UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

PROOF OF CLAIM

Name of Debtor
Fleming Companies, Inc

Case Number 03-10945 (MFW)

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) Rock Cod Village South Center LLC

Name and address where notices should be sent

c/o Margaret M Manning, Esquire
Buchanan Ingersoll PC
1201 North Market Street Suite 1501
Wilmington, DE 19801

☐ 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

Contract No 7058

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 See Attachments A & B

☐ Retiree benefits as defined in 11 U S C § 1114(a)
☐ Wages, Salaries and compensation (Fill out below)

Your SS #
From _____ to _____
(date) (date)

2 Date debt was incurred
See Attachments A&B

3 If court judgment, date obtained
N/A

4 Total Amount of Claim at Time Case Filed See Attachments A&B

X 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 to setoff)
Brief Description of Collateral
☐ Real Estate ☐ Motor Vehicle
☐ Other Pre Petition Right to Setoff / Recoupment

Value of Collateral not less than $

Amount of arrearage and other charges at time case filed included in secured claim above 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 $4,000) *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 $1 800* of deposits toward purchase lease, or rental of property or services for personal, family or house hold 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 of 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 4/1/98 and every 3 years thereafter with respect to cases commenced on or after the date of 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 voluminous, attach a summary

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

This Space is for Court Use Only

FILED
OCT 07 2003
BMC

Fleming Companies Claim
14509

Date
10/5/2003

Sign and print the name and title if any, of the creditor or other person authorized to file this claim (attach power of attorney, if any)

Margaret M Manning Esq

Penalty for presenting fraudulent claim Fine up to $50 000 or imprisonment up to 5 years or both 18 U S

Attachment A

Proof of Claim of Rock Cod Village South, LLC
In re Fleming Companies, Inc , et al , Case No 03-10945 (MFW)

Per a the Lease Agreements and all amendments, revisions and additional documentation related thereto (see Attachment B), the following is a break-down of the charges

Base Rent 9/1/03-9/30/05 $584,763 50

CAM 9/1/03-9/30/05 $63 306 01

Taxes 2003-2005 $76,493 97

Commission $33,790 51

Total Interest (Post petition, post- rejection) $30,000 00

Total $788,353 99

ATTACHMENT B

AGREEMENT (12/11/1981)

18238

BK 1587 PAGE 1085

AGREEMENT

THIS AGREEMENT Made and entered into this 11th day of December, 1981, by and between JOHN D McCARTNEY, LARRY KELLEY, CLYDE JOHNSON and J OTIS WINTERS, hereinafter the "Developer", C M KLINKENBEARD, JR , hereinafter the "Owner", SHERIDAN PARK HOMEOWNERS ASSOCIATION, an Oklahoma not-for-profit corporation, hereinafter the "Association", and AL HOLDERNESS and JAN HOLDERNESS, husband and wife, JEFF C WISBY and MARY ANN WISBY, husband and wife, JOSEPH P STACY and BETH STACY, husband and wife, JOHN JONES and MILDRED JONES, husband and wife, and MICHAEL T MULCAHEY and CHRIS MULCAHEY, husband and wife, hereinafter the "Neighbors"

WITNESSETH

WHEREAS, the Owner is the owner of the following-described real property situated in the City of Tulsa, Tulsa County, State of Oklahoma, to-wit

> The Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW/4 NW/4 NW/4) of Section 26, Township 18 North, Range 13 East, Tulsa County, State of Oklahoma,

hereinafter the "Property", which is a 10-acre tract located at the southeast corner of East 101st Street and South Sheridan Road in the City of Tulsa, Oklahoma, and

WHEREAS, the Developer has heretofore entered into a contract with the Owner to purchase the Property, subject to the approval by the City of Tulsa, Oklahoma of a Planned Unit Development pursuant to the provisions of the City of Tulsa Zoning Code permitting the use of the Property for a neighborhood shopping center, hereinafter the "Shopping Center", and

WHEREAS, Developer has filed Planned Unit Development Application No 267, which is presently pending before the Board of Commissioners of the City of Tulsa, in which the Developer seeks the approval of the use of the Property for a shopping center having a maximum aggregate floor area not exceeding 108,900 square feet, and

WHEREAS, the Property abuts on the south and east Sheridan Park Addition, an Addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded Plat thereof, and

WHEREAS the Association was organized for the purpose of and acts to protect the interests of all of the owners of property within Sheridan Park Addition, and

WHEREAS, the Neighbors are the owners of lots within Sheridan Park Addition which abut the Property and which would be affected by the construction of the Shopping Center, which lots owned by the Neighbors are described as follows, to-wit

Owner	Description
Al Holderness and Jan Holderness	Lot 1, Block 2
Jeff C Wisby and Mary Ann Wisby	Lot 3, Block 2

TULSA COUNTY OKLAHOMA

Joseph P Stacy and Beth Stacy	Lot 11, Block 2
John Jones and Mildred Jones	Lot 13, Block 2
Michael T Mulcahey and Chris Mulcahey	Lot 14, Block 2

hereinafter the "Neighbors' Lots", and

WHEREAS, the Association and the Neighbors have stated concerns and objections to the construction of the Shopping Center on the Property and have expressed their intent to object to the approval of Planned Unit Development No 267 by the Board of Commissioners of the City of Tulsa, and

WHEREAS, the Developer has agreed to impose certain restrictions upon the construction and operation of the Shopping Center in addition to those restrictions, which will be imposed by the City of Tulsa, Oklahoma as a condition to the approval of Planned Unit Development No 267, and

WHEREAS, the Owner is agreeable to such additional restrictions to be imposed hereby, provided that the same shall become effective only upon the approval of Planned Unit Development No 267 and the closing of the purchase of the Property by the Developer from the Owner, and

WHEREAS, the Developer, the Owner, the Association and the Neighbors desire to fully and completely resolve any disagreements over the use of the Property for a shopping center, subject to the terms and conditions hereinafter set forth, and

WHEREAS, the Association and the Developer have negotiated this Agreement so as to provide for the orderly development of the area, and to provide for a shopping center limited in hours of operation, sizes of shopping areas, and to provide for uses that are compatible both architecturally and aesthetically with the predominately single-family dwelling atmosphere that exists in the area

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Developer and the Owner, for the purpose of insuring adequate covenants and restrictions for the benefit of the Neighbors, their successors and assigns, and the Association, do hereby impose upon the Property as hereinabove described, the following covenants and restrictions which become effective as hereinafter set forth and which shall run with the Property and shall be enforceable by any one or more of the Neighbors, to-wit

1 Permitted Uses Within the Property the following use restrictions shall apply

(a) Uses permitted as a matter of right in the CS-Commercial Shopping Center zoning district under the Tulsa Zoning Code as the same existed on October 1, 1981 shall be permitted, provided, however, the following uses shall be prohibited

(i) Multi-family dwellings,

(ii) Theatres, bowling alleys, pool halls, skating rinks, martial arts centers, peep shows, amusement or entertainment arcades, adult book stores and adult dance studios, or any night club or similar facility offering as its primary activity live entertainment or dancing

(iii) Taverns and bars,

(iv) Private clubs and restaurants having as their principal activity the dispensing and consumption of alcoholic beverages,

(v) No restaurant shall have a separate bar with an area in excess of 25 percent of the public service area, or 1,250 square feet, whichever is the lesser,

(vi) No restaurant or food service facility shall have or provide service at or through a walk-up or drive-through service area or window

2 Hours of Operation Within the Property the following limitations on the hours of operation of a business shall apply

(a) Commercial and retail establishments, other than restaurants, shall not be open to the public for business transactions before 7 00 o'clock A M or after 11 00 o'clock P M , provided that the provisions of this subparagraph (a) shall not apply to the north 200 feet of the west 265 feet of the Property,

(b) Restaurants shall not be open to the public for service before 7 00 o'clock A M or after 12 30 o'clock A M No order for food service shall be taken in any restaurant or food service facility after 11 00 o'clock P M ,

3 Construction and Use Restrictions Within the south and east 120 feet of the Property the following construction and use restrictions shall apply

(a) Architectural Compatibility The design of the south and east elevations (adjacent to Sheridan Park) of buildings within the Shopping Center shall be architecturally similar and compatible with the north and west elevations of the buildings within the Shopping Center, however, the provisions of this subparagraph are not intended to require identical lighting, decoration or trim on all sides of the buildings within the Shopping Center,

(b) Building Height No building shall be greater than one story in height, however, this subparagraph shall not be construed to prevent the construction of a mezzanine within a one story building,

(c) Roofs The roof of any building within the Shopping Center shall not exceed 26 feet in height The perimeter of all roofs shall be sloped at a 45-degree angle from the highest point of the roof to the eave Eaves shall not exceed 12 feet in height above the adjacent ground level except at corners where, for a distance of 40 feet from the corner, the building walls may extend to the full height of the building The sloped portion of the roofs shall be covered with composition shingles weighing not less than 340 pounds per square, and designed to simulate wood shingles in appearance Decorative dormer windows shall be placed on the south and east roofs of buildings within the Shopping Center,

(d) Siding Materials The siding materials on the south and east faces of buildings within the Shopping Center shall be brick or lapped siding with a horizontal pattern or combinations of brick and siding Where siding is used the material shall be wood or vinyl designed to simulate wood,

(e) Mechanical Equipment All mechanical equipment shall be roof-mounted or located within the interior of a building Roof-mounted mechanical equipment shall be screened from ground level view from the lots within Sheridan Park Addition which are adjacent to the Property,

(f) Trash Receptacles No trash receptacles shall be located within 45 feet of the boundaries of Sheridan Park All trash receptacles and storage areas shall be screened from ground level view from the lots within Sheridan Park Addition which are adjacent to the Property,

(g) Loading Docks All loading docks shall be screened by brick veneered walls not less than 12 feet in height or shall be located on the interior of a building and be equipped with overhead doors,

(h) Screening Prior to the occupancy of any building within the Shopping Center a screening fence six feet in height shall be constructed along the south and east boundaries of the Property, except where the owner of an adjacent lot within Sheridan Park Addition has constructed a screening fence Such fence shall be constructed with cedar materials or a similar quality material if requested by the owner of the lot adjacent to the fence and shall be installed in a manner similar to existing fences on adjacent lots so as to conform to applicable restrictive covenants within Sheridan Park Addition,

(i) Landscaping Prior to the occupancy of any building within the Shopping Center, a ten-foot wide strip along the south and east boundaries of the Property shall be professionally landscaped and shall thereafter be maintained by the owner of the Shopping Center Plantings within the ten-foot wide strip shall be of the size and quantity shown for either Section One or Section Two on Exhibit A-1 attached hereto and made a part hereof Plantings specified for Section One and Section Two shall occur alternately four times each as shown on Exhibits A-2 and A-3 attached hereto and made a part hereof,

(j) Neighbors' Landscaping Developer shall provide and install, at its sole cost upon each of the nine lots within Sheridan Park Addition which abut the Property landscaping of similar quality and proportionate quanity as shown on Exhibits A-1, A-2 and A-3 Such landscaping materials shall be installed at the direction of the owner of each lot, but only within 20 feet of the common-property line between each lot and the Property The installation of such landscaping materials shall be contingent upon a release of any liability arising out of the installation of such material being executed by the owner of the lot where such material is to be installed

The Developer shall give the Sheridan Park Homeowners Association thirty days prior written notice of the commencement of construction of any building within the Shopping Center The Sheridan Park Homeowners Association shall consult with the owners of each of the lots within Sheridan Park which abut the Property and shall give the Developer written notice as to which of such abutting lots shall be provided with installed landscaping materials set forth hereinabove Such notice shall advise the Developer of the quantity of landscaping materials and the configuration of installation thereof for each of the lots which request landscaping at the expense of the Developer The Sheridan Park Homeowners Association and the Developer shall agree upon a time for the installation of the landscaping material but

in no event shall the installation be more than six months after the commencement of construction of the first building within the Shopping Center

In addition to the above landscaping requirements, the Developer shall make every reasonable effort to preserve at least three of the existing walnut trees located on the Property in an area adjacent to Lots 14 and 15, Block 2, Sheridan Park Addition

(k) Driveways At least three speed interruptors (elevated paving sections at a right angle to the flow of vehicular traffic) shall be constructed on the service driveway along the south and east boundaries of the Property,

(l) Lighting All lighting shall be directed downward and no lighting shall be directed toward lots within Sheridan Park Addition Shopping Center lights other than those located within the north 200 feet of the west 265 feet of the Property and other than those which are reasonably necessary for the security of the Shopping Center shall be turned off within thirty minutes after the last closing hour within the Shopping Center;

(m) Automotive Service No automotive service station within the Property shall contain service bays for automobile repair other than routine automotive maintenance,

(n) Security The Owner of the Shopping Center shall provide security service within the Shopping Center each day from and after the last closing hour within the Shopping Center until at least 6 00 o'clock A M

4 Effective Date The covenants and restrictions imposed upon the Property as set forth in paragraphs 1, 2 and 3 hereinabove shall become effective and binding upon the Property and the owners thereof upon the later to occur of the following events

(a) The final, unappealed approval by the Board of Commissioners of the City of Tulsa, Oklahoma of Planned Unit Development No 267 permitting the use of the Property for a shopping center containing a maximum floor area of not less than 108,900 square feet according to the development standards and restrictions set forth in the application of the Developer for the approval of Planned Unit Development No 267,

(b) The conveyance of the Property by the Owner to the Developer

In the event Planned Unit Development No 267 should not be approved by the City of Tulsa, Oklahoma as submitted or in the event the Property is not conveyed by the Owner to the Developer on or before the 1st day of February, 1982, then in either of such events this Agreement shall be automatically terminated and all of the covenants and restrictions imposed upon the Property herein shall be terminated and this Agreement shall be of no further force and effect

In the event Planned Unit Development No 267 should be approved by the City of Tulsa as submitted by the Developer, and the Property should not be conveyed by the Owner to the Developer on or before the 1st day of February, 1982, Developer and the Owner agree to apply to the Tulsa Metropolitan Area Planning Commission and the City of Tulsa for permission to abandon and

rescind the approval to use the Property for a shopping center and to diligently pursue the abandonment of Planned Unit Development No 267 until approval therefor is granted by the City of Tulsa

5 Covenants of the Association and Neighbors In consideration of the covenants and restrictions imposed hereinabove on the Property by the Developer and Owner, and in further consideration of the agreements made herein by the Developer and Owner, the Association and the Neighbors hereby agree not to oppose, object or protest the approval of Planned Unit Development No 267 and further agree to support the approval of Planned Unit Development No 267 as submitted and request that the Tulsa Metropolitan Area Planning Commission recommend and the Board of Commissioners of the City of Tulsa approve Planned Unit Development No 267 The Association and the Neighbors further agree not to institute or authorize others on their behalf to institute any legal proceedings to challenge the validity of the approval of Planned Unit Development No 267, if granted, or to attempt to enjoin the use of the Property for a shopping center in accordance with the provisions of Planned Unit Development No 267 for so long as the terms and conditions of this Agreement and of Planned Unit Development No 267 are followed in the development, construction and operation of the Shopping Center, provided, however, that nothing herein shall be construed to waive or otherwise impair the right of the Neighbors to institute legal proceedings as hereinafter provided to enforce the terms and conditions of this Agreement

6 Covenant Against Zoning In further consideration of the agreements made herein by the Neighbors, the Developer, for itself, its successors and assigns, agrees during the term of this Agreement not to seek a change in the zoning classification of the Property or a zoning exception or variance to increase the floor area of buildings within the Shopping Center in excess of the 108,900 square feet permitted under the provisions of this Agreement

7 Term and Amendments The covenants and restrictions set forth in paragraphs 1, 2 and 3 herein shall be covenants which shall run with the Property and shall be binding upon the Developer and Owner, their grantees, lessees, successors and assigns, and shall be enforceable by the Neighbors and their successors, grantees and assigns of the interest of the Neighbors in the lots within Sheridan Park Addition owned by the Neighbors until January 1, 2032, provided, however, such covenants and restrictions may be amended or modified at any time by a written agreement executed by the Owners of the Property and by at least one of the owners of not less than three of the five lots within Sheridan Park Addition now owned by the Neighbors, provided, however, after January 1, 2002, the agreement of the Neighbors to amendments or modifications requested by the Developer, its successors, agents and assigns, shall not be unreasonably withheld The Developer agrees to give written notification of any requested amendments or modifications of this Agreement to the then owners of the lots now owned by the Neighbors and to the then owners of the following described lots within Sheridan Park Addition Lots Two (2), Nine (9), Twelve (12) and Fifteen (15), Block Two (2), Sheridan Park Addition

8 Enforcement In the event that the Developer or any of its successors, grantees, lessees or assigns or any person claiming under them shall violate or breach any of the covenants or restrictions set forth herein or imposed hereby, any person or persons owning one or more of the lots in Sheridan Park Addition now owned

by the Neighbors shall have the right to maintain an action at law or in equity against the person or persons violating any of such covenants and restrictions, to prevent such violation or to recover damages for the violation thereof Prior to the commencement of an action at law or in equity to enforce the covenants or restrictions set forth herein, the person intending to commence such action shall give the Developer, or the person committing such violation, fifteen (15) days written notice of such violation In the event the Developer, or the person committing such violation, commences to cure such violation with the 15-day period, no action shall be commenced to enforce the covenants or restrictions for so long as the Developer is proceeding diligently to cure such violation In the event that the Association or any of the Neighbors or any person claiming under them shall violate or breach any of the agreements set forth herein, the Developer, the Owner and any person or persons owning the Property, or a lot or parcel therein shall have the right to maintain an action at law against the person or persons violating any of such agreements to recover damages for the violation thereof Invalidation of any of the covenants or restrictions set forth herein by judgment or other action shall not affect the validity of any other covenant or restriction which shall remain in full force and effect

DATED this 11th day of December, 1981

"DEVELOPER"

JOHN D McCARTNEY

LARRY KELLEY

CLYDE JOHNSON

J OTIS WINTERS

"OWNER"

C M REINKEMEYER, JR

"THE ASSOCIATION"

SHERIDAN PARK HOMEOWNERS ASSOCIATION, an Oklahoma corporation

By

ATTEST

Secretary

"NEIGHBORS"

AL HOLDERNESS

JAN HOLDERNESS

Owners of Lot 1, Block 2

JEFF C WISBY

MARY ANN WISEY

Owners of Lot 3, Block 2

JOSEPH P STACY

BETH STACY

Owners of Lot 11, Block 2

JOHN JONES

MILDRED JONES

Owners of Lot 13, Block 2

MICHAEL T MULCAHEY

CHRIS MULCAHEY

Owners of Lot 14, Block 2

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

Before me the undersigned, a Notary Public in and for said County and State, on this 17 day of November, 1981, personally appeared JOHN D McCARTNEY, LARRY KELLEY, CLYDE JOHNSON AND J OTIS WINTERS, to me known to be the identical persons who executed the within and foregoing instrument, and

acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth

Given under my hand and seal the day and year first above written.

[SEAL]

Notary Public

My Commission Expires

7-11-82

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

Before me the undersigned, a Notary Public in and for said County and State, on this 11th day of November, 1981, personally appeared C M REINKEMEYER, JR , to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth

Given under my hand and seal the day and year first above

[SEAL]

Notary Public

My Commission Expires

7-11-82

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

Before me the undersigned, a Notary Public in and for said County and State, on this 7th day of December, 1981, personally appeared Bill Bryan, to me known to be the identical person who subscribed the name of SHERIDAN PARK HOMEOWNERS ASSOCIATION to the foregoing instrument as its President and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such corporation, for the uses and purposes therein set forth

Given under my hand and seal the day and year first above

[SEAL]

Notary Public

My Commission Expires

19-2-84

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

Before me the undersigned, a Notary Public in and for said County and State, on this 11th day of August, 1981, personally appeared AL HOLDERNESS and JAN HOLDERNESS, husband and wife, to me known to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth

Given under my hand and seal the day and year first above written.

[SEAL]

Ann Lynne Martin
Notary Public

My Commission Expires
9-2-84

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

Before me the undersigned, a Notary Public in and for said County and State, on this 11th day of August, 1981, personally appeared JEFF C WISBY and MARY ANN WISBY, husband and wife, to me known to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth

Given under my hand and seal the day and year first above written.

[SEAL]

Ann Lynne Martin
Notary Public

My Commission Expires
9-2-84

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

Before me the undersigned, a Notary Public in and for said County and State, on this 11th day of August, 1981, personally appeared JOSEPH P STACY and BETH STACY, husband and wife, to me known to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth

Given under my hand and seal the day and year first above written

[SEAL]

Donna Lynne Martin
Notary Public

My Commission Expires
9-10-84

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

Before me the undersigned, a Notary Public in and for said County and State, on this 7th day of December, 1981, personally appeared JOHN JONES and MILDRED JONES, husband and wife, to me known to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth

Given under my hand and seal the day and year first above written

[SEAL]

Donna Lynne Martin
Notary Public

My Commission Expires
12-2-84

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

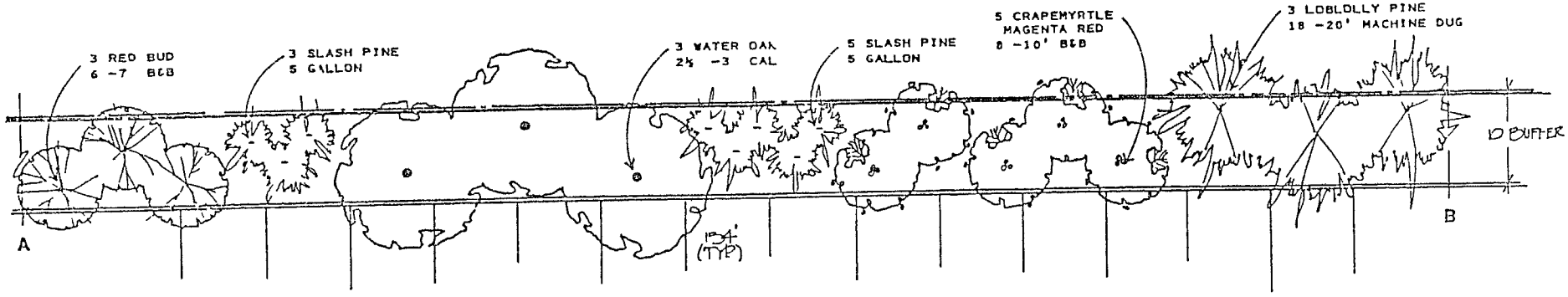
Before me the undersigned, a Notary Public in and for said County and State, on this 7th day of December, 1981, personally appeared MICHAEL T MULCAHEY and CHRIS MULCAHEY, husband and wife, to me known to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth

Given under my hand and seal the day and year first above written

[SEAL]

Donna Lynne Martin
Notary Public

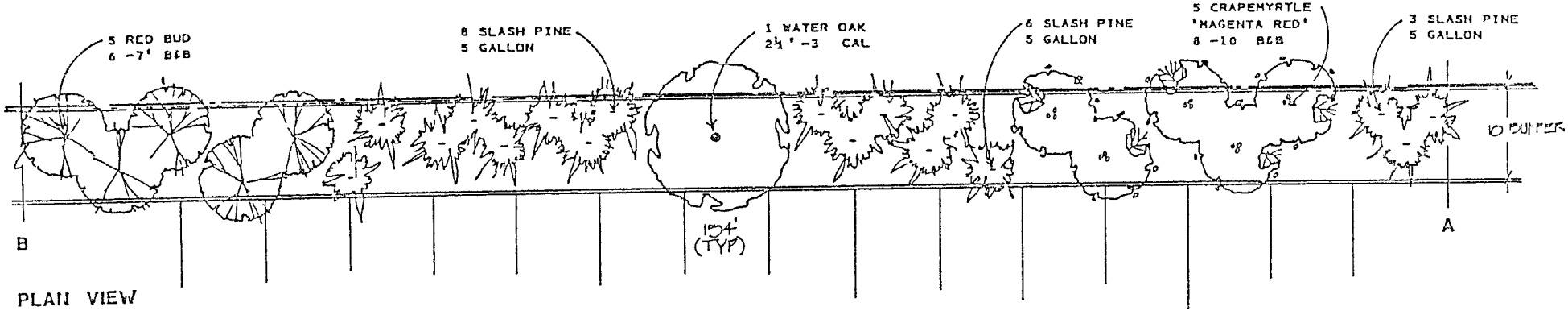
My Commission Expires
12-2-84



PLAN VIEW

VILLAGE SOUTH INTERIOR LANDSCAPE BUFFER SECTION 1

SCALE 1 10 0



PLAN VIEW

VILLAGE SOUTH — INTERIOR LANDSCAPE BUFFER — SECTION 2

SCALE 1"=10'-0"

PLANT LIST
FOR THE LANDSCAPE BUFFER OF:
VILLAGE SOUTH
TOTAL BUFFER: 1,234 LIN. FT

QUAN	NAME OF PLANT	SIZE
16	WATER OAK	2½" -3" CALIPER
12	LOBLOLLY PINE	18'-20' B&B - MACHINE DUG
40	CRAPEMYRTLE 'MAGENTA RED'	8'-10' B&B
32	RED BUD	6'-7' B&B
100	SLASH PINE	5 GALLON

PER 154' SECTION, SECTION 1

QUAN	NAME OF PLANT	SIZE
3	WATER OAK	2½" -3" CALIPER
3	LOBLOLLY PINE	18'-20' - MACHINE DUG
5	CRAPEMYRTLE 'MAGENTA RED'	8'-10' B&B
3	RED BUD	6'-7' B&B
8	SLASH PINE	5 GALLON

PER 154' SECTION: SECTION 2

QUAN	NAME OF PLANT	SIZE
1	WATER OAK	2½" -3" CALIPER
0	LOBLOLLY PINE	18'-20' - MACHINE DUG
5	CRAPEMYRTLE 'MAGENTA RED'	8'-10' B&B
5	RED BUD	6'-7' B&B
17	SLASH PINE	5 GALLON

EXHIBIT "A-1"

BUILD AND LEASE AGREEMENT (2/2/1983)

BUILD AND LEASE AGREEMENT

LESSOR
VILLAGE SOUTH, LTD

LESSEE
FLEMING COMPANIES, INC
(Year 1 thru 5)

and

McCARTNEY FOODS, INC
(Year 6 thru 20)

101ST AND SOUTH SHERIDAN
TULSA, OKLAHOMA

BUILD AND LEASE AGREEMENT

This Agreement is made and entered into this 2ND day of February, 1983, by and between VILLAGE SOUTH, LTD , whose address is 7030 South Yale, Suite 100, Tulsa, Oklahoma, hereinafter called LESSOR, and FLEMING COMPANIES, INC , an Oklahoma corporation with an office at Topeka, Kansas, hereinafter called the LESSEE for the first five years of the Primary Term, and McCARTNEY FOODS, INC , a Kansas corporation whose home office is at Tulsa, Oklahoma, hereinafter called LESSEE for the 6th through 20th years of this lease (The term LESSEE as used in this lease will apply to Fleming Companies, Inc , only the first five years and to McCartney Foods, Inc , the 6th through 20th years of this lease LESSOR agrees Fleming Companies, Inc , has no responsibility under this lease as LESSEE after the end of the fifth lease year)

WITNESSETH

WHEREAS, the LESSOR desires to construct a building, hereinafter called "the premises", containing approximately 45,054 square feet and constituting a part of the VILLAGE SOUTH SHOPPING CENTER, which center is, or will be, located upon the following described real estate

LAND DESCRIPTION

Lot 1, Block 1, VILLAGE SOUTH, a sub-division of part of the West half (W/2) of the Northwest quarter (NW/4) of Section 26, Township 18 North, Range 13 East, of the Indian Base and Meridian, in the City of Tulsa, Tulsa County, State of Oklahoma

and the LESSEE desires to lease the premises upon the terms and conditions hereinafter set forth

NOW THEREFORE, in consideration of the rents to be paid and the mutual covenants to be performed, the parties hereto agree as follows

OWNERSHIP

1 The LESSOR covenants that it has good title to said real estate, and that the LESSEE, upon paying the rentals herein reserved and observing, performing and keeping all and singular the covenants and agreements herein specified to be kept and performed by LESSEE, shall, and may lawfully, peacefully, and quietly have, hold, use, occupy, possess and enjoy the premises hereby leased for and during the term hereof, without any hindrance, eviction, molestation, or interruption of or by the LESSOR, or any person or persons LESSOR covenants that no zoning or other ordinance, law, regulation, or restrictive covenants prevent the leased premises for the intended purpose

COMMON AREAS

2 The premises are to be located as approved by the parties as shown on the plot plan attached hereto as Exhibit A LESSOR agrees that the use and occupancy by the LESSEE of the premises shall include the use in common with others entitled thereto including its customers, suppliers, visitors and invitees of the common areas, employees' parking areas, service roads, loading facilities, sidewalks, and customers' parking areas, all as shown on Exhibit A, subject, however, to the terms and conditions hereinafter set forth, and all future facilities and common areas designed for common use, subject, however, to the terms and conditions hereinafter set forth The LESSOR covenants and agrees that it shall maintain the common areas of the shopping center in good operating condition and repair, adequately drained and reasonably free from rubbish and debris, any grass mowed, and the LESSOR shall promptly stockpile or remove all snow and ice from the sidewalks, parking and driveway areas and cause all remaining surface ice to be treated with sand, salt or similar abrasive, except that each store owner has the primary responsibility for cleaning the sidewalk in front of his store In the event any store owner does not so clean, after LESSOR written notice

to the LESSEE, LESSOR will clean LESSOR will bill the respective responsible tenant monthly the cost of such cleaning The LESSOR shall resurface the sidewalk, parking and driveway areas when the same shall be reasonably necessary together with the restripping of the parking areas The LESSOR shall keep the common areas of the shopping center well lighted during such hours of darkness as LESSEE shall remain open for business and for a period of one (1) hour thereafter, however, LESSEE agrees to maintain its store opening and closing hours and exterior lighting so as to conform to the Zoning Agreement between LESSOR and Sheridan Park Homeowners Association, a copy of which is attached hereto as Exhibit "C" per Paragraph 41 of this lease

CONSTRUCTION

3 The LESSOR agrees to cause construction of the premises in accordance with the specifications attached or to be attached hereto as Exhibit B, and this lease shall not be effective until such specifications, including the plot plan as Exhibit A, have been so attached and initialed by both parties The LESSOR agrees that prior to commencement of any construction that it shall provide LESSEE architectural and related engineering drawings, being properly stamped and sealed, for its review LESSOR to provide water, sewer, gas, electrical and other utilities LESSEE shall have the right to review the elevation drawing

The LESSOR agrees that, at the option of the LESSEE, this lease shall become null and void if construction of the center, including the premises is not commenced on or before April 1, 1983, and completed and ready for occupancy on or before April 1, 1984, causes or conditions beyond the control of LESSOR only, excepted, provided, however, that if the premises are not ready for occupancy on or before April 1, 1984, irrespective of cause, excepting only by cause of LESSEE or its SUBLESSEE, and irrespective of whether such cause is

beyond the control of LESSOR, LESSEE, in its sole discretion, is hereby granted the option to cancel and terminate this lease

Construction of the premises shall not be considered complete until the LESSOR'S work is completed in every respect (items unique to LESSEE'S or SUBLESSEE'S use will be excepted here from), if not included in original specification, including, but not limited to, toilet facilities, office space, vinyl floor covering, automatic pressure-pad doors, light fixtures, including tubes and globes, heating, refrigerated air conditioning, enclosed machine rooms, curtain walls and partitions, and electrical and plumbing requirements complete to the point of connecton of fixtures, equipment, checkstands, and signs, interior and exterior decoration as provided by LESSOR, complete parking areas completely surfaced, with adequate lighting and initial traffic control, service roads, sidewalks, loading facilities, all to be in accordance with specification to be supplied by LESSEE LESSOR shall also construct and maintain a sign, to be approved by the LESSEE, identifying the shopping center during the term of this lease LESSOR covenants and agrees that neither it nor any other tenant in the shopping center shall construct a sign so as to impair the visibility of or access to the premises

LESSEE agrees to accept the premises in the condition existing on the date of the commencement of the term, subject to LESSEE'S punch list being completed LESSEE shall furnish within 60 days after occupancy a complete and final punch list In the event of LESSOR'S failure to complete said punch list items within thirty (30) days after receipt of LESSEE'S notification to LESSOR, then at LESSEE'S sole option, either complete such punch list items and deduct the cost thereof from rent which costs are in advance agreed by the parties

hereto to be reasonable, or require LESSOR'S specific performance of the same, or seek any other legal remedies available to LESSEE, or terminate this lease LESSOR covenants that the premises to be constucted shall at the commencment of the term hereof, subject to LESSEE'S punch list being completed, be structurally sound and in good tenantable condition and that there shall not knowingly be any latent defects therein LESSOR further covenants that if any latent defects therein become apparent at any time during this lease, and it shall appear that such latent defects existed at the beginning of the term thereof, or resulted from faulty construction, LESSOR shall cause the same to be repaired and corrected with all reasonable speed LESSEE shall have the benefit of all warranties accruing to the LESSOR by reason of construction of the premises and any installation of equipment thereon

4 It is the intention of the parties and they agree,
NET-NET that this shall be a net-net lease with the LESSEE obligated,
LEASE in addition to the payment of the rentals herein specified, to pay taxes and assessments, insurance premiums and the cost of repairs and maintenance of the premises in accordance with specific provisions governing the same as hereinafter set forth

5 The LESSOR agrees to, and does hereby, lease the
TERM premises to the LESSEE for an original term of twenty (20) years, commencing on the first day the premises is opened for business In no event shall the opening date for business be more than forty-five (45) days following the day when the construction of the premises is completed in accordance with the terms of this agreement and the premises are ready for occupancy by LESSEE, except for punch list items which can and will be completed within thirty (30) days, as aforesaid, and LESSOR notifies LESSEE of the foregoing The commencement date of the term shall be endorsed at the end hereof, and the

lease term shall terminate at 11 59 p m on the last day of the twentieth (20th) year term thereafter

It is agreed that if at the end of the original term of this lease, or any option period hereof, LESSEE, in its sole discretion, shall deem it necessary to remain in occupancy of said premises beyond the termination date of the lease, LESSEE may do so for a period of time up to one hundred twenty (120) days For any such extension period, the rent will be the average of total rent paid during preceeding five (5) years of this lease LESSEE shall give LESSOR sixty (60) days notice should such extension be necessary It is agreed that the LESSEE shall not be obligated to open the premises for business nor shall the rent for the premises commence until all streets and highways and parking areas, shown on Exhibit A attached hereto shall have been fully paved and open for public use

OPTIONS

6 It is further agreed that, at the expiration of the original term, the LESSEE shall have the right, exercisable at its sole option to extend this lease for four (4) additional terms of five (5) years each, upon the same terms conditions The LESSOR shall be notified of the LESSEE'S intent to exercise such option at least six (6) months prior to the end of the then current term It is further agreed that LESSEE shall have the right, at its sole option, to extend this lease for an additional term not to exceed seven (7) years, if necessary, to permit reconstruction and repair of the premises after its damage or destruction, in accordance with the provisions of Paragraph 17 hereof

RENT

7 As rent for the premises, the LESSEE agrees to pay to the LESSOR at Village South, Ltd , 7030 S Yale, Suite 100, Tulsa, Oklahoma 74177, or at such other places as is mutually agreed upon, the following amounts

A A minimum monthly rental of TWENTY-ONE THOUSAND FIVE HUNDRED EIGHTY-EIGHT DOLLARS AND THIRTY-EIGHT CENTS ($21,588 38), plus,

B An amount equal to 1 25% of calendar monthly gross sales, for first (1st) through fifth (5th) lease years, as defined herein, made from the premises, in excess of ONE MILLION SEVEN HUNDRED TWENTY-SEVEN THOUSAND SEVENTY DOLLARS AND FORTY CENTS ($1,727,070 40),

C An amount equal to 1 5% of calendar monthly gross sales commencing with the sixth (6th) through the twentieth (20th) lease years and any Option Renewal periods thereafter, of this lease as defined herein, made from the premises, in excess of ONE MILLION FOUR HUNDRED THIRTY-NINE THOUSAND TWO HUNDRED TWENTY-FIVE DOLLARS AND THIRTY CENTS ($1,439,225 30)

D As additional rental, payable quarterly, LESSEE'S prorata share of common area maintenance charges as defined in Paragraph 2 hereof, and as set forth pursuant to Paragraph 14 hereof

E As additional rental, LESSEE'S Public Liability and Property Damage Insurance annual premiums covering the premises as set forth pursuant to Paragraph 10 hereof

F As additional rental, LESSEE'S proportionate share of Taxes and Assessments against the premises as set forth pursuant to Paragraph 9 hereof

G An additional rental, Fire and Extended coverage annual insurance premiums covering the premises as set forth pursuant to Paragraph 17 hereof

GROSS SALES DEFINED

The term "gross sales", as used herein, shall include all sales of merchandise from, through, or off the premises, including the performance of any service for any customer or patron for compensation by the LESSEE or employee, and shall include all sales by every department thereof, for cash or on a charge basis, and including all business in which orders come by mail, telephone, or telegraph, less credit for returned merchandise, merchandise trade-ins, and credits of a similar nature 'Gross sales" shall not include sales, luxury, excise or other taxes collected by LESSEE from customers and charged separately, merchandise transfers from one of the LESSEE'S or a SUBLESSEE'S stores to another, or

return of merchandise to a supplier or sales of money orders or vending machine receipts except to the extent of royalties actually received by LESSEE

RIGHT TO AUDIT

LESSOR shall have the right, at any time, but no more than once a year, and from time to time, at LESSOR'S expense, to have audits made of the records of sales which occur on the premises LESSOR'S right to examine the books and records pertaining to the operation of a business on the premises, or to make an audit thereof in respect to any lease year, shall be limited to the then current lease year, plus the year immediately preceding LESSEE'S statements for other prior lease periods shall be deemed to have been accepted by LESSOR and be incontestible

TIME OF PAYMENT

The rent for each full calendar month, running from the first day of that month to the last day of that month, shall be payable one month in advance, due the first day of the month

If the commencement date of the term of this lease shall be other than the first day of a calendar month, the rent for such partial month shall be calculated and paid on a proportionate basis, so that thereafter rent may be calculated and paid for even calendar months

Payment of any additional rental, as outlined in Paragraph 7B and 7C herein, shall be paid on or before the twentieth (20th) day of the month following the ending of each month of the lease

LESSOR MORTGAGES

8 All mortgage payments or other charges required to discharge any lien or encumbrance that may affect the premises, and for which the LESSOR is solely responsible, and which is superior and prior to the terms of this lease, and the rights of LESSEE hereunder, shall be paid by the LESSOR as the same shall become due

TAXES

9 As additional rental, the LESSEE agrees to pay to the LESSOR, on demand, the amount of all taxes and assessments levied and assessed against the premises and that shall become due and payable during the original or any renewed term hereof If the shopping center is taxed as a unit, the LESSEE shall be liable for only such proportion of such taxes and assessments as the number of square feet of floor space in the premises bears to the total number of square feet of rentable floor space in the shopping center Such taxes and assessments must be billed by LESSOR to LESSEE no later than ninety (90) days after receipt of notice from the local taxing authority to LESSOR LESSOR shall be required to send LESSEE receipted tax bill showing payment for taxes as well as special assessments If such notice is not received by LESSEE within ninety (90) days, LESSEE'S obligation to pay such taxes and assessments will be considered to be null and void Provided, however, that for any partial tax year occurring during the original or any renewed term hereof, the LESSEE shall be liable for only that proportion of such taxes and assessments as the number of days in such partial tax year bears to 365

Any taxes and assessments levied and assessed against the premises that shall become due and payable during the term hereof and which LESSEE has agreed to pay, may be contested by LESSEE, by appropriate proceedings, in LESSOR'S or LESSEE'S name and LESSOR will offer no objections, will cooperate with LESSEE, will provide any information requested by LESSEE, and will execute any document which may be necessary and proper for such proceeding LESSEE will not cause any penalty due to delay Any refund shall be the property of LESSEE to the extent it is based upon the payment of any assessments made by LESSEE, and LESSEE shall be entitled to recover any cost of contest from the percentage rental payable by LESSEE under the provisions of this lease

If the leased premises are part of a shopping center or constitute part of a tract which is assessed as a whole, then LESSEE may at its option contest any such tax assessment, and any refunds shall be the property of LESSEE to the extent it is based upon the payment of a prorata share of an assessment made by LESSEE In the event LESSOR shall contest any taxes or assessments, LESSEE shall be immediately notified in writing

The LESSEE shall also pay all taxes levied and assessed upon property belonging to it and located upon the premises

10 The LESSEE agrees to protect and save the LESSOR harmless from any and all claims of others for injuries to persons or property arising out of the occupancy or operation of the premises by the LESSEE and its sublessee's, except such claims as arise out of the negligent, intentional or willful acts of the LESSOR

PUBLIC LIABILITY INSURANCE

LESSEE agrees to maintain, at its own expense, during the full term of this lease, a policy of public liability and property damage insurance in a reputable company authorized to do business in the State of Oklahoma, in which policy LESSOR and LESSEE shall be named as co-insureds, and to furnish current certificates evidencing the existence of such insurance Such policy shall provide coverage in an amount not less than $1,000,000 00 single limit combined bodily injury and property damage each occurrence, to cover all situations where any other person or persons claim personal injury, or property damage in or upon the premises

LESSOR covenants and agrees to maintain, at its own expense, during the full term of this lease, a policy of public liability and property damage insurance in a reputable company authorized to do business in the State of Oklahoma, in which policy LESSOR and LESSEE shall be named as co-insureds, insuring against any liability arising on or about the common

areas within the shopping center and to furnish current certificates evidencing the existence of such insurance Such policy shall provide the coverage in an amount not less than $1,000,000 single limit combined bodily injury and property damage each occurrence, to cover all situations where any other person or persons claim personal injury, death, or property damage in or upon the common areas

The LESSOR agrees to protect and save the LESSEE harmless from any and all claims of others for injuries to persons or property arising out of the use or operation of the common areas within the shopping center, including reasonable attorney's fees, except such claims as arise out of negligent, intentional or willful acts of the LESSEE, its agents or employees

11 LESSOR and LESSEE each hereby releases the other,
WAIVER OF and their respective employees, agents, and every person
LIABILITY claiming by, through, or under either of them and LESSEE hereby releases each other tenant in the shopping center of which the premises are a part, and the employees and agents thereof, from any and all liability or responsibility (to the other or anyone claiming by, through, or under them by way or subrogation or otherwise) for any loss or damage to any property (real or personal) caused by fire or any other insured peril covered by any insurance policies for the benefit of any party, even if such loss or damage shall have been caused by the fault or negligence of any other party, their employees or agents or such other tenant or any employee or agent thereof LESSOR agrees that it will obtain an agreement from each such other tenant releasing all claims which such tenant may have against LESSEE, its employees and agents, for damages to any property (real or personal) owned by such tenant and covered by insurance, even if such loss or damage shall have been caused by the fault or negligence of LESSEE,

its employees or agents LESSOR agrees, upon request of LESSEE, to furnish evidence of such waiver of liability to LESSEE All policies of insurance written to insure such buildings, improvements, and contents shall contain a proper provision, by endorsement or otherwise, whereby the insurance carriers issuing the same shall acknowledge that the insured has so waived and released its right of recovery against the other party hereto and shall waive the right of subrogation which such carrier might otherwise have had against such other party, all without impairment or invalidation of such insurance The provisions of this paragraph shall be equally binding upon and inure to the benefit of any assignee or sublessee of LESSEE

EQUIPMENT REMOVAL

12 The LESSEE shall have the right to remove any and all furniture, trade fixtures, and equipment it may have installed on or in the premises provided the LESSEE shall restore any structural damage to the building as the result of such removal, usual wear and tear excepted

LESSOR ENTRY RIGHT

13 The LESSOR shall have the right to enter the premises at any reasonable time for the purpose of inspecting the same, or for the purpose of doing anything that may be required under this lease, or for the purpose of doing anything LESSEE may be required to do and shall fail to do In the event it is reasonably necessary for the LESSOR to make any repairs to the premises that the LESSEE is responsible for, but which the LESSEE has failed to make, LESSEE shall reimburse the LESSOR for the cost thereof on demand, and the LESSOR shall not be responsible to the LESSEE for any loss or damage that the LESSEE may suffer from such repairs, provided that such loss or damage is reasonable under the circumstances

14 Except for the LESSOR'S obligations with respect to latent defects as set forth in Paragraph 3 and with the

MAINTENANCE AND REPAIR

obligations to maintain in good condition the structural portions of the building including foundation, slabs, and roof, and electrical and plumbing services to the building, LESSEE agrees at its expense to maintain all other portions of the premises and to make all repairs ordinary as well as extraordinary in and about the premises necessary to preserve them in good order and condition, including the air conditioning and heating equipment, after expiration of the warranty period so stated in the specifications as attached or to be attached hereto as Exhibit B The LESSOR shall have no obligations with respect to such repairs and maintenance

LESSEE further agrees that it shall also be obligated to pay its proportionate share of the cost of repair and maintenance of all the parking and service areas in the shopping center, such share of the cost of repair and maintenance of all the parking and service areas in the shopping center, such share to be determined by the proportion which the number of square feet of floor space in the premises bears to the total number of square feet of leaseable floor space in the shopping center LESSEE shall be billed quarterly for such proportionate share of such cost with a statement setting forth LESSEE'S proportionate share of the aforesaid costs and showing clearly the computations of such costs to be documented with copies of paid invoices

Any individual common area expense which exceeds $2,500 00, LESSEE has a right to approve in advance of work being authorized or performed

15 The LESSEE shall not commit waste or permit waste to be committed in or upon the leased premises and, at the termination of this lease, shall surrender and deliver the premises to the LESSOR in as good condition as the same were at the commencement of the term excepting (1) usual wear and tear, (2) acts of God, (3) repair of latent defects for which

WASTE

LESSOR is responsible hereunder, and (4) damage or loss for which LESSOR has waived recovery under Paragraph 11 hereof

SIGNS

16 LESSOR shall have the sole right to approve the design and placement of any and all signs of any nature upon the exterior premises, provided, however, that such approval shall not be unreasonably withheld and, further that the size and advertising effect of any sign to be used by the LESSEE shall be substantially equal to any sign permitted to be used by other tenants in the shopping center

FIRE & EXTENDED COVERAGE INSURANCE

17 The LESSEE agrees to keep in effect, at its expense, and during the original or any renewed term of this lease, a policy of fire and extended coverage insurance company authorized to do business within the state where the premises are located, in an amount equal to not less than ninety percent (90/) of the replacement cost of the premises, and to furnish the LESSOR proof thereof Such policy of insurance shall provide protection against the losses so insured against for the benefit of the LESSOR, LESSEE, and any mortgagee as their interests may appear under the terms of this lease and any mortgage agreement, and shall contain the provision or endorsement required by Paragraph 11 hereof

The insurance to be provided by LESSEE may be provided pursuant to a blanket insurance policy covering the premises and other locations of LESSEE provided, however, in no event shall the protection afforded by such blanket insurance policy be less than that required hereunder

Premises to be constructed by LESSOR under this lease is to be equipped with an automatic sprinkler system which is more fully described in specifications of the LESSEE per Exhibit B LESSOR requires its LESSEE as hereinabove provided to carry fire and extended coverage insurance LESSOR further understands that LESSEE'S sublessee is required to carry fire and extended coverage insurance covering all of its merchan-

dise, furniture, fixtures, and equipment located in and upon the premises Should the building covered by this lease not qualify for sprinkler credit by any insurance company of LESSEE'S and/or LESSEE'S sublessee, then LESSOR shall reimburse LESSEE and LESSEE'S sublessee the differential amount between the premium paid and that which would have been paid had the full sprinkler credit been applied Said difference shall be computed and paid annually using the then published insurance rates until the defects are cured by LESSOR

LESSEE agrees it shall not keep anything within the premises or use the premises for any purpose which will cause an increase in the insurance premium cost or invalidate any insurance policy(s) carried on the premises or other parts of the shopping center LESSOR agrees it shall not, nor shall it allow any other tenant(s) in the shopping center, to keep anything within their leased premises or on the shopping center, or use their leased premises or on the shopping center, for any purpose which will cause an increase in the insurance premium cost or invalidate any insurance policy(s) carried on the premises of LESSEE, such other tenint(s) or other parts of the shopping center In the event of the storing, maintaining or use of anything on the premises which causes an increase in the insurance premium cost, LESSOR agrees it shall look solely to the respective responsible tenant (or to itself should it be in violation) in the shopping center which causes the resulting premium increase or insurance invalidation, and LESSOR shall provide to the responsible tenant written documentation issued by the insurance carrier setting forth the causes, rate penalty(s) and increased cost(s) attributable thereto The responsible tenant shall then either (a) remedy the condition causing said penalty or premium increase, bearing any and all original and continuing costs attributable

thereto which shall be treated as additional rent due the LESSOR, or (b) should the LESSOR allow or permit, or should the responsible party continue to allow such storing, maintaining, or use to continue, the responsible party shall be held accountable solely to the LESSOR, and LESSOR shall look solely to such part for the original and ongoing and continuing costs and expenses attributable thereto which shall be treated as additional rent due the LESSOR In event of (a) or (b) as hereinabove provided, each other respective tenant shall be entitled to and have the right of reimbursement from the LESSOR, but any reimbursement shall not exceed such tenant's prorata share of the penalty rate imposed and the other respective tenants of the shopping center shall provide written documented statements to LESSOR setting forth the penalty rates and costs experienced

DAMAGE AND DESTRUCTION

If, at any time during the original or any renewed term hereof, the premises shall be partially damaged by fire, windstorm, or other casualty, but the extent thereof is not sufficient to deprive the LESSEE of more than twenty-five percent (25%) of the floor space in the premises, then LESSEE shall notify LESSOR thereof in writing and LESSOR, at its expense, shall proceed promptly to rebuild and repair such portion of the premises so damaged or destroyed, and this lease shall continue in full force and effect

If, at any time during the original or any renewed term hereof, the premises shall be partially or wholly damaged by such a casualty, and the extent of such damage shall be sufficient to deprive LESSEE of more than twenty-five percent (25/) of the floor space therein for its purposes, the LESSEE shall notify LESSOR thereof in writing and the rights and obligations of the parties shall be governed by the following

A If such damage shall occur during the first thirteen (13) years of the original term hereof, then at its expense, the LESSOR shall proceed to rebuild and repair such damage, and this lease shall continue in full force and effect

B If such damage shall occur during the last seven (7) years of the original term hereof, or during either of the renewal terms available to LESSEE at its option under Paragraph 6, and if within thirty (30) days thereafter the incurrence of such damage, LESSEE shall further notify IESSOR of LESSEE'S intent to exercise options, then still available to it under Paragraph 6, to extend the term hereof for a period of at least seven (7) years following such notification, then LESSOR, at its expense, shall proceed promptly to rebuild and repair such damage, and this lease shall continue in full force and effect If notice be not so given to LESSOR of LESSEE'S intent to exercise such options to so renew the term hereof for such a period of at least seven (7) years, then LESSOR at its sole option, may elect to rebuild and repair such damage at its expense, by written notice to LESSEE within thirty (30) days after the expiration of the thirty (30) day period, during which LESSEE may give LESSOR notice of election to renew the term hereof, upon the happening of which LESSOR shall so proceed to build and repair such damage, and this lease shall continue in full force and effect If

LESSEE shall fail to so give LESSOR notice of LESSEE'S intent to exercise such option to so renew the term hereof, and LESSOR shall thereafter fail to so give LESSEE notice of LESSOR'S election to rebuild and repair such damage, then this lease shall terminate as of the date of the occurrence of such damage, the rental shall be adjusted accordingly, and neither party shall have further rights or obligations hereunder

LESSOR agrees that in the event any building or buildings in the shopping center other than the building containing the demised premises, shall be destroyed or damaged by fire or other hazard, during the term of this lease, or any renewal thereof, except during the last seven (7) years of the then current term, LESSOR shall reconstruct and restore said buildings as closely as possible to those building or buildings shown on Exhibit A attached hereto

Whenever, under the foregoing provisions of this Paragraph 17, LESSOR shall have the obligation to reconstruct all or any portion of the premises, other building or buildings and so to continue this lease in full force and effect, the same shall be commenced within thirty (30) days after LESSOR'S obligation so to do becomes fixed by receipt of notice of such damage, or receipt of notice of LESSEE'S intent to exercise the necessary option to renew, or the exercise of LESSOR'S election to rebuild, as the case may be LESSOR shall prosecute such reconstruction diligently and to the end that the premises, other building or buildings will be restored to substantially the same condition as before the occurrence of such damage If, for any reason whatsoever, such reconstruction is not completed within six (6) months after receipt of the applicable notices, unless LESSOR be prevented from

completing such reconstruction by causes or conditions beyond its control, then, and in either such events, LESSEE may, at its sole option, terminate this lease by written notice to LESSOR of its intention to do so, upon the happening of which, rental shall be adjusted as of the date of termination, LESSEE shall have no further rights hereunder, and LESSEE shall have no further interest in the proceeds of said insurance

Whenever, under the foregoing provisions of this Paragraph 17, LESSOR shall have the obligation to reconstruct all or any portion of the premises, other building or buildings, and so to continue this lease in full force and effect, the rentals payable by LESSEE hereunder shall abate from the date of the occurrence of such damage to the date of completion of such reconstruction in proportion to LESSEE'S deprivation of use of the premises for its purpose

Whenever, under the foregoing provisions of this Paragraph 17, the premises shall not be reconstructed or this lease shall be terminated by reason of the exercise or non-exercise of any option herein granted to either the LESSOR or the LESSEE, the LESSEE shall have no further interest in the proceeds of such insurance

CONDEMNATION

18 Upon LESSOR'S receipt of notice from any condemning authority of a proposed condemnation, LESSOR shall immediately notify LESSEE in writing If all of the premises shall be taken under the right of eminent domain by any authority having the right of condemnation, or if a portion of the shopping center is so condemned as will prevent the practical use of the premises for LESSEE'S purposes, this lease, and all obligations hereunder, shall terminate on the date title vests pursuant to such proceedings In the event the proper judicial authority does not divide the award to compensate the separate loss of each party, the total award made in such proceedings shall be equitably distributed between the LESSOR and

LESSEE, and if applicable, other tenants occupying space in the shopping center, provided that if the parties cannot agree upon an equitable distribution of such award, either party may petition a court of competent jurisdiction in the state where the premises are located for equitable distribution of such award, and in the event no such court has jurisdiction to determine an equitable distribution of such awards then either party may request arbitration under the terms hereinafter set forth If such taking does not prevent the practical use of the premises for the purposes of the LESSEE, then this lease shall continue in full force and effect, but the rent shall abate proportionately, and such other adjustments shall be made as shall be just and equitable

In any instance in this Agreement in which it is provided that a question shall be determined by arbitration, the following procedure shall govern

The party desiring arbitration ("First Party") shall give written notice to that effect to the other party ("Second Party"), specifying in said notice the name and address of the person designated to act as arbitrator on its behalf Within fifteen (15) days after the service of such notice, the Second Party shall give written notice to the First Party specifying the name and address of the person designated to act as arbitrator on its behalf If the Second Party fails to notify the First Party of the appointment of its arbitrator, as aforesaid, within or by the time above specified, then both Parties agree that the appointment of the second arbitrator shall be made by a request to the Presiding Judge of the U S District Court for the Federal District in which the premises are located The arbitrators so chosen shall meet within ten (10) days after the second arbitrator is appointed, and if, within thirty (30) days after the second arbitrator is appointed, the said two arbitrators shall not agree upon the

question in dispute, they shall themselves appoint a third arbitrator who shall be a competent and impartial person, and in the event of their being unable to agree upon such appointment within ten (10) days after the time aforesaid, the third arbitrator shall be selected by the parties themselves if they can agree thereon within a further period of fifteen (15) days If the parties do not so agree, then either party, on behalf of both, may request such appointment by the Presiding Judge of the U S District Court for the Federal District in which the premises are located In the event of the failure, refusal, or inability of any arbitrator to act, a new arbitrator shall be appointed in his stead, which appointment shall be made in the same manner as hereinabove provided for the appointment of such arbitrator so failing, refusing or unable to act The decision of the arbitrators so chosen shall be given within a period of thirty (30) days after the appointment of such third arbitrator The decision in which any two arbitrators so appointed and acting hereunder concur shall in all cases be binding and conclusive upon the parties Each party shall pay the fees and expenses of the one of the two original arbitrators appointed by such party, or in whose stead as above provided, such arbitrator was appointed, and the fees and expenses of the third arbitrator and all other expenses, if any, shall be borne equally by both parties

SUBLET AND ASSIGNMENT

19 The LESSEE shall have the right, during the term of this lease, to sublet all or a portion of the premises, or to assign this lease, either in whole or in part, but no such subletting or assignment shall release the LESSEE from any of the obligations under the terms of this lease, and the LESSOR shall, at all times, have the right to look to the LESSEE for the performance of all of the covenant to be performed on the part of the LESSEE This clause, as are all other clauses of

this lease, is subject to the Sheridan Park Homeowners Association Agreement with LESSOR

HOLD-OVER

20 If LESSEE remains in possession of the premises after the expiration of this lease, and without the execution of a new lease, except as defined in Paragraph 5, it shall be deemed to be occupying the premises as a tenant from month-to-month, subject to all the conditions, provisions, and obligations of this lease insofar as the same are applicable to a month-to-month tenancy

LESSOR ENTRY

21 LESSOR may, at any time within six (6) months before the expiration of this lease, enter the premises at all reasonable hours for the purpose of offering the premises for rent, subject to LESSEE'S rights, as set out in Paragraph 6 hereof

RELATIONSHIP OF PARTIES

22 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relation of principal and agent or of partnership or of joint venture between the parties hereto It is understood and agreed that neither method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, creates a relationship other than the relationship of LESSOR and LESSEE

PARKING AREA

23 LESSOR agrees that at no time during the term of this lease, will the customer parking area entrances and exits and service area ajoining the premises be reduced in size or configuration from that shown on the plot plan attached as Exhibit A, unless such reduction is made necessary by the exercise of eminent domain or other government authority by proper and duly constituted authority or authorities, or is done at LESSEE'S request, or results from the exercise of any right granted LESSEE herein, or is done at LESSOR'S request Any violation of this provision shall entitle the LESSEE either to treat such violation as a default with an option to

cancel the lease or to require a proportionate reduction of rent, at LESSEE'S sole option

UTILITIES

24 LESSEE agrees to pay all electric current, water, gas and other fuel bills, as determined by separate meters for LESSEE'S space and use

LESSEE DEFAULT

25 The LESSEE further covenants with the LESSOR that if the rent or any part thereof is not paid when it becomes due, or if LESSEE shall violate or neglect any covenants, agreement, or stipulation herein contained on its part to be kept, performed, or observed, and any such default shall continue for thirty (30) days, (ten (10) days for monetary default) after written notice of such default shall have been mailed to LESSEE specifying such default and LESSEE does not cure said default or if said default is of such a nature that it cannot reasonably be cured within said thirty (30) day period (ten (10) days for monetary default) and LESSEE has not proceeded with reasonable diligence and good faith to complete the curing thereof, then, in addition to the other remedies or courses of action now or hereafter provided by law, LESSOR may, at its option, cancel and annul this lease, and thereafter, may enter and take possession of the premises immediately and may remove all persons, furniture, fixtures, and equipment from the premises, at LESSEE'S expense, in order to recover at once, full and exclusive possession of the premises, and such entry shall not operate as a waiver or satisfaction, in whole or in part, of any claim or demand arising out of, or connected with, any breach or violation by the LESSEE of any covenant or agreement on its part to be performed, but this provision shall not be applicable to a bona fide dispute as to the LESSEE'S liability, if any, to make repairs

26 The LESSOR further covenants with the LESSEE that if LESSOR shall violate or neglect any covenant, agreement, or

LESSOR DEFAULT

stipulation herein contained on its part to be kept, performed or observed, and any such default shall continue for thirty (30) days after written notice specifying such default is given by LESSEE to LESSOR, or if said default is of such a nature that it cannot reasonably be cured within said thirty (30) day period, and LESSOR has not proceeded with reasonable diligence and good faith to complete the curing thereof, then, and in addition to the other remedies or courses of action now or hereafter provided by law, LESSEE may, at its option, among other things, cancel and annul this lease, or remedy the condition or need referred to in such notice, or make the payment which LESSOR has not made, but should have made, or remedy the condition or need referred to in such notice and deduct LESSEE'S actual cost or the amount of the payment, thereof from subsequent installments of rent, which actual cost is hereby agreed by the parties in advance to be reasonable and proper costs and deductions In the event of any dispute between the parties as to the right of LESSEE to such deduction, LESSOR further covenants and agrees that it will not give LESSEE any notice of default or termination of this lease until LESSEE shall fail to pay to LESSOR the amount of any such deduction within ten (10) days after receipt of notice by LESSEE of a final and unappealable judgment with respect thereto in favor of LESSOR

LEASE APPLIES ONLY TO BUSINESS ON PREMISES

27 It is understood that LESSEE is presently involved in numerous other activities at other locations In this respect, it is not intended that the gross sales and other provisions of this lease shall apply to the business activities of LESSEE or of any assignee or sublessee of LESSEE at other locations, but shall apply only to the business conducted on the premises, whether conducted thereon by LESSEE or by an assignee or sublessee of IESSEE, it being fully understood that the foregoing provisions are not intended to

modify in any manner the responsibilities or obligations of LESSEE pursuant to Paragraph 19 of this lease

INSURANCE MAY BE PROVIDED BY SUBLESSEE OR ASSIGNEE

28 It is further understood that LESSEE at all times shall maintain insurance coverage it is required to carry hereunder for the benefit of LESSOR with a provision in such insurance that there will be no cancellations without at least thirty (30) days written notice to LESSOR Provided, however, that LESSEE may satisfy this insurance requirement through the maintenance of such insurance coverage for the benefit of LESSOR, as required in Paragraph 10 above, by LESSEE or by an assignee or sublessee of LESSEE

EXCLUSIVE

29 LESSOR covenants that it will not permit any person other than the LESSEE to operate a retail grocery store of any nature in the shopping center of which the premises are a part or on any adjoining property owned by the LESSOR, his assignees, or his transferrees, without first obtaining the LESSEE'S prior written consent, to the extent permitted by law

ALTERATIONS OR ADDITIONS

30 The LESSEE shall have the right to make alterations or additions to the interior of the premises, provided such alterations or additions are at its sole cost and expense, and that such alterations or additions shall be of good workmanship and material at least equal to that of the original construction, and that such alterations or additions shall be of good workmanship and material at least equal to that of the original construction, and that such alterations or additions neither shall reduce the size and strength of the existing building, nor adversely affect the market value of the premises, provided, however, that no such alterations or additions to the premises which shall cost more than Fifty Thousand Dollars ($50,000 00) shall be made by the LESSEE without the written consent of the LESSOR which consent shall not be unreasonably withheld The LESSEE shall not be

required to remove any such alterations or additions or to restore the building to its original condition at the termination of this lease

SPECIAL SALES PROMOTION

31 Notwithstanding any provisions in this lease to the contrary, it is agreed that LESSEE may place special sales promotion signs on the parking area light poles from time to time and may string pennants and streamers around the parking area These signs and decorations, however, shall be of a strictly temporary nature

ADDITIONAL LEASE SPACE

32 It is contemplated that, during the term of this lease, the LESSEE may require additional rental space in excess of that included in this lease Any additional space contiguous west of LESSEE'S space that may become available LESSEE has first right of refusal, and LESSEE must respond within ten (10) days of receipt of LESSOR'S written notification to LESSEE, or at LESSOR'S option IESSEE'S right of first refusal to lease said space automatically expires LESSOR further agrees that, in the event rental space in any said ajoining building, if any, becomes available for occupancy during the term of this lease or any extension hereof, LESSEE shall have the first right and option to occupy such space on the same terms, conditions, and rentals as it is being offered to the market for LESSEE'S use at that time

SHOPPING CENTER OCCUPANCY

33 LESSOR further covenants that it will simultaneously with construction of the leased premises, construct other buildings in the shopping center as depicted on Exhibit "A"

If LESSOR shall fail to so construct such other buildings, then at the sole option of the LESSEE this Build and Lease Agreement may be declared null and void LESSOR agrees, on the property of which the premises are a part, that the LESSOR now controls or on contiguous or adjacent property the LESSOR may at some later date control, that there will not be located on the described real estate of which the premises

are a part, a theatre, bowling alley, or skating rink within three hundred (300) feet of LESSEE'S premises, further there will be no offices, training or educational facilities within two hundred (200) feet of the leased premises LESSOR may lease to a restaurant tenant subject to LESSEE'S approval which shall not be unreasonably withheld

RIGHT TO CLOSE STORE

34 LESSOR agrees that nothing in this lease shall be construed as compelling LESSEE to operate any particular type of business or to keep the store in or upon the premises open for business, but LESSEE shall have the privilege of closing said store at any time, provided LESSEE shall continue to pay the minimum monthly rental as set forth in this lease

LESSOR'S WAIVERS

35 During the first five (5) years of the original lease term hereof, or during the existance of any of Sublessee's financing, LESSOR agrees that none of the property, including food, supplies, merchandise, inventory, furniture, fixtures, machinery, equipment, cash, or any proceeds therefrom that are placed upon or permitted to be upon the premises by LESSEE, or any of LESSEE'S sub-tenants, assigns, or successors, during the term of this lease or any renewal thereof, shall be subject to or liable to levy or distress or any legal process whatsoever for the collection of rent of said premises In the event there is a mortgage on the premises, the LESSOR shall obtain the same wavier from the mortgagee

NOTICES

36 Any notice required or desired to be given to either party shall be in writing and be sent by registered mail, postage prepaid Any such notice to the LESSOR shall be addressed to it at 7030 S Yale, Suite 100, Tulsa, Oklahoma 74177 Any such notice to the Fleming Companies, Inc , shall be addressed to it at P O Box 1160, Topeka, Kansas, 66601, for years one through five, then six through twenty shall be addressed to McCartney Foods, Inc , 6501 E 71st, Tulsa,

Oklahoma 74133 The address of either party may be changed by written notice thereof to the other party.

CAPTIONS

37 Any headings preceding the text of the several paragraphs and subparagraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this lease, nor shall they affect its meaning, construction or effect

ADVANCE POSSESSION FOR FIXTURE INSTALLATION

38 LESSEE shall have the privilege rent free of entering the premises for the purpose of installing its store and trade fixtures, storing its first items of equipment and otherwise preparing the premises for LESSEE'S occupancy prior to the rent commencement date

SUBORDINATION

39 LESSEE agrees that this lease shall be subordinate to any mortgages that may hereafter be placed upon the premises and to all renewals and extensions thereof, provided that the mortgagee named in such mortgages shall agree to recognize this lease in the event of foreclosure if the LESSEE is not then in default

SUCCESSORS

40 This agreement shall be binding upon, and shall inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns

HOMEOWNER ASSOCIATION AGREEMENT

41 LESSEE hereby agrees to abide by the agreement between LESSOR and the Sheridan Park Homeowner Association, dated the 11th day of December, 1981, a copy of which is attached hereto as Exhibit "C"

WITNESS the hands of the parties the date first above written

LESSOR

VILLAGE SOUTH, LTD , An Oklahoma Limited Partnership

By KELLEY/JOHNSON CO
A General Partner of VILLAGE SOUTH, LTD

By _____
President

(SEAL)

ATTEST

_____
Secretary, Asst

LESSEE

FLEMING COMPANIES, INC
Year 1 thru 5

By _____
Vice President

(SEAL)

ATTEST

_____
Assistant Secretary

LESSEE

McCARTNEY FOODS, INC
Year 6 thru 20

By _____
President

(SEAL)

ATTEST

_____
Secretary

The commencement date of this lease, as provided in Paragraph 5, Page 4 hereof, is agreed to be the 9th day of October, 1983

LESSOR

VILLAGE SOUTH, LTD, An Oklahoma Limited Partnership

By KELLEY/JOHNSON CO
A General Partner of VILLAGE SOUTH, LTD

By _____
President

(SEAL)

ATTEST

_____
Secretary, Asst

LESSEE

FLEMING COMPANIES, INC
Year 1 thru 5

By _____
Vice President

(SEAL)

ATTEST

_____
Assistant Secretary

LESSEE

McCARTNEY FOODS, INC
Year 6 thru 20

By _____
President

(SEAL)

ATTEST

_____
Secretary

STATE OF KANSAS,)
) ss
COUNTY OF SHAWNEE,)

BE IT REMEMBERED, that on this 2nd day of February, A D , 1982, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came C. A. Uemon Jr, Vice President of FLEMING COMPANIES, INC , a corporation duly organized, incorporated and existing under and by virtue of the laws of Oklahoma, and Robert W. Smith, Assistant Secretary of said corporation, who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said corporation, and such persons duly acknowledged the execution of the same to be the act and deed of said corporation

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written

Mary E. Holloway
Notary Public

(SEAL)

My Commission Expires
August 25, 1986

STATE OF OKLAHOMA,)
) ss
COUNTY OF ~~TULSA~~ Logan,)

BE IT REMEMBERED, that on this 16th day of December, A D , 1982, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came John D McCartney, President of McCARTNEY FOODS, INC , a corporation duly organized, incorporated, and existing under and by virtue of the laws of Kansas, and Kenneth R Wilkerson, Secretary of said corporation, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said corporation, and such persons duly acknowledged the execution of the same to be the act and deed of said corporation

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written

Karen Green
Notary Public

(SEAL)

My Commission Expires
5-1-86

STATE OF OKLAHOMA,)
) ss
COUNTY OF TULSA,)

BE IT REMEMBERED, that on this 7th day of December, A D , 1982, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Larry K Kelley, President of KELLEY/JOHNSON CO a corporation duly organized, incorporated, and existing under and by virtue of the laws of Oklahoma and General Partner for VILLAGE SOUTH, LTD , an Oklahoma Limited Partnership, and Deatta J Swafford Assistant Secretary of said corporation, who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said corporation, and such persons duly acknowledged the execution of the same to be the act and deed of said corporation

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written

Corinne Cook
Notary Public

(SEAL)

My Commission Expires
September 26, 1986

NOTICE OF EXISTENCE OF LEASE (2/2/1983)

NOTICE OF EXISTENCE OF LEASE

STATE OF OKLAHOMA,

COUNTY OF TULSA,

NOTICE IS HEREBY GIVEN that a Lease Agreement dated the 2ND day of February, 1983, has been executed by VILLAGE SOUTH, LTD , an Oklahoma Corporation, of 7030 South Yale, Suite 100, Tulsa, Oklahoma, as LESSOR, and FLEMING COMPANIES, INC , an Oklahoma Corporation, maintaining an office in Topeka, Kansas, hereinafter called the LESSEE for the first five years of the Primary Term, and McCARTNEY FOODS, INC , a Kansas corporation whose home office is at Tulsa, Oklahoma, hereinafter called LESSEE for the 6th through 20th years of this lease (The term LESSEE as used in this lease will apply to Fleming Companies, Inc , has no responsibility under this lease as LESSEE after the end of the fifth lease year), covering a portion of the improvements, constructed on the following described real estate

LAND DESCRIPTION

Lot 1, Block 1, VILLAGE SOUTH, a sub-division of part of the West half (W/2) of the Northwest quarter (NW/4) of Section 26, Township 18 North, Range 13 East, of the Indian Base and Meridian, in the City of Tulsa, Tulsa County, State of Oklahoma

Among other provisions said lease provides for an original term of twenty (20) years plus options granted to LESSEE to extend said lease for four (4) additional terms of five (5) years each

This notice does not change, alter or vary any covenant, condition or agreement contained in said Lease Agreement, but is executed to provide a convenient memorandum for record in the office of the County Clerk of Tulsa County, Oklahoma

112382

Fleming Companies, Inc.

6301 Waterford Blvd
P O Box 26647
Oklahoma City OK 73126-0647
405/840-7200

CORPORATE STAFF

March 10, 1998

3/15/98
STBF - F'Y'I

George O'Connor, CPM
Director of Retail Leasing, Midwest
Insignia Retail Group, Inc
401 South Boston, Suite 2424
Tulsa, OK 74103

Re IGA Supermarket
Village South Shopping Center
Tulsa, Okla

Dear Mr O'Connor

Below is a summary of the basic business terms pertaining to the proposed lease extension at the subject location

Term	7 years		
Size	Approximately 45,054 square feet		
Rent	1 - 5 years	$259,060 56 annually	($5 75 per sq ft)
	6 - 7 years	$281,587 50 annually	($6 25 per sq ft)
Options	1 at 5 years	$304,114 50 annually	($6 75 per sq ft)
Tenant Improvement Allowance	Landlord shall provide an allowance of $340,000 to tenant to improve it's lease space, in accordance with plans and specifications mutually agreeable to Landlord and Tenant		
Term & Conditions	As set forth in the existing lease with the exception of the above referenced changes		

If the above basic business provisions of the proposed lease extension are acceptable to you, please indicate your acceptance below and return to me I will then incorporate this letter agreement into the total marketing package that is submitted to the Business Development Committee of Fleming Companies, Inc

Upon approval from the Business Development Committee, I will give this letter to the legal department and ask that they incorporate these business provisions into our standard form lease extension agreement Upon completion, the lease extension document will be forwarded to you for your review, approval and execution If the lease is not executed within 60 days of approval, this project will need to be resubmitted to the Business Development Committee for another review and approval process

Once you have executed the lease, you should return the documents to Fleming for our execution with a check for $6,476 00 to cover all administrative costs associated with this project (2 5% of annual rental)

Please keep in mind that this is not a binding agreement on either party until such time as the appropriate officers of both corporations have reviewed, approved, and executed the appropriate lease documents and any and all contingencies have been complied with or waived by both parties If you have any questions concerning this matter, please feel free to contact me at any time

Sincerely,

Gary James
Director, Store Development Operations

GJ/lw

cc Bill Snavely

I do agree with the proposed business terms of the lease extension at the subject location

Rock Cod Limited Partnership

By _____ 3-11-98
Date

Notwithstanding the foregoing, Rock Cod Limited Partnership agrees to extend the upcoming lease renewal notice date from April 8, 1998, to June 8, 1998

Agreed and accepted this 11 day of March, 1998

_____
Rock Cod Limited Partnership

By _____

Title _____

Executed this 2ND day of February, 1983

LESSOR

VILLAGE SOUTH, LTD, An Oklahoma Limited Partnership

By KELLEY/JOHNSON CO
A General Partner of VILLAGE SOUTH, LTD

By _____
President

(SEAL)

ATTEST

_____
Secretary, Asst

LESSEE

FLEMING COMPANIES, INC
Year 1 thru 5

By _____
Vice President

(SEAL)

ATTEST

_____
Assistant Secretary

LESSEE

McCARTNEY FOODS, INC
Year 6 thru 20

By _____
President

(SEAL)

ATTEST

_____
Secretary

Executed this 2ND day of February, 1983

LESSOR

VILLAGE SOUTH, LTD, An Oklahoma Limited Partnership

By KELLEY/JOHNSON CO
A General Partner of VILLAGE SOUTH, LTD

By _____
President

(SEAL)

ATTEST

_____
Secretary, Asst

LESSEE

FLEMING COMPANIES, INC
Year 1 thru 5

By _____
Vice President

(SEAL)

ATTEST

_____
Assistant Secretary

LESSEE

McCARTNEY FOODS, INC
Year 6 thru 20

By _____
President

(SEAL)

ATTEST

_____
Secretary

STATE OF OKLAHOMA,)
) ss
COUNTY OF TULSA,)

BE IT REMEMBERED, that on this 7th day of December, A D , 19 82, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Larry K Kelley, President of KELLEY/JOHNSON CO a corporation duly organized, incorporated, and existing under and by virtue of the laws of Oklahoma and General Partner for VILLAGE SOUTH, LTD , an Oklahoma Limited Partnership, and Dealtta J. Swafford, Assistant Secretary of said corporation, who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said corporation, and such persons duly acknowledged the execution of the same to be the act and deed of said corporation

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written

Corrinne Cook
Notary Public

(SEAL)

My Commission Expires
September 26, 1986

STATE OF KANSAS,)
) ss
COUNTY OF SHAWNEE,)

BE IT REMEMBERED, that on this 2nd day of February, A D , 1982, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came C A Vernon Jr , Vice President of FLEMING COMPANIES, INC , a corporation duly organized, incorporated and existing under and by virtue of the laws of Oklahoma, and Robert W. Smith , Assistant Secretary of said corporation, who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said corporation, and such persons duly acknowledged the execution of the same to be the act and deed of said corporation

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written

(SEAL)

Mary E Holloway
Notary Public

My Commission Expires
August 25, 1986

STATE OF OKLAHOMA,)
) ss
COUNTY OF ~~TULSA,~~ Logan)

BE IT REMEMBERED, that on this 16th day of December, A D , 1982, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came John D McCartney, President of McCARTNEY FOODS, INC , a corporation duly organized, incorporated, and existing under and by virtue of the laws of Kansas, and Kenneth R Wilkerson , Secretary of said corporation, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said corporation, and such persons duly acknowledged the execution of the same to be the act and deed of said corporation

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written

Karen Green
Notary Public

(SEAL)

My Commission Expires
5-1-86

STATE OF OKLAHOMA,)
) ss
COUNTY OF TULSA,)

BE IT REMEMBERED, that on this 7th day of December, A D , 1982, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Larry K Kelley, President of KELLEY/JOHNSON CO a corporation duly organized, incorporated, and existing under and by virtue of the laws of Oklahoma and General Partner for VILLAGE SOUTH, LTD , an Oklahoma Limited Partnership, and Dustin L. Swafford, Assistant Secretary of said corporation, who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said corporation, and such persons duly acknowledged the execution of the same to be the act and deed of said corporation

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written

Notary Public

(SEAL)

My Commission Expires
September 26, 1986

)

AMENDMENT TO BUILD AND LEASE AGREEMENT (8/24/1987)

AMENDMENT TO BUILD AND LEASE AGREEMENT

THIS AMENDMENT is made and entered into this 24th day of August, 1987, by and between Village South, Ltd., an Oklahoma limited partnership ("Lessor"), Fleming Companies, Inc., an Oklahoma corporation ("Lessee") and McCartney Foods, Inc. in order to amend that certain Build and Lease Agreement (the "Lease") among the parties dated February 2, 1983. For purposes of this Amendment and except as otherwise provided herein, the terms defined in the Lease shall have the same meanings herein.

In consideration of the mutual terms and provisions set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Release of McCartney Foods, Inc. McCartney Foods, Inc. is hereby released and discharged of and from any further liability and obligation under the Lease. All references in the Lease to Lessee shall be references only to Fleming Companies, Inc.

2. Term. Paragraph 5 of the Lease is hereby amended to read as follows:

> 5. The LESSOR agrees to, and does hereby, lease the premises to the LESSEE for an original term of ten (10) years, commencing October 9, 1983, which was the first day the premises were opened for business. The lease term shall terminate at 11:59 p.m. on the last day of the tenth (10th) year of the term.
>
> If at the end of the original term of this lease, or any option period hereof, LESSEE, in its sole discretion, shall deem it necessary to remain in occupancy of said premises beyond the termination date of the lease, LESSEE may do so for a period of time up to one hundred twenty (120) days. For any such extension period, the rent will be the average of total rent paid during preceding five (5) years of this lease. LESSEE shall give LESSOR sixty (60) days' notice should such extension be necessary.

3. Options. Paragraph 6 of the Lease is hereby amended to read as follows:

> 6. At the expiration of the original term, the LESSEE shall have the right, exercisable at its sole option, to extend this lease for two (2) additional

terms of five (5) years each, upon the same terms and conditions. The LESSOR shall be notified of the LESSEE'S intent to exercise such option at least six (6) months prior to the end of the then current term. LESSEE may, at its sole option, extend this Lease for an additional term not to exceed seven (7) years, if necessary, to permit reconstruction and repair of the premises after its damage or destruction, in accordance with the provisions of paragraph 17 hereof.

4. Certain Changes. In paragraph 7(C), "twentieth (20th)" is hereby changed to "tenth (10th)". In paragraph 17(A), "thirteen (13)" is hereby changed to "three (3)".

5. No Other Changes. Except as provided herein, the Lease shall remain unchanged. The Lease, subject to this Amendment, shall remain in full force and effect

Dated as of the day and year first above written.

LESSOR: VILLAGE SOUTH, LTD., an Oklahoma limited partnership

By: Kelley/Johnson Co., General Partner

By _____
President

LESSEE: FLEMING COMPANIES, INC., an Oklahoma corporation

By Robert W Smith
Vice President

DISCHARGED LESSEE: McCARTNEY FOODS, INC., an Oklahoma corporation

By Richard H. Keeney
President

4/7/1993 CORRESPONDENCE FROM DEBTOR

Fleming Companies, Inc.

6301 Waterford Blvd
PO Box 26647
Oklahoma City, OK 73126-0647
405-840-7200

CORPORATE STAFF

VIA REGISTERED MAIL
RETURN RECEIPT REQUESTED

April 7, 1993

VILLAGE SOUTH LIMITED
6835 South Canton, Suite A
Tulsa, OK 74136

RE Village South IGA
1012 South Sheridan Road
Tulsa OK
File No 9C-58

Gentlemen

In accordance with the terms of our Lease, Fleming Companies, Inc. hereby exercises the five (5) year renewal option upon the same terms and conditions as provided for therein.

Said renewal term shall commence October 9, 1993 and will expire at 11:59 p.m on October 8, 1998

Sincerely,

Allen David
Director Retail Leasing

FD rl

cc Bob Smith
Bill Snavely
Marilyn Manger

SECOND AMENDMENT TO LEASE (8/20/1998)

SECOND AMENDMENT TO LEASE

This Second Amendment to Lease is made and entered into this 20th day of August, 1998, by and between ROCK COD INVESTMENTS L P , a California limited partnership (the "Landlord") and FLEMING COMPANIES, INC , an Oklahoma corporation (the "Tenant") with reference to the following

(i) Village South, Ltd , Tenant and McCartney Foods, Inc were parties to a certain Build and Lease Agreement dated February 2, 1983 Such agreement was amended by an Amendment to Build and Lease Agreement dated August 24, 1987 which, among other things, released McCartney Foods, Inc as a party Such Build and Lease Agreement, as so amended, will be referred to herein as the "Lease " Landlord has succeeded to the interest of Village South, Ltd under the Lease The current term of the Lease runs through October 8, 1998 and the Tenant has one, five year renewal option thereunder

(ii) Landlord and Tenant have reached certain agreements regarding an extension of the lease term and certain improvements to be made to the premises covered by the Lease and desire to reflect those agreements herein

NOW THEREFORE, in consideration of the foregoing and other fair and valuable considerations, the receipt and adequacy of which are hereby acknowledged, Landlord and Tenant agree as follows

1 Term The term of the Lease is hereby extended for a period of seven years commencing October 9, 1998 and extending through October 8, 2005 (the "Extended Term") Tenant shall have one option to renew the Lease for an additional period of five years, commencing October 9, 2005 and extending through October 8, 2010 (the "Renewal Term") on the terms set forth in the Lease, as modified herein

2 Rent During the first five years of the Extended Term the minimum rent shall be $259,060 56 per annum, payable in equal monthly installments of $21,588 38 During such period percentage rent shall equal 1 5% of calendar monthly sales in excess of $1,439,225 30 During the last two years of the Extended Term, minimum rent shall be $281,587 50 per annum payable in equal monthly installments of $23,465 63 During such period percentage rent shall equal 1 5% of calendar monthly sales in excess of $1,564,375 00 The minimum rent during the Renewal Term, if the option to extend the Lease for the Renewal Term is exercised, shall be $304,114 50 per annum, payable in equal monthly installments of $25,342 88 During such period percentage rent shall equal 1 5% of calendar monthly sales in excess of $1,689,525 00

3 Improvements Tenant hereby agrees to make certain improvements to the premises which are identified on Exhibit A

hereto and Landlord hereby consents to such work Landlord will pay to Tenant amounts necessary to pay all costs incurred by Tenant in such construction, including costs of labor and materials, architectural and engineering fees, cost of permits, insurance and all other costs of any nature incurred in connection with such work (including a design and coordination fee payable to Tenant equal to 6% of such costs), as and when such costs are incurred Landlord will also pay the additional costs incurred by Tenant in improving the premises including costs of equipment purchases and refurbishings, refrigeration, etc Such payments will be made based on Tenant's submission of invoices to Landlord, accompanied by Tenant's approval thereof and executed lien waivers from contractors relating to such work However, in no event shall the aggregate amounts payable by Landlord under this paragraph exceed $340,000

4 Ratification Except as hereby modified, the Lease is hereby ratify and shall remain in full force and effect

5 Consents Landlord hereby represents and warrants to Tenant that it is the owner of the landlord's interest under the Lease, that such interest has not been assigned (whether by mortgage or similar collateral assignment or otherwise) and that neither Landlord nor the Lease is subject to any agreement, decree or order pursuant to which the consent of any third party is necessary for the execution, delivery or performance hereof

6 Whole Agreement This Agreement embodies all representations, warranties, and agreements of the parties with respect to the modification of the Lease and may be amended or modified only by an agreement signed by the parties

7 Section Headings The section headings contained herein are for convenient reference only and shall not in any way affect the meaning or interpretation hereof

EXECUTED AND DELIVERED as of the day and year first above written

ROCK COD INVESTMENTS L P , a California limited partnership

By _____
General Partner

FLEMING COMPANIES, INC , an Oklahoma corporation

By _____
SR Vice President

STATE OF OKLAHOMA)
) ss
COUNTY OF OKLAHOMA)

This instrument was acknowledged before me on _____, 1998, by _____, as General Partner of Rock Cod Investments L P , a _____

_____
Notary Public
[SEAL] My commission expires _____

STATE OF OKLAHOMA)
) ss
COUNTY OF OKLAHOMA)

This instrument was acknowledged before me on August 20, 1998, by Robert W Smith, as Vice President of Fleming Companies, Inc , an Oklahoma corporation

Stanley C. Kelley
Notary Public
[SEAL] My commission expires 3/28/1999

State of California

County of Los Angeles

On August 7, 1998 before me, Dandy M Keller, Notary Public,
DATE NAME TITLE OF OFFICER

personally appeared Peter S Gold,
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Dandy Marie Keller

SIGNATURE OF NOTARY

EXHIBIT A

Tenant's Work

Tenant's Work consists of the work described in the Scope of Work described in Exhibit A-1 hereto, consistent with the plans attached as Exhibits A-2 and A-3 hereto

Exhibit A-1

Village IGA Remodel - 7/28/98

10121 S Sheridan Rd
Tulsa, OK 74133-6732
(918) 299-8444

Scope of Work

The intent of proposed work is to increase the visual elements and aesthetics of the store, as well as increase lighting levels for better visibility and customer comfort. The priority areas are all areas visible to the consumer, and effected by higher light levels. All colors to be coordinated with the owner and Fleming Store Planner. Refer to plans for additional scope of work and plan design.

Site Lighting:

- Increase parking lot lighting levels to 5 foot candles maintained in front of store (4 poles)
- Increase lighting levels at store entrance.

Entry Vestibule.

- Paint walls. Install new light fixtures per plan

Checkout, cart storage, and reading center:

- Replace vinyl floor tile entire sales area and perimeter areas exposed to view of customers.
- Raise ceiling as shown on lighting plan to match existing 12'-6" ceiling above checkouts. Replace all blue tiles with new to match existing color/ texture. Maintain slope between the two ceiling levels (9'-6" & 12'-6") as outlined on the plans. Paint angled ceiling.
- Paint or replace painted grids to match field color, Install new ceiling tiles.
- Remove existing cart low walls, and replace with cart railing supplied by owner
- Remove all carpet in store sales areas and replace with vinyl composition tile.
- Modify existing HVAC duct work and sprinkler heads to accommodate new ceiling ht.
- Repair wainscot near entry vestibule and bakery cases, match existing

Customer Service Counter

- Paint wall behind counter and add new floor tile

Floral Area.

- Remove existing wood lattice
- Replace floor tile
- Remove ceiling soffit in front of floral cooler. Add new ceiling to match existing.
- Demo walls shown on plan
- Replace ceiling tiles.
- Paint walls
- Demo existing floral counter. Relocate existing counter by cart storage to floral area.
- Extend ceiling area towards East wall as indicated on plans.

Deli Area

- Remove canvas awning and frame work. Install new lighting as shown
- Deli prep area ceiling to be vinyl faced
- Paint or replace painted grids to match field color. Install new ceiling tiles.
- Provide electrical for modified Deli case lineup

Sales Area:

- Paint all walls exposed to sales area (customers view)
- Paint perimeter angled soffit and existing wall paper. Secure any loose wood trim prior to painting
- Remove existing floral counter per plan

Restrooms.

- Replace any damaged ceiling tiles
- Add new toilet partition to men's room.

Produce Area

- Replace all vct tile and non-slip tile with materials to match existing Colors per planner
- Remove existing wood grid ceiling Paint existing ceiling above wood grids dark gray, and install new ceiling grid with no ceiling tiles at the elevation of the existing wood grid New light fixtures to be installed in new grid. Remove light fixtures on upper ceiling Replace perimeter ceiling tiles w/ new

Meat Area

Remove can lights and wood accent trim above island cases.
Replace ceiling tiles
Paint walls
Replace floor tile in sales area side.

Dairy Area.

Replace ceiling tiles
Replace floor tile
Paint exposed walls

Cosmetic Area.

Replace ceiling tiles
Paint exposed walls
Replace floor tile

Lighting

Install new ceiling lighting as shown on lighting plan, also reballast existing uplights around perimeter wood soffit area and downlighting as indicated on plans. Additional ballasting is shown on outside perimeter cases. These uplights are single tube fixtures.

HVAC.

Adjust HVAC duct runs at checkstands where ceiling is to be modified

Sprinkler Heads:

Adjust the height of existing sprinkler heads where effected by new construction This should be limited to the front entry area and the center produce area.

Questions concerning the scope of work for this project should be directed to.
Fleming Store Planning

Gifford Bare
(405) 670-7453 phone
(405) 670-7495 fax

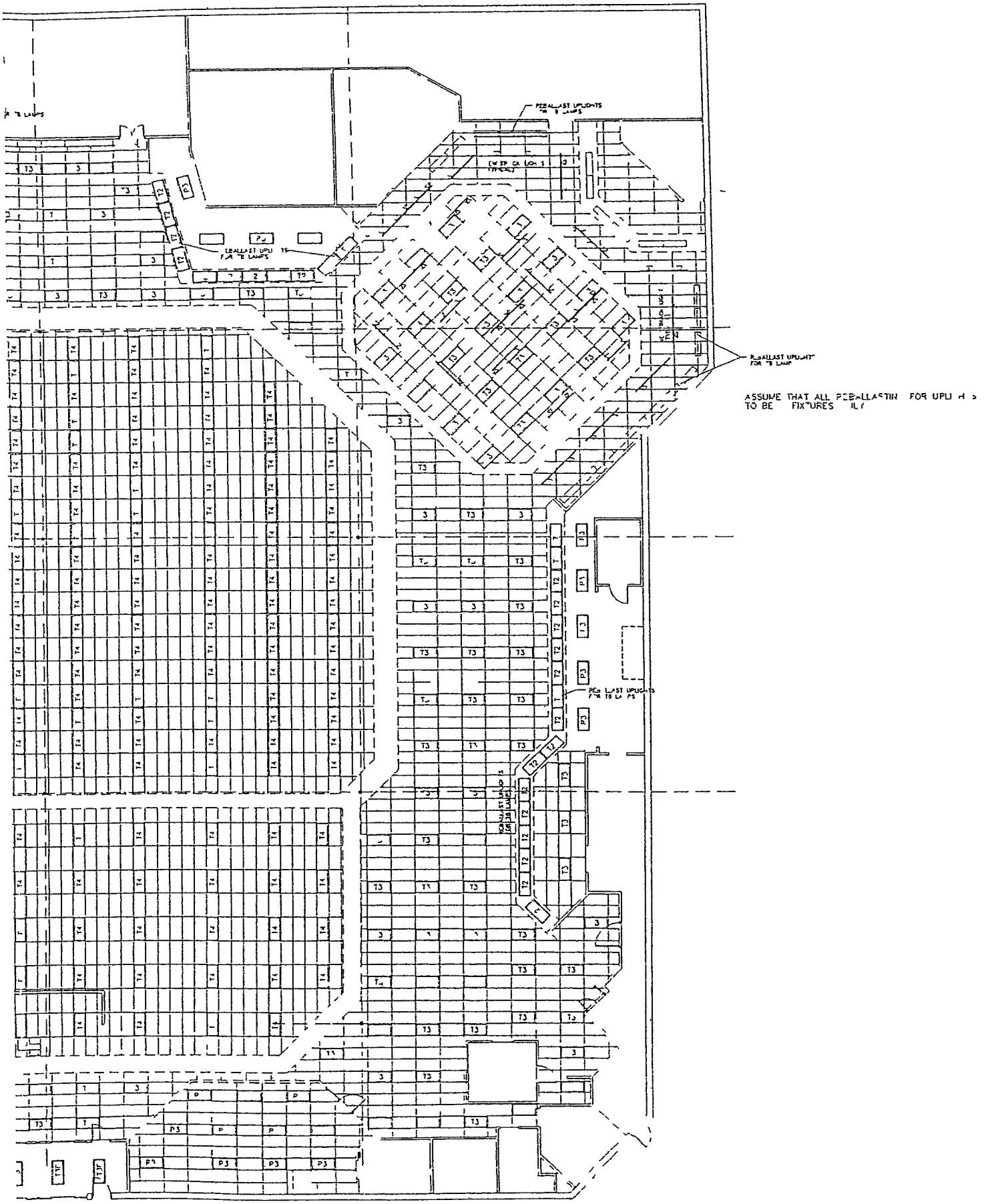
David Riehl
(405) 670-7332 phone

In addition

Equipment painting - Approximately $13,000 00 to paint existing fixtures

Equipment - Estimated at under $10,000 00 in no event to exceed $30,000 00

Exhibit A-3



Flemino

VILLAGE IGA

8/18/1998 CORRESPONDENCE FROM DEBTOR

Fleming
A MARKETING AND DISTRIBUTION COMPANY

Mailing Address
PO Box 26028
Oklahoma City, OK 73126

10 East Memorial Road
Oklahoma City OK 73114
(405) 755-2420

1301 S E 59th Street
Oklahoma City OK 73129
(405) 670-7200

August 18, 1998

Rock Cod Investments L P
c/o Mr George O'Connor
Director of Retail Leasing -- Midwest
Insignia/ESG
Insignia Retail Group, Inc
401 South Boston, Suite 2424
Tulsa, OK 74103

Re Village South Shopping Center

Ladies and Gentlemen

This letter is being delivered in connection with the execution and delivery of (1) a Second Amendment to Lease between Rock Cod Investments L P ("Landlord") and Fleming Companies, Inc ("Tenant") and a First Amendment to Sublease between the Tenant and Elyeck, Inc , Richard A Eck and Debra F Eck (collectively the "Subtenant") Capitalized terms used herein and not defined shall have the meanings set forth in such documents In connection with your execution of the Second Amendment to Lease, you have requested certain representations from the undersigned

This letter will confirm that each of the undersigned represents that as of this date such party is not aware of any outstanding uncured default in the performance of the Landlord's obligations under the Lease, as heretofore amended Further, the Tenant agrees that it will carry out the construction contemplated by paragraph 3 of the Second Amendment to Lease within one year of the date of the complete execution of such agreement The Subtenant agrees that it will reasonably cooperate with Tenant in carrying out such construction within such time

Very truly yours,

FLEMING COMPANIES, INC
an Oklahoma corporation

By _____
Sr Vice President

ELEYECK, INC
an Oklahoma corporation

By _____
~~Vice~~ President

_____
Richard A Eck

_____
~~Debra F~~ Eck

Buchanan Ingersoll
ATTORNEYS

Margaret M Manning
302 429-5525
manningmm@bipc com

1201 North Market Street Suite 1501
Wilmington DE 19801 1147

T 302 428 5500
F 302 428 3996
www buchananingersoll com

October 6, 2003

VIA FEDERAL EXPRESS

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

Re Proof of Claim of Rock Cod Village South Center, LLC
Fleming Companies, Inc Bankruptcy Case, Case No 03-10945 (MFW)

Dear Sir/Madam

Enclosed for filing in the above-referenced case is an original and one copy of Rock Cod Village South Center, LLC's Proof of Claim Please file the original proof of claim, and return the time-stamped copy to me in the enclosed Federal Express envelope

Should you have any questions, please do not hesitate to contact me

Very truly yours,

Margaret M Manning (jlo)
Margaret M Manning

MMM jlo
49634-1
Enclosures