not this facility is tied into the entire site reporting annunciation located in the Guard House

5 Outside external air cooled condensing units and stairs should have protective bollards installed

Truck Service Facility

1 The West side fueling canopy area has many fuel dispensing outlets that are not secured Some of these devices have been hit, knocked over or are damaged to the point that the dispensers and hoses sit in barrels to capture and hold the dispenser heads

2 Many drums and barrels, miscellaneous parts and items are about the area of this building site

3 Several interior office and storage spaces were locked and inaccessible at the time of the review of this facility At the Mezzanine there is a Locker Room and Toilet facility along with a caged storage area and ancillary "Conference Room" These areas were partially finished/unfinished and were

in need of maintenance upkeep A single stair in the Garage area served the principal mezzanine, a second non compliant stair (according to Life Safety Codes) was observed at the Southwest corner of the facility serving a small mezzanine over an Office/Storeroom below At the First Floor in addition to the locked areas there were Toilet facilities and ancillary spaces All these areas accessible had ceiling damage from Toilet areas or facilities above

4 The Garage area had a Trailer and vehicle stored within the space along with a Jib type crane No lights or power was available to the space and a determination of overhead door operation was not possible All the overhead doors were rattling from the wind outside-meaning they were loose in their tracks Electrical panels, wiring and devices were unprotected from the Garage function and in some cases, had exposed wiring A floor pit was covered with plywood cover at the West side bay of the facility, no access to this was observed No triple basin was observed for this facility in the garage, however a trench grate drain was at the overhead door side on the South of the building Several roof leaks at the floor were observed in the Service Bay area

5 The exterior of the building had missing downspouts and overflowing or leaking gutters were observed

6 An old "Wash Bay" was at the Western portion of the building, the door was left partially open as a result of being damaged This area was a haven for birds and other animals and did not appear to be heated as broken piping was observed overhead in the space and adjacent Equipment Room Large broken piping and devices were observed in the Equipment room to the West of the space and some electrical motor equipment was unattached and left laying about the space

7 The Fuel area canopy had a great deal of damaged devices for the fuel dispensing The Fuel Islands were all damaged and had various sized barrels for fuel dispenser holders Equipment was still operational as the trucks were lined up and fueled during this review Fuel was controlled from an inside reader alarm unit at the center of the Fuel Dispensing area but no emergency containment or controls were observed for the equipment An inside control monitor had an alarm indicated on the display and print out for the 3/20/03 review of the equipment Fuel was evident on the slab and lot adjacent to the facility as there was a great deal of sand/pickup material at the surface of the drive along with fuel stains on the pavement

Fire Prevention Equipment Structures

1 The diesel fire pump room was adjacent to the main storage tank for the facility at the Southwest corner of the site A new jockey pump was recently installed on the equipment All the devices were dirt covered and had not been maintained for some time Open batteries laid on the floor with no safety covers on the terminals Diesel fuel tank gauge indicated half full of fuel No emergency battery lights were observed in the space The roof of

the structure was a single layer sheet of roof decking and had no trim, flashing or cap at the perimeter surround It was determined that this was set right on top of the 8" masonry block walls and sealed in place The exterior test header had excessive erosion at the grade to the adjoining parking lot from previous use There was a large eroded ditch across this portion of the property, most likely caused by the equipment testing of the Fire Pump and equipment

2 The electric fire pump structure had water present on the floor from a leaking coupling at the pump drive A recent replacement of the jockey pump and motor was evident Access to the Fire Pump Controller cabinet was inhibited by the piping and device location within the space No tie to building alarm or devices from this facility was observed Further investigation of this would be appropriate A large section of the North wall and along the South wall of the space was damaged or rusted at the base of the wall enclosure No locks were present on the doors

Please contact me should you have any questions with regard to the information attached

Very truly yours,

Brett D. Karson

Brett D Karson A I A
President

Cc Ka file
Encl Photos of 3/19-20/03- 5824 Elm Avenue 4-sets photos

REPAIRS PER KARSON AND ASS .ATES PHOTOS

	PAGE #	PHOTO #	DESCRIPTION	COST
INDEX A				
	1-2	1-4	Remove debris from fence	$1,200 00
	8	16	Repair light pole base	$2,700 00
	9	18	Re-grade washed out area	$3,600 00
	10	19	Patch light pole base	$2,700 00
	12	23	Repair siding & paint	$1,400 00
	15	29	Remove temp storage trailer	$1,500 00
			Subtotal	**$13,100 00**
INDEX C				
	27	53	Replace door & hardware	$810 00
	27	53	Repair concrete curb	$350 00
	28	55	Repaint damaged deck	$11,218 00
	29	59	Repair bollards	$600 00
			Subtotal	**$12,978 00**
INDEX D				
	30	61	Repair sanitary curb	$800 00
	32	64	Repair damaged concrete wall	$4,200 00
	37	73	Replace damaged curb	$600 00
	39	76	Repaint exposed steel	$300 00
	40	77	Repaint exposed steel & remove exposed insulation	$350 00
	40	78	Repair damaged curb	$300 00
	43	83	Repair curb	$400 00
	44	84	Repair damaged cooler curb	$250 00
	47	91	Masonry repair	$1,300 00
	50	94	Masonry repair	$1,600 00
	51	95	Tuck point and clean	$550 00
			Subtotal	**$10,650 00**
INDEX F				
	59	111	Replace missing panic device	$410 00
	68	129	Repair damaged column	$750 00
	68	130	Repair damaged column	$1,200 00
	69	131	Repair damaged column	$750 00
	69	132	Repair damaged column	$1,200 00
	70	134	Repair damaged column	$750 00
	71	135	Repair damaged column	$750 00
	71	136	Repair damaged column	$1,200 00
	72	137	Repair column & bollard	$1,600 00
	72	138	Replace bollard	$600 00
	75	143	New lockset	$145 00
	77	148	Replace bollard	$600 00
	79	152	Repair damaged concrete	$450 00
	90	174	Repair damaged concrete	$730 00
			Subtotal	**$11,135 00**
INDEX G				
	100	193	Clean masonry wall & tuck point	$3,800 00
			Subtotal	**$3,800 00**

REPAIRS PER KARSON AND AS. IATES PHOTOS

	PAGE #	PHOTO #	DESCRIPTION	COST
INDEX H				
	101	194	Clean masonry wall & tuck point	$225 00
	102	196	Clean & sanitize wall	$1,200 00
	106	204	Repair sanitary curb	$120 00
	106	205	Clean masonry wall & tuck point	$525 00
			Subtotal	**$2,070 00**
INDEX J				
	118	227	Replace damaged ceiling tiles	$35 00
	118	228	Repair damaged drywall ceiling	$425 00
	119	230	Replace missing hardware	$125 00
	123	237	Replace damaged ceiling tiles	$180 00
			Subtotal	**$765 00**
INDEX M				
	154	299	Repair concrete sanitary curb	$300 00
			Subtotal	**$300 00**
INDEX O				
	168	28B	Repair concrete wall	$350 00
	168	28B	Straighten railings	$400 00
	179	49B	Repair fascia on guard house	$1,650 00
			Subtotal	**$2,400 00**
INDEX Q				
	186	63B	Replace bollard	$1,200 00
			Subtotal	**$1,200 00**
INDEX U				
	208	106B	Replace bollard	$600 00
	208	107B	Repair column	$1,200 00
	209	108B	Repair column	$1,200 00
	209	109B	Repair column	$1,200 00
	210	110B	Clean & tuck point masonry wall	$7,560 00
	211	113B	Clean & tuck point masonry wall	$850 00
	212	114B	Clean & tuck point masonry wall	$5,625 00
	213	116B	Clean & tuck point masonry wall	$5,625 00
	220	130B	Clean & sanitize wall	$750 00
			Subtotal	**$24,610 00**
			Total	**$83,008 00**
			Contingency	$20,000 00
			Supervision	$9,000 00
			Permits	$5,500 00
			OH&P (12%)	$14,100 96
			Insurance (2%)	$2,632 18
			GRAND TOTAL	$134,241 14

4/18/03

DOCK EQUIPMENT SURVEY

SITE LOCATION: **5824 ELM AVE.**
LUBBOCK, TEXAS

INSPECTION DATES: **MARCH 19, 2003 –**
MARCH 20, 2003

By:

Johnson Equipment Company
Through W.E. Carlson Corp.

W.E.Carlson
CORPORATION

1128 PAGNI DRIVE • ELK GROVE VILLAGE • ILLINOIS IL 60007 6685
TEL (847) 640 0011 • FAX (847) 640 1123 • www wecarlson com

3384 PUBLISHERS DR • STE A • ROCKFORD IL 61109
TEL(815) 873 9901 FAX (815) 873 9601

QUOTATION

Mr Michael Grant
Richmond Asset Management
5401A West 65th Street
Bedford Park, IL 60638

April 3, 2003

Re Flemming Lubbock, TX

We are pleased to present the following quotation

Dock Enclosures

Replace foam dock pads with Frommelt Model TP901FPHS - (55) at Main Building (1 - 34) (44 - 55) (65 - 72) - (15) at Satellite Builing (100 - 114)	each	$1,933 00

Edge-of-Dock Levelers

Replace (47) sets of bumper assemblies - doors 1 - 34 and 44 - 55 - Includes steel box and molded bumpers	per dock position	$525 00

Replace Kelley flip ramp dock levelers - doors 65 - 72 and door 43

Genquip Hydraulic Edge-of-Dock Leveler		each	$2,655 00
Capacity	30,000 lbs		
Lip Section	14"		
Genquip Mechanical Edge-of-Dock Leveler		each	$1,690 00
Capacity	30,000 lbs		
Lip Section	14"		

Replace door sections on overhead sectional doors - (40) door openings
- All doors quoted face to outside of building
- All on Main Building only

Remove existing an install new sections Make any repairs to door tracks and spring line $55,400 00

Remove and replace brush seal at (70) door openings $15 311 00
- Includes 3" brush and 2" retainers

Pricing includes freight, tax and installation All electrical work by others
Dumpsters to remove door sections from site by others
This proposal includes our standard insurance coverage Additional insurance requirements, such as OCP Policies, Waiver of Subrogation, permits, bonds, etc are available at additional cost

By _____
Mark R Goldsmith /jk

Accepted By _____ Date

REPLACEMENT QUOTE

QUOTATION SUBJECT TO ALL TERMS & CONDITIONS ON REVERSE SIDE

Loading Dock & Material Handling Equipment

QUOTATION

W.E.Carlson CORPORATION

1126 PAGNI DRIVE • ELK GROVE VILLAGE • ILLINOIS, IL 60007-5685
TEL (847) 640 0011 • FAX (847) 640-1123 • www.wecarlson.com

3384 PUBLISHERS DR • STE A • ROCKFORD IL 61109
TEL(815) 873 9901 FAX (815) 873-9601

Mr Michael Grant
Richmond Asset Management
5401A West 65th Street
Bedford Park, IL 60638

April 21, 2003

Re Flemming Lubbock, TX

We are pleased to present the following quotation.

Dock Enclosure Repair	$64,828 00
Replace Edge-of-Dock bumper assemblies	$24,150 00
Replace Kelley Flip Ramps	$15,210 00
Replace Sectional Door Panels Make necessary repairs.	$55,400 00
Replace brush seal on sectional doors	$15,311.00
Replace strip curtain at (5) openings	$4,550 00
Replace (71) dock lights	$19,525 00
TOTAL	$198,974 00

This proposal includes our standard insurance coverage. Additional insurance requirements, such as OCP Policies, Waiver of Subrogation, permits, bonds, etc. are available at additional cost.

* If Sectional Door Panels are not replaced $143,574.00

By Mark R. Goldsmith /jk
Mark R. Goldsmith /jk

REPAIR QUOTE

D & J Investments
P O Box 852
Lubbock, TX 79408

FILE
Lubbock

August 26, 2003

Fax To Bob Richmond
Richmond Asset Mgmt
Fax 708-594-5602

From D & J Investments
David L. Standlee
P O Box 852 Lubbock, TX 79408
Phone 806-745-7500
Fax 806-748-0117

Bob, I had more equipment that was involved with your facility than I orginally thought. I will take $5,000 00 for the complete list on both pages Let me know at you earliest convenience.

Thanks,

Dave

David L Standlee

Parts are new and in a box

QTY	DESCRIPTION	PART NUMBER
3	Dayton Hot Water Controller	2E349
2	Paragon Time Control	500-122-03
3	Overload Relay Thermal	1B11 5
8	Overload Relay Thermal	1-B50
5	Overload Relay Thermal	1-B1.88
2	Overload Relay Thermal	1-B25
4	Overload Relay Thermal	1-B6.90
1	Overload Relay Thermal	1-B6 25
7	Overload Relay Thermal	1-B5.50
1	Overload Relay Thermal	1-B4.85
3	Overload Relay Thermal	1-B17.5
4	Overload Relay Thermal	1-A2.15
4	Overload Relay Thermal	1-A1 39
36	Heater Element	
2	Controline Hydraulic Valve	MA-5210-0-0-3
1	Controline Valve	VB-9313-0-4-8
1	3 Pole Connector	HN53CD209
3	Carrier Timers	HK25MJ172
2	Hobart Transformer	406247
2	Magnetek 3/4 hp Motor	8-151936-02
4	Magnetek 1/2 hp Motor	HF3H06IN
10	Contact kit 3 pole connector	X-247286
1	Carrier Connector	HN52KC052
3	Advance 175 watt Transformer	71A5570-001
1	Advance 800 Ma Ballast	RS-26110-TD
	Misc Rolls of Wire	

QTY	DESCRIPTION
1	**Electric Motor - Rebuilt By Brandon & Clark** **3623 Interstate 27 Lubbock, TX 79410** **806-771-5600** **Rebuilt - never used** **Louis - Allis** **Type COGX** **200 hp** **460V - 3 phase** **447TS - Frame** **1180 RPM'S** **Continuous Duty** **Class FINS** **Serial # 4269516001**
12	**Bogen Speakers** **Model SPT-15A** **15 Watt** **121 Max Sound Level** **9" Dia X 91/2 "**
1	**Viking Amomia Pump -- New** **Serial # 10933850** **Model # LV1727B**
1	**New McDonnell & Miller** **Model 51HD-Z Valve** **35 PSI** **2M Switch Model 2**
1	**Lucent - New** **Page Pac Plus** **D100**
1	**Lucent - New** **SHR-T** **30 Watt Vary - Tap** **Radial Horn - Model # 22007-001**
1	**Lucent - New** **15 Watt Horn** **Model 51001**

CERTIFICATE OF SERVICE

I, Wendy S Mills, declare as follows

I am employed in the County of Orange, State of California, I am over the age of eighteen years and am not a party to this action, my business address is Jamboree Center, 4 Park Plaza, Suite 1400, Irvine, California 92614-8557, in said County and State On September 12, 2003, I served the following document(s)

PROOF OF CLAIM

on the parties stated below

Bankruptcy Management Corporation
1330 East Franklin Avenue
El Segundo, CA 90245

by the following means of service

☐ **BY MAIL** I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date I am familiar with the firm's practice of collection and processing correspondence for mailing It is deposited with the U S Postal Service on that same day in the ordinary course of business I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit

☐ **BY PERSONAL SERVICE** I provided a true copy of the above-listed document(s) to a messenger, along with an envelope(s) addressed to each person(s) named at the address(es) shown, and gave that document(s) to a messenger for personal delivery before 5 00 p m on the above-mentioned date

☐ **BY FACSIMILE** On September 12, 2003, at approximately _____ a m./p m , from Irvine, California, I caused each such document to be transmitted by facsimile machine, to the parties and numbers indicated above The transmission was reported as complete, and no error was reported by the facsimile machine A copy of the transmission record is maintained by our office

☒ **BY UPS NEXT DAY AIR** On the above-mentioned date, I placed a true copy of the above mentioned document(s) in a sealed envelope or package designated by the United Parcel Service with delivery fees paid or provided for, addressed to the person(s) as indicated above and deposited same in a box or other facility regularly maintained by United Parcel Service or delivered same to an authorized courier or driver authorized by United Parcel Service to receive documents

I am employed in the office of Kenneth A Glowacki Jr , a member of the bar of this court, and the foregoing document(s) was(were) printed on recycled paper

☐ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

☒ **(FEDERAL)** I declare under penalty of perjury that the foregoing is true and correct

Executed on September 12, 2003

Wendy S Mills

30322404_1 DOC