

Fill in this information to identify the case:

Debtor 1 Gold's St. Louis, LLC

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of Texas

Case number 20-31333

RECEIVED
SEP 10 2020
BMC GROUP

Official Form 410

Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Schnuck Markets, Inc.</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>E. Rebecca Case, Stone, Leyton & Gershman</u> Name <u>7733 Forsyth Blvd., Suite 500</u> Number Street <u>St. Louis</u> <u>MO</u> <u>63105</u> City State ZIP Code Contact phone <u>(314) 721-7011</u> Contact email <u>rcase@stoneleyton.com</u>	Where should payments to the creditor be sent? (if different) <u>Micah E. DeCamp</u> Name <u>P.O. Box 46928</u> Number Street <u>St. Louis</u> <u>MO</u> <u>63146</u> City State ZIP Code Contact phone <u>(314) 994-4454</u> Contact email <u>mdecamp@schnucks.com</u>
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☐ No.
☒ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 244,618.61. Does this amount include interest or other charges?
☒ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.
Rejection of unexpired lease

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☐ No
☒ Yes. Amount necessary to cure any default as of the date of the petition. \$ 774,625.60

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check one:

<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	Amount entitled to priority
	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/08/2020
MM / DD / YYYY

/s/ E. Rebecca Case

Signature

Print the name of the person who is completing and signing this claim:

Name	E.	Rebecca	Case
	First name	Middle name	Last name
Title	Attorney for Creditor Schnuck Markets, Inc.		
Company	Stone, Leyton & Gershman, A Professional Corporation		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	7733 Forsyth Blvd., Suite 500		
	Number	Street	
	St. Louis	MO	63105
	City	State	ZIP Code
Contact phone	(314) 721-7011 x1240		Email rcase@stoneleyton.com

PROOF OF CLAIM, Part 2, No. 7

Rent	\$159,480.08
CAM	50,583.59
Real Estate Tax	<u>34,544.94</u>
	\$244,618.61

Amount of Rent due for one year from the surrender date?	
May 4, 2020 to May 3, 2021	\$244,618.61

Amount of Rent due for three years from the surrender date?	
May 4, 2020 to May 3, 2021	\$244,618.61
May 4, 2021 to May 3, 2022	244,618.61
May 4, 2022 to May 3, 2023	<u>244,618.61</u>
	\$733,855.83

Amount of Rent due for remaining term of the lease?	\$774,625.60*
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Amount of Rent due for remaining term of the lease x 15%:	
	\$774,625.60
	<u>X .15%</u>
	\$116,193.84

Lesser, \$733,855.83 or \$116,193.84	\$116,193.84
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Greater \$244,618.61 or \$116,193.84	\$244,618.61
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PROOF OF CLAIM, Part 2, No. 10

*Amount of Prepetition Claim.

Tenant also asserts a claim for postpetition legal fees and expenses incurred, amount to be determined

RESERVATION OF RIGHTS

Schnuck Markets, Inc. reserves its right to amend this Proof of Claim for any reason.

EXHIBIT 1

Club Number: 22

Address: 215 Arnold Crossing, Arnold, Missouri 63010

- A. Lease Assignment and Assumption dated November 28, 1986 between The Kroger Co., an Ohio corporation, Assignor, and National Super Markets, Inc., a Michigan corporation, Assignee, for the premises located at 215 Arnold Cross Roads, Arnold, Missouri.
- B. Assignment and Assumption of Lease dated June 12, 1995 between National Super Markets, Inc., Assignor to Schnuck Markets, Inc., a Missouri corporation, Assignee.
- C. Memorandum of Sublease dated March 18, 1996 between Tenant Schnuck Markets, Inc. and Subtenant Family Company of America, L.C., a Missouri limited liability company.
- D. Sublease dated March 18, 1996 between Tenant Schnuck Markets, Inc. and Subtenant Family Company of America, L.C.
- E. Order Approving the Sale of Leases and Personal Property and Assumption, Rejection and Extension of Time to Assume or Reject Unexpired Leases of Non-Residential Real Property dated June 1, 1999 entered by the U.S. Bankruptcy Court Eastern District of Missouri, Case No. 99-43657, The Family Company of America, L.C., Debtor, lease for 215 Arnold Crossing, Arnold, Missouri sold to 24 Hour Fitness, Inc.
- F. Fourth Amendment to Lease and Settlement Agreement dated June ___, 2008 between Landlord Arnold Crossroads, LLC, Tenant Schnuck Markets, Inc. and Subtenant 24 Hour Fitness USA, Inc.
- G. Third Amendment to Declaration of Reciprocal Easements dated July 29, 2008.
- H. Arbitration Award 24 Hour Fitness USA, Inc. v Arnold Crossroads, LLC dated July 27, 2010.
- I. Notice of Lease Assignment Agreement dated June 28, 2016 between Subtenant 24 Hour Fitness, Inc. and Subtenant Genesis Health Clubs of the Midwest, LLC.
- J. Notice of Lease Assignment Agreement between Subtenant Genesis Health Clubs of the Midwest, LLC and Gold's Gym of St. Louis, LLC. (Requested, to be attached when received.)

LEASE ASSIGNMENT AND ASSUMPTION AGREEMENT ~~BOOK~~ **359** ~~PAGE~~ **1486**

The Kroger Co., an Ohio corporation ("Assignor"), for Ten Dollars (\$10.00) and other good and valuable consideration to Assignor in hand paid by National Super Markets, Inc., a Michigan corporation ("Assignee"), the receipt and sufficiency of which is hereby acknowledged, and in consideration of the agreements and undertakings of Assignee hereinafter set forth has granted, transferred and assigned and by these presents does grant, transfer and assign unto the said Assignee all of Assignor's leasehold estate and right, title and interest in and to that certain lease together with the amendment or modifications or instruments affecting same, if any, covering the property commonly known as 215 Arnold Cross Roads, Arnold, Missouri (the "Premises") which is legally described on Exhibit A attached hereto and made a part hereof, all of said lease documents being hereinafter labeled the "Lease" and which are described in Exhibit B attached hereto and made a part hereof.

TO HAVE AND TO HOLD unto said Assignee its successor and assigns said leasehold estate and all of the aforesaid rights, title and interest during the current term of the Lease ending July 31, 1998 and the 5 five year renewal terms presently provided therein, if exercised. Assignor further warrants that it has good leasehold title to the Premises and that (i) it shall defend title to the leasehold estate and said rights, title and interest under the Lease during the term of the Lease and any renewal term provided therein, if exercised, against every person whosoever claiming or to claim the same or any part thereof, (ii) the Lease is in full force and effect, (iii) it has a good right to assign the same to Assignee, (iv) to the best of Assignor's knowledge, the landlord under the Lease is not in default of any obligations thereunder, (v) Assignor is not in default of any of its obligations under the Lease provided that Assignor reserves its right so that either Assignor or Assignee may enforce the warranties of title granted to Assignor by the landlord under the Lease as a result of any breach of Assignor's warranties contained herein and (vi) the copy of the Lease attached hereto and made a part hereof, as Exhibit "B" is true and complete and it has not been modified, either orally or in writing.

Assignee hereby assumes and agrees to perform and observe all of the obligations of Tenant under the Lease, including all monetary obligations there-

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part of the Premises may be subleased, provided that the subsequent assignee assumes all of its obligations under the Assigned Lease and so long as Assignee remains liable for the obligations under the Assigned Lease. The aforesaid subsequent assignment or subleasing shall not require the consent of the Assignor unless the consent of the Lessor is required under the terms of the Lease.

IN WITNESS WHEREOF, this instrument which has been executed on this 7 day of December, 1986 in two (2) counterparts, each of which constitutes an original, but together constitutes the complete undertaking of the parties, shall be effective as of midnight 11/28, 1986.

WITNESSES

THE KROGER CO.

By Arthur Juergens
Arthur Juergens
Senior Vice President

NATIONAL SUPER MARKETS, INC.
8525 Page Boulevard
St. Louis, Missouri 63114

By E. J. Gorzyca
Vice President E. J. GORZYCA

Attest Bennett F. Bernan
Secretary BENNETT F. BERNAN

GUARANTY

For value received, the undersigned hereby guarantees the performance of the obligations to be performed by the Assignee herein.

NATIONAL TEA CO.

By E. J. Gorzyca
Vice President E. J. GORZYCA
Attest Bennett F. Bernan
Secretary BENNETT F. BERNAN

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EXHIBIT A

10. BEGINNING at an iron pin at the intersection of the southwesterly line
11. of Lot 29, U. S. Survey 2991 (also the northeast line of Arnold Terrace, Block 3)
12. and the northerly right-of-way line of relocated Route 141; THENCE along said
13. southwesterly line of Lot 29 N 37° 31' W a distance of 663.69' to the point of
14. intersection with the southeasterly right-of-way line of Interstate 55; THENCE
15. along said R.O.W. N 2° 33' 30" E a distance of 104.88' to a point; THENCE continu-
16. ing N 13° 40' E a distance of 321.06' to a point; THENCE leaving said R.O.W. S 37°
17. 31' E a distance of 195.36' to a point; THENCE N 52° 29' E a distance of 300.00'
18. to a point on the southwesterly line of the 100' wide Union Electric Company R.O.W.;
19. THENCE following said R.O.W. line N 37° 31' W a distance of 137.16' to an axle;
20. THENCE crossing said U.E. R.O.W. N 52° 34' E a distance of 100.00' to a point on
21. the northeasterly line of said R.O.W.; THENCE following said R.O.W. line S 37° 31' E
22. a distance of 159.0' to a point; THENCE leaving said R.O.W. N 52° 34' E a distance
23. of 330.00' to a point; THENCE S 37° 30' E a distance of 676.36' to a point; THENCE
24. S 35° 34' W a distance of 32.41' to a point; THENCE S 4° 52' 28" E a distance of
25. 71.11' to a point; THENCE S 54° 45' 40" E a distance of 68.00' to a point; THENCE
26. S 52° 34' W a distance of 15.00' to a point; THENCE S 21° 30' 43" W a distance of
27. 67.67' to a point; THENCE N 49° 10' W a distance of 131.00' to a point; THENCE
28. S 51° 47' W a distance of 235.00' to a point; THENCE S 37° 57' 18" E a distance
29. of 236.26' to a point on the northerly R.O.W. line of Old Route 141; THENCE along
30. said R.O.W. and along the chord of a curve (radius 789.00') S 54° 50' 42" W a
31. distance of 71.72' to a concrete monument; THENCE continuing along said R.O.W. and
32. along the chord of a curve (radius 789.00') S 63° 06' W a distance of 154.69' to a
33. concrete monument; THENCE continuing along said R.O.W. S 72° 59' W a distance of
34. 100.35' to a point; THENCE leaving said R.O.W. N 14° 04' W a distance of 263.0'
35. to a point; THENCE S 66° 30' 40" W a distance of 206.79' to a point; THENCE
36. S 14° 04' E a distance of 206.00' to a point on the northern R.O.W. of relocated
37. Route 141; THENCE S 75° 56' W a distance of 137.01' to a point; THENCE S 59° 14' W
38. a distance of 44.65' to an iron pin and the POINT OF BEGINNING. Said tract con-
39. taining 19.679 acres.

40. Together with a non-exclusive easement for ingress and egress of the following
41. described property:

42. All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S.
43. Survey 2991, Township 43 North, Range 6 East and being more particularly
44. described as follows:

45. To reach the TRUE POINT OF BEGINNING, start at an iron pin at the point of
46. intersection of the southwesterly line of Lot 29 of U.S. Survey 2991 (also
47. being the northeast line of Arnold Terrace, Block 3) and the northerly
48. right-of-way line of relocated Route 141; thence along said right-of-way of
49. relocated Route 141 N 59° 14' E a distance of 44.65' to a point; thence
50. continuing N 75° 56' E a distance of 316.83' to a right-of-way marker; thence
51. continuing S 26° 16' E a distance of 24.65' to a right-of-way marker on the
52. northerly right-of-way of old Route 141; thence along said right-of-way
53. N 72° 59' E a distance of 119.35' to a concrete monument; thence continuing
54. along said right-of-way and the chord of a curve (radius 789.0') N 63° 06' E
55. a distance of 154.69' to a concrete monument; thence continuing along said

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67. Landlord reserves the right to dedicate the above described property to the
68. appropriate public authority whereupon this easement will be null and void
69. without further action by any party hereto.
70. In addition to the foregoing, as part of Landlord's obligation, Landlord shall
71. complete a paved service road over the land described hereinafter and Tenant
72. shall have an easement for use as a paved service driveway across this parcel.
73. This easement shall be for the benefit of Tenant throughout the entire term
74. of this Lease and any extensions hereof.
75. Landlord shall have the right to construct such service road at any point on
76. the hereinafter described parcel and shall have the right to relocate said
77. service road to any other part of said hereinafter described parcel from time
78. to time; provided, however, that any such relocation shall be accomplished in
79. a manner so as to allow Tenant at all times to have the clear and unobstructed
80. use of a driveway of at least fifty (50') feet in width across the hereinafter
81. described property to provide the orderly, circulatory flow of traffic around
82. the Shopping Center buildings to accommodate and service the truck dock adja-
83. cent to Tenant's building. The parcel over which said service road may be
84. constructed and/or relocated is as follows:

JEFFERSON COUNTY, MISSOURI REVISED TRACT "E"

85. . . . A tract of land located in Lot #29 and Lot #30 of U. S. Survey 2991,
86. T43N, R6E, Jefferson County, Missouri and being more particularly described as
87. follows:
88. . . . Beginning at an iron pin at the point of intersection of the N. W. line
89. of Lot #30 and the S. E. line of Lot #29 of U. S. Survey 2991 and the northeast
90. line of a 16' road easement as recorded in Book 32, Page 13 of the Jefferson
91. County Records; THENCE, S. 47° 15' E along said easement line a distance of 37.34'
92. to the point of intersection with the Northwest R.O.W. line (80' R/W) of Route
93. 61-67; THENCE following said R.O.W. line (80' R.O.W.) along an arc of a curve to
94. the left having a radius of 859.00' a distance of 53.72' (having a chord bearing
95. S 27° 02' W a distance of 53.71') to a point; THENCE leaving said R.O.W. line
96. (80' R.O.W.) and running N 47° 15' W a distance of 46.78' to a point; THENCE
97. N 37° 30' W a distance of 152.00 feet to a point; THENCE S 52° 34' W a distance
98. of 125.00' to a point; THENCE S 35° 34' W a distance of 12.59'; THENCE N 37° 30' W
99. a distance of 676.36' to a point; THENCE S 52° 34' W a distance of 330.0' to a
100. point; THENCE N 37° 31' W a distance of 85.0' to a point; THENCE N 52° 34' E
101. 330.0' to a point; THENCE N 37° 30' W a distance of 174.05' to a point; THENCE
102. N 52° 34' E a distance of 187.05' to an old axle; THENCE S 37° 30' E along the
103. northeast line of said Tract 2 and the northeastern line of a 25' road easement
104. a distance of 534.73' to an old axle at the most northerly point of said Tract 1
105. and the most easterly point of said Tract 2; THENCE S 37° 30' E along the north-
106. east line of said Tract 1 and said line also being the northeast line of a 25'
107. wide road easement a distance of 225.00' to a point; THENCE S 37° 30' E along
108. the Northern line of a 16' wide road easement (Book 32, Page 13) a distance of
109. 310.00' to an iron pin and to the POINT OF BEGINNING. Said tract containing
110. 4.861 acres.

EXHIBIT "B"

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Lease Documents Scheduled for 902

215 Arnold Cross Road
Arnold, Missouri

1. Lease dated November 12, 1976 between W. B. Wiggins, Sr., as Landlord, and The Kroger Co., as Tenant.
2. Memorandum of Lease dated November 12, 1976.
3. Lease Modification Agreement No. 1 dated August 15, 1977 (as to Tenant).
4. Second Amended Lease dated August 21, 1978 (as to Tenant).
5. Lease Modification Agreement No. 2 dated August 21, 1978 (as to Tenant).
6. First Amended Lease dated August 15, 1977 (as to Tenant).
7. Lease Modification Agreement No. 3 dated December 22, 1983 (as to Tenant).
8. Letter from G. David Dodd of the law offices of Long and Albradge to Mr. Phillip Ernst of the John Hancock Mutual Life Insurance Co. dated December 14, 1983.
9. Letter from Mr. John Lothrop associate counsel of John Hancock Mutual Life Insurance Co. to G. David Dodd dated December 29, 1983.
10. Estoppel Letter dated August 24, 1978.
11. Subordination Non-Disturbance Attornment Agreement dated August 24, 1978.
12. Notice of Assignment dated September 15, 1978.

STATE OF Illinois

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COUNTY OF Cook

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared E.J. Gorczyca and Bennett L. Berman to me known, who declared and acknowledged to me, Notary that they are a ~~xxx~~ Vice President and Secretary of National Super Markets, Inc., an Michigan Corporation, that as such duly authorized officers, by and with the authority of the Board of Directors of said corporation, have signed and executed and foregoing instrument as the free and voluntary act and deed of said corporation, and for the objects and purposes therein set forth.

IN WITNESS WHEREOF, I have set my hand and official seal on this the 2nd day of December, 19 86.

My Commission expires Feb. 23, 1987

Janet Grimm
Notary Public

JANET GRIMM

STATE OF Illinois

COUNTY OF Cook

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared E.J. Gorczyca and Bennett L. Berman to me known, who declared and acknowledged to me, Notary that they are a ~~xxx~~ Vice President and Secretary of National Tea Co., an Illinois Corporation, that as such duly authorized officers, by and with the authority of the Board of Directors of said corporation, have signed and executed and foregoing instrument as the free and voluntary act and deed of said corporation, and for the objects and purposes therein set forth.

IN WITNESS WHEREOF, I have set my hand and official seal on this the 2nd day of December, 19 86.

My Commission expires Feb. 23, 1987

Janet Grimm
Notary Public

JANET GRIMM

FILED FOR RECORD

1987 MAR 23 PM 12:30

MARLENE CASTLE RECORDER
JEFFERSON COUNTY, MO.

STATE OF Ohio

COUNTY OF Hamilton

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared Arthur J. Jurgens and to me known, who declared and acknowledged to me, Notary that they are the Senior Vice President and Secretary of The Kroger Co., an Ohio Corporation, that as such duly authorized officers, by and with the authority of the Board of Directors of said corporation, have signed and executed and foregoing instrument as the free and voluntary act and deed of said corporation, and for the objects and purposes therein set forth.

IN WITNESS WHEREOF, I have set my hand and official seal on this the 4th day of December, 19 86.

My Commission expires NANCY WHITE

Nancy White
Notary Public

State of Missouri)
County of Jefferson)

I hereby certify that this instrument
was FILED FOR RECORD at the
date and time shown hereon and is
recorded in Book 359,
Page 1486.

MARLENE CASTLE
Recorder of Deeds

By Marie Walker
Deputy

BOOK 673 PAGE 1475

SITE NAME: Arnold
SITE NUMBER: 70

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE ("Assignment") is executed and entered into by and between National Super Markets, Inc., a Michigan corporation ("Assignor") and Schnuck Markets, Inc., a Missouri corporation ("Assignee"):

WITNESSETH:

WHEREAS, pursuant to that certain Lease as more fully described and identified on Exhibit A attached hereto and made a part hereof (the "Lease"), Assignor is the tenant (or subtenant if so referenced thereon) of the real estate described on Exhibit B attached hereto and made a part hereof (the "Premises"); and

WHEREAS, Assignor desires to assign, and Assignee desires to assume, the rights and obligations of Assignor under the Lease.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby ASSIGN, TRANSFER, SET OVER, CONVEY AND DELIVER unto Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Premises and the Lease including, without limitation, all of the rights, powers, estate and privileges of Assignor in, to and under the Lease and all rights and benefits of every description whatsoever belonging to or for the benefit of the Assignor in said Lease and the Premises free and clear of any and all security interests, liens, pledges, charges or encumbrances of any nature whatsoever, except with respect to the "Permitted Exceptions" as fully described on Exhibit C attached hereto and made a part hereof.

Subject to the provisions of that certain Asset Purchase Agreement (the "APA") dated as of November 23, 1994 by and between National Holdings, Inc., National Tea Co. and National Super Markets, Inc. as Seller, and Schnuck Markets, Inc., as Purchaser, it is understood and agreed that, by its execution hereof, Assignee hereby assumes and agrees to be responsible for the payment and performance of all obligations accruing with respect to the Lease, on the part of the Assignor therein required to be performed accruing after the Assignment.

This Assignment shall not be deemed to release Assignor from its obligations under the Lease accruing on or before this Assignment, and this Assignment shall not be deemed to modify or amend Assignors rights and obligations as to the landlord under the Lease.

With respect to all matters pertaining to the Lease or the Premises or this Assignment, the parties recognize and agree that their rights and obligations, including but not limited to those pertaining to indemnification, shall be as set forth in the APA and any and all provisions hereof shall not modify or amend the rights and obligations of the parties as set forth therein.

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Assignee shall provide thirty (30) days advance written notice to Assignor in the event Assignee assigns its rights and obligations under this Lease and in connection therewith, Assignee is fully released of and from all liability and obligations thereunder. Upon an assignment in which event Assignee is not so fully released of and from such liability and obligations, Assignee shall use reasonable efforts to provide notice of such assignment unto Assignor, but the good faith, failure of Assignee to provide such notice shall not constitute a breach of any obligation of Assignee herein.

This Assignment is made with, and Assignor hereby makes in favor of Assignee, as set forth herein *in extenso* all representations, warranties, and covenants of the Assignor pertaining to the Lease and this Assignment as set forth in the APA which representations, warranties and covenants shall survive the execution and delivery of this Assignment in accordance with the terms of the APA. Except as specifically provided hereinabove, this Assignment is hereby made "AS-IS" and "WHERE-IS", without any representation or warranty whatsoever, express or implied, as to the condition of the Premises or Lease or the suitability or fitness of the Lease or Premises for any particular or general use or purpose or for the business of Assignee, and any successors or assigns of Assignee.

This Assignment may be executed in multiple counterparts, each of which shall be considered as original but all of which, when taken together, shall constitute but one and the same document.

All of the covenants, terms and conditions set forth herein, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and subtenants.

This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri applicable to agreements made and performed wholly within the State of Missouri without regard to conflicts of laws principles.

THIS AGREEMENT is executed effective as of the 12TH day of JUNE, 1995.

ATTEST:

John T. Moorsman
Asst. Secretary JOHN T. MOORSMAN

ASSIGNOR:

NATIONAL SUPER MARKETS, INC.

By: Richard A. Posen, Jr.
Name: Richard A. Posen, Jr.
Title: Vice President

ATTEST:

Terry E. Schnuck
Terry E. Schnuck
Secretary

ASSIGNEE:

SCHNUCK MARKETS, INC.

By: Todd R. Schnuck
Name: Todd R. Schnuck
Title: Corporate Vice President
and Chief Financial Officer

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STATE OF MISSOURI)

City of St. Louis)

ss.

On this 2nd day of June, 1995, before me appeared Richard A. Faegge, Jr., to me personally known, who, being by me duly sworn, did say that he is the Vice President of NATIONAL SUPER MARKETS, INC., a corporation of the State of Michigan, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Richard A. Faegge, Jr. acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Cynthia J. Foster
Notary Public

My term expires:

CYNTHIA J. FOSTER
NOTARY PUBLIC STATE OF MISSOURI
COUNTY OF ST. LOUIS
MY COMMISSION EXPIRES APRIL 30, 1996

STATE OF MISSOURI)

City of St. Louis)

ss.

On this 3rd day of June, 1995, before me appeared Todd R. Schnuck, to me personally known, who, being by me duly sworn, did say that he is the Corporate Vice President and CFO of SCHNUCK MARKETS, INC., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Todd R. Schnuck acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Colleen M. Lavelle
Notary Public

My term expires:

COLLEEN M. LAVELLE
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
My Commission Expires: Aug. 13, 1995

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**EXHIBIT A TO ASSIGNMENT AND ASSUMPTION
OF LEASE**

LEASE

Site #/Name: 70n Arnold
Address: 215 Arnold Cross Roads
Arnold, MO

Lease Agreement dated as of November 12, 1976, including any addendums thereto, between W.B. Wiggins, Sr. and The Kroger Co. as amended or modified by (i) Lease dated November 12, 1976 between W.B. Wiggins, Sr. and The Kroger Co. as recorded in Book 567 Page 952 Jefferson County, Missouri; (ii) First Amended Lease dated August 15, 1977 between W.B. Wiggins, Sr. and The Kroger Co. as recorded in Book 586 Page 730 Jefferson County, Missouri; (iii) Lease Modification Agreement #1 dated August 15, 1977 between W.B. Wiggins, Sr. and The Kroger Co.; (iv) Assignment of Landlord's Interest in Tenant Leases dated August 30, 1977 by W.B. Wiggins, Sr. to Jeffco Associates as recorded in Book 590 Page 964 Jefferson County, Missouri; (v) Second Amended Lease dated August 21, 1978 between Jeffco Associates and The Kroger Co. as recorded in Book 614 Page 454 Jefferson County, Missouri; (vi) Lease Modification Agreement #2 dated August 21, 1978 between Jeffco Associates and The Kroger Co.; (vii) Lease Modification Agreement #3 dated March 15, 1984 between Jeffco Associates and The Kroger Co.; (viii) Assignment of Leases dated July 1, 1984 by Jeffco Associates to Arnold Plaza, Inc. as recorded in Book 752 Page 666 Jefferson County, Missouri; and (ix) Lease Assignment and Assumption Agreement dated November 28, 1986 by The Kroger Co. to National Super Markets, Inc. as recorded in Book 359 Page 1486 Jefferson County, Missouri; and (x) Assignment of Operating Leases and Rents dated November 22, 1993 by Arnold Plaza, Inc. to Red River Plaza Associates, L.P. as recorded in Book 610 Page 596 Jefferson County, Missouri. The current landlord under the Lease for certain real property commonly known as 215 Arnold Cross Road, Arnold, Missouri 63010 is Glimcher Holdings Limited Partnership (successor in interest to W.B. Wiggins, Sr.).

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#70n ARNOLD
215 ARNOLD CROSS ROADS
ARNOLD, MO

EXHIBIT B TO ASSIGNMENT AND ASSUMPTION OF LEASE

LEGAL DESCRIPTION

All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S. Survey 2991, Township 43 North, Range 6 East, and being more particularly described as follows:

BEGINNING at an iron pin at the intersection of the southwesterly line of Lot 29, U. S. Survey 2991 (also the northeast line of Arnold Terrace, Block 3) and the northerly right-of-way line of relocated Route 141; THENCE along said southwesterly line of Lot 29 N 37° 31' W a distance of 663.69' to the point of intersection with the southeasterly right-of-way line of Interstate 55; THENCE along said R.O.W. N 2° 33' 30" E a distance of 104.88' to a point; THENCE continuing N 13° 40' E a distance of 321.06' to a point; THENCE leaving said R.O.W. S 37° 31' E a distance of 195.36' to a point; THENCE N 52° 29' E a distance of 300.00' to a point on the southwesterly line of the 100' wide Union Electric Company R.O.W. THENCE following said R.O.W. line N 37° 31' W a distance of 137.16' to an axle; THENCE crossing said U.E. R.O.W. N 52° 34' E a distance of 100.00' to a point on the northeasterly line of said R.O.W.; THENCE following said R.O.W. line S 37° 31' E a distance of 159.0' to a point; THENCE leaving said R.O.W. N 52° 34' E a distance of 330.00' to a point; THENCE S 37° 30' E a distance of 676.36' to a point; THENCE S 35° 34' W a distance of 32.41' to a point; THENCE S 4° 52' 28" E a distance of 71.11' to a point; THENCE S 54° 45' 40" E a distance of 68.00' to a point; THENCE S 52° 34' W a distance of 15.00' to a point; THENCE S 21° 30' 43" W; a distance of 67.67' to a point; THENCE N 49° 10' W a distance of 131.00' to a point; THENCE S 51° 47' W a distance of 235.00' to a point; THENCE S 37° 57' 18" E a distance of 236.26' to a point on the northerly R.O.W. line of Old Route 141; THENCE along said R.O.W. and along the chord of a curve (radius 789.00') S 54° 50' 42" W a distance of 71.72' to a concrete monument; THENCE continuing along said R.O.W. and along the chord of a curve (radius 789.00') S 63° 06' W a distance of 154.69' to a concrete monument; THENCE continuing along said R.O.W. S 72° 59' W a distance of 100.35' to a point; THENCE leaving said R.O.W. N 14° 04' W a distance of 263.0' to a point; THENCE S 66° 30' 40" W a distance of 206.79' to a point; THENCE S 14° 04' E a distance of 206.00' to a point on the northern R.O.W. of relocated Route 141; THENCE S 75° 56' W a distance of 137.01' to a point; THENCE S 59° 14' W a distance of 44.65' to an iron pin and the POINT OF BEGINNING. Said tract containing 19.679 acres.

Together with a non-exclusive easement for ingress and egress of the following described property:

All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S. Survey 2991, Township 43 North, Range 6 East and being more particularly described as follows:

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To reach the TRUE POINT OF BEGINNING, start at an iron pin at the point of intersection of the southwesterly line of Lot 29 of U.S. Survey 2991 (also being the northeast line of Arnold Terrace, Block 3) and the northerly right-of-way line of relocated Route 141; thence along said right-of-way of relocated Route 141 N 59° 14' E a distance of 44.65' to a point; thence continuing N 75° 56' E a distance of 316.83' to a right-of-way marker; thence continuing S 26° 16' E a distance of 24.65' to a right-of-way marker on the northerly right-of-way of old Route 141; thence along said right-of-way N 72° 59' E a distance of 119.35' to a concrete monument; thence continuing along said right-of-way and the chord of a curve (radius 789.0') N 63° 06' E a distance of 154.69' to a concrete monument; thence continuing along said right-of-way and the chord of a curve (radius 789.0') N 51° 50' E a distance of 154.49' to the POINT OF BEGINNING: thence leaving said right-of-way N 21° 30' 43" E a distance of 273.87' thence N 52° 34' E a distance of 15.0' to a point; thence S 38° 15' E along the Northeast line of a tract of land now or formerly owned by Joseph & Katherine Kochner (Book 152, Page 578) a distance of 22.05'; thence S 73° 44' E a distance of 104.88' to the point of intersection with the Northwest right-of-way of Old Route 141 (S.J.); thence S 46° 13' W along northerly right-of-way of old Missouri Route 141 a distance of 61.15' to a point; thence continuing along said right-of-way S 46° 13' W a distance of 252.76' to a point said point being the POINT OF BEGINNING.

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EXHIBIT C

Permitted Exceptions

Only (i) matters specifically referenced as "Disclosure Schedule" matters hereinbelow, taxes and special assessments not yet due or payable, zoning and building laws, and (ii) any other matters of record (other than financial liens, mortgages, deeds of trust and encumbrances which shall not be permitted with respect to Assignor's leasehold (or subleasehold estate if so referenced herein), or any leasehold improvements owned by Assignor hereunder) affecting title, which do not materially inhibit, preclude or impair the use or occupancy, or materially diminish the value of (a) in the case of improved land, the land itself or the improvements on the land, assuming the current configuration and a use and utilization substantially the same as the current use and utilization by Assignor, its affiliates or lessees (if any) as of the date of this conveyance, or (b) in the case of vacant land, the land itself, assuming it will be used as a retail development; provided however, none of the foregoing shall be construed as an acknowledgement by the Assignee of the validity, existence or priority of any of the "Permitted Exceptions" set forth herein as to any third parties.

Disclosure Schedule matters, if any: None.

FILED FOR RECORD
95 JUN 14 PH 4: 07
RECORDED & INDEXED
JEFFERSON COUNTY, MO.

RECORDING FEE \$ 23.00
STATE USER FEE 13.00
TOTAL \$ 36.00 Jry
CCT 12

EXHIBIT C

Store #70

MEMORANDUM OF SUBLEASE

This MEMORANDUM OF SUBLEASE is made and entered into as of this 18th day of March, 1996, by and between Schnuck Markets, Inc., a Missouri corporation ("Tenant") and Family Company of America, L.C., a Missouri limited liability company ("Subtenant").

The parties hereby state as follows:

1. Tenant is the tenant under a certain Lease Agreement (as amended, the "Prime Lease"), dated as of November 12, 1976, by and between Tenant and Glimcher Holdings Limited Partnership (successor in interest to W.B. Wiggins, Sr.), for certain premises (the "Premises") described in the Prime Lease and which Prime Lease affects all or a part of the real property described in Exhibit A attached hereto.
2. Tenant and Subtenant entered into that certain Sublease dated as of March 18, 1996 (the "Sublease") pursuant to which Tenant subleased to Subtenant and Subtenant subleased from Tenant the Premises.
3. The Sublease provides for a term commencing on the date Tenant delivers possession of the Premises to Subtenant (but in no event later than the close of business 2 days after the date hereof) and continuing until expiration or termination of the Prime Lease or any renewal or extension thereof (the "Term"), subject to earlier termination or extension as specified in the Sublease.
4. The Sublease contains Tenant's covenant warranting Subtenant's quiet enjoyment of the Premises during the Term.
5. The terms of the Sublease are incorporated herein by reference.
6. The only purpose of this Memorandum of Sublease is to provide notice of the Sublease, and this Memorandum of Sublease shall not abridge or amend to the Sublease.
7. In the event of any inconsistency between the terms of the Sublease and the terms of this Memorandum of Sublease, the Sublease shall control.

IN WITNESS WHEREOF, Tenant and Subtenant have executed this Memorandum of Sublease as of the day and year first above written.

SCHNUCK MARKETS, INC.

By Terry E. Schnuck
Print Name: Terry E. Schnuck
Title: Secretary

FAMILY COMPANY OF AMERICA, L.C.

By


Ronald M. Jezierski, President

STATE OF MISSOURI)
City OF ST. LOUIS) SS.

On this 18th day of March, 1996, before me, the undersigned, a Notary Public of said State, duly commissioned and sworn, personally appeared Terry E. Schnuck, known to me to be the Secretary of Schnuck Markets, Inc., the corporation that executed the foregoing instrument, known to me to be the person who executed the foregoing instrument, on behalf of the corporation herein named, and acknowledged the foregoing instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Rhonda M. Harden
Notary Public

My Commission expires:
RHONDA M HARDEN
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. OCT. 20, 1998

STATE OF MISSOURI)
City OF ST. LOUIS) SS.

On this 18th day of MARCH, 1996, before me, the undersigned, a Notary Public of said State, duly commissioned and sworn, personally appeared Ronald M. Jezierski, known to me to be the President of Family Company of America, L.C., the limited liability company that executed the foregoing instrument, known to me to be the person who executed the foregoing instrument, on behalf of the limited liability company herein named, and acknowledged the foregoing instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Rhonda M. Harden
Notary Public

My Commission expires:
RHONDA M HARDEN
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. OCT. 20, 1998

EXHIBIT A

Store #70
Arnold Cross Roads
Arnold, MO

ARCEL NO. 1:

11 that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S. Survey 2991, Township 43 North, Range 6 East, and being more particularly described as follows: Beginning at an iron pin at the intersection of the southwesterly line of Lot 29, U.S. Survey 2991, (also the Northeast line of Arnold Terrace Block 3) and the Northerly right of way line of Relocated Route 141; hence along said Southwesterly line of Lot 29 North 37 degrees 31 minutes West a distance of 663.69 feet to the point of intersection with the Southeasterly right of way line of Interstate 55; thence along said right of way North 2 degrees 33 minutes 30 seconds East a distance of 104.88 feet to a point; thence continuing North 13 degrees 40 minutes East, a distance of 321.06 feet to a point; thence leaving said right of way South 37 degrees 31 minutes East a distance of 195.36 feet to a point; thence North 52 degrees 29 minutes East, a distance of 300.00 feet to a point on the Southwesterly line of the 100 foot wide Union Electric Company right of way; thence following said right of way line North 37 degrees 31 minutes West, a distance of 137.16 feet to an axle; thence crossing said Union Electric right of way North 52 degrees 34 minutes East, a distance of 100.00 feet to a point on the Northeasterly line of said right of way; thence following said right of way South 37 degrees 31 minutes East a distance of 159.0 feet to a point; hence leaving said right of way North 52 degrees 34 minutes East a distance of 30.00 feet to a point; thence South 37 degrees 30 minutes East a distance of 676.36 feet to a point; thence South 35 degrees 34 minutes West a distance of 32.41 feet to a point; hence South 4 degrees 52 minutes 28 seconds East a distance of 71.11 feet to a point; hence South 54 degrees 45 minutes 40 seconds East a distance of 68.00 feet to a point; hence South 52 degrees 34 minutes West a distance of 15.00 feet to point; thence South 1 degrees 30 minutes 43 seconds West a distance of 67.67 feet to a point; thence North 9 degrees 10 minutes West a distance of 131.00 feet to a point; thence South 51 degrees 7 minutes West a distance of 235.00 feet to a point; thence South 37 degrees 57 minutes 8 seconds East a distance of 236.26 feet to a point on the Northerly right of way of Old Route 141; thence along said right of way and along the cord of a curve (radius 789.00 feet) South 54 degrees 50 minutes 42 seconds West, a distance of 71.72 feet to a concrete monument; thence continuing along said right of way and long the chord of a curve (radius 89.00 feet) South 63 degrees 06 minutes West a distance of 154.69 feet to a concrete monument; thence continuing along said right of way South 72 degrees 59 minutes West a distance of 100.35 feet to a point; thence leaving said right of way North 14 degrees 04 minutes West a distance of 263.0 feet to a point; thence South 66 degrees 30 minutes 40 seconds West a distance of 206.79 feet to a point; thence South 14 degrees 04 minutes East a distance of 206.00 feet to a point on the Northern right of way of relocated Route 41; thence South 75 degrees 56 minutes West a distance of 137.01 feet to a point; thence South 59 degrees 14 minutes West a distance of 44.65 feet to an iron pin and the point of beginning.

Together with a non-exclusive easement for ingress and egress of the following described property:

PARCEL NO. 2:

All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S. Survey 2991, Township 43 North, Range 6 east, and being more particularly described as follows: To reach the true point of beginning, start at an iron pin at the point of intersection of the Southwesterly line of Lot 29 of U.S. survey 2991, (also being the Northeast line of Arnold Terrace Block 3) and the Northerly right of way line of relocated Route 141; thence along said right of way of relocated Route 141, North 59 degrees 14 minutes East a distance of 44.65 feet to a point; thence continuing North 75 degrees 56 minutes East a distance of 316.83 feet to a right of way marker; thence continuing South 26 degrees 16 minutes East, a distance of 24.65 feet to a right of way marker on the Northerly right of way of Old Route 141; thence along said right of way North 72 degrees 59 minutes East a distance of 119.35 feet to a concrete monument; thence continuing along said right of way and the chord of a curve (radius 789.0 feet) North 63 degrees 06 minutes East a distance of 154.69 feet to a concrete monument; thence continuing along said right of way and the chord of a curve (radius 789.0 feet) North 51 degrees 50 minutes East a distance of 154.49 feet to the point of beginning; thence leaving said right of way North 21 degrees 30 minutes 43 second East a distance of 273.87 feet; thence North 52 degrees 34 minutes East a distance of 15.0 feet to a point; thence South 38 degrees 15 minutes East along the Northeast line of a tract of land now or formerly owned by Joseph and Katherine Kochner (Book 152 page 578) a distance of 22.05 feet; thence South 73 degrees 44 minutes East, a distance of 104.88 feet to the point of intersection with the Northwest right of way of Old Route 141 (S.J.); thence South 46 degrees 13 minutes West along Northerly right of way of Old Missouri Route 141 a distance of 61.15 feet to a point; thence continuing along said right of way South 46 degrees 13 minutes West a distance of 252.76 feet to a point, said point being the point of beginning.

Store #70

SUBLEASE

THIS SUBLEASE is made and entered into as of this 18th day of March, 1996 by and between Schnuck Markets, Inc., a Missouri corporation ("Tenant") with an address of 11420 Lackland Road, St. Louis, Missouri 63146-6928 and Family Company of America, L.C., a Missouri limited liability company ("Subtenant") with an address of 1950 Craig Road, St. Louis, Missouri 63146.

RECITALS

A. Tenant is the tenant under a certain Lease Agreement (as amended, the "Prime Lease"), dated as of November 12, 1976, by and between Tenant and Glimcher Holdings Limited Partnership (successor in interest to W.B. Wiggins, Sr.), (the "Landlord"), a copy of which Prime Lease (including all amendments and exhibits thereto, except Exhibit B-2, Plot Plan, to Lease Modification Agreement #2 dated August 21, 1978) is attached hereto as Exhibit A, covering the land, improvements and appurtenances as described in the Prime Lease (the "Sublease Premises").

B. Subtenant desires to sublease from Tenant and Tenant desires to sublease to Subtenant the Sublease Premises upon, and subject to, the terms and conditions contained herein.

C. This Sublease is entered into pursuant to that certain Asset Purchase and Sale Agreement between Family Company of America, L.C. and Schnuck Markets, Inc. dated November 29, 1995 (the "Agreement"). Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Agreement.

AGREEMENT

In consideration of the foregoing, the mutual covenants herein contained and other good and valuable consideration (the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties by their execution hereof), the parties agree as follows:

1. **Sublease of Premises; Use.** Tenant hereby subleases to Subtenant and Subtenant hereby subleases from Tenant the Sublease Premises, together with all rights, appurtenances, privileges, easements and amenities appertaining to any of the foregoing to be used by Subtenant in accordance with all applicable laws and the Prime Lease.

2. **Term.** The term of this sublease commences at such time as Tenant delivers possession of the Sublease Premises to Subtenant in accordance with the Agreement (but in no event later than the close of business 2 days after the Closing Date) and continues until expiration or termination of the Prime Lease (the "Term"), subject to earlier termination or extension as specified herein. Tenant will, upon 30 days prior written request of Subtenant, exercise any option to renew or extend the Prime Lease or deliver notice of the intention to allow the Prime Lease to automatically extend, as applicable, granted to Tenant in the Prime Lease as directed by Subtenant.

3. **Quiet Enjoyment.** Tenant represents and warrants to Subtenant that the lease and amendments attached hereto as Exhibit A constitute a true and complete copy of the Prime Lease, and that the Prime Lease has not otherwise been amended or modified. Tenant further covenants, represents and warrants that Subtenant will have peaceable possession and quiet enjoyment of the Sublease Premises during the Term of this Sublease, provided that Subtenant is in compliance with the terms and conditions of the Prime Lease and this Sublease.

4. **Prime Lease.** During the Term of this Sublease, Subtenant will comply with all of the terms, covenants and conditions of the Prime Lease to be complied with thereunder by Tenant so as not to permit a default under the Prime Lease. With respect to the payment of rent or other amounts payable to Landlord under the Prime Lease, Subtenant will pay such amounts directly to Landlord, provided that Subtenant shall provide Tenant with evidence of such payments. In addition, Tenant will use diligent efforts to (i) assist and cooperate with Subtenant in the full enforcement of the rights of Tenant under the Prime Lease and (ii) in attempting to cause the Landlord under the Prime Lease to perform its obligations under the Prime Lease for the benefit of Subtenant. Each party shall promptly notify the other of any default or claimed default under the Prime Lease known to such party.

5. **Tenant Representations.** Tenant hereby further represents, warrants and covenants to Subtenant as follows:

5.1. Tenant is fully authorized to execute and perform this Sublease.

5.2. The representation and warranties of Tenant, made in Section 6 of the Agreement, to the extent relating or applicable to this Sublease, the Prime Lease, the Sublease Premises and Tenant's occupancy and operations thereof are, along with any limitations on those representations and warranties, hereby incorporated herein by this reference.

5.3. Tenant, as successor to The Kroger Co., has the right to exercise all extension and renewal options granted to the lessee under the Prime Lease in accordance with the Prime Lease (provided that Subtenant is not in default under this Sublease and has done everything required, and not failed to do everything required to enable Tenant to exercise such options and to cause Tenant to be fully in compliance with the Prime Lease).

6. **Notices.** All notices, consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given or made: (i) when delivered in person, (ii) three days after deposited in the United States mail, first class postage prepaid, (iii) in the case of telegraph or overnight courier services, one Business Day after delivery to the telegraph company or overnight courier service with payment provided for or (iv) in the case of telex or telecopy or fax, when sent, verification received, in each case addressed as follows:

if to Subtenant:

Family Company of America, L.C.
1950 Craig Road
St. Louis, Missouri 63146
Attn: Ronald M. Jezierski, President
Fax #: (314) 542-0614

if to Tenant:

Schnuck Markets, Inc.
11420 Lackland Road
St. Louis, Missouri 63146-6928
Attn: Terry Schnuck, Secretary
and General Counsel
Fax #: (314) 994-4412

7. Amendment. This Sublease may be amended or modified only in writing executed by the parties hereto.

8. Recordation. Tenant or Subtenant will, at the request of the other party, execute a short-form Sublease or memorandum of Sublease and have it properly acknowledged for the purpose of recording. The cost of recording such short-form Sublease or memorandum will be borne by the party requesting same. The form of the short-form Sublease or memorandum must be sufficient for notice purposes, reasonably acceptable to both parties and may not include the financial terms of the Sublease.

SCHNUCK MARKETS, INC.

By: 

Title:  Secretary

FAMILY COMPANY OF AMERICA, L.C.

By: 

Ronald M. Jezierski, President

EXHIBIT A

****provided, however, no written notice is required in the event of the need for emergency repairs.**

10500

[Signature]

91. 13. Landlord agrees that it will permit to be used for advertising any part of the Shopping Center but not
92. permit Tenant to place signs on the exterior of their respective portions of such Shopping Center, provided that such signs are harmonious in size and
93. or signs on the exterior of their respective portions of such Shopping Center, provided that such signs are harmonious in size and
94. Landlord will not permit occupants of the Shopping Center to place their names or any advertisement directly on any part of the
95. buildings of the Shopping Center. SEE ADDITION TO PARAGRAPH 13.
96. 14. Any remodeling, alterations, and additions to demised premises which Tenant may deem necessary during the term hereof or
97. any renewals hereof shall be made at Tenant's expense, and Landlord hereby consents thereto. Minor structural changes to such premises
98. shall be made only with Landlord's written consent, which consent shall not be unreasonably withheld. Tenant shall be under no
99. obligation to restore or remove any such changes at the expiration hereof. SEE ADDITION TO PARAGRAPH 14.
100. 15. All fixtures and equipment, of whatever nature, placed or installed in or upon the premises by Tenant shall remain its
101. property, and it shall have the right to remove the same at any time. SEE ADDITION TO PARAGRAPH 15.
102. 16. If the demised premises shall be damaged by fire, casualty, or other causes, they shall be promptly restored by Landlord, and,
103. unless restored, there shall be an abatement or a proportionate reduction of the rent. If such premises shall be condemned by action
104. authority as unsafe or unfit for use, or if they shall become partially or wholly destroyed by fire or other causes, so as to render them
105. unsuitable for a period in excess of ~~thirty~~ days, the Lessee shall terminate, provided, however, that if Landlord commences
106. restoration of the premises within three years of the date on which the premises were rendered untenable, it shall give notice of such
107. facts to Tenant and Tenant shall have sixty (60) days after receipt thereof to elect whether or not to take new lease thereon commencing
108. upon the completion of such restoration for a term equal to the balance of the term remaining under the Lease at the time the premises
109. become untenable. All other conditions of such lease, including renewal terms, shall be the same as are contained herein and in the
110. Lease. Any rental paid in advance and at the time unearned shall be refunded. SEE ADDITION TO PARAGRAPH 16.
111. *one hundred fifty (150)
112. 17. ~~Landlord agrees to indemnify Tenant from and hold Tenant harmless from any and all claims which may arise from, on, in or about the demised premises~~
113. ~~or claims against the premises or the operation of the premises, including claims for personal injury, property damage, or other claims, which may be asserted~~
114. ~~against Landlord or Tenant or both, in connection with the use of the premises, including claims for personal injury, property damage, or other claims, which may be asserted~~
115. ~~against Landlord or Tenant or both, in connection with the use of the premises, including claims for personal injury, property damage, or other claims, which may be asserted~~
116. 18. ~~Landlord agrees to indemnify Tenant from and hold Tenant harmless from any and all claims which may arise from, on, in or about the demised premises~~
117. ~~or claims against the premises or the operation of the premises, including claims for personal injury, property damage, or other claims, which may be asserted~~
118. ~~against Landlord or Tenant or both, in connection with the use of the premises, including claims for personal injury, property damage, or other claims, which may be asserted~~
119. ~~against Landlord or Tenant or both, in connection with the use of the premises, including claims for personal injury, property damage, or other claims, which may be asserted~~
120. 19. Except as otherwise provided herein, Landlord shall not be liable for any damage to fixtures or merchandise of Tenant caused
121. by fire or other hazards normally covered by fire and extended coverage insurance, regardless of the cause thereof, and Tenant does hereby
122. expressly release Landlord of and from all liability for such damages. Tenant shall not be liable for any damage to the demised premises,
123. or any part thereof, caused by fire or other insurable hazards, regardless of the cause thereof, and Landlord does hereby expressly
124. release Tenant of and from all liability for such damages. Landlord agrees to keep the demised premises insured for fire and extended
125. coverage for the insurable value thereof in responsible insurance companies authorized to do fire and extended coverage insurance business
126. in the state where demised premises are located. Landlord agrees that all insurance policies, including fire and extended coverage insurance, shall include
127. a clause waiving rights of subrogation against the Tenant.
128. 20. Landlord agrees to hold each other
129. and Tenant agree to hold each other
130. when such claims arise out of or are caused in whole or in part by a defective, dangerous, or unsafe condition of the premises, equip-
131. ment, fixtures, or appurtenances owned by or for the terms hereof to be maintained in good repair by Landlord or Tenant.
132. SEE ADDITION TO PARAGRAPH 20.
133. 21. In the event the premises are damaged, or any part thereof, or when in condemnation proceedings, or when in condemnation proceedings, or when in condemnation proceedings,
134. Lease, in the event any part of the buildings of the Shopping Center, or Common Area, or right-of-way adjoining or adjacent to the
135. Shopping Center are taken in condemnation proceedings to that in the reasonable judgment of Tenant the premises remaining would be
136. unsatisfactory for Tenant's business operation, Tenant may cancel this Lease, or at its option, retain the premises, in which event Landlord
137. will restore the entire remaining Shopping Center to proper tenable condition forthwith. Until the Shopping Center is restored to
138. proper tenable condition rental shall abate. Thereafter rental shall be reduced in proportion to the amount of land and/or building area
139. lost, or if Tenant shall elect in proportion to the effect of the loss of such area on Tenant's business. For the purpose of this paragraph,
140. the term "condemnation proceedings" shall include conveyances and grants made in anticipation of or in lieu of condemnation proceedings
141. ~~and shall include any other proceedings which result in the taking of all or part of the premises for public use.~~
142. 22. Landlord represents and warrants to Tenant, and this Lease has been entered into by Tenant in reliance upon the representation
143. and warranty of Landlord, that such Shopping Center will contain at least the following tenants with store signs set opposite their names
144. under leases for terms not less than twenty-five (25) years which are non-cancelable during such time by such tenants and Landlord
145. covenants not to consent to cancellation of any such Lease, to wit: except as provided therein

K-MART DEPARTMENT STORE - 84,180 SQ. FT.

142. 23. Landlord agrees that it has or will acquire lawful title and right to make this Lease for the term aforesaid and that he will
143. provide Tenant with evidence thereof prior to the time at which Tenant takes possession of the premises, and that he will put the
144. Tenant into complete and exclusive possession of the premises, including joint use of the Common Area, free from all orders, restrictions
145. and notices of any public or quasi-public authority, and that if the Tenant shall pay the rental and perform all the covenants and
146. provisions of this Lease to be performed by the Tenant, the Tenant shall during the term demised, freely, peaceably and quietly occupy
147. and enjoy the full possession of the premises hereby leased, including the joint use of the Common Area, and the tenements, hereditaments
148. and appurtenances thereunto belonging and the rights and privileges herein granted without molestation or hindrance, ~~and~~ and that if at any time during the term hereby demised the title of the Landlord shall fail or be discovered not to enable Landlord to
149. grant the term hereby demised the Tenant shall have the option, at Landlord's expense, to correct any default, or amend and void this Lease
150. after thirty (30) days' written notice to Landlord. *not to exceed \$10,000.00
151. 24. Landlord represents and warrants that the demised premises and the entire Shopping Center are free and clear of any and all
152. incumbrances excepting real estate taxes and assessments for the current year and thereafter which are assumed and will be paid
153. by Landlord as they become due and payable, and except
154. Landlord hereby agrees that no mortgage, deed of trust, or lease has been or will be
155. recorded on the demised premises prior to the recording of this Lease.
156. SEE ADDITION TO PARAGRAPH 24.

154. If any mortgage, deed of trust, or lease has been recorded on the demised premises prior to the recording of the Lease, Landlord will
155. notify Tenant thereof and will deliver to Tenant, in form satisfactory to Tenant, Subordination Agreements subordinating any such
156. instruments to the Lease. Landlord and Tenant agree that this Lease Agreement shall not be recorded.

157. 25. Tenant may sublet or assign the demised premises at any time provided the business which such subtenant or assignee proposes
158. to conduct does not conflict with exclusive rights granted by Landlord in leases to other tenants. Tenant may notify Landlord of its intent
159. to sublet or assign and the nature of the business proposed to be conducted by the subtenant or assignee. If such notice is given and
160. Landlord does not object within ~~ten~~ days, it shall be conclusively presumed that the proposed business does not conflict with any exclusive
161. rights. Landlord shall, at any time Tenant may request, supply to Tenant copies of leases to other tenants of all classes granting
162. exclusive rights to conduct various businesses in the Shopping Center. SEE ADDITION TO PARAGRAPH 25.

163. 26. Landlord agrees that Tenant may, at its sole cost and expense, construct facilities for single or double ended gasoline
164. related products dispensing units (including an appropriate sign) at the location shown on the attached plot plan. If constructed,
165. Tenant shall be responsible for keeping that portion of the Common Area used in connection with said gasoline dispensing unit in good
166. repair, clean, and to remove ice and snow therefrom. Tenant shall be responsible for the cost of all maintenance required of said gaso-
167. line dispensing unit and for any real estate taxes attributable to said gasoline dispensing unit. Tenant shall indemnify Landlord against
168. any claim for damage to property and any claim arising out of the injury or death of any person resulting from the operation of said
169. gasoline dispensing unit. Tenant shall, within sixty (60) days after the termination of this lease, remove said gasoline dispensing unit
170. and restore the Common Area to its original condition as shown on the attached plot plan.

171. 27. All notices required under this Lease shall be deemed to be properly served if delivered in writing personally or sent by
172. certified or registered mail with return receipt requested, to Landlord at the last address where rent was paid or to Tenant at its Office at
6050 NORTH LINDBERGH BOULEVARD, HAZELWOOD, MISSOURI 63042

173. or to any subsequent address which either may designate for such purpose. Date of service of a notice served by mail shall be the
174. date on which such notice is deposited in a post office of the United States Post Office Department.

175. 28. This instrument, its attachments and the Lease contain the entire agreement between the parties and there are no covenants,
176. express or implied, except as contained herein. No statement, promise or inducement made by either party or agent of either party that is
177. not contained in this written agreement shall be valid or binding. No waiver of any condition or covenant of this Lease by either party
178. shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant of said Lease.

179. The provisions of this Lease shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators,
180. successors and assigns
181. 30. Make rent checks payable to W. B. WIGGINS, SR.
182. _____
183. and mail them to the following address: 1630 - 1st NATIONAL BANK TOWER
184. ATLANTA, GEORGIA 30303

SEE RIDER CONSISTING OF 518 NUMBERED TYPEWRITTEN LINES ATTACHED HERETO
AND MADE A PART HEREOF.

IN WITNESS WHEREOF, this Lease Agreement has been duly executed as of the day and year first above written.

Signed and acknowledged in
triplicate in presence of:
Witnesses for Landlord:

Frank Bridgman
Lisa Williams

Witnesses for Tenant:

Charles E. Briggs
Dorothy E. Rogers



Landlord: W. B. WIGGINS, SR.

[Signature] (Seal)

(Seal)

Tenant:

THE KROGER CO.

By [Signature]
H. A. Savall, Vice-President

Gateway

Marketing Assoc.



R I D E R

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1. This rider consisting of 518 numbered typewritten lines is hereby attached
2. to and is made a part of this Lease Agreement between W. B. WIGGINS, SR., an
3. individual, as Landlord, and THE KROGER CO., an Ohio corporation, as
4. Tenant.

5. ADDITION TO PARAGRAPH 2: Tenant agrees to accept Landlord's plans or to
6. notify Landlord of any required changes within forty-five (45) days of receipt
7. of plans. In the event Tenant fails to either approve or disapprove said plans
8. within said forty-five (45) days, then such plans shall be deemed approved by
9. Tenant. If Landlord and Tenant fail to agree on plans and specifications with-
10. in sixty (60) days after receipt of plans by Tenant, this Lease shall become
11. null and void, and neither party shall have any further liability hereunder.
12. Upon approval, each party shall signify their approval by signing each page of
13. the approved plans and specifications.

14. ADDITION TO PARAGRAPH 3: Landlord warrants that during the term of this
15. Lease and any renewals hereof Tenant shall have 360 degree vehicular access
16. around all the buildings comprising the Shopping Center.

17. Tenant agrees to pay to Landlord its proportionate share of Landlord's actual
18. cost of care and upkeep of the Common Area. Landlord or Landlord's agent will
19. bill Tenant no later than forty-five (45) days after the end of the annual
20. lease year for Tenant's proportionate share of such costs. Care and upkeep
21. shall include, among other things, such items as lighting, police, cleaning,
22. snow removal, striping, and landscaping maintenance, but shall not include re-
23. pairs which Landlord undertakes to make at its own expense as provided for here-
24. tofore. Tenant's share of such costs shall be in the ratio that the total floor
25. space leased by Tenant bears to the total floor space in said Shopping Center at
26. the time such charges are incurred. Tenant shall not be obligated to Landlord
27. hereunder until Tenant receives from Landlord an itemized statement of total
28. Common Area expense along with the computation of Tenant's proportionate share
29. of such costs. Tenant acknowledges that some costs incurred by Landlord for
30. care and upkeep of the Common Area may cover both Tract A and Tract E as shown
31. on the plot plan attached hereto. Tenant agrees that the amount of any such
32. cost covering both Tract A and Tract E shall be allocated to Tract A in the same
33. proportion that the total floor space located on Tract A at the end of a particu-
34. lar lease year bears to the total floor space in both Tract A and Tract E at the
35. end of such lease year.

36. Landlord shall have the right to permit S. S. Kresge Company, its successors and
37. assigns, to construct additional buildings not to exceed 15,000 square feet on
38. the Common Area, provided that all such buildings are constructed within that
39. portion of the Common Areas located on the southeastern side of the main entrance
40. to the Center from Highway 141 shown on the plot plan attached hereto. The
41. number of parking spaces required by Paragraph 3 hereof shall be reduced by the
42. number of spaces covered by such additional buildings.

43. In the event Tenant elects to maintain store hours beyond 11:00 p.m., Tenant
44. agrees to pay its proportionate share of any increased cost caused by the main-
45. taining lot lights being maintained after 11:00 p.m. Tenant's share of such cost
46. shall be in the ratio that the total floor space leased by Tenant bears to the
47. total floor space of all tenants maintaining store hours later than 11:00 p.m.
48. in said Shopping Center at the time such charges are incurred.

49. Landlord will neither use nor permit to be used any part of the Common Area
50. lying northeasterly of the northerly side of the transmission line easement shown
51. on the attached plot plan for carnivals, road shows, amusement rides, exhibits,
52. etc.

53. Tenant shall provide for the storage, removal, and disposal of trash and refuse
54. from its premises at its sole expense, and will not permit same to collect and
55. clutter on the Common Area. Tenant shall be responsible for sweeping behind
56. its own storeroom.

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57. ADDITION TO PARAGRAPH 6: In the event of delays in construction caused by
58. strikes, war, acts of God, or other causes beyond the control of landlord, the
59. commencement and expiration dates of this Lease will be extended for a period
60. of time equal to the time of any such delays; however, the total period of all
61. such delays shall not exceed one hundred eighty (180) days.
62. Upon delivery of Tenant's building in accordance with the terms hereof, and
63. upon written request of Landlord, Tenant shall, within fifteen (15) days after
64. such request, execute and deliver to Landlord a written acceptance, in a form
65. reasonably satisfactory to any institutional lender who proposes to make a
66. first mortgage loan on the demised premises. In the event Tenant's building is
67. not completed according to plans and specifications hereinabove described,
68. Tenant shall promptly describe said deficiencies in the form of a punch list
69. and return to Landlord, whereupon Landlord will expeditiously complete said de-
70. ficiencies.
71. MODIFICATION OF PARAGRAPH 9: In the event (a) Tenant defaults for thirty (30)
72. days after written notice thereof in paying any rental payments hereunder; or
73. (b) Tenant defaults for thirty (30) days after written notice thereof in perform-
74. ing any other of its obligations hereunder; or (c) Tenant is adjudicated a bank-
75. rupt; or (d) a permanent receiver is appointed for Tenant's property, including
76. Tenant's interest in premises, and such receiver is not removed within sixty
77. (60) days after written notice from Landlord to Tenant to obtain such removal;
78. or (e) whether voluntarily or involuntarily, Tenant takes advantage of any
79. debtor relief proceedings under any present or future law, whether the rent or
80. any part thereof is, or is proposed to be, reduced or payment thereof deferred;
81. or (f) Tenant makes an assignment for benefit of creditors; or (g) premises or
82. Tenant's effects or interest therein should be levied upon or attached under
83. process against Tenant, not satisfied or dissolved within sixty (60) days after
84. written notice from Landlord to Tenant to obtain satisfaction thereof; then, and
85. in any of said events, Landlord shall have the option to do any of the following
86. (in addition to and not in limitation of any other remedy permitted by law or by
87. this Lease):
88. 1. Terminate this Lease, in which event Tenant shall immediately surrender the
89. premises to Landlord, but if Tenant shall fail to do so, Landlord may with-
90. out further notice and without prejudice to any other remedy which Landlord
91. may have for possession or arrearages in rent, enter upon the premises and
92. expel or remove Tenant and its effects, by force if necessary, without being
93. liable to prosecution of any claim for damages thereof, or
94. 2. Re-enter for and on behalf of Tenant, the demised premises by summary pro-
95. ceedings or otherwise, expel Tenant and remove all property therefrom, relet
96. premises at the best possible rent readily obtainable, and receive the rent
97. therefrom; provided, however, Tenant shall remain liable for the equivalent
98. of the amount of all rent reserved herein less the avails of reletting, if
99. any, after deducting therefrom the reasonable cost of obtaining possession
100. of said premises and of any repairs and alterations necessary to prepare it
101. for reletting. Any and all monthly deficiencies so payable by Tenant shall
102. be paid monthly on the date herein provided for the payment of rent.
103. MODIFICATION OF PARAGRAPH 10: Tenant may use the demised premises in any law-
104. ful manner. Landlord will supply any apparatus, appliance or material and will
105. cause any work to be done in and about the demised premises which may be re-
106. quired or ordered by any lawful authority unless such requirement is brought
107. about specifically by Tenant's particular type of business operation, in which
108. case Tenant shall supply and install the same; provided, however, that Tenant
109. shall not use the demised premises for any use which would conflict with exclu-
110. sive rights granted other tenants in the Shopping Center of which Tenant has
111. been given notice; provided further that nothing contained herein shall prohibi-
112. Tenant from using the demised premises as a food store, or for the sale of any
113. other items which are incidental to the conduct of its food store business.
113a. Tenant shall not use any portion of the demised premises for the sale of fireworks.

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114. MODIFICATION OF PARAGRAPH 11: Landlord shall maintain the structure and the
115. exterior of the premises, including, but without limitation, all paved areas,
116. outside lighting fixtures (other than replacement of bulbs), all structural por-
117. tions of the building, subfloor, and exterior utility and service pipes and
118. lines. Tenant shall be responsible for maintenance, repair, and servicing of
119. water heaters, heating and air conditioning equipment, and door openers (except
120. repairs and maintenance covered by warranties held by Landlord). Tenant shall
121. be responsible for all repairs, maintenance, and replacement, except that above
122. assumed by Landlord. Any damage to Tenant's property occurring by reason of
123. Landlord's failure to maintain and repair the demised premises after reasonable
124. notice to Landlord.
- 124a. In the event Tenant, at Tenant's discretion, must replace the heating, ventilation,
124b. and air conditioning system (HVAC) during the term of this Lease or any renewals
124c. and hereof, Landlord agrees that the cost of said replacement can be deducted from, and
124d. an offset against, any average payment due from Tenant to Landlord and on a cumula-
124e. tive basis until the cost of the new heating, ventilation, and air conditioning
124f. system (HVAC) is fully recovered by Tenant.
130. If Tenant's statement of such cost. Should Landlord fail to
131. pay Tenant's statement within thirty (30) days after receipt, Tenant may deduct
the cost thereof from rent thereafter payable.
132. ADDITION TO PARAGRAPH 13: Landlord agrees that Tenant may, at its expense,
133. install a Kroger logo (oval shaped sign) and/or cube sign on the herein demised
134. premises at the locations shown on the plot plan attached hereto, provided said
135. signs are not disapproved by S. S. Kresge Co. Landlord agrees, at its expense,
136. to provide for the necessary electrical service and sign base as described in
137. plans and specifications given to Landlord as provided in Paragraph 2 hereof.
138. Notwithstanding the foregoing, Tenant acknowledges and agrees that S. S. Kresge
139. Co. is not restricted in the matter of signs on the demised premises. Tenant
140. shall have the right (a) to place a flat wall sign on its store, provided such
141. sign is utilized solely for advertising Tenant's name, and (b) to erect one
142. pylon-type sign of a height and dimension to be approved by Landlord and subject
143. to the consent of S. S. Kresge Co. In addition, with the consent of S. S. Kresge
144. Co., in lieu of (b) above, Tenant shall have the right, at its sole cost and
145. expense, to attach a sign to Kresge's pylon, if Kresge erects said pylon, immedi-
146. ately below Kresge's sign, provided that the size, dimensions, and location of
147. Tenant's sign shall be subject to Kresge's approval and that the cost of the
148. supporting steel columns, including installation thereof, shall be shared by
149. Tenant in the same ratio as the square footage of its sign bears to the square
150. footage of Kresge's sign.
151. ADDITION TO PARAGRAPH 14: Tenant agrees to cause any liens for work done or
152. materials furnished incurred by it in such work to be promptly discharged and
153. agrees to indemnify and hold harmless Landlord for any expense occasioned thereby
154. ADDITION TO PARAGRAPH 15: Any damage to the premises caused by the removal of
155. fixtures and equipment is to be repaired by Tenant, reasonable wear and tear ex-
156. cepted.
157. ADDITION TO PARAGRAPH 16: In the event the premises shall be damaged, in
158. whole or in part, by more than fifty (50%) per cent, within the last thirty-six
159. (36) months of the original term, or the last thirty-six (36) months of any re-
160. newal term, Landlord shall have the option to cancel this Lease, exercisable
161. within thirty (30) days following such damage, provided, however, that if at
162. the time of such damage Tenant has the right to exercise a renewal option which
163. will extend the term of this Lease to a date no earlier than five (5) years
164. following such damage, and if Tenant exercises such option by notice to the
165. Landlord within thirty (30) days following any exercise of Landlord's right to
166. cancel as provided above, Landlord shall have no right to terminate under the
167. provisions of this paragraph, and any previously attempted exercise by Landlord
168. of such right shall be ineffective.
169. MODIFICATION OF PARAGRAPH 17: If all or any part of the Common Area is ob-
170. structed or blocked for repairs, reconstruction, or otherwise, for a period of
171. more than three (3) business days to the extent that Tenant's weekly sales are
172. reduced, a proportionate reduction of rent shall be made. Average weekly sales

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173. MODIFICATION OF PARAGRAPH 17 (Cont'd): produced by Tenant's business during
174. the twelve (12) weeks preceding the date on which all or any part of the Common
175. Area is obstructed or blocked for repairs, reconstruction, or otherwise, shall
176. be the basis for determining the extent that the operation of Tenant's business
177. is adversely affected by said obstruction or blockage.
178. If either Missouri Highway 141 or U.S. Highway 67 (Lemay Ferry Road) is ob-
179. structed or blocked for repairs, reconstruction, or otherwise, to the extent
180. that the operation of Tenant's business is adversely affected, a proportionate
181. reduction of rent shall be made. The manner for determining the extent that
182. the operation of Tenant's business is adversely affected will be as set forth
183. in lines 169 through 177 above.
184. If U.S. Highway 67 is obstructed or blocked for repairs, reconstruction, or
185. otherwise, to the extent that vehicular ingress and egress at this Shopping
186. Center is denied, rent shall abate, provided, however, if Tenant elects to
187. continue its business operation, thereafter rent shall be reduced proportion-
188. ately as provided in Lines 169 through 177 above.
189. If, for any reason, customer access to the herein demised premises is totally
190. obstructed or blocked, rent shall totally abate during said blockage.
191. MODIFICATION OF PARAGRAPH 18: Landlord assumes the liability for plate glass
192. breakage during the first year of the term of this Lease unless caused by
193. Tenant, its agents or employees. Tenant assumes the liability for plate glass
194. breakage thereafter unless caused by structural failure, material or installa-
195. tion defects, or by Landlord, its employees or agents, provided the said plate
196. glass is in an insurable condition on the expiration date of the first year of
197. the term of this Lease.
198. ADDITION TO PARAGRAPH 20: In the event of an assignment of this Lease by
199. The Kroger Co., Tenant agrees to carry public liability insurance in the amount
200. of \$100,000, \$500,000, and \$50,000 to protect Landlord in respect to those
201. things which are Tenant's responsibility to maintain and keep in good repair
202. under the terms of this Lease, and with respect to any negligence by Tenant or
203. its employees.
204. MODIFICATION OF PARAGRAPH 21: In the event Tenant's building hereby leased,
205. or any part thereof, are taken in condemnation proceedings, Tenant may cancel
206. this Lease. In the event (a) any part of the building leased by S.S. Kresge
207. Company is taken and S.S. Kresge Company elects to terminate its lease on said
208. building by virtue of such taking, or (b) a portion of the Common Area or the
209. approaches to the Shopping Center are taken so that in the reasonable judgment
210. of Tenant, the premises remaining would be unsatisfactory for Tenant's business
211. operation, then, in either of such events, Tenant may cancel this Lease, or, at
212. its option, retain the premises in which event Landlord will promptly restore
213. the Shopping Center as nearly as practicable to complete units of like quality
214. and character as existed prior to the condemnation (provided, however, that
215. Landlord shall not be required to restore the S.S. Kresge building in the event
216. S.S. Kresge Company has terminated its lease thereon). Until the Shopping
217. Center is restored to proper tenantable condition, no rental shall be paid by
218. Tenant pursuant to Paragraph 8 but percentage payment computed at the rate set
219. forth in this Lease (but without regard to any minimum sales base) shall be
220. paid on all sales, as defined herein, made by Tenant from the demised premises
221. during such period. Thereafter, the amount of rental provided for in Paragraph
222. 8 and the minimum sales base for percentage payment shall be equitably reduced
223. in proportion to the amount of land/or building area taken by such condemnation.
224. For the purpose of this paragraph, the term "condemnation proceedings" shall in-
225. clude conveyances and grants made in anticipation or in lieu of condemnation pro-
226. ceedings. Nothing herein contained shall constitute a waiver of Tenant's right
227. to compensation for damages.
228. Should a total of less than 100 feet in all condemnations be taken along the
229. property line fronting on U.S. Highway 67, and/or should a total of less than
230. 100 feet in all condemnations be taken along the property line fronting on

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231. MODIFICATION OF PARAGRAPH 21 (Cont'd): Missouri Highway 141, as those right-
232. of-way lines now exist and are shown on the attached plot plan, the cancellation
233. provisions and rental reduction provisions of the Lease shall not operate, pro-
234. vided vehicular access for ingress and egress between the Common Area and the
235. aforesaid streets remains during and after such taking, in equal numbers and in
236. comparable locations. The condemnation limit lines are shown on the plot plan
237. in green. *and provided that Tenant's access to its dock remains unimpeded.
238. ADDITION TO PARAGRAPH 24: Upon written request by Landlord, Tenant shall exe-
239. cute and deliver an agreement in a form reasonably satisfactory to any institu-
240. tional lender who proposes to make a first mortgage loan on the demised premises,
241. subordinating this Lease to any first mortgage upon the demised premises, pro-
242. vided, however, such subordination shall be upon the express condition that the
243. validity of this Lease shall be recognized by the mortgagee, and that, notwith-
244. standing any default by the mortgagor with respect to said mortgage or any fore-
245. closure thereof, Tenant's possession and right of use under this Lease in and
246. to the demised premises shall not be disturbed by such mortgage unless and until
247. Tenant shall breach any of the provisions hereof and this Lease or Tenant's
248. right to possession hereunder shall have been terminated in accordance with the
249. provisions of this Lease.
250. ADDITION TO PARAGRAPH 25: Should Tenant sublet or assign the demised premises
251. as set forth herein, Tenant agrees that it shall remain primarily liable under
252. the terms of this Lease and Lease Agreement.
253. In the event Tenant elects to cease operation and the demised premises remain
254. vacant for a period in excess of one (1) year, Landlord has the right to uncon-
255. ditionally cancel this Lease, and neither party shall have any further liability
256. hereunder, other than any obligations incurred hereunder prior to such termina-
257. tion date, further provided, however, that all such obligations by either party
258. will be asserted within sixty (60) days after such termination date.
259. SURRENDER OF PREMISES: Tenant shall deliver up and surrender to Landlord pos-
260. session of the premises upon the expiration of this Lease or its termination and
261. deliver the keys to Landlord or Landlord's agent, and Landlord shall execute a
262. key release in a form acceptable to Landlord and Tenant. If at the expiration
263. of the term of this Lease or any renewal hereof Tenant continues to occupy the
264. premises, such holding over shall not constitute a renewal of this Lease, but
265. Tenant shall be a Tenant from month to month.
266. NOTICE TO MORTGAGEE: Provided the holder of a first mortgage covering the
267. demised premises shall have notified Tenant in writing that it is the holder of
268. such lien on the demised premises and shall so request, Tenant shall provide
269. such holder with a duplicate copy of any notice sent to Landlord covering a de-
270. fault thereunder, and such holder shall be granted sixty (60) days after receipt
271. of said notice to correct or remedy such default, during which period Tenant
272. shall not exercise any remedies otherwise available to it hereunder.
*except for those matters covered in Paragraph 12 and the Addition to Paragraph 12 herein.
273. RESERVE TRACT B: Landlord does hereby reserve, and Tenant consents to such
274. reservation, the right to grant and convey to the owner (including Landlord)
275. from time to time of Tract B, and shown on the site plan attached hereto as
276. Exhibit B, for the benefit of such owner, its successors, successors-in-title
277. and assigns, and the customers, tenants and business invitees of such owner,
278. their successors, successors-in-title and assigns, a non-exclusive easement for
279. the purpose of passage and use for walking upon and driving and parking vehicles
280. upon, over and across all those sidewalks, entrances, driveways and parking areas
281. now or hereafter located on the Shopping Center premises.
282. In the event Landlord grants the non-exclusive easement referred to above, then,
283. as part of such granting, Landlord shall obtain for the benefit of Tenant, its
284. successors, successors-in-title, and assigns and the customers, tenants and
285. business invitees of each, a non-exclusive easement for the purpose of passage
286. and use for walking upon and driving and parking vehicles upon, over and across
287. all those sidewalks, entrances, driveways, lanes and parking areas now or here-
288. after located on Tract B.

to take action without notifying mortgagee pursuant to the
items which would allow Tenant to alter, rent or cancel lease

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289. RESERVE TRACT B (Cont'd): Landlord warrants that:
290. (a) No building or buildings constructed on Tract B shall contain a second
291. story (a balcony or mezzanine shall not be considered a second story)
292. nor shall any parapet or tower of such building extend more than twenty
293. (20) feet in height above the ground (except for signs normally used in
294. the course of business); and
295. (b) Tract B shall at no times contain more than 7,000 square feet of gross
296. building areas, excluding loading docks, garden shops and other similar
297. facilities.
298. Tenant agrees that so long as the conditions of (a) and (b) above have been,
299. and continue to be met, Tenant shall not erect or construct, or ~~permit to be~~ have
300. erected or constructed, any fence, wall, curbs or other barrier between
301. Tract B and the Shopping Center premises, or in any manner interfere with
302. or restrict the full and complete use and enjoyment of any part of the ease-
303. ment reserved and granted hereby. 5
304. RESERVE TRACT C: Landlord does hereby reserve, and Tenant consents to such
305. reservation, the right to grant and convey to the owner (including Landlord)
306. from time to time of Tract C, as shown on the site plan attached hereto as
307. Exhibit B, for the benefit of such owner, its successors, successors-in-title
308. and assigns, and the customers, tenants and business invitees of such owner,
309. their successors, successors-in-title and assigns, a non-exclusive easement
310. for the purpose of passage and use for walking upon and driving and parking
311. vehicles upon, over and across all those sidewalks, entrances, driveways and
312. parking areas now or hereafter located on the Shopping Center premises.
313. In the event Landlord grants the non-exclusive easement referred to above, then,
314. as part of such granting, Landlord shall obtain for the benefit of Tenant, its
315. successors, successors-in-title, and assigns and the customers, tenants and
316. business invitees of each, a non-exclusive easement for the purpose of passage
317. and use for walking upon and driving and parking vehicles upon, over and across
318. all those sidewalks, entrances, driveways, lanes and parking areas now or here-
319. after located on Tract C.
320. Landlord warrants that:
321. (a) No building or buildings constructed on Tract C shall contain a second
322. story (a balcony or mezzanine shall not be considered a second story) nor
323. shall any parapet or tower of such building extend more than twenty (20)
324. feet in height above the ground (except for signs normally used in the
325. course of business); and
326. (b) Tract C shall at no times contain more than 7,000 square feet of gross
327. building areas, excluding loading docks, garden shops and other similar
328. facilities.
329. (c) Tract C shall not be used for the purpose of operation of a bowling alley or
330. Tenant agrees that so long as the conditions of (a) and (b) above have been,
331. and continue to be met, Tenant shall not erect or construct, or ~~permit to be~~ have
332. erected or constructed, any fence, wall, curbs or other barrier between Tract
333. C and the Shopping Center premises, or in any manner interfere with or re-
334. strict the full and complete use and enjoyment of any part of the easement
reserved and granted hereby. W

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335. RESERVE TRACT D: Landlord does hereby reserve, and Tenant consents to such
336. reservation, the right to grant and convey to the owner (including Landlord)
337. from time to time of Tract D or any subportion thereof, as shown on the site
338. plan attached hereto as Exhibit B, for the benefit of such owner, its succes-
339. sors, successors-in-title and assigns, and the customers, tenants and business
340. invitees of such owner, their successors, successors-in-title and assigns, a
341. non-exclusive easement for the purpose of passage and use for walking upon and
342. driving and parking vehicles upon, over and across all those sidewalks, en-
343. trances, driveways and parking areas now or hereafter located on the Shopping
344. Center premises.

345. In the event Landlord grants the non-exclusive easement referred to above, then,
346. as part of such granting, Landlord shall obtain for the benefit of Tenant, its
347. successors, successors-in-title, and assigns and the customers, tenants and
348. business invitees of each, a non-exclusive easement for the purpose of passage
349. and use for walking upon and driving and parking vehicles upon, over and across
350. all those sidewalks, entrances, driveways, lanes and parking areas now or here-
351. after located on Tract D on the related subportion thereof.

352. Landlord warrants that:

353. ~~(a) No building or buildings constructed on Tract D or any subportion thereof~~
354. shall contain a second story (a balcony or mezzanine shall not be con-
355. sidered a second story) nor shall any parapet or tower of such building
356. extend more than twenty (20) feet in height above the ground (except for
357. signs normally used in the course of business); and

358. (b) Tract D shall at no times contain more than 18,000 square feet of gross
359. building area, excluding loading docks, garden shops and other similar
360. facilities.

361. Tenant agrees that so long as the conditions of (a) and (b) above have been,
362. and continue to be met, Tenant shall not erect or construct, or ~~permit to be~~ erect
363. erected or constructed, any fence, wall, curbs or other barrier between Tract
364. D and the Shopping Center premises, or in any manner interfere with or restrict
365. the full and complete use and enjoyment of any part of the easement reserved
366. and granted hereby.

367. RESERVE TRACT E: Landlord does hereby reserve, and Tenant consents to such
368. reservation, the right to grant and convey to the owner (including Landlord)
369. from time to time of Tract E, as shown on the site plan attached hereto as
370. Exhibit B, for the benefit of such owner, its successors, successors-in-title
371. and assigns, and the customers, tenants and business invitees of such owner,
372. their successors, successors-in-title and assigns, a non-exclusive easement
373. for the purpose of passage and use for walking upon and driving and parking
374. vehicles upon, over and across all those sidewalks, entrances, driveways and
375. parking areas now or hereafter located on the Shopping Center premises.

376. In the event Landlord grants the non-exclusive easement referred to above,
377. then, as part of such granting, Landlord shall obtain for the benefit of Tenant,
378. its successors, successors-in-title, and assigns and the customers, tenants and
379. business invitees of each, a non-exclusive easement for the purpose of passage
380. and use for walking upon and driving and parking vehicles upon, over and across
381. all those sidewalks, entrances, driveways, lanes and parking areas now or here-
382. after located on Tract E.

383. Landlord warrants that:

384. (a) No building or buildings constructed on Tract E shall contain a second
385. story (a balcony or mezzanine shall not be considered a second story) nor
386. shall any parapet or tower of such building extend more than twenty (20)
387. feet in height above the ground (except for signs normally used in the
388. course of business); and

389. (b) Tract E shall at no time contain more than 40,000 square feet of gross
390. building area, excluding loading docks, garden shops and other similar
391. facilities.

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392. RESERVE TRACT E (Cont'd):

393. (c) Any development on Tract E will be constructed in such a manner so that
394. the front wall lines will not project into the common area any further
395. than as shown on the attached site plan Exhibit B.
395a. (d) Tract E shall not be used for the purpose of operation of a bowling alley or tea
396. Tenant agrees that so long as the conditions of (a), and (b), ^{above} have been,
397. and continue to be met, Tenant shall not erect or construct, or ~~permit to be~~ have
398. erected or constructed, any fence, wall, curbs or other barrier between Tract
399. E and the Shopping Center premises, or in any manner interfere with or restrict
400. the full and complete use and enjoyment of any part of the easement reserved
401. and granted hereby.

402. RESERVE TRACT F: Landlord does hereby reserve, and Tenant consents to such
403. reservation, the right to grant and convey to the owner (including Landlord)
404. from time to time of Tract F, as shown on the site plan attached hereto as
405. Exhibit B, for the benefit of such owner, its successors, successors-in-title
406. and assigns, and the customers, tenants and business invitees of such owner,
407. their successors, successors-in-title and assigns, a non-exclusive easement
408. for the purpose of passage and use for walking upon and driving and parking
409. vehicles upon, over and across all those sidewalks, entrances, driveways and
410. parking areas now or hereafter located on the Shopping Center premises.

411. In the event Landlord grants the non-exclusive easement referred to above, then,
412. as part of such granting, Landlord shall obtain for the benefit of Tenant, its
413. successors, successors-in-title, and assigns and the customers, tenants and
414. business invitees of each, a non-exclusive easement for the purpose of passage
415. and use for walking upon and driving and parking vehicles upon, over and across
416. all those sidewalks, entrances, driveways, lanes and parking areas now or here-
417. after located on Tract F.

418. Landlord warrants that:

419. (a) No building or buildings constructed on Tract F shall contain a second
420. story (a balcony or mezzanine shall not be considered a second story) nor
421. shall any parapet or tower of such building extend more than twenty (20)
422. feet in height above the ground (except for signs normally used in the
423. course of business); and

424. (b) Tract F shall at no time contain more than 6,000 square feet of gross
425. building area, excluding loading docks, garden shops and other similar
426. facilities.

427. Tenant agrees that so long as the conditions of (a) and (b) above have been,
428. and continue to be met, Tenant shall not erect or construct, or ~~permit to be~~ have
429. erected or constructed, any fence, wall, curbs or other barrier between Tract
430. F and the Shopping Center premises, or in any manner interfere with or re-
431. strict the full and complete use and enjoyment of any part of the easement
432. reserved and granted hereby.

433. COMPLIANCE WITH EQUAL RIGHTS LAWS: The Tenant, for itself, its representa-
434. tives, successors in interest, and assigns, as a part of the consideration
435. hereof, does hereby covenant and agree as a material inducement to Landlord's
436. execution hereof, that:

437. (a) No person on the ground of race, color, or national origin shall be ex-
438. cluded from participation in, denied the benefits of, or be otherwise
439. subject to discrimination in the use of the demised premises;
440. (b) In the construction of any improvements on, over or under such demised
441. premises and the furnishing of services thereon, no person on the ground
442. of race, color, or national origin shall be excluded from participation
443. in, denied the benefits of, or otherwise be subjected to discrimination;
444. and

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445. COMPLIANCE WITH EQUAL RIGHTS LAWS (Cont'd):

446. (c) Tenant shall use the demised premises in compliance with all other re-
447. quirements imposed by or pursuant to Title 49, Code of Federal Regula-
448. tions, Department of Transportation, Subtitle A, Office of the Secretary,
449. Part 21, Nondiscrimination in Federally-assisted programs of the Depart-
450. ment of Transportation-Effectuation of Title VI of the Civil Rights Act
451. of 1964, and as such Regulations may from time to time be amended.

452. TAX CLAUSE: Tenant agrees to pay all real estate taxes and assessments
453. levied upon the demised premises and a proportionate share of that levied upon
454. the Common Areas. If the demised premises is separately assessed, the propor-
455. tionate share of taxes upon the Common Areas shall be the total taxes upon the
456. Common Areas multiplied by the ratio which the floor area of the demised pre-
457. mises bears to the total ground floor area of all buildings served by said
458. Common Areas. If the demised premises is not separately assessed, Tenant
459. agrees to pay as the demised premises share of taxes the total taxes levied
460. upon all buildings and Common Areas multiplied by the ratio which the floor
461. area of the demised premises bears to the total ground floor area of all build-
462. ings. Landlord shall pay the real estate taxes when due for payment and once
463. each year shall furnish Tenant with properly certified copies of real estate
464. tax payments. Tenant shall, within sixty (60) days, reimburse Landlord for
465. the demised premises share of the taxes. *assessed for period commencing with
the day Tenant opens its store for business in the demised premises.
466. Landlord shall notify Tenant in writing within ten (10) days of receipt of any
467. notice that real estate taxes are to be increased and, in the event Tenant so
468. elects, Landlord shall join with Tenant in proceedings to protest such in-
469. crease. Landlord agrees to pay all taxes before delinquency, and Tenant shall not
469a. be obligated to pay any portion of any penalty for delinquent payment. Any payment due
469b. under shall be prorated as of the termination or expiration date of this Lease. Agree-
470. Any payments made by Tenant to Landlord under this paragraph which exceed the
471. amount paid by Tenant to Landlord under this paragraph for the second full
472. tax year after the commencement of the term of this Lease shall be a non-
473. cumulative credit against any percentage payments due for the year in which
474. such payment is made provided, however, that the maximum annual offset against
475. percentage payment pursuant to this sentence shall be \$10,000.00.

476. Landlord agrees to use its best efforts to obtain a separate assessment for
477. real estate taxes and assessments of ~~Tract A and Tract B~~, as shown on the plot
478. plan attached hereto. In the event such separate assessment cannot be obtained,
479. then Tenant agrees that the amount of real estate taxes and assessments attri-
480. butable to Tract A shall be in the same proportion that the total floor space
481. located on Tract A at the beginning of the tax year in question bears to the
482. total floor space on ~~both Tract A and Tract B~~ at the beginning of such tax year.
*Tracts A, B, C, D, and E

483. PERCENTAGE AGREEMENT: Tenant agrees to pay to Landlord a sum of money equal
484. to one (1%) per cent of its sales in excess of ~~\$12,000.00~~ \$16,000.00 ~~(12,000.00)~~ (16,000.00), hereinafter
485. called the minimum sales base, made from the leased premises during each
486. lease year, provided, however, that in no event shall the sum of money payable
487. under the terms of this paragraph exceed \$10,000.00 in any one lease year. A
488. report of sales made from the leased premises shall be given to Landlord by
489. Tenant within thirty (30) days after the close of the preceding lease year and,
490. if sales disclosed thereby are sufficient to require a payment hereunder, such
491. payment shall accompany such report. For the purpose of this paragraph "sales"
492. shall not include rebates; refunds; allowances to customers; sales taxes im-
493. posed by any governmental authority, cash discounts; cost of trading stamps;
494. sales of cigarettes and other tobacco products; or any excise tax. Receipts
495. from sales of money orders, lottery tickets or insurance; income from check
496. cashing, bank activities or vending machines; and similar receipts or income
497. shall be included in sales only to the extent that any income, commissions,
498. fee, or share of receipts related thereto is retained by Tenant. The words
499. "lease year" shall mean a period of twelve (12) successive months. The first
500. lease year shall begin on the commencement date of this Lease, provided,

*before any offsets provided for herein

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501. PERCENTAGE AGREEMENT (Cont'd): however, that it shall include any period
502. of time preceding the defined lease year during which Tenant is open for busi-
503. ness prior to the commencement date, and further provided that the minimum
504. sales base shall be increased pro rata for any such additional period, but
505. shall not be decreased should Tenant open for business after said commencement
506. date.

507. In the event the premises are ever occupied under a month-to-month tenancy,
508. the percentage payment hereunder shall either be calculated on an annual basis,
509. if the premises are occupied for a full year, or, if not occupied for a full
510. year, shall be calculated on the basis of a pro rata portion of the minimum
511. sales base above stated corresponding to the proportionate part of the year
512. during which rent is paid for the premises by Tenant. Payment in such case
513. shall be made within thirty (30) days after the end of any year of such
514. tenancy or other earlier termination of such tenancy.

515. Nothing herein contained shall be construed to indicate that percentage pay-
516. ments are rentals and Tenant shall at no time be liable for any percentage
517. payments except those specified herein resulting from actual sales (as defined
518. herein) by Tenant.

WITNESSES FOR LANDLORD:

Frank Pridgen
Linn T. Williams

LANDLORD: W. B. WIGGINS, SR.

W. B. Wiggins, Sr.

WITNESSES FOR TENANT:

James E. Hodges
Dorothy E. Rogers

TENANT: THE KROGER CO.

By:

N. A. Sawhill
N. A. Sawhill, Vice President
Gateway Marketing Area

STATE OF _____
COUNTY OF _____ SS

This day, before me, a Notary Public of the State and County aforesaid, personally appeared _____, with whom I am personally acquainted
and who upon oath acknowledged himself to be the Landlord in the foregoing Lease Agreement and acknowledge the signing to be
voluntary act.

Witness my hand and official seal this _____ day of _____, 19 _____

Notary Public

My commission expires _____

STATE OF _____
COUNTY OF _____ } SS

This day, before me, a Notary Public of the State and County aforesaid, personally appeared _____, with whom I am personally acquainted
and who upon oath acknowledged himself/himself to be
of _____

the Landlord in the foregoing Lease Agreement, and that as such officer(s) being duly authorized so to do they executed the foregoing
instrument for the purposes therein contained by signing in the name of the corporation as such officer(s).

Witness my hand and official seal this _____ day of _____, 19 _____

Notary Public

My commission expires _____

STATE OF Mississippi
COUNTY OF Jefferson } SS

This day, before me, a Notary Public of the State and County aforesaid, personally appeared _____

M. A. Samual, Vice President, Gateway Marketing Area, The Kroger Co.,
with whom I am personally acquainted and who upon oath acknowledged himself to be such officer of The Kroger Co., Lessee in the
foregoing Lease Agreement, and that he as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes
therein contained by signing in the name of the corporation as such officer.

Witness my hand and official seal this 12th day of November, 19 76
Maria Wade Notary Public

My commission expires June 4, 1977

STATE OF GEORGIA

COUNTY OF FULTON

I do hereby certify that on this 13th day of August, 19 76, before
me, Nancy L. Stuckey, a Notary Public in and for the County and
State aforesaid, residing therein and duly commissioned, personally appeared
W. B. WIGGINS, SR., who, being by me duly sworn, did depose and say that he resides
in Atlanta, Georgia; that he is the individual described in and who executed the
foregoing instrument; and that he signed, sealed, and delivered said instrument for
the uses and purposes therein set forth, as his free and voluntary act; and that he
signed his name thereto by like order.

In Witness Whereof, I have hereunto set my hand and affixed my official seal
the day and year in this certificate first above written.

Nancy L. Stuckey
Notary Public

My Commission Expires: June 14, 1977
Notary Public, Georgia, State at Large

WITNESSETH:

SEE RIDER CONSISTING OF 114 NUMBERED TYPEWRITTEN LINES ATTACHED HERETO AND MADE A PART HEREOF.

Received 8-22-77 9:11 A.M.
Book 586, Page 730

R I D E R

JEFFERSON COUNTY, MISSOURI TRACT "A"

1. 1. This rider consisting of 114 numbered typewritten lines is hereby
2. attached to and made a part of this First Amended Lease between
3. W. B. WIGGINS, SR., as Landlord, and THE KROGER CO., an Ohio corporation,
4. as Tenant.
5. 2. The legal description as shown in said Lease is hereby deleted and a
6. new legal description as follows is substituted therefor:
7. "All that tract or parcel of land lying or being in Lot 29 and Lot 30 of
8. U. S. Survey 2991, Township 43 North, Range 6 East, and being more particu-
9. larly described as follows:
10. Beginning at an iron pin at the intersection of the southwesterly line of
11. Lot 29, U. S. Survey 2991 (also the northeast line of Arnold Terrace, Block 3)
12. and the northerly right-of-way line of relocated Route 141; thence along said
13. southwesterly line of Lot 29 N 37° 31' W a distance of 663.69' to the point
14. of intersection with the southeasterly right-of-way line of Interstate 55;
15. thence along said right-of-way N 2° 33' 30" E a distance of 104.83' to a
16. point; thence continuing N 13° 40' E a distance of 321.06' to a point; thence
17. leaving said right-of-way S 37° 31' E a distance of 195.36' to a point; thence
18. N 52° 29' E a distance of 300.0' to a point on the southwesterly line of the
19. 100' wide Union Electric Company right-of-way; thence following said right-of-
20. way line N 37° 31' W a distance of 137.16' to an axle; thence crossing said
21. U.E. right-of-way N 52° 34' E a distance of 100.00' to a point on the north-
22. easterly line of said right-of-way; thence following said right-of-way line
23. S 37° 31' E a distance of 159' to a point; thence leaving said right-of-way
24. N 52° 34' E a distance of 330' to a point; thence S 37° 30' E a distance of
25. 724.73' to a point; thence S 52° 34' W a distance of 75.9' to a point; thence
26. S 54° 45' 40" E a distance of 90.09' to a point; thence S 52° 34' W a dis-
27. tance of 15.0' to a point; thence S 21° 30' 43" W a distance of 67.67' to a
28. point; thence N 49° 10' W a distance of 131.0' to a point; thence S 51° 47' W
29. a distance of 235.0' to a point; thence S 37° 57' 18" E a distance of 236.26'
30. to a point on the northerly right-of-way line of old Route 141; thence along
31. said right-of-way and along the chord of a curve (radius 789.0') S 54° 50'
32. 42" W a distance of 71.72' to a concrete monument; thence continuing along
33. said right-of-way and along the chord of a curve (radius 789.0') S 63° 06' W
34. a distance of 154.69' to a concrete monument; thence continuing along said
35. right-of-way S 72° 59' W a distance of 100.35' to a point; thence leaving
36. said right-of-way N 14° 04' W a distance of 263.0' to a point; thence S 66°
37. 30' 40" W a distance of 206.79' to a point; thence S 14° 04' E a distance of
38. 206.0' to a point on the northern right-of-way of relocated Route 141; thence
39. S 75° 56' W a distance of 137.01' to a point; thence S 59° 14' W a distance
40. of 44.65' to an iron pin and the POINT OF BEGINNING. Said tract contains
41. 20.2 acres more or less.
42. Together with a non-exclusive easement for ingress and egress of the follow-
43. ing described property:
44. All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U. S.
45. Survey 2991, Township 43 North, Range 6 E and being more particularly des-
46. cribed as follows:
47. To reach the TRUE POINT OF BEGINNING, start at an iron pin at the point of
48. intersection of the southwesterly line of Lot 29 of U. S. Survey 2991 (also
49. being the northeast line of Arnold Terrace, Block 3) and the northerly right-
50. of-way line of relocated Route 141; thence along said right-of-way of re-
51. located Route 141 N 59° 14' E a distance of 44.65' to a point; thence continu-
52. ing N 75° 56' E a distance of 316.83' to a right-of-way marker; thence con-
53. tinuing S 26° 16' E a distance of 24.65' to a right-of-way marker on the no-
54. rtherly right-of-way of old Route 141; thence along said right-of-way N 72°
55. 59' E a distance of 119.35' to a concrete monument; thence continuing along
56. said right-of-way and the cord of a curve (radius 789.0') N 63° 06' E a dis-
57. tance of 154.69' to a concrete monument; thence continuing along said right-
58. of-way and the chord of a curve (radius 789.0') N 51° 50' E a distance of
59. 154.49' to the POINT OF BEGINNING; thence leaving said right-of-way N 21° 30'
60. 43" E a distance of 273.87' thence N 52° 34' E a distance of 15.0' to a
61. point; thence S 38° 15' E along the Northeast line of a tract of land now or
62. formerly owned by Joseph & Katherine Kochner (Book 152, Page 578) a distance

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63. of 22.05'; thence S 73° 44' E a distance of 104.88' to the point of inter-
64. section with the Northwest right-of-way line of Old Route 141 (S.J.); thence
65. S 46° 13' W along northerly right-of-way of old Missouri Route 141 a distance
66. of 61.15' to a point; thence continuing along said right-of-way S 46° 13' W
67. a distance of 252.76' to a point, said point being the POINT OF BEGINNING.
68. Landlord reserves the right to dedicate the above described property to the
69. appropriate public authority whereupon this easement will be null and void
70. without further action by any party hereto.
71. In addition to the foregoing, as part of Landlord's obligation, Landlord shall
72. complete a paved service road over the land described hereinafter and Tenant
73. shall have an easement for use as a paved service driveway across this parcel.
74. This easement shall be for the benefit of Tenant throughout the entire term
75. of this Lease and any extensions hereof.
76. Landlord shall have the right to construct such service road at any point on
77. the hereinafter described parcel and shall have the right to relocate said
78. service road to any other part of said hereinafter described parcel from time
79. to time; provided, however, that any such relocation shall be accomplished in
80. a manner so as to allow Tenant at all times to have the clear and unobstructed
81. use of a driveway of at least fifty (50') feet in width across the hereinafter
82. described property to provide the orderly, circulatory flow of traffic around
83. the Shopping Center buildings to accommodate and service the truck dock adja-
84. cent to Tenant's building. The parcel over which said service road may be
85. constructed and/or relocated is as follows:

JEFFERSON COUNTY, MISSOURI TRACT "E"

86. A tract of land located in Lot #29 and Lot #30 of U. S. Survey 2991, T43N, R6E,
87. Jefferson County, Missouri and being more particularly described as follows:
88. Beginning at an iron pin at the point of intersection of the N.W. line of Lot
89. #30 and the S.E. line of Lot #29 of U.S. Survey 2991 and the northeast line
90. of a 16' road easement as recorded in Book 32, Page 13 of the Jefferson County
91. Records; thence, S 47° 15' E along said easement line a distance of 37.34' to
92. the point of intersection with the Northwest right-of-way line (80' R/W) of
93. Route 61-67; thence, following said right-of-way line (80' R/W) along an arc
94. of a curve to the left having a radius of 859.00' a distance of 34.73' (having
95. a chord bearing S 27° 10' 30" W and distance of 34.73'); thence, leaving said
96. right-of-way line (80' R/W) and running parallel to the aforementioned North-
97. east easement line N 47° 15' W a distance of 52.45' to the point of intersection
98. with the northwest line of Lot #30 of U.S. Survey 2991; thence, N 37° 30' W a
99. distance of 86.0' to a point; thence, S 52° 34' W a distance of 153.10' to a
100. point; thence, N 37° 30' W a distance of 883.73' through Tract 1 and Tract 2 of
101. JENNEMAN ESTATE (Book 32, Page 13) to a point; thence, N 52° 34' E a distance
102. of 187.05' to an old axle; thence S 37° 30' E along the northeast line of said
103. Tract 2 and the northeastern line of a 25' road easement a distance of 434.73'
104. to an old axle at the most northerly point of said Tract 1 and the most easterly
105. point of said Tract 2; thence, S 37° 30' E along the northeast line of said
106. Tract 1 and said line also being the northeast line of a 25' wide road easement
107. a distance of 225.00' to a point; thence S 37° 30' E along the northern line
108. of a 16' wide road easement (Book 32, Page 13) a distance of 310.00' to an
109. iron pin and the POINT OF BEGINNING. Said tract of land containing 3.88 acres,
110. more or less."
111. 3. This First Amended Lease is prepared for the specific purpose of amending
112. the legal description of the aforesaid Lease recorded on December 2, 1976, at
113. 8:30 A.M. in Book 567, Page 952, in the Recorder of Deeds Office in Hillsboro,
114. Missouri.

R I D E R

-3-

WITNESSES FOR LANDLORD:

1 James A. Brown
2 Leslie Williams

WITNESSES FOR TENANT:

James C. Hodges
Barth E. Hodges

LANDLORD: W. B. WIGGINS, SR.

W. B. Wiggins, Sr.

TENANT: THE KROGER CO.

By:

N. A. Sawall
N. A. Sawall, Vice President
Gateway Marketing Area

STATE OF
COUNTY, SS

This day, before me, a Notary Public in and for said County, personally came
the Lessor in the foregoing Memorandum of Lease, and acknowledged the signing to be voluntary act.
Witness my hand and official seal this day of A. D. 19

My commission expires

Notary Public

STATE OF GEORGIA
COUNTY OF FULTON

I do hereby certify that on this 5th day of July, 1977, before me,
Lisa Williams, a Notary Public in and for the County and State afore-
said, residing therein and duly commissioned, personally appeared W. B. WIGGINS, SR.,
who, being by me duly sworn, did depose and say that he resides in Atlanta, Georgia; that
he is the individual described in and who executed the foregoing instrument; and that he
signed, sealed, and delivered said instrument for the uses and purposes therein set forth,
as his free and voluntary act; and that he signed his name thereto by like order.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day
and year in this certificate first above written.

Notary Public, Georgia, State at Large
My Commission Expires Aug. 17, 1980

Lisa Williams
Notary Public

My Commission Expires:

STATE OF Missouri
COUNTY, SS St. Louis

This day, before me, a Notary Public in and for said County, personally came
W. A. Jewell Vice-President, The Kroger Co
the corporation described in and which executed the above instrument; who being by me duly sworn, did depose and say that
he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by
order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Witness my hand and official seal this 15th day of August A. D. 1977

My commission expires

June 4, 1981

Marion K. De Veen
Notary Public

MEMORANDUM OF LEASE

FROM
W. B. WIGGINS, SR.
TO
THE KROGER CO.

19

Transferred

COUNTY AUDITOR

Presented for Record at

19

with M.

19

Recorded.

Page

In Lower Book

COUNTY RECORDER

Page 43

LEASE MODIFICATION AGREEMENT 01

WITNESSETH.

WHEREAS, the undersigned parties now being Landlord and Tenant, respectively, under the terms of a lease dated November 12, 1976

modified by no separate modification agreements, and primarily covering a storeroom and parking
area located at the northwest corner of U.S. Highway 67 (Lemay Ferry Rd) & Missouri
Highway 141 in the
City of Arnold , County of Jefferson , and State of Missouri , do now
desire to modify and amend such lease.

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, and of the promises and undertakings hereinafter set forth, the parties agree that such lease shall be and is hereby amended and modified as follows:

1. The monthly rental referred to in Lines 58 and 59 of the original Lease Agreement is hereby increased from \$18,000.00 to \$18,208.33.
2. The overage base referred to in Line 484 of the Rider to the original Lease Agreement is hereby increased from \$16,000,000.00 to \$16,250,000.00.
3. The plot plan, Exhibit "B", attached to the original Lease Agreement is hereby superseded by a new plot plan, Exhibit "B-1", attached hereto and made a part hereof.
4. The words "provided that all such buildings are constructed within that portion of the common areas located on the southeastern side of the main entrance of the Center from Highway 141 shown on the plot plan attached hereto." in Lines 39 through 40 of the Rider to the original Lease Agreement are hereby deleted and the following is substituted therefor: "as shown as the area shaded in orange on the attached plot plan, Exhibit "B-1","
5. The reference to "three (3)" business days in Line 171 of the Rider to the Lease Agreement is hereby changed to reflect "ten (10)" business days.

All other terms and conditions of said lease and of any previous modification thereof shall remain unchanged.

The provisions of this Lease Modification Agreement shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, said parties have hereunto set their hands and seals, *July 5,* 1977
(as to Landlord), *AUG 11 1977* (as to Tenant).

Signed and acknowledged in quadruplicate
in presence of:

Witnesses for Landlord:

James A. Bean
Leola Williams

Landlord: W. B. WIGGINS, SR.

1. Mr. W. J. Wiggins (Seal)

Seals

_____ 'Scul

_____ (Seal)

Tenants

~~THE WROGER CO.~~

By N. K. Sawall, Vice President

Gateway _____ Marketing Area



STATE OF _____
COUNTY OF _____ } SS

This day before me, a Notary Public in and for said County, personally came
the Landlord in the foregoing Lease Modification Agreement, and acknowledged the signing to be voluntary act;
Witness my hand and official seal this _____ day of _____ A. D. 19 _____

My commission expires _____

Notary Public

STATE OF _____
COUNTY OF _____ } SS

This day, before me, a Notary Public in and for said County, personally came
President and Secretary, respectively
of
the corporation described in and which executed the above instrument; who being by me duly sworn, did depose and say that;
they know the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by
order of the Board of Directors of said corporation; and that they signed their names thereto by like order.

Witness my hand and official seal this _____ day of _____ A. D. 19 _____

My commission expires _____

Notary Public

STATE OF Mississippi
COUNTY OF St. James } SS

This day, before me, a Notary Public in and for said County, personally came
N. A. Sawall Vice President, Battery Marketing Area
of The Kroger Co., the corporation described in and which executed the above instrument; who being by me duly sworn, did
depose and say that; he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal.
that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Witness my hand and official seal this 15th day of August A. D. 19 77

My commission expires _____

Warren VanDeKoven
Notary Public

June 4, 1981
STATE OF GEORGIA
COUNTY OF FULTON

I do hereby certify that on this 5th day of July, 1977, before me,
Lisa Williams, a Notary Public in and for the County and State afore-
said, residing therein and duly commissioned, personally appeared W. B. WIGGINS, SR.,
who, being by me duly sworn, did depose and say that he resides in Atlanta, Georgia;
that he is the individual described in and who executed the foregoing instrument; and
that he signed, sealed, and delivered said instrument for the uses and purposes therein
set forth, as his free and voluntary act; and that he signed his name thereto by like
order.

In Witness Whereof, I have hereunto set my hand and affixed my official seal
the day and year in this certificate first above written.

My Commission Expires: _____

Notary Public, Georgia, State at Large
My Commission Expires Aug. 17, 1980

Lisa Williams
Notary Public

STATE OF GEORGIA

COUNTY OF FULTON

ASSIGNMENT OF LANDLORD'S
INTEREST IN TENANT LEASES

THIS ASSIGNMENT, made this 30 day of August, 1977,
by W. B. WIGGINS, SR., a resident of the State of Georgia, County of Fulton
(hereinafter referred to as "Assignor") to JEFFCO ASSOCIATES, a Missouri
general partnership composed of W. B. Wiggins, Sr. and Mark R. Loyd (herein-
after referred to as "Assignee").

W I T N E S S E T H :

WHEREAS, Assignor is the landlord under that certain lease to K mart
Corporation, formerly known as S. S. Kresge Company, dated April 15, 1977, a
short form of which lease is recorded in Book 585, page 754, in the Office
of the Register of Deeds of Jefferson County, Missouri (said lease as assigned
is hereinafter referred to as the "K mart Lease"); and

WHEREAS, Assignor is the landlord under that certain lease to The
Kroger Company dated November 12, 1976, a short form of which lease is recorded
in Book 567, page 952, in the Office of the Register of Deeds of Jefferson
County, Missouri, as amended on July 5, 1977, a short form of which amendment
is recorded in Book 586, page 730, aforesaid records (said lease as amended
is hereinafter referred to as the "Kroger Lease"); and

WHEREAS, Assignor has acquired the fee simple estate covered by the
K mart Lease and the Kroger Lease; and

WHEREAS, Assignor desires expressly to assign, transfer, sell and
convey to Assignee all of Assignor's right, title and interest in and to the
landlord's interest in the K mart Lease and the Kroger Lease (hereinafter
referred to collectively as the "Leases");

NOW THEREFORE, for and in consideration of the sum of Ten and no/100 Dollars (\$10.00), and other good and valuable considerations delivered by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor has assigned, transferred, sold and conveyed and by these presents does hereby assign, transfer, sell and convey to Assignee, its successors and assigns, all of Assignor's right, title, and interest in and to the landlord's interest under the Leases.

TO HAVE AND TO HOLD the landlord's interest under the Leases unto Assignee, its successors and assigns, forever, and Assignor does hereby covenant and warrant to Assignee, its successors and assigns, that the Leases are valid, subsisting and in full force and effect; that Assignor is not aware of the existence of any default under the Leases; that Assignor is the true, lawful and sole owner of the landlord's interest under the Leases; that Assignor has not received any prepaid rentals or security deposits in connection with the Leases; that the landlord's interest under the Leases constitutes the entire interest of the Assignor under the Leases.

By acceptance of the Assignment, Assignee hereby assumes the due and full acceptance of Assignor's obligations under the Leases and does hereby agree to indemnify and hold harmless Assignor from and against all losses, costs, damages and expenses, including attorney's fees, that Assignor may incur by reason of Assignee's failure so to perform such obligations.

IN WITNESS WHEREOF, Assignor has hereunto set his hand and seal the day and year first above written.

James A. Brown
Witness JAMES A. BROWN
Frank Bridgen Jr.
Witness FRANK BRIDGEN, JR.

W. B. Wiggins, Sr.
W. B. WIGGINS, SR.

Assignee hereby accepts this Assignment and assumes the due and full performance of Assignor's obligations under the Leases, as aforesaid, and does hereby indemnify Assignor, as aforesaid, the day and year first above written.

James A. Brown
Witness JAMES A. BROWN
Frank Bridgen Jr.
Witness FRANK BRIDGEN, JR.
Being all of the partners of
Jeffco Associates

JEFFCO ASSOCIATES

By: W. B. Wiggins, Sr. (SEAL)
W. B. Wiggins, Sr.

By: Mark R. Lloyd (SEAL)
Mark R. Lloyd

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STATE OF GEORGIA
COUNTY OF FULTON

I, Lisa Williams, a Notary Public, do
heraby certify that W. B. WIGGINS, SR. personally appeared before me this day
and acknowledged the due execution of the foregoing instrument.

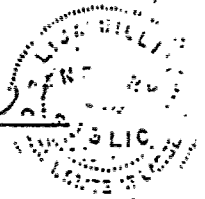
Witness my hand and official seal this 11th day of August,
1977.

My Commission Expires:

Notary Public, Georgia, State at Large
My Commission Expires Aug. 17, 1980

Aug 17, 1980

Lisa Williams
Notary Public
Lisa Williams



967

STATE OF GEORGIA
COUNTY OF FULTON

I, Lisa Williams, a Notary Public, do hereby
certify that W. B. WIGGINS, SR., a General Partner of Jeffco Associates, a Missouri
general partnership, personally appeared before me this day and acknowledged the
due execution of the foregoing instrument.

Witness my hand and affixed seal this 11th day of August, 1977.

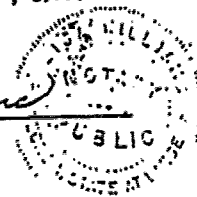
My Commission Expires:

Notary Public, Georgia, State at Large
My Commission Expires Aug. 17, 1980

AUG 17, 1980

Lisa Williams
Notary Public

LISA WILLIAMS



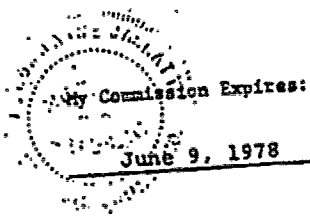
STATE OF MISSOURI
COUNTY OF ST. LOUIS

I, V. Lorraine Cashatt, a Notary Public, do
hereby certify that MARK R. LOYD, a General Partner of Jeffco Associates, a
Missouri general partnership, personally appeared before me this day and ac-
knowledge the due execution of the foregoing instrument.

Witness my hand and official seal this 1st day of September,

1977.

V. Lorraine Cashatt
Notary Public
V. LORRAINE CASHATT



FILED FOR RECORD
AT ST. LOUIS 9 44 AM
OCT 11 1977
RICHARD KING, RECORDER

HILLSBORO, MO. 63101
P.O. BOX 347
HILLSBORO, MO. 63101

11.00
249

INDEXED

State of Missouri }
County of Jefferson } ss.
I hereby certify that this instrument was
FILED FOR RECORD at the date and time
shown hereon and is recorded in Book 5792
Page 944

RICHARD KING
Recorder of Deeds

EXHIBIT D-Part 2

SECOND AMENDED LEASE

WITNESSETH:

That on November 12, 1976, The Kroger Co., a corporation, as Tenant, entered into a lease with W. B. Wiggins, Sr., leasing the premises known as a Kroger storeroom at northwest corner U.S. Highway 67 (Lamay Ferry Road) and Missouri Highway 141 in the City of Arnold, County of Jefferson, State of Missouri, on land described in a lease dated November 12, 1976 and amended July 5, 1977 and recorded in the Recorder of Deeds Office in Hillsboro, Missouri in Book 567, page 952 and Book 586, page 730, respectively, and all the landlord's interests in that lease as amended were assigned by W. B. Wiggins, Sr. to Jeffco Associates, a Missouri general partnership, by the Assignment of Landlord's Interests in Tenant Leases dated August 30, 1977 and recorded in the Recorder of Deeds Office in Hillsboro, Missouri in Book 590, page 964.

SEE RIDER CONSISTING OF 117 NUMBERED TYPEWRITTEN LINES
ATTACHED HERETO AND MADE A PART HEREOF.

for a twenty (20) year term commencing the First day of August, 1978, and ending on the Last day of July, 1998, with the privilege of five (5) successive renewals of five (5) year term each.

Said lease contains a restrictive covenant for the benefit of the Tenant against competing businesses.

IN WITNESS WHEREOF, said parties have hereunto set their hands and seals
June 30, 1978, (as to Landlord), *AUGUST 21, 1978*, (as to Tenant).

Signed and acknowledged in
quadruplicate in presence of:

Witnesses for Landlord:

James A. Brown
James C. Shroyer

LANDLORD: JEFFCO ASSOCIATES

BY: *Frank Pridgen, Jr.* (SEAL)
Frank Pridgen, Jr., general partner

Witnesses for Tenant:

James E. Rodgers
Dorothy E. Rodgers

TENANT: THE KROGER CO.

BY: *N. A. Sawall* (SEAL)
N. A. Sawall, Vice President
Gateway Marketing Area



*Recorded 8-29-78 8:30 A.M.
Book 114, Page 454*

1. This lease consisting of 117 numbered typewritten lines is hereby
2. attached to and made a part of this Second Amended Lease between JEFFCO
3. ASSOCIATES, a Missouri general partnership, as Landlord, and THE KROGER CO.,
4. an Ohio corporation, as Tenant.
5. 2. The legal description as shown in said ^{Amended} Lease is hereby deleted and
6. new legal descriptions as follow are substituted therefor:

JEFFERSON COUNTY, MISSOURI TRACT "A" ✓

7. All that tract or parcel of land lying or being in Lot 29 and Lot 30
8. of U. S. Survey 2991, Township 43 North, Range 6 East, and being more particularly
9. described as follows:-

10. BEGINNING at an iron pin at the intersection of the southwesterly line
11. of Lot 29, U. S. Survey 2991 (also the northeast line of Arnold Terrace, Block 3)
12. and the northerly right-of-way line of relocated Route 141; THENCE along said
13. southwesterly line of Lot 29 N 37° 31' W a distance of 663.69' to the point of
14. intersection with the southeasterly right-of-way line of Interstate 55; THENCE
15. along said R.O.W. N 2° 33' 30" E a distance of 104.88' to a point; THENCE continu-
16. ing N 13° 40' E a distance of 321.06' to a point; THENCE leaving said R.O.W. S 37°
17. 31' E a distance of 195.36' to a point; THENCE N 52° 29' E a distance of 300.00'
18. to a point on the southwesterly line of the 100' wide Union Electric Company R.O.W.
19. THENCE following said R.O.W. line N 37° 31' W a distance of 137.16' to an axle;
20. THENCE crossing said U.E. R.O.W. N 52° 34' E a distance of 100.00' to a point on
21. the northeasterly line of said R.O.W.; THENCE following said R.O.W. line S 37° 31'
22. a distance of 159.0' to a point; THENCE leaving said R.O.W. N 52° 34' E a distance
23. of 330.00' to a point; THENCE S 37° 30' E a distance of 676.36' to a point; THENCE
24. S 35° 34' W a distance of 32.41' to a point; THENCE S 4° 52' 28" E a distance of
25. 71.11' to a point; THENCE S 54° 45' 40" E a distance of 68.00' to a point; THENCE
26. S 52° 34' W a distance of 15.00' to a point; THENCE S 21° 30' 43" W a distance of
27. 67.67' to a point; THENCE N 49° 10' W a distance of 131.00' to a point; THENCE
28. S 51° 47' W a distance of 235.00' to a point; THENCE S 37° 57' 18" E a distance
29. of 236.26' to a point on the northerly R.O.W. line of Old Route 141; THENCE along
30. said R.O.W. and along the chord of a curve (radius 789.00') S 54° 50' 42" W a
31. distance of 71.72' to a concrete monument; THENCE continuing along said R.O.W. and
32. along the chord of a curve (radius 789.00') S 63° 06' W a distance of 154.69' to a
33. concrete monument; THENCE continuing along said R.O.W. S 72° 59' W a distance of
34. 100.35' to a point; THENCE leaving said R.O.W. N 14° 04' W a distance of 263.0'
35. to a point; THENCE S 66° 30' 40" W a distance of 206.79' to a point; THENCE
36. S 14° 04' E a distance of 206.00' to a point on the northern R.O.W. of relocated
37. Route 141; THENCE S 75° 56' W a distance of 137.01' to a point; THENCE S 59° 14' W
38. a distance of 44.65' to an iron pin and the POINT OF BEGINNING. Said tract con-
39. taining 19.679 acres.

40. Together with a non-exclusive easement for ingress and egress of the following
41. described property:

42. All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S.
43. Survey 2991, Township 43 North, Range 6 East and being more particularly
44. described as follows:

45. To reach the TRUE POINT OF BEGINNING, start at an iron pin at the point of
46. intersection of the southwesterly line of Lot 29 of U.S. Survey 2991 (also
47. being the northeast line of Arnold Terrace, Block 3) and the northerly
48. right-of-way line of relocated Route 141; thence along said right-of-way of
49. relocated Route 141 N 59° 14' E a distance of 44.65' to a point; thence
50. continuing N 75° 56' E a distance of 316.83' to a right-of-way marker; thence
51. continuing S 26° 16' E a distance of 24.65' to a right-of-way marker on the
52. northerly right-of-way of old Route 141; thence along said right-of-way
53. N 72° 59' E a distance of 119.35' to a concrete monument; thence continuing
54. along said right-of-way and the chord of a curve (radius 789.0') N 63° 06' E
55. a distance of 154.69' to a concrete monument; thence continuing along said
56. right-of-way and the chord of a curve (radius 789.0') N 51° 50' E a distance
57. of 154.49' to the POINT OF BEGINNING: thence leaving said right-of-way
58. N 21° 30' 43" E a distance of 273.87' thence N 52° 34' E a distance of 15.0'
59. to a point; thence S 38° 15' E along the Northeast line of a tract of land
60. now or formerly owned by Joseph & Katherine Kochner (Book 152, Page 578) a
61. distance of 22.05'; thence S 73° 44' E a distance of 104.88' to the point
62. of intersection with the Northwest right-of-way of Old Route 141 (S.J.);
63. thence S 46° 13' W along northerly right-of-way of old Missouri Route 141 a
64. distance of 61.15' to a point; thence continuing along said right-of-way
65. S 46° 13' W a distance of 252.76' to a point said point being the POINT OF
66. BEGINNING.

R I D E R

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67. Landlord reserves the right to dedicate the above described property to the
68. appropriate public authority whereupon this easement will be null and void
69. without further action by any party hereto.
70. In addition to the foregoing, as part of Landlord's obligation, Landlord shall
71. complete a paved service road over the land described hereinafter and Tenant
72. shall have an easement for use as a paved service driveway across this parcel.
73. This easement shall be for the benefit of Tenant throughout the entire term
74. of this Lease and any extensions hereof.
75. Landlord shall have the right to construct such service road at any point on
76. the hereinafter described parcel and shall have the right to relocate said
77. service road to any other part of said hereinafter described parcel from time
78. to time; provided, however, that any such relocation shall be accomplished in
79. a manner so as to allow Tenant at all times to have the clear and unobstructed
80. use of a driveway of at least fifty (50') feet in width across the hereinafter
81. described property to provide the orderly, circulatory flow of traffic around
82. the Shopping Center buildings to accommodate and service the truck dock adja-
83. cent to Tenant's building. The parcel over which said service road may be
84. constructed and/or relocated is as follows:

JEFFERSON COUNTY, MISSOURI REVISED TRACT "E"

85. A tract of land located in Lot #29 and Lot #30 of U. S. Survey 2991,
86. T43N, R6E, Jefferson County, Missouri and being more particularly described as
87. follows:
88. Beginning at an iron pin at the point of intersection of the N. W. line
89. of Lot #30 and the S. E. line of Lot #29 of U. S. Survey 2991 and the northeast
90. line of a 16' road easement as recorded in Book 32, Page 13 of the Jefferson
91. County Records; THENCE, S. 47° 15' E along said easement line a distance of 37.34
92. to the point of intersection with the Northwest R.O.W. line (80' R/W) of Route
93. 61-67; THENCE following said R.O.W. line (80' R.O.W.) along an arc of a curve to
94. the left having a radius of 859.00' a distance of 53.72' (having a chord bearing
95. S 27° 02' W a distance of 53.71') to a point; THENCE leaving said R.O.W. line
96. (80' R.O.W.) and running N 47° 15' W a distance of 46.78' to a point; THENCE
97. N 37° 30' W a distance of 152.00 feet to a point; THENCE S 52° 34' W a distance
98. of 125.00' to a point; THENCE S 35° 34' W a distance of 12.59'; THENCE N 37° 30'
99. a distance of 676.36' to a point; THENCE S 52° 34' W a distance of 330.0' to a
100. point; THENCE N 37° 31' W a distance of 85.0' to a point; THENCE N 52° 34' E
101. 330.0' to a point; THENCE N 37° 30' W a distance of 174.05' to a point; THENCE
102. N 52° 34' E a distance of 187.05' to an old axle; THENCE S 37° 30' E along the
103. northeast line of said Tract 2 and the northeastern line of a 25' road easement
104. a distance of 534.73' to an old axle at the most northerly point of said Tract 1
105. and the most easterly point of said Tract 2; THENCE S 37° 30' E along the north-
106. east line of said Tract 1 and said line also being the northeast line of a 25'
107. wide road easement a distance of 225.00' to a point; THENCE S 37° 30' E along
108. the Northern line of a 16' wide road easement (Book 32, Page 13) a distance of
109. 310.00' to an iron pin and to the POINT OF BEGINNING. Said tract containing
110. 4.861 acres.
111. 3. The dates shown on lines 20 and 21 of the Lease, November 1, 1977 and
112. October 31, 1997 regarding the commencement and ending dates of the lease
113. are amended to read August 1, 1978 and July 31, 1998, respectively.

R I D E R

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113. 4. This Second Amended Lease is prepared for the specific purpose of amending
114. the legal description of the aforesaid lease as amended and recorded in the
115. Recorder of Deeds Office in Hillsboro, Missouri in Book 567, page 952 and
116. Book 586, page 730, respectively and for amending the commencement and ending
117. dates of the lease term.

WITNESSES FOR LANDLORD:

Jane C. Shroy
James A. Brown

LANDLORD: JEFFCO ASSOCIATES

By: Frank Pridgen, Jr.
Frank Pridgen, Jr., general partner

WITNESSES FOR TENANT:

James P. Higgs
Donald E. Rogers

TENANT: THE KROGER CO.

By: H. A. Savall
H. A. Savall, Vice President
Gateway Marketing Area

STATE OF GEORGIA

COUNTY OF FULTON

On this 30th day of June, 1978, before me, the undersigned, a Notary Public, personally appeared Frank Pridgen, Jr., a partner of JEFFCO ASSOCIATES, a Missouri general partnership, and acknowledged that he executed this instrument on behalf of said partnership, by authority of its Partnership Agreement, and said FRANK PRIDGEN, JR. acknowledged said instrument to be the free act and deed of said Partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in the County and State the day and year last above written.

James A. Brown
Notary Public

My Commission Expires:

Notary Public, Georgia, State at Large
My Commission Expires April 18, 1981

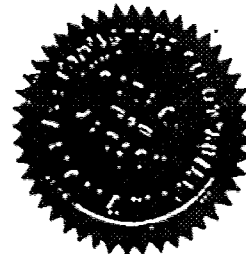
STATE OF Missouri
COUNTY OF J.P. Brown ss.

This day, before me, a Notary Public of the State and County aforesaid, personally appeared M. A. SAWALL, Vice President, Gateway Marketing Area, The Kroger Co., with whom I am personally acquainted and, who upon oath acknowledged himself to be such officer of The Kroger Co., Lessee in the foregoing Second Amended Lease and that he as such Vice President, being authorized so to do executed the foregoing instrument for the purposes therein contained by signing in the name of the corporation as such officer.

Witness my hand and official seal this 21st day of August, 1978.

Marion R. Deeken
Notary Public

My commission expires June 4, 1981



LEASE MODIFICATION AGREEMENT

W. L. REAL, undersigned parties now being Landlord and Tenant, respectively, under the terms of a lease dated November 12, 1976 as amended by First Amended Lease dated July 5, 1977, and thereafter as to Landlord and August 15, 1977, as to Tenant; and as amended by modified by one (1) separate modification agreements, and primarily covering a storeroom and parking area located at the northwest corner of U.S. Hwy. 67 (Lemay Ferry Rd.) and Missouri Hwy. 141 in the County of Jefferson, State of Missouri, do now to modify and amend such lease.

UTHER
NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable considerations, the sufficiency of which is hereby acknowledged, and of the promises and undertakings hereinafter set forth, the parties that such lease shall be and is hereby amended and modified as follows:

1. The plot plan, Exhibit "B-1", attached to Lease Modification Agreement #1 is hereby superceded by a new plot plan, Exhibit "B-2", attached hereto and made a part hereof.

2. The following paragraph is added to the Rider/following line 366:
attached to the Lease Agreement

"In the event Landlord, or any successor-in-title to Landlord, desires to construct improvements on Tract D which do not comply with the conditions of (a) and (b) above, then such owner shall have the right to do so and Landlord shall have the right, which right tenant specifically consents to, to grant to the owner of Tract D, its tenants, employees and business invitees, and their respective successors and assigns, a perpetual non-exclusive easement for ingress and egress over and across the area crosshatched on Exhibit B-2 attached hereto together with the right to construct, maintain and repair a paved driveway thereon. Upon the granting of such non-exclusive easement, Tenant shall have the right to require Landlord to construct a fence, wall or other barrier along that portion of the common property line between the demised premises and Tract D which lies to the Northwest of the Northwesternmost side of said access easement. In the event such access easement is granted, Tract D may not use the parking areas on the demised premises."

3. Tenant acknowledges and consents to the assignment by W. B. Wiggins, Sr. to Jeffco Associates, a Missouri general partnership, of all of the Landlord's rights and interests in the Lease as per the Assignment of Landlord's Interest in Tenant Leases, dated August 30, 1977 and recorded in the Recorder of Deeds Office in Hillsboro, Missouri in Book 590, Page 964.

4. The dates November 1, 1977 and October 31, 1977 on line 9 of the Lease Agreement regarding the commencement and ending dates of the term of the lease are amended to read August 1, 1978 and July 31, 1998, respectively.

All other terms and conditions of said lease and of any previous modification thereof shall remain unchanged.

The provisions of this Lease Modification Agreement shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, said parties have hereunto set their hands and seals, (as to Landlord), AUGUST 21, 1978 (as to Tenant).

Signed and acknowledged in triplicate in presence of:

Witnesses for Landlord:

James A. Bion
James C. Stegman

Landlord: Jeffco Associates, a Missouri General Partnership (Seal)

By: *Frank Pridgen, Jr.* (Seal)
General Partner (Seal)

(Seal)

(Seal)

(Seal)

Tenant:

Tim Kroger (Seal)
By: *H. A. Savall* (Seal)
Vice President

Gateway Marketing Agency



WITNESSES

LEASE MODIFICATION AGREEMENT #3

WHEREAS, the undersigned parties now being Landlord and Tenant, respectively, under the terms of a lease/dated November 12, 1976, as amended by Lease Modification Agreement #1* and thereafter modified by no separate modification agreements, and primarily covering a storeroom and parking area located at the northwest corner of U.S. Hwy. 67 (Lemay Ferry Rd.) and Missouri Hwy. 141 in the City of Arnold, County of Jefferson, and State of Missouri, do now desire to modify and amend such lease.

NOW THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, and of the promises and undertakings hereinafter set forth, the parties agree that such lease shall be and is hereby amended and modified as follows:

The Rider to the Lease Agreement is amended by deleting lines 352 through 360 and by substituting therefor the following:

- neither exceed 40 feet in height above the ground nor
- (a) ~~no building or buildings constructed on Tract D or any subportion~~
Any thereof shall contain ~~a fifth story~~, nor shall any of such buildings contain a parapet or ~~tower~~ extending above its roof; and ~~more than four stories~~
- (b) Tract D shall at no times contain more than 59,000 square feet of gross building area, excluding loading docks, garden shops and other similar facilities.
- (c) Of even date with Tenant's execution of this Agreement, Tenant has executed a Consent to Second Amendment to Declaration of Reciprocal Easements (hereinafter 'Consent'), which consent acknowledges that a height limitation less restrictive than that set forth in Paragraph (a) above, is to be recorded against Tract D; notwithstanding any of the agreements set forth in the Consent to the contrary, Landlord covenants and agrees that Tract D shall be subject to the restrictions set forth in Paragraph (a) hereof and, to that end, Landlord covenants and agrees that Landlord shall record against Tract D an agreement substantially in the form attached hereto as Exhibit "A" within thirty (30) days of Landlord's execution of this Agreement. Landlord further covenants and agrees not to permit Exhibit "A" to be amended in any way without Tenant's prior written consent.

*dated July 5, 1977, as to Landlord, and August 15, 1977, as to Tenant; and as amended by Lease Modification Agreement #2 dated June 30, 1978, as to Landlord, and August 21, 1978, as to Tenant

agreement

All other terms and conditions of said lease/and of any previous modification thereof shall remain unchanged.

The provisions of this Lease Modification Agreement shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, said parties have hereunto set their hands and seals. March 15, 1983

Signed and acknowledged in
presence of:

Witnesses for Landlord:

H. L. and L. L.
Frank Pridgen, Jr.

Witnesses for Tenant:

Richard W. Smith

Landlord: Jeffco Associates,
a Missouri general partnership

By: Frank Pridgen, Jr.
General Partner

By: Mark R. Loyd
General Partner

By: Jeffco Partners, Ltd.
General Partner

Tenant: THE KROGER CO.
General Partner

By: Richard W. Smith
Vice President



STATE OF
COUNTY OF

SS

This day before me a Notary Public in and for said County personally came
the Landlord in the foregoing Lease Modification Agreement, and acknowledged the signing to be

voluntary at

Witness my hand and official seal this

day of

A. D. 19

My commission expires

Notary Public

STATE OF
COUNTY OF

SS

This day before me, a Notary Public in and for said County, personally came

President and Secretary, respective.

of
the corporation described in and which executed the above instrument; who being by me duly sworn, did depose and say that
they know the seal of said corporation; that the seal affixed to said instrument was such corporate seal, that it was so affixed
by order of the Board of Directors of said corporation; and that they signed their names thereto by like order.

Witness my hand and official seal this

day of

A. D. 19

My commission expires

Notary Public

STATE OF *Ill*
COUNTY OF *Clinton* } SS

This day, before me, a Notary Public in and for said County, personally came

Arthur J. ...
Group Vice President.

of The Kroger Co., the corporation described in and which executed the above instrument; who being by me duly sworn, did
depose and say that: he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal,
that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Witness my hand and official seal this

day of

A. D. 19

My commission expires

Notary Public

STATE OF Georgia
COUNTY OF Butter

On this 17th day of March, 1983, before me appeared Frank Pridgen, Jr., to me personally known, who, being by me duly sworn, did say that he is a general partner of JEFFCO ASSOCIATES, a general partnership, the general partnership named in the foregoing instrument, that said instrument was signed on behalf of and in the name of said partnership, by authority of its partnership agreement, and said Frank Pridgen, Jr. acknowledged said instrument to be the free act and deed of said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said county and state the day and year last above written.

[Signature]
Notary Public

(Notarial Seal)

My Commission Expires:

Notary Public, Georgia, State of Large
My Commission Expires October 28, 1984

STATE OF Georgia
COUNTY OF Butter

On this 15th day of March, 198⁴, before me appeared Mark R. Loyd, to me personally known, who, being by me duly sworn, did say that he is a general partner of JEFFCO ASSOCIATES, a general partnership, the general partnership named in the foregoing instrument, that said instrument was signed on behalf of and in the name of said partnership, by authority of its partnership agreement, and said Mark R. Loyd acknowledged said instrument to be the free act and deed of said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said county and state the day and year last above written.

[Signature]
Notary Public

(Notarial Seal)

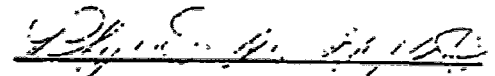
My Commission Expires:

5-13-84

STATE OF _____
COUNTY OF _____

On this 17 day of August, 1983 before me appeared Frank Pridgen, Jr., to me personally known, who, being by me duly sworn, did say that he is general partner of Jeffco Partners, Ltd., a Georgia limited partnership, general partner of JEFFCO ASSOCIATES, a general partnership, the general partnership named in the foregoing instrument, that said instrument was signed on behalf of and in the name of said general partnership, by authority of its partnership agreement, and said Frank Pridgen, Jr. acknowledged said instrument to be the free act and deed of said general partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said county and state the day and year last above written.


Notary Public

(Notarial Seal)

My Commission Expires:

Notary Public, Georgia, State at Large
My Commission Expires October 24, 1984

EXHIBIT "A"

BOOK 74 PAGE 501
RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT, made as of the 15th day of December, 1983, by and between JEFFCO ASSOCIATES, a Missouri general partnership, whose address is Four Piedmont Center, Suite 520, Atlanta, Georgia 30305 (hereinafter referred to as "Jeffco") and JEFFERSON LAND PARTNERSHIP, a Missouri general partnership, whose address is Four Piedmont Center, Suite 520, Atlanta, Georgia (hereinafter referred to as "Jefferson").

W I T N E S S E T H :

WHEREAS, by Declaration of Reciprocal Easements dated August 29, 1977 and recorded in Book 590, Page 27, Jefferson County, Missouri records, as amended by First Amendment to Declaration of Reciprocal Easements dated February 22, 1978 and recorded in Book 599, Page 74, aforesaid records, and as amended by Second Amendment to Declaration of Reciprocal Easements dated December 15th, 1983 and to be recorded on or about the date hereof in the aforesaid records (said Declaration of Reciprocal Easements, as amended, being hereinafter referred to as the "Declaration"), Jeffco established certain reciprocal easements and development and use restrictions on the real property more particularly described in the Declaration; and

WHEREAS, Jefferson is now the owner of the real property described as "Parcel D" in the Declaration (said property being hereinafter referred to as "Parcel D"); and

WHEREAS, Jeffco remains the owner of the real property described as "Parcel A" in the Declaration (said property being hereinafter referred to as "Parcel A"); and

WHEREAS, Jefferson has agreed to waive and relinquish certain of the rights created in favor of Parcel D by the Declaration and to submit Parcel D to certain development restrictions in addition to those contained in the Declaration; and

WHEREAS, Jefferson and Jeffco desire to evidence these agreements in writing;

NOW THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Jeffco and Jefferson do hereby agree as follows:

1. Notwithstanding any provision of the Declaration to the contrary, Jefferson does hereby agree that neither Jefferson, nor any of its successors, tenants or assigns, nor any of the customers, employees or invitees of any such parties shall have any right to use any portion of Parcel A for the parking of automobiles except for that portion of Parcel A designated as "Parcel D Parking Area" and shown cross-hatched on the site plan attached hereto as Exhibit "A" and made a part hereof, and Jefferson does hereby waive any rights or easements inconsistent with the foregoing that are contained in the Declaration.
2. Jefferson does hereby further agree that no building or buildings constructed on Parcel D or any subportion thereof shall contain more than four (4) stories or exceed forty (40) feet in height above the ground nor shall any of such buildings contain a parapet or tower extending above its roof.
3. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Declaration, the provisions of this Agreement shall control.
4. The agreements and restrictions provided for herein shall run with the land and shall constitute a burden upon Parcel D. The provisions of this Agreement shall inure to the benefit of,

be binding upon, and be enforceable by, Jeffco and Jefferson, and their respective successors, successors in title, tenants and assigns. Each of the rights and obligations created under this document shall be specifically enforceable in a court of equity, it being recognized and agreed by all parties hereto that damages at law would be an inadequate remedy for a breach of the provisions of this Agreement.

5. This Agreement shall be interpreted and construed in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, Jeffco and Jefferson have caused this Agreement to be executed under seal as of the date first above written.

JEFFCO ASSOCIATES, a Missouri
general partnership

By: Frank Pridgen, Jr. (SEAL)
Frank Pridgen, Jr.,
General Partner

JEFFERSON LAND PARTNERSHIP, a
Missouri general partnership

By: Frank Pridgen, Jr. (SEAL)
Frank Pridgen, Jr.
General Partner

STATE OF GEORGIA
COUNTY OF FULTON

503

On this 11th day of January, 1984, before me appeared Frank Pridgen, Jr., to me personally known, who, being by me duly sworn, did say that he is a general partner of JEFFCO ASSOCIATES, a general partnership, the general partnership named in the foregoing instrument, that said instrument was signed on behalf of and in the name of said partnership, by authority of its partnership agreement, and said Frank Pridgen, Jr. acknowledged said instrument to be the free act and deed of said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said county and state the day and year last above written.

(Notarial Seal)

My Commission Expires:

Notary Public, Georgia, State at Large
My Commission Expires October 26, 1984

Phyllis A. Griffith
Notary Public
PHYLLIS A. GRIFFITH



STATE OF GEORGIA
COUNTY OF FULTON

504

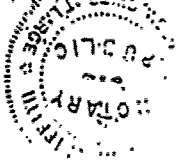
On this 17th day of January, 1984, before me appeared Frank Pridgen, Jr., to me personally known, who, being by me duly sworn, did say that he is a general partner of JEFFERSON LAND PARTNERSHIP, a general partnership, the general partnership named in the foregoing instrument, that said instrument was signed on behalf of and in the name of said partnership by authority of its partnership agreement, and said Frank Pridgen, Jr. acknowledged said instrument to be the free act and deed of said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said county and state the day and year last above written.

(Notarial Seal)

My Commission Expires:

Notary Public, Georgia, State at Large
My Commission Expires October 28, 1984

Phyllis A. Griffith
Notary Public
PHYLLIS A. GRIFFITH


ASSIGNMENT OF LEASES

THIS ASSIGNMENT OF LEASES, made as of the 1st day of July, 1984, by JEFFCO ASSOCIATES, a Missouri general partnership having Mark R. Loyd, Frank Pridgen, Jr. and Jeffco Partners, Ltd., a Georgia limited partnership, as its sole general partners (hereinafter referred to as "Assignor"), to ARNOLD PLAZA, INC., a Delaware corporation, (hereinafter referred to as "Assignee").

W I T N E S S E T H:

WHEREAS, by Limited Warranty Deed of even date herewith, Assignor has assigned to Assignee the fee simple estate in certain real property located in Jefferson County, Missouri;

WHEREAS, Assignor desires to assign and Assignee desires to acquire all of Assignor's right, title and interest as landlord under the leases described in Exhibit "A" attached hereto and made a part hereof, all of which affect the aforesaid real property (hereinafter referred to as the "Leases");

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby assign, convey and set over to Assignee all of Assignor's right, title and interest in, to and under the Leases.

TO HAVE AND TO HOLD Assignor's interest in, to and under the Leases to Assignee, its successors, successors-in-title and assigns, forever.

By execution hereof, Assignee does hereby assume and agree to perform, from and after the date hereof, all obligations and duties imposed upon the landlord under the Leases that arise, accrue or become due from and after the date hereof.

IN WITNESS WHEREOF, Assignor and Assignee have executed
this Assignment of Leases under seal as of the day and year first
above written.

ASSIGNOR:

JEFFCO ASSOCIATES, a Missouri
general partnership

By: Mark R. Loyd
Mark R. Loyd, a general partner

By: Frank Pridgen, Jr.
Frank Pridgen, Jr., a general
partner

By: Jeffco Partners, Ltd., a
Georgia limited partnership,
a general partner

By: Frank Pridgen, Jr.
Frank Pridgen, Jr., its
sole general partner

ASSIGNEE:

ARNOLD PLAZA, INC.,
a Delaware corporation

By: Leonard Mandor
Its: President

Attest: Chester Robinson
Its: Asst. Secretary

(CORPORATE SEAL)

STATE OF NEW YORK

COUNTY OF NEW YORK

I, Emily Rhoades, a Notary Public of said county, do
certify that MARK R. LOYD who signed the foregoing instrument
bearing as date the 10th day of July, 1984, as a
general partner of JEFFCO ASSOCIATES, a Missouri general partnership
has this day in my said county, before me, acknowledged that, on
behalf of said partnership he signed, sealed and delivered said
instrument for the express purpose therein set forth and that the
said instrument is the act and deed of said partnership.

Given under my hand and seal this 10th day of July,
1984.

Emily Rhoades
Notary Public

(NOTARY SEAL)

My Commission Expires:

EMILY RHOADES
Notary Public, State of New York.
No. 31-8555850
Qualified in New York County
Commission Expires March 30, 1986 ..

(Signatures continued on following page).

STATE OF NEW YORK

COUNTY OF NEW YORK

I, EMILY RHOADES, a Notary Public of said county, do certify that FRANK BRIDGEN, JR. who signed the foregoing instrument bearing as date the 15th day of July, 1984, as a general partner of JEFFCO ASSOCIATES, a Missouri general partnership, has this day in my said county, before me, acknowledged that, on behalf of said partnership, he signed, sealed and delivered said instrument for the express purpose therein set forth and that the said instrument is the act and deed of said partnership.

Given under my hand and seal this 10th day of July, 1984.

Emily Rhoades
Notary Public

[NOTARY SEAL]

My Commission Expires:

EMILY RHOADES
Notary Public, State of New York
No. 31-855850
Qualified in New York County
Commission Expires March 30, 1988

STATE OF NEW YORK

COUNTY OF NEW YORK

I, EMILY RHOADES, a Notary Public of said County, do certify that FRANK BRIDGEN, JR., who signed the foregoing instrument bearing as date the 15th day of July, 1984, as the sole general partner of JEFFCO PARTNERS, LTD., a Georgia limited partnership, in said limited partnership's capacity as a general partner of Jeffco Associates, a Missouri general partnership, has this day in my said county, before me, acknowledged that on behalf of said limited partnership, in said limited partnership's capacity as a general partner of said general partnership, he signed, sealed and delivered said instrument for the express purpose therein set forth and that the said instrument is the act and deed of said limited partnership.

Given under my hand and official seal this 10th day of July, 1984.

Emily Rhoades
Notary Public

[NOTARY SEAL]

My Commission Expires:

[SIGNATURES CONTINUED ON NEXT PAGE]

EMILY RHOADES
Notary Public, State of New York
No. 31-855850
Qualified in New York County
Commission Expires March 30, 1988

STATE OF NEW YORK

COUNTY OF NEW YORK

I, EMILY RHOADES a Notary Public of said County, do certify that LEONARD MANDOR and CHESTER ROBINSON who signed the foregoing instrument bearing as date the 18th day of July, 1984, as President and Assistant Secretary for ARNOLD PLAZA, INC., a Delaware corporation, have this day in my said county, before me, acknowledged the said instrument to be the act and deed of said corporation.

Given under my hand and official seal this 10th day of July, 1984.

Emily Rhoades
Notary Public

[NOTARY SEAL]

My Commission Expires:



This instrument prepared by:

Robert G. Holt, Esq.
Holt, Ney, Zetcoff & Wasserman
100 Galleria Parkway
Suite 660
Atlanta, Georgia 30339
404-956-0533

EMILY RHOADES
Notary Public, State of New York
No. 31-855880
Qualified in New York County
Commission Expires March 30, 1988

EXHIBIT A

1. Lease between W. B. Wiggins, Sr. as Landlord and K-Mart Corporation as Tenant, dated April 15, 1977, a Memorandum of said Lease being recorded in Book 585, beginning at Page 754, Jefferson County, Missouri Records; as amended by First Amendment of Lease between Jeffco Associates as Landlord and K-Mart Corporation as Tenant, dated June 30, 1978, a Memorandum of said First Amendment of Lease being recorded in Book 615, Page 712, aforesaid records; as further amended by second amendment of Lease dated December 28, 1983, (the aforesaid documents being herein collectively referred to as the "K-Mart Lease").
2. Lease between W. B. Wiggins, Sr. as Landlord and The Kroger Co. as Tenant, dated November 12, 1976; as supplemented by a Lease Agreement between said parties, dated November 12, 1976; as amended by First Amended Lease between said parties, dated August 15, 1977; as further amended by Lease Modification Agreement #1 between said parties, dated August 15, 1977; as further amended by Second Amended Lease between Jeffco Associates as Landlord and The Kroger Co. as Tenant, dated August 21, 1978; as further amended by Lease Modification Agreement #2 between Jeffco Associates as Landlord and The Kroger Co. as Tenant, dated August 21, 1978; as further amended by Lease Modification Agreement #3, undated (the aforesaid documents being herein collectively referred to as the "Kroger Lease").
3. Lease between Jeffco Associates as Landlord and Darold's Glad Rags, Inc. as Tenant, dated August 18, 1977; a portion of subject premises being subleased pursuant to a Sublease Agreement between Darold's Glad Rags, Inc. as Sublessor and Volume Shoe Corporation as Sublessee, dated April 28, 1978; said Lease being amended by a First Amendment To Lease between Jeffco Associates as Landlord and The Crate Room, Inc. (formerly known as Darold's Glad Rags, Inc. as Tenant), dated September 1, 1979; Sublessor's rights under said Sublease Agreement being assigned to Jeffco Associates as Landlord by Assignment Of Sublease dated October 5, 1979; The Crate Room's obligations, liabilities and duties under said Lease being terminated by a Lease Termination Agreement between Jeffco Associates as Landlord and The Crate Room, Inc., dated as of September 30, 1979 (the aforesaid documents being herein collectively referred to as the "Volume Shoe Lease").
4. Shopping Center Form Lease between Jeffco Associates as Landlord and Butler Hill Auto Parts as Tenant, dated October 5, 1979; as assigned to Key-State Automotive Parts Warehouse, Inc. by Assignment And Assumption Agreement, dated November 12, 1982; as assigned to D & S Auto Parts, Inc. by Assignment And Assumption Agreement dated December 2, 1982 (the aforesaid documents being hereinafter referred to as the "D & S Lease").
5. Shopping Center Form Lease between Jeffco Associates as Landlord, and La Plante Salons, Inc. as Tenant, dated February 27, 1978; as amended by First Amendment Of Lease between Jeffco Associates as Landlord and La Plante Salons, Inc. as Tenant, dated September 1, 1980 (the aforesaid documents being hereinafter referred to collectively as the "La Plante Lease").
6. Lease Agreement between Jeffco Associates as Landlord and Dial Finance Company Of Missouri as Tenant, dated July 22, 1980 (hereinafter referred to as the "Dial Finance Lease").
7. Lease Agreement between Jeffco Associates as Landlord and Tandy Corporation as Tenant, dated August 24, 1979 (hereinafter referred to as the "Radio Shack Lease").
8. Shopping Center Form Lease between Jeffco Associates as Landlord and C. E. P., Inc. as Tenant, dated as of May 1, 1978 (the "Fashions Unlimited Lease").
9. Lease between Jeffco Associates as Landlord and Fotomat Corporation as Tenant, dated December 10, 1982 (the "Fotomat Lease").
10. Lease between Jeffco Associates as Landlord and Meramac Specialty Company, dated May 25, 1984, amended June 30, 1984 (the "Meramac Lease").

FILE TIME ON NEXT PAGE

171

13.00

FILED FOR RECORD
AT Jefferson MO. P.M.
JUL 17 1984

JOANN SCHLIFER, RECORDER
JEFFERSON COUNTY, MO.

State of Missouri)
County of Jefferson)
I hereby certify that this instrument
was FILED FOR RECORD at the
date and time shown hereon and is
recorded in Book 752
Page 1666

JOANN SCHLIFER
Recorder of Deeds
By Paul Kellenburger
Deputy

END OF DOCUMENT.

INDEXED

LEASE ASSIGNMENT AND ASSUMPTION AGREEMENT ~~BOOK 359~~ ~~PAGE 1486~~

The Kroger Co., an Ohio corporation ("Assignor"), for Ten Dollars (\$10.00) and other good and valuable consideration to Assignor in hand paid by National Super Markets, Inc., a Michigan corporation ("Assignee"), the receipt and sufficiency of which is hereby acknowledged, and in consideration of the agreements and undertakings of Assignee hereinafter set forth has granted, transferred and assigned and by these presents does grant, transfer and assign unto the said Assignee all of Assignor's leasehold estate and right, title and interest in and to that certain lease together with the amendment or modifications or instruments affecting same, if any, covering the property commonly known as 215 Arnold Cross Roads, Arnold, Missouri (the "Premises") which is legally described on Exhibit A attached hereto and made a part hereof, all of said lease documents being hereinafter labeled the "Lease" and which are described in Exhibit B attached hereto and made a part hereof.

TO HAVE AND TO HOLD unto said Assignee its successor and assigns said leasehold estate and all of the aforesaid rights, title and interest during the current term of the Lease ending July 31, 1998 and the 5 five year renewal terms presently provided therein, if exercised. Assignor further warrants that it has good leasehold title to the Premises and that (i) it shall defend title to the leasehold estate and said rights, title and interest under the Lease during the term of the Lease and any renewal term provided therein, if exercised, against every person whosoever claiming or to claim the same or any part thereof, (ii) the Lease is in full force and effect; (iii) it has a good right to assign the same to Assignee, (iv) to the best of Assignor's knowledge, the landlord under the Lease is not in default of any obligations thereunder, (v) Assignor is not in default of any of its obligations under the Lease provided that Assignor reserves its right so that either Assignor or Assignee may enforce the warranties of title granted to Assignor by the landlord under the Lease as a result of any breach of Assignor's warranties contained herein and (vi) the copy of the Lease attached hereto and made a part hereof as Exhibit "B" is true and complete and it has not been modified, either orally or in writing.

Assignee hereby assumes and agrees to perform and observe all of the obligations of Tenant under the Lease, including all monetary obligations thereunder which accrue from and after midnight of the Closing Date. Assignee further agrees to indemnify and save harmless Assignor from all claims, damages and expenses, including without limitation, reasonable attorney's fees, which Assignor may incur as a result of any breach of its covenants contained herein or otherwise related to the Premises.

This Assigned Lease may be assigned, by the Assignee, and all or any

BOOK 359 PAGE 1487

part of the Premises may be subleased, provided that the subsequent assignee assumes all of its obligations under the Assigned Lease and so long as Assignee remains liable for the obligations under the Assigned Lease. The aforesaid subsequent assignment or subleasing shall not require the consent of the Assignor unless the consent of the Lessor is required under the terms of the Lease.

IN WITNESS WHEREOF, this instrument which has been executed on this 4 day of December, 1986 in two (2) counterparts, each of which constitutes an original, but together constitutes the complete undertaking of the parties, shall be effective as of midnight 11/28, 1986.

WITNESSES

THE KROGER CO.

By Arthur Juergens
Arthur Juergens
Senior Vice President

NATIONAL SUPER MARKETS, INC.
8525 Page Boulevard
St. Louis, Missouri 63114

By E. J. Gormley
Vice President E. J. GORMLEY
Attest Donna J. Berhan
Secretary DONNA J. BERHAN

GUARANTY

For value received, the undersigned hereby guarantees the performance of the obligations to be performed by the Assignee herein.

NATIONAL TEA CO.

By E. J. Gormley
Vice President E. J. GORMLEY
Attest Donna J. Berhan
Secretary DONNA J. BERHAN

B50K 359 PAGE 1488

EXHIBIT A

10. BEGINNING at an iron pin at the intersection of the southwesterly line
11. of Lot 29, U. S. Survey 2991 (also the northeast line of Arnold Terrace, Block 3);
12. and the northerly right-of-way line of relocated Route 141; THENCE along said
13. southwesterly line of Lot 29 N 37° 31' W a distance of 663.69' to the point of
14. intersection with the southeasterly right-of-way line of Interstate 55; THENCE
15. along said R.O.W. N 2° 33' 30" E a distance of 104.88' to a point; THENCE continu-
16. ing N 13° 40' E a distance of 321.06' to a point; THENCE leaving said R.O.W. S 37°
17. 31' E a distance of 195.36' to a point; THENCE N 52° 29' E a distance of 300.00'
18. to a point on the southwesterly line of the 100' wide Union Electric Company R.O.
19. THENCE following said R.O.W. line N 37° 31' W a distance of 137.16' to an axle;
20. THENCE crossing said U.E. R.O.W. N 52° 34' E a distance of 100.00' to a point on
21. the northeasterly line of said R.O.W.; THENCE following said R.O.W. line S 37° 31'
22. a distance of 159.0' to a point; THENCE leaving said R.O.W. N 52° 34' E a distance
23. of 330.00' to a point; THENCE S 37° 30' E a distance of 676.36' to a point; THENCE
24. S 35° 34' W a distance of 32.41' to a point; THENCE S 4° 52' 28" E a distance of
25. 71.11' to a point; THENCE S 54° 45' 40" E a distance of 68.00' to a point; THENCE
26. S 52° 34' W a distance of 15.00' to a point; THENCE S 21° 30' 43" W a distance of
27. 67.67' to a point; THENCE N 49° 10' W a distance of 131.00' to a point; THENCE
28. S 51° 47' W a distance of 235.00' to a point; THENCE S 37° 57' 18" E a distance
29. of 236.26' to a point on the northerly R.O.W. line of Old Route 141; THENCE along
30. said R.O.W. and along the chord of a curve (radius 789.00') S 54° 50' 42" W a
31. distance of 71.72' to a concrete monument; THENCE continuing along said R.O.W. an
32. along the chord of a curve (radius 789.00') S 63° 06' W a distance of 154.69' to
33. concrete monument; THENCE continuing along said R.O.W. S 72° 59' W a distance of
34. 100.35' to a point; THENCE leaving said R.O.W. N 14° 04' W a distance of 263.0'
35. to a point; THENCE S 66° 30' 40" W a distance of 206.79' to a point; THENCE
36. S 14° 04' E a distance of 206.00' to a point on the northern R.O.W. of relocated
37. Route 141; THENCE S 75° 56' W a distance of 137.01' to a point; THENCE S 59° 14' E
38. a distance of 44.65' to an iron pin and the POINT OF BEGINNING. Said tract con-
39. taining 19.679 acres.

40. Together with a non-exclusive easement for ingress and egress of the following
41. described property:

42. All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S.
43. Survey 2991, Township 43 North, Range 6 East and being more particularly
44. described as follows:

45. To reach the TRUE POINT OF BEGINNING, start at an iron pin at the point of
46. intersection of the southwesterly line of Lot 29 of U.S. Survey 2991 (also
47. being the northeast line of Arnold Terrace, Block 3) and the northerly
48. right-of-way line of relocated Route 141; thence along said right-of-way of
49. relocated Route 141 N 59° 14' E a distance of 44.65' to a point; thence
50. continuing N 75° 56' E a distance of 316.83' to a right-of-way marker; thence
51. continuing S 26° 16' E a distance of 24.65' to a right-of-way marker on the
52. northerly right-of-way of old Route 141; thence along said right-of-way
53. N 72° 59' E a distance of 119.35' to a concrete monument; thence continuing
54. along said right-of-way and the chord of a curve (radius 789.0') N 63° 06' E
55. a distance of 154.69' to a concrete monument; thence continuing along said
56. right-of-way and the chord of a curve (radius 789.0') N 51° 50' E a distance
57. of 154.49' to the POINT OF BEGINNING; thence leaving said right-of-way
58. N 21° 30' 43" E a distance of 273.87' thence N 52° 34' E a distance of 15.0'
59. to a point; thence S 38° 15' E along the Northeast line of a tract of land
60. now or formerly owned by Joseph & Katherine Kochner (Book 152, Page 578) a
61. distance of 22.05'; thence S 73° 44' E a distance of 104.88' to the point
62. of intersection with the Northwest right-of-way of Old Route 141 (S.J.);
63. thence S 46° 13' W along northerly right-of-way of old Missouri Route 141 a
64. distance of 61.15' to a point; thence continuing along said right-of-way
65. S 46° 13' W a distance of 252.76' to a point said point being the POINT OF
66. BEGINNING.

BOOK 359 PAGE 1489

67. Landlord reserves the right to dedicate the above described property to the
68. appropriate public authority whereupon this easement will be null and void
69. without further action by any party hereto.
70. In addition to the foregoing, as part of Landlord's obligation, Landlord shall
71. complete a paved service road over the land described hereinafter and Tenant
72. shall have an easement for use as a paved service driveway across this parcel.
73. This easement shall be for the benefit of Tenant throughout the entire term
74. of this Lease and any extensions hereof.
75. Landlord shall have the right to construct such service road at any point on
76. the hereinafter described parcel and shall have the right to relocate said
77. service road to any other part of said hereinafter described parcel from time
78. to time; provided, however, that any such relocation shall be accomplished in
79. a manner so as to allow Tenant at all times to have the clear and unobstructed
80. use of a driveway of at least fifty (50') feet in width across the hereinafter
81. described property to provide the orderly, circulatory flow of traffic around
82. the Shopping Center buildings to accommodate and service the truck dock adja-
83. cent to Tenant's building. The parcel over which said service road may be
84. constructed and/or relocated is as follows:

JEFFERSON COUNTY, MISSOURI REVISED TRACT "E"

85. A tract of land located in Lot #29 and Lot #30 of U. S. Survey 2991,
86. T42N, R6E, Jefferson County, Missouri and being more particularly described as
87. follows:
88. Beginning at an iron pin at the point of intersection of the N. W. line
89. of Lot #30 and the S. E. line of Lot #29 of U. S. Survey 2991 and the northeast
90. line of a 16' road easement as recorded in Book 32, Page 13 of the Jefferson
91. County Records; THENCE, S. 47° 15' E along said easement line a distance of 37.3
92. to the point of intersection with the Northwest R.O.W. line (80' R/W) of Route
93. 61-67; THENCE following said R.O.W. line (80' R.O.W.) along an arc of a curve to
94. the left having a radius of 859.00' a distance of 53.72' (having a chord bearing
95. S 27° 02' W a distance of 53.71') to a point; THENCE leaving said R.O.W. line
96. (80' R.O.W.) and running N 47° 15' W a distance of 46.78' to a point; THENCE
97. N 37° 30' W a distance of 152.00 feet to a point; THENCE S 52° 34' W a distance
98. of 125.00' to a point; THENCE S 35° 34' W a distance of 12.59'; THENCE N 37° 30'
99. a distance of 676.36' to a point; THENCE S 52° 34' W a distance of 330.0' to a
100. point; THENCE N 37° 31' W a distance of 85.0' to a point; THENCE N 52° 34' E
101. 330.0' to a point; THENCE N 37° 30' W a distance of 174.05' to a point; THENCE
102. N 52° 34' E a distance of 187.05' to an old axle; THENCE S 37° 30' E along the
103. northeast line of said Tract 2 and the northeastern line of a 25' road easement
104. a distance of 534.73' to an old axle at the most northerly point of said Tract 1
105. and the most easterly point of said Tract 2; THENCE S 37° 30' E along the north-
106. east line of said Tract 1 and said line also being the northeast line of a 25'
107. wide road easement a distance of 225.00' to a point; THENCE S 37° 30' E along
108. the Northern line of a 16' wide road easement (Book 32, Page 13) a distance of
109. 310.00' to an iron pin and to the POINT OF BEGINNING. Said tract containing
110. 4.861 acres.

EXHIBIT "B"

BOX 359 PAGE 1490

Lease Documents Scheduled for 902

215 Arnold Cross Road
Arnold, Missouri

1. Lease dated November 12, 1976 between W. B. Wiggins, Sr., as Landlord, and The Kroger Co., as Tenant.
2. Memorandum of Lease dated November 12, 1976.
3. Lease Modification Agreement No. 1 dated August 15, 1977 (as to Tenant).
4. Second Amended Lease dated August 21, 1978 (as to Tenant).
5. Lease Modification Agreement No. 2 dated August 21, 1978 (as to Tenant).
6. First Amended Lease dated August 15, 1977 (as to Tenant).
7. Lease Modification Agreement No. 3 dated December 22, 1983 (as to Tenant).
8. Letter from G. David Dodd of the law offices of Long and Albradge to Mr. Phillip Ernst of the John Hancock Mutual Life Insurance Co. dated December 14, 1983.
9. Letter from Mr. John Lothrop associate counsel of John Hancock Mutual Life Insurance Co. to G. David Dodd dated December 29, 1983.
10. Estoppel Letter dated August 24, 1978.
11. Subordination Non-Disturbance Attornment Agreement dated August 24, 1978.
12. Notice of Assignment dated September 15, 1978.

STATE OF Illinois

BOOK 359 PAGE 1491

COUNTY OF Cook

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared E.J. GORCZYCA and BENNETT L. BERMAN to me known, who declared and acknowledged to me, Notary that they are a tax Vice President and Secretary of National Super Markets, Inc., an Illinois Corporation, that as such duly authorized officers, by and with the authority of the Board of Directors of said corporation, have signed and executed and foregoing instrument as the free and voluntary act and deed of said corporation, and for the objects and purposes therein set forth.

IN WITNESS WHEREOF, I have set my hand and official seal on this the 2nd day of December, 1986.

My Commission expires Feb. 23, 1987

Janet Grimm
Notary Public

JANET GRIMM

STATE OF Illinois

COUNTY OF Cook

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared E.J. GORCZYCA and BENNETT L. BERMAN to me known, who declared and acknowledged to me, Notary that they are a tax Vice President and Secretary of National Tea Co., an Illinois Corporation, that as such duly authorized officers, by and with the authority of the Board of Directors of said corporation, have signed and executed and foregoing instrument as the free and voluntary act and deed of said corporation, and for the objects and purposes therein set forth.

IN WITNESS WHEREOF, I have set my hand and official seal on this the 2nd day of December, 1986.

My Commission expires Feb. 23, 1987

Janet Grimm
Notary Public

JANET GRIMM

FILED FOR RECORD

1987 MAR 23 PM 12:30

MAHLENE CASILE RECORDER
JEFFERSON COUNTY, MO.

STATE OF Ohio

COUNTY OF Hamilton

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared Arthur Juergens and the Senior Vice President and Secretary of The Kroger Co., an Ohio Corporation, that as such duly authorized officers, by and with the authority of the Board of Directors of said corporation, have signed and executed and foregoing instrument as the free and voluntary act and deed of said corporation, and for the objects and purposes therein set forth.

IN WITNESS WHEREOF, I have set my hand and official seal on this the 4th day of December, 1986.

My Commission expires NANCY WHITE
Notary Public, State of Ohio
My Commission Expires August 8, 1990

Nancy White
Notary Public

*National Supermarkets 20.00 pd
8525 page Blvd
St Louis, Mo. 63114 CK# 327971*



Arnold, MO
Doc. # 276713

610 536

STATE OF Missouri
COUNTY OF Jefferson

ASSIGNMENT OF OPERATING LEASES AND RENTS

For value received, the undersigned ARNOLD PLAZA, INC., a Delaware corporation ("Assignor") does hereby convey, transfer, sell and assign unto RED RIVER PLAZA ASSOCIATES, L.P., a Delaware limited partnership, ("Assignee"), any and all of the undersigned's right, title and interest as landlord, in and to the operating leases assigned to Assignor in instrument Book 752, page 666 of the records of the Jefferson County Clerk's Office, Missouri, on the attached schedule (the "Leases") for the property described on Exhibit A, and any and all rents hereafter accruing or deposits heretofore delivered.

The Assignor hereby indemnifies and agrees to hold harmless Assignee from and against any and all liabilities, claims, demands, obligations, assessments, losses, costs, damages and expenses of any nature whatsoever (including, without limiting the generality of the foregoing, reasonable attorney's fees and court costs), which Assignee may incur, sustain or suffer, or which may be asserted or charged against Assignee, arising out of, pertaining to or in any way connected with the undersigned's obligations, duties and liabilities under the Leases, prior to the date hereof.

Assignee hereby indemnifies and agrees to hold harmless Assignor from and against any and all liabilities, claims, demands, obligations, assessments, losses, costs, damages and expenses of any nature whatsoever (including, without limiting the generality of the foregoing, reasonable attorney's fees and court costs) which Assignor may incur, sustain or suffer, or which may be asserted or charged against Assignor, arising out of, pertaining to or in any way connected with the obligations, duties and liabilities under the Leases, subsequent to the date hereof.

This Assignment shall be governed by and its terms and conditions shall be enforced and interpreted in accordance with the laws of the State in which the property is located.

This Assignment may be executed in multiple counterparts of the original, each of which, when attached together shall constitute one instrument.

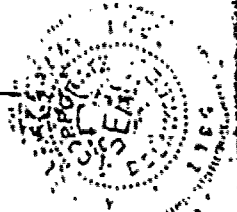
IN WITNESS WHEREOF, each of the undersigned have hereunto set its hand and affixed its seal, all as of the 22 day of November, 1973

(SEAL AFFIXED)

Donna Carpinelli
Witness: DONNA CARPINELLI

ARNOLD PLAZA, INC.,
a Delaware corporation

By: Robert M. Mander
President



RED RIVER PLAZA ASSOCIATES,
L.P., a Delaware limited partnership

By: Washington General Corporation,
a Delaware corporation

By: [Signature]
(Vice) President

(SEAL AFFIXED)

[Signature]
Witness: DENNIS CAMPANELLI

(NOTE: BLACK INK ONLY)

STATE OF New York)
COUNTY OF New York) ss.:

On this 22nd day of November, 1993, before me Ellen Warden personally known, who, being by me duly sworn, did say that he is the (Vice) President of Arnold Plaza, Inc., a corporation of the State of Delaware, and that the seal affixed to the foregoing instrument is the corporate seal of the said corporation, and that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors; and said officer acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

STATE OF New York)
COUNTY OF New York) ss.:

[Signature]
Notary Public
My term expires: _____

ELLEN WARDEN
Notary Public, State of New York
No. 31-4647374
Qualified in New York County
Commission Expires July 31, 1995

On this 21st day of November, 1993, before me appeared Robert M. [Signature] to me personally known, who, being by me duly sworn, did say that he is the president of WASHINGTON GENERAL CORPORATION, the general partner of RED RIVER PLAZA ASSOCIATES, L.P., and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and said officer acknowledged said instrument to be the free act and deed of said corporation on behalf of said limited partnership.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County and State aforesaid, the day and year last above written.

My term expires _____, 19____

[Signature]
Notary Public in and for said
County and State

ELLEN WARDEN
Notary Public, State of New York
No. 31-4647374
Qualified in New York County
Commission Expires July 31, 1995

EXHIBIT A

The land referred to in this Commitment is situated in the State of Missouri, County of Jefferson and is described as follows:

PARCEL NO. 1: All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U. S. Survey 2991, Township 43 North, Range 6 East, and being more particularly described as follows: Beginning at an iron pin at the intersection of the Southwesterly line of Lot 29, U. S. Survey 2991, (also the Northeast line of Arnold Terrace Block 3) and the Northerly right-of-way line of Relocated Route 141; thence along said Southwesterly line of Lot 29, North 37 degrees 31 minutes West a distance of 663.69 feet to the point of intersection with the Southeasterly right-of-way line of Interstate 55; thence along said right-of-way North 2 degrees 33 minutes 30 seconds East a distance of 104.88 feet to a point; thence continuing North 13 degrees 40 minutes East, a distance of 321.05 feet to a point; thence leaving said right-of-way South 37 degrees 31 minutes East a distance of 195.36 feet to a point; thence North 52 degrees 29 minutes East, a distance of 300.00 feet to a point on the Southwesterly line of the 100 foot wide Union Electric Company right-of-way; thence following said right-of-way line North 37 degrees 31 minutes West, a distance of 137.16 feet to an axle; thence crossing said Union Electric right-of-way North 52 degrees 34 minutes East, a distance of 100.00 feet to a point on the Northeasterly line of said right-of-way; thence following said right-of-way line South 37 degrees 31 minutes East a distance of 152.0 feet to a point; thence leaving said right-of-way North 52 degrees 34 minutes East a distance of 330.00 feet to a point; thence South 37 degrees 30 minutes East a distance of 676.36 feet to a point; thence South 33 degrees 34 minutes West a distance of 12.41 feet to a point; thence South 4 degrees 52 minutes 28 seconds East a distance of 71.11 feet to a point; thence South 54 degrees 45 minutes 40 seconds East a distance of 68.00 feet to a point; thence South 32 degrees 34 minutes West a distance of 15.00 feet to a point; thence South 21 degrees 30 minutes 43 seconds West a distance of 67.67 feet to a point; thence North 49 degrees 10 minutes West a distance of 131.00 feet to a point; thence South 51 degrees 47 minutes West a distance of 235.00 feet to a point; thence South 37 degrees 57 minutes 18 seconds East a distance of 236.26 feet to a point on the Northerly right-of-way line of Old Route 141; thence along said right-of-way and along the chord of a curve (radius 789.00 feet) South 54 degrees 50 minutes 42 seconds West, a distance of 71.72 feet to a concrete monument; thence continuing along said right-of-way and along the chord of a curve (radius 789.00 feet) South 63 degrees 06 minutes West a distance of 154.69 feet to a concrete monument; thence continuing along said right-of-way South 72 degrees 59 minutes West a distance of 100.35 feet to a point; thence leaving said right-of-way North 14 degrees 04 minutes West a distance of 263.0 feet to a point; thence South 66 degrees 30 minutes 40 seconds West a distance of 206.79 feet to a point; thence South 14 degrees 04 minutes East a distance of 206.00 feet to a point on the Northern right-of-way of Relocated

... 000: 500

Route 141; thence South 75 degrees 56 minutes West a distance of 137.01 feet to a point; thence South 59 degrees 14 minutes West a distance of 44.65 feet to an iron pin and the point of beginning.

PARCEL NO. II: All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U. S. Survey 2991, Township 43 North, Range 6 East, and being more particularly described as follows: To reach the true point of beginning, start at an iron pin at the point of intersection of the Southwesterly line of Lot 29 of U. S. Survey 2991, (also being the Northeast line of Arnold Terrace Block 3) and the Northerly right-of-way line of Relocated Route 141; thence along said right-of-way of Relocated Route 141, North 59 degrees 14 minutes East a distance of 44.65 feet to a point; thence continuing North 75 degrees 56 minutes East a distance of 316.83 feet to a right-of-way marker; thence continuing South 26 degrees 16 minutes East, a distance of 24.65 feet to a right-of-way marker on the Northerly right-of-way of Old Route 141; thence along said right-of-way North 72 degrees 59 minutes East a distance of 119.35 feet to a concrete monument; thence continuing along said right-of-way and the chord of a curve (radius 789.0 feet) North 63 degrees 06 minutes East a distance of 154.69 feet to a concrete monument; thence continuing along said right-of-way and the chord of a curve (radius 789.0 feet) North 51 degrees 50 minutes East a distance of 154.49 feet to the point of beginning; thence leaving said right-of-way North 21 degrees 30 minutes 43 seconds East a distance of 273.87 feet; thence North 52 degrees 34 minutes East a distance of 15.0 feet to a point; thence South 38 degrees 15 minutes East along the Northeast line of a tract of land now or formerly owned by Joseph and Katherine Kochner (Book 152, Page 578) a distance of 22.05 feet; thence South 73 degrees 44 minutes East, a distance of 104.88 feet to the point of intersection with the Northwest right-of-way of Old Route 141 (S.J.); thence South 46 degrees 13 minutes West along Northerly right-of-way of Old Missouri Route 141 a distance of 61.15 feet to a point; thence continuing along said right-of-way South 46 degrees 13 minutes West a distance of 252.76 feet to a point, said point being the point of beginning.

FILED FOR RECORD
94 FEB -2 PM 4: 16
CLERK OF THE RECORDER
JEFFERSON COUNTY, MO.

RECORDING FEE \$ 14.00
STAMP \$ 2.00
TOTAL \$ 16.00

BOOK 673 PAGE 1475

26611-139338
SITE NAME: Arnold
SITE NUMBER: 70

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE ("Assignment") is executed and entered into by and between National Super Markets, Inc., a Michigan corporation ("Assignor") and Schnuck Markets, Inc., a Missouri corporation ("Assignee"):

WITNESSETH:

WHEREAS, pursuant to that certain Lease as more fully described and identified on Exhibit A attached hereto and made a part hereof (the "Lease"), Assignor is the tenant (or subtenant if so referenced thereon) of the real estate described on Exhibit B attached hereto and made a part hereof (the "Premises"); and

WHEREAS, Assignor desires to assign, and Assignee desires to assume, the rights and obligations of Assignor under the Lease.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby ASSIGN, TRANSFER, SET OVER, CONVEY AND DELIVER unto Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Premises and the Lease including, without limitation, all of the rights, powers, estate and privileges of Assignor in, to and under the Lease and all rights and benefits of every description whatsoever belonging to or for the benefit of the Assignor in said Lease and the Premises free and clear of any and all security interests, liens, pledges, charges or encumbrances of any nature whatsoever, except with respect to the "Permitted Exceptions" as fully described on Exhibit C attached hereto and made a part hereof.

Subject to the provisions of that certain Asset Purchase Agreement (the "APA") dated as of November 23, 1994 by and between National Holdings, Inc., National Tea Co. and National Super Markets, Inc. as Seller, and Schnuck Markets, Inc., as Purchaser, it is understood and agreed that, by its execution hereof, Assignee hereby assumes and agrees to be responsible for the payment and performance of all obligations accruing with respect to the Lease, on the part of the Assignor therein required to be performed accruing after the Assignment.

This Assignment shall not be deemed to release Assignor from its obligations under the Lease accruing on or before this Assignment, and this Assignment shall not be deemed to modify or amend Assignors rights and obligations as to the landlord under the Lease.

With respect to all matters pertaining to the Lease or the Premises or this Assignment, the parties recognize and agree that their rights and obligations, including but not limited to those pertaining to indemnification, shall be as set forth in the APA and any and all provisions hereof shall not modify or amend the rights and obligations of the parties as set forth therein.

BOOK 673 PAGE 1476

Assignee shall provide thirty (30) days advance written notice to Assignor in the event Assignee assigns its rights and obligations under this Lease and in connection therewith, Assignee is fully released of and from all liability and obligations thereunder. Upon an assignment in which event Assignee is not so fully released of and from such liability and obligations, Assignee shall use reasonable efforts to provide notice of such assignment unto Assignor, but the good faith, failure of Assignee to provide such notice shall not constitute a breach of any obligation of Assignee herein.

This Assignment is made with, and Assignor hereby makes in favor of Assignee, as set forth herein *in extenso* all representations, warranties, and covenants of the Assignor pertaining to the Lease and this Assignment as set forth in the APA which representations, warranties and covenants shall survive the execution and delivery of this Assignment in accordance with the terms of the APA. Except as specifically provided hereinabove, this Assignment is hereby made "AS-IS" and "WHERE-IS", without any representation or warranty whatsoever, express or implied, as to the condition of the Premises or Lease or the suitability or fitness of the Lease or Premises for any particular or general use or purpose or for the business of Assignee, and any successors or assigns of Assignee.

This Assignment may be executed in multiple counterparts, each of which shall be considered as original but all of which, when taken together, shall constitute but one and the same document.

All of the covenants, terms and conditions set forth herein, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and subtenants.

This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri applicable to agreements made and performed wholly within the State of Missouri without regard to conflicts of laws principles.

THIS AGREEMENT is executed effective as of the 12TH day of JUNE, 1995.

ATTEST:

John T. Moorsman
Asst. Secretary JOHN T. MOORSMAN

ASSIGNOR:

NATIONAL SUPER MARKETS, INC.

By: Richard A. Tracy, Jr.
Name: Richard A. Tracy, Jr.
Title: Vice President

ATTEST:

Terry E. Schnuck
Terry E. Schnuck
Secretary

ASSIGNEE:

SCHNUCK MARKETS, INC.

By: Todd R. Schnuck
Name: Todd R. Schnuck
Title: Corporate Vice President
and Chief Financial Officer

BOOK 673 PAGE 1477

STATE OF MISSOURI)

City OF St. Louis)

ss.

On this 2nd day of June, 1995, before me appeared Richard A. Feaga, Jr. to me personally known, who, being by me duly sworn, did say that he is the Vice President of NATIONAL SUPER MARKETS, INC., a corporation of the State of Michigan, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Richard A. Feaga, Jr. acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Cynthia J. Foster
Notary Public

My term expires: CYNTHIA J. FOSTER
NOTARY PUBLIC STATE OF MISSOURI
COUNTY OF ST. LOUIS
MY COMMISSION EXPIRES APRIL 30, 1998

STATE OF MISSOURI)

City OF St. Louis)

ss.

On this 3rd day of June, 1995, before me appeared Todd R. Schnuck to me personally known, who, being by me duly sworn, did say that he is the Corporate Vice President and CFO of SCHNUCK MARKETS, INC., a corporation of the State of Missouri; and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Todd R. Schnuck acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Colleen M. Lavelle
Notary Public

My term expires:

COLLEEN M. LAVELLE
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
My Commission Expires: Aug. 13, 1995

BOOK 673 PAGE 1478

**EXHIBIT A TO ASSIGNMENT AND ASSUMPTION
OF LEASE**

LEASE

Site #/Name: 70n Arnold
Address: 215 Arnold Cross Roads
Arnold, MO

Lease Agreement dated as of November 12, 1976, including any addendums thereto, between W.B. Wiggins, Sr. and The Kroger Co. as amended or modified by (i) Lease dated November 12, 1976 between W.B. Wiggins, Sr. and The Kroger Co. as recorded in Book 567 Page 952 Jefferson County, Missouri; (ii) First Amended Lease dated August 15, 1977 between W.B. Wiggins, Sr. and The Kroger Co. as recorded in Book 586 Page 730 Jefferson County, Missouri; (iii) Lease Modification Agreement #1 dated August 15, 1977 between W.B. Wiggins, Sr. and The Kroger Co.; (iv) Assignment of Landlord's Interest in Tenant Leases dated August 30, 1977 by W.B. Wiggins, Sr. to Jeffco Associates as recorded in Book 590 Page 964 Jefferson County, Missouri; (v) Second Amended Lease dated August 21, 1978 between Jeffco Associates and The Kroger Co. as recorded in Book 614 Page 454 Jefferson County, Missouri; (vi) Lease Modification Agreement #2 dated August 21, 1978 between Jeffco Associates and The Kroger Co.; (vii) Lease Modification Agreement #3 dated March 15, 1984 between Jeffco Associates and The Kroger Co.; (viii) Assignment of Leases dated July 1, 1984 by Jeffco Associates to Arnold Plaza, Inc. as recorded in Book 752 Page 666 Jefferson County, Missouri; and (ix) Lease Assignment and Assumption Agreement dated November 28, 1986 by The Kroger Co. to National Super Markets, Inc. as recorded in Book 359 Page 1486 Jefferson County, Missouri; and (x) Assignment of Operating Leases and Rents dated November 22, 1993 by Arnold Plaza, Inc. to Red River Plaza Associates, L.P. as recorded in Book 610 Page 596 Jefferson County, Missouri. The current landlord under the Lease for certain real property commonly known as 215 Arnold Cross Road, Arnold, Missouri 63010 is Glimcher Holdings Limited Partnership (successor in interest to W.B. Wiggins, Sr.).

BOOK 673 PAGE 1479

#70n ARNOLD
215 ARNOLD CROSS ROADS
ARNOLD, MO

EXHIBIT B TO ASSIGNMENT AND ASSUMPTION OF LEASE

LEGAL DESCRIPTION

All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S. Survey 2991, Township 43 North, Range 6 East, and being more particularly described as follows:

BEGINNING at an iron pin at the intersection of the southwesterly line of Lot 29, U. S. Survey 2991 (also the northeast line of Arnold Terrace, Block 3) and the northerly right-of-way line of relocated Route 141; THENCE along said southwesterly line of Lot 29 N 37° 31' W a distance of 663.69' to the point of intersection with the southeasterly right-of-way line of Interstate 55; THENCE along said R.O.W. N 2° 33' 30" E a distance of 104.88' to a point; THENCE continuing N 13° 40' E a distance of 321.06' to a point; THENCE leaving said R.O.W. S 37° 31' E a distance of 195.36' to a point; THENCE N 52° 29' E a distance of 300.00' to a point on the southwesterly line of the 100' wide Union Electric Company R.O.W. THENCE following said R.O.W. line N 37° 31' W a distance of 137.16' to an axle; THENCE crossing said U.E. R.O.W. N 52° 34' E a distance of 100.00' to a point on the northeasterly line of said R.O.W.; THENCE following said R.O.W. line S 37° 31' E a distance of 159.0' to a point; THENCE leaving said R.O.W. N 52° 34' E a distance of 330.00' to a point; THENCE S 37° 30' E a distance of 676.36' to a point; THENCE S 35° 34' W a distance of 32.41' to a point; THENCE S 4° 52' 28" E a distance of 71.11' to a point; THENCE S 54° 45' 40" E a distance of 68.00' to a point; THENCE S 52° 34' W a distance of 15.00' to a point; THENCE S 21° 30' 43" W; a distance of 67.67' to a point; THENCE N 49° 10' W a distance of 131.00' to a point; THENCE S 51° 47' W a distance of 235.00' to a point; THENCE S 37° 57' 18" E a distance of 236.26' to a point on the northerly R.O.W. line of Old Route 141; THENCE along said R.O.W. and along the chord of a curve (radius 789.00') S 54° 50' 42" W a distance of 71.72' to a concrete monument; THENCE continuing along said R.O.W. and along the chord of a curve (radius 789.00') S 63° 06' W a distance of 154.69' to a concrete monument; THENCE continuing along said R.O.W. S 72° 59' W a distance of 100.35' to a point; THENCE leaving said R.O.W. N 14° 04' W a distance of 263.0' to a point; THENCE S 66° 30' 40" W a distance of 206.79' to a point; THENCE S 14° 04' E a distance of 206.00' to a point on the northern R.O.W. of relocated Route 141; THENCE S 75° 56' W a distance of 137.01' to a point; THENCE S 59° 14' W a distance of 44.65' to an iron pin and the POINT OF BEGINNING. Said tract containing 19.679 acres.

Together with a non-exclusive easement for ingress and egress of the following described property:

All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S. Survey 2991, Township 43 North, Range 6 East and being more particularly described as follows:

To reach the TRUE POINT OF BEGINNING, start at an iron pin at the point of intersection of the southwesterly line of Lot 29 of U.S. Survey 2991 (also being the northeast line of Arnold Terrace, Block 3) and the northerly right-of-way line of relocated Route 141; thence along said right-of-way of relocated Route 141 N 59° 14' E a distance of 44.65' to a point; thence continuing N 75° 56' E a distance of 316.83' to a right-of-way marker; thence continuing S 26° 16' E a distance of 24.65' to a right-of-way marker on the northerly right-of-way of old Route 141; thence along said right-of-way N 72° 59' E a distance of 119.35' to a concrete monument; thence continuing along said right-of-way and the chord of a curve (radius 789.0') N 63° 06' E a distance of 154.69' to a concrete monument; thence continuing along said right-of-way and the chord of a curve (radius 789.0') N 51° 50' E a distance of 154.49' to the POINT OF BEGINNING: thence leaving said right-of-way N 21° 30' 43" E a distance of 273.87' thence N 52° 34' E a distance of 15.0' to a point; thence S 38° 15' E along the Northeast line of a tract of land now or formerly owned by Joseph & Katherine Kochner (Book 152, Page 578) a distance of 22.05'; thence S 73° 44' E a distance of 104.88' to the point of intersection with the Northwest right-of-way of Old Route 141 (S.J.); thence S 46° 13' W along northerly right-of-way of old Missouri Route 141 a distance of 61.15' to a point; thence continuing along said right-of-way S 46° 13' W a distance of 252.76' to a point said point being the POINT OF BEGINNING.

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EXHIBIT C

Permitted Exceptions

Only (i) matters specifically referenced as "Disclosure Schedule" matters hereinbelow, taxes and special assessments not yet due or payable, zoning and building laws, and (ii) any other matters of record (other than financial liens, mortgages, deeds of trust and encumbrances which shall not be permitted with respect to Assignor's leasehold (or subleasehold estate if so referenced herein), or any leasehold improvements owned by Assignor hereunder) affecting title, which do not materially inhibit, preclude or impair the use or occupancy, or materially diminish the value of (a) in the case of improved land, the land itself or the improvements on the land, assuming the current configuration and a use and utilization substantially the same as the current use and utilization by Assignor, its affiliates or lessees (if any) as of the date of this conveyance, or (b) in the case of vacant land, the land itself, assuming it will be used as a retail development; provided however, none of the foregoing shall be construed as an acknowledgement by the Assignee of the validity, existence or priority of any of the "Permitted Exceptions" set forth herein as to any third parties.

Disclosure Schedule matters, if any: None.

FILED FOR RECORD
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JENNIFER S. HILL, CLERK
JEFFERSON COUNTY, MO.

RECORDING FEE \$ 23.00
STATE USER FEE 13.00
TOTAL \$ 36.00 *hy*
CCTIC

6/1/99

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

THE FAMILY COMPANY OF
AMERICA, L.C.,
a/k/a National Markets,
a/k/a Gibson's Markets,
a/k/a ABC, L.C.,

FAMILY MANAGEMENT COMPANY,
a/k/a National Markets,
a/k/a Gibson's Markets,
a/k/a ABC, L.C.,

FAMILY COMPANY OF CAHOKIA,
L.L.C.,
a/k/a National Markets,
a/k/a Gibson's Markets,
a/k/a ABC, L.C.,

FAMILY COMPANY OF
COLLINSVILLE, L.L.C.,
a/k/a National Markets,
a/k/a Gibson's Markets,
a/k/a ABC, L.C.,

FAMILY COMPANY OF
CRESTWOOD, L.C.,
a/k/a National Markets,
a/k/a Gibson's Markets,
a/k/a ABC, L.C.,

and

FAMILY COMPANY OF
FLORISSANT, L.C.,
a/k/a National Markets,
a/k/a Gibson's Markets,
a/k/a ABC, L.C.,

Debtors.

CHAPTER 7 PROCEEDINGS

JOINTLY ADMINISTERED

Case No. 99-43657-172

Case No. 99-43658-172

Case No. 99-43659-172

Case No. 99-43660-172

Case No. 99-43661-172

Case No. 99-43662-172

HEARING DATE: JUNE 1, 1999
HEARING TIME: 2:00 P.M.

ORDER APPROVING THE SALE OF LEASES
AND PERSONAL PROPERTY AND ASSUMPTION,
REJECTION AND EXTENSION OF TIME TO ASSUME OR
REJECT UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY.

At St. Louis; Missouri in this District this 1st day of June, 1999, Kathy A. Surratt-States, the Chapter 7 Trustee ("Trustee") by and through her attorney, presented her Motion to Assume or Reject Unexpired Leases of Non-Residential Real Property or in the Alternative, to Extend the Time Within Which to Assume or Reject Leases and her Motion to Approve the Sale of Leases and Personal Property, and upon consideration of the record as a whole and the Trustee's report of the results of the auction conducted by the Trustee, the Court finds as follows:

1. On May 26, 1999, Trustee conducted the auction in Courtroom 3 of the United States Bankruptcy Court, 211 N. Broadway, One Metropolitan Square, 7th Floor, St. Louis, Missouri 63102 in accordance with the Court's prior order.
2. The Trustee received the bids or offers as set forth in Exhibit A attached hereto for the leases and personal property located in the Debtors' stores.
3. The parties set forth as successful bidders or offerers in Exhibit A are prepared to pay the full purchase price as set forth in the Exhibit.
4. The holders of successful bids or offers for the leases have provided adequate assurance of future performance to the intermediate landlord, Schnuck Markets, Inc. and no further provision of adequate assurance of future performance to the prime landlord or intermediate landlords prior to Schnuck Markets, Inc. is necessary or required under 11 U.S.C. §365, other than two (2) months security deposit to be posted with Schnuck Markets, Inc. as agreed by the successful bidders or offerers.
5. Schnuck Markets, Inc., as intermediate landlord on Store 105-Jefferson and Lafayette, previously provided the Trustee with information regarding the unpaid pre-petition and post-petition rent for Store 105-Jefferson and Lafayette. This information was

incorporated into a Joint Stipulation in Relation to Request and Motion of Schnuck Markets, Inc. for Immediate Payment of Administrative Expense and Surcharge of Secured Creditors Pursuant to 11 U.S.C. §506(c) which was presented to the Court on May 17, 1999. The Joint Stipulation and supplemental information provided to the Trustee regarding the rent for Store 105-Jefferson and Lafayette, was distributed to prospective bidders and relied upon by the Trustee in conducting the auction on May 26, 1999 and in the acceptance of bids. The first disclosure to the Trustee of rent owed in excess of the sum of \$58,259.00 per quarter (prorated for the month of May, 1999 in the sum of \$20,066.99) was made on the evening of May 27, 1999 and in Court on May 28, 1999, when the attorney for Schnuck Markets, Inc. advised the Court that the prime landlord had just advised Schnuck Markets, Inc. that the rent was approximately \$500,000 in arrears. Based upon the prior representations made by Schnuck Markets, Inc. and this Trustee's reliance upon those representations as set forth above, the Court finds that Schnuck Markets, Inc. and those claiming through Schnuck Markets, Inc. are estopped from claiming back rent in excess of the amounts previously disclosed to the Trustee and that the Trustee is required to pay only the sum of \$20,066.99 to cure the lease defaults in order to assume and assign the lease for Store 105-Jefferson and Lafayette.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

- (a) The Trustee's auction is hereby confirmed and approved and all objections presented to the Court are overruled.
- (b) With respect to lot 1 (Store 14-Grand and Magnolia: lease and personal property sold to Sterling Moody), lot 5 (Store 55-S. Old Orchard: lease sold to Lake Forest Manor, Inc., personal property and fixtures sold to Hilco/Great

American Group), lot 9 (Store 105-Jefferson and Lafayette: lease sold to Barney Miller, personal property and trade fixtures sold to Hilco/Great American Group), lot 10 (Store 121 - Olive and Hanley: lease and personal property sold to Pete's Sur Save), lot 12 (Store 147-Sugarcreek: lease sold to O'Neil's Market, Inc., personal property and trade fixtures sold to Hilco/Great American Group), lot 13 (Store 154-Arnold: lease sold to 24 Hour Fitness, Inc., personal property sold to Hilco/Great American Group) and lot 16 (Store 188-Clayton and Baxter: lease sold to 24 Hour Fitness, Inc., personal property sold to Hilco/Great American Group), the leases are hereby assumed and the Trustee shall assign the leases and sell the personal property and trade fixtures free and clear of all liens, claims and encumbrances, except for any prior interest in the real estate; and the Trustee shall promptly cure all defaults for such assumed leases in the amounts shown on the attached Exhibit B and Exhibit C and that said assumption and assignment shall be effective June 1, 1999; provided, however, that the successful bidders/purchasers for the leases for Store 55 (S. Old Orchard: Lake Forest Manor, Inc.), Store 154 (Arnold: 24 Hour Fitness, Inc.) and Store 188 (Clayton and Baxter: 24 Hour Fitness, Inc.) shall allow Hilco/Great American Group access to the store during the month of June, 1999 for the purpose of selling and removing the personal property and trade fixtures in the store.

- (c) With respect to lot 2 (Store 22-St. Peters), lot 3 (Store 30-Southwest), lot 4 (Store 48-Collinsville, IL), lot 6 (Store 65-St. Ann), lot 7 (Store 71-New Halls

Ferry), lot 8 (Store 97-Riverview), lot 11 (Store 139-Cahokia, IL), lot 14 (Store 162-Forder), lot 15 (Store 170-Fairview Heights, IL), lot 17 (Store 204-Reavis Barracks), lot 18 (Store 212-St. Charles) and lot 20 (Store 228-Wood River, IL.): (i) the leases are rejected as of June 30, 1999 except that by agreement with Schnuck Markets, Inc., the estate's liability on the leases for the month of June, 1999 shall be the lesser of 1/3 of the successful bid for the fixtures for said store or one month's rent which amount the Trustee shall promptly pay to Schnuck Markets, Inc.; and (ii) the Trustee shall sell the personal property and trade fixtures free and clear of all liens, claims and encumbrances to Hilco/Great American Group which is allowed through June 30, 1999, to sell and remove the personal property and trade fixtures.

- (d) The successful entities as set forth on Exhibit A to this Order are good faith purchasers and/or lessees and are entitled to the protection of 11 U.S.C. §363(m), and by agreement of the parties shall not be deemed a successor to the Debtors or the Trustee.
- (e) Hilco/Great American Group is permitted under this Order to sell the personal property and trade fixtures at auction at all stores except Store 14-Grand and Magnolia, Store 105-Jefferson and Lafayette, Store 121-Olive and Hanley, and Store 147-Sugarcreek.
- (f) Hilco/Great American Group shall, prior to June 4, 1999, deposit in the escrow account of the law firm Husch & Eppenger, LLC the sum of \$200,000.00 which shall be used to establish a bond or deposit as security for any damage caused by its failure to conduct an auction and remove the

personal property and trade fixtures in accordance with the usual and customary practices in the industry. Schnuck Markets, Inc., the purchasers of the leases where Hilco/Great American Company is to remove the personal property and trade fixtures, and the Trustee are the intended beneficiaries of the deposit. By agreement of the parties, Hilco/Great American Group relinquishes any claim to any personal property or trade fixtures that are not removed on or before June 30, 1999.

- (g) Hilco/Great American Group shall pay to the Trustee or 24 Hour Fitness, Inc., as the case may be, an additional sum of up to \$500.00 per store (a total of \$9,000.00) as partial reimbursement for utility costs, within fifteen (15) days of receipt of statement from the Trustee.
- (h) The time to assume or reject the lease with respect to Store #220, Bellefontaine at 10223 Lewis and Clark is hereby extended to July 2, 1999 and the Trustee shall sell the personal property and trade fixtures to Hilco/Great American Group free and clear of all liens, claims and encumbrances. Hilco/Great American Group shall be allowed through June 30, 1999 to sell and remove the personal property and trade fixtures. The Trustee shall pay to Schnuck Markets, Inc. the full rent, CAM charges and pro rated real estate taxes for the months of April, May and June as referenced on Exhibits B and C attached, subject to further agreement of the parties.
- (i) The Court further orders that the assumption of the lease for Store 188-Clayton and Baxter and Store 147-Sugarcreek is approved despite a cross-default provision in the sublease between Schnuck Markets, Inc. and Family

Company of America, L.C., which specifies that a breach of the obligations under any of four leases (Stores numbered 22-St. Peters, 147-Sugarcreek, 188-Clayton and Baxter and 228-Woodriver) also constitutes a breach of the lease for Store 188-Clayton & Baxter and Store-147-Sugarcreek, because the cross-default provision is unenforceable by Schnuck Markets, Inc. as an impermissible restriction on assumption and assignment under 11 U.S.C. §365.

Dated: _____

6/1/99


JAMES J. BARTA
U.S. Bankruptcy Judge

Copies to: See attached Exhibit E

EXHIBIT A

Lot #	Store #	Location	Leases & Personal Property	Highest Bid	Lease Only
All	All	All	N/A	N/A	N/A
1	14	Grand & Magnolia	Sterling Moody	\$63,000.00	N/A
2	22	St. Peters	N/A	N/A	N/A
3	30	Southwest	N/A	N/A	N/A
4	48	Collinsville, IL	N/A	N/A	N/A
5	55	S. Old Orchard	N/A	N/A	Lake Forest Manor, IL
6	65	St. Ann	N/A	N/A	N/A
7	71	New Halls Ferry	N/A	N/A	N/A
8	97	Riverview	N/A	N/A	N/A
9	105	Jefferson & Lafayette	N/A	N/A	Barney Miller
10	121	Olive & Hanley	Pat's Sur Save	\$80,000.00	N/A
11	139	Cahokia, IL	N/A	N/A	N/A
12	147	Sugarcreek	N/A	N/A	O'Neil's Market, Inc.
13	154	Arnold	N/A	N/A	24 Hour Fitness, Inc.
14	162	Forder	N/A	N/A	N/A
15	170	Fairview Heights, IL	N/A	N/A	N/A
16	188	Clayton & Baxter	N/A	N/A	24 Hour Fitness, Inc.
17	204	Reavis Barracks	N/A	N/A	N/A
18	212	St. Charles	N/A	N/A	N/A
19	220	Bellevue	N/A	N/A	N/A
20	228	Wood River, IL	N/A	N/A	N/A

FAIRPLAY COMPANY OF AMERICA FROF ENTIES
 (as of 05/21/99)

Stoc Number Name/Location	4/1/99	5/1/99	6/1/99	7/1/99	8/1/99
FCA#204/SM#124 - Reavis 3661 Reavis Barracks Road St. Louis, Missouri	\$6,443.33	\$6,443.33	\$12,886.66		
FCA#212/SM#126 - Mark Twain 1355 South 5th Street St. Charles, Missouri	\$13,062.50	\$13,062.50	\$26,125.00		
FCA#220/SM#130 - Bellefontaine 10223 Lewis & Clark Boulevard St. Louis, Missouri	2702.68 Unpd. bal. from 3-1 pmt		\$2,702.68		Pmts. in the sum of \$13,625.00 due quarterly on 3-1, 6-1, 9-1 and 12-1
FCA#238/SM#175 - Wood River 1435 Vaughn Road Wood River, Illinois	\$23,292.00	\$23,292.00	\$46,584.00		
FCA#14/SM#215 - Magnolia 2700 South Grand Boulevard St. Louis, Missouri	\$3,666.66	\$3,666.66	\$7,333.32		
FCA#22/SM#222 - St. Peters 850 Jungerman Road St. Peters, Missouri	\$23,500.00	\$23,500.00	\$47,000.00		
FCA#30/SM#230 - Southwest 5433 Southwest Avenue St. Louis, Missouri	\$6,195.83	\$6,195.83	\$12,391.66		
FCA#48/SM#235 - Collinsville 1716 Vandalia Road Collinsville, Illinois	\$11,000.00	\$11,000.00	\$22,000.00		
FCA#55/SM#245 - Old Orchard #6 South Old Orchard Webster Groves, Missouri (Improved Parcel)	\$6,042.50	\$6,042.50	\$12,085.00		

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FAMILY COMPANY OF AMERICA PROPERTIES
 (as of 05/21/99)

Store Number Name/Location	05/21/99	05/21/99	05/21/99	Comments
FCA#154/SMH#270 - Arnold 215 Arnold Crossroads Arnold, Missouri	\$18,208.33	\$18,208.33	\$36,416.66	
FCA#162/SMH#277 - Forder 4432 Lemay Ferry Road Mehlville, Missouri	\$17,994.49	\$17,994.49	\$35,988.98	
FCA#170/SMH#280 - Fairview 10865 Lincoln Trail Fairview Heights, Illinois	\$17,394.75	\$17,394.75	\$34,789.50	
FCA#188/SMH#285 - Clayton/Baxter 14885 Clayton Road Chesterfield, Missouri	\$18,500.00	\$18,500.00	\$37,000.00	
FCA#97/SMH#294 - Riverview 8945 Riverview Drive St. Louis, Missouri		\$5,437.50	\$5,437.50	
TOTALS	\$208,095.16	\$303,244.31	\$473,147.79	

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CAMI SCHEDULE
 FAMILY COMPANY OF AMERICA PROPERTIES
 (as of 05/21/99)

Store Number	Name/Location	1998	1999	1999 Through 5/31/99	Comments
FCA#204/SM#124 - Reavis	3661 Reavis Barracks Road	None		\$2,099.81	'98 4th qtr. CAM paid; '99 1st Quarter CAM listed under CAM invoiced since 4/2/99 column; St. Louis County Water
FCA#212/SM#126 - Mark Twain	1355 South 5th Street	None	\$3,165.78	\$3,165.78	1st quarter CAM of \$9,572.99 was billed and pd. by FCA on 3-8-99. HVAC Elec. of \$1,582.89 per month for April and May 1999 is unpaid.
FCA#220/SM#130 - Bellefontaine	10223 Lewis & Clark Boulevard	Unknown	Unknown	\$684.00	Common area maintained by FCA. We do not believe the appropriate billbacks have been performed. BFI charges since 4/2/99 = \$168. Contemporary Landscaping charges since 4/2/99 = \$216. Invoices in Process for \$384 listed under CAM Invoiced Since 4/2/99..
FCA#238/SM#175 - Wood River	1435 Vaughn Road	Unknown	Unknown		FCA to maintain access drive between Parcels A and B and bill owner of Parcel A 50% of costs to maintain.
FCA#14/SM#215 - Magnolia	2700 South Grand Boulevard	N/A	N/A		
FCA#22/SM#222 - St. Peters	850 Jungerman Road	N/A	N/A		
FCA#30/SM#230 - Southwest	5433 Southwest Avenue	N/A	N/A		
FCA#48/SM#235 - Collinsville	1716 Vandalia Road	N/A	N/A		
FCA#55/SM#245 - Old Orchard	South Old Orchard	N/A	N/A		
Groves, Missouri (Improved Parcel)					

(1) Net Lease

CAM SCHEDULE
FAMILY COMPANY OF AMERICA PROPERTIES
 (as of 05/21/99)

Store Number	Name/Location	1998	1999	Total to date 5/31/99	Comments
FCA#55/SMI#245 - Old Orchard	South Old Orchard	N/A	N/A		
Webster Groves, Missouri					
(Parking Lot)					
FCA#63/SMI#246 - St. Ann		\$1,628.67	\$8,574.82	\$10,202.87	98 year-end ins. recon. Invoiced 3-30-99 of \$1,628.67; \$8,574.82 representing 1st quarter '99 CAM billed 4/20/99
10431 St. Charles Rock Road					
St. Ann, Missouri					
FCA#71/SMI#247 - Parker Road					Awaiting confirmation of status from PLL.
Plaza Madrid					
13041 New Halls Ferry Road					
Florissant, Missouri					
FCA#105/SMI#260 - Lafayette		N/A	N/A		
1605 S. Jefferson Avenue					
St. Louis, Missouri					
FCA#121/SMI#263 - Olive & Hanley		N/A	N/A		
7434 Olive Street					
University City, Missouri					
(Improved parcel)					
FCA#121/SMI#263 - Olive & Hanley		N/A	N/A		Month to month tenancy terminated.
7434 Olive Street					
University City, Missouri					
(Parking Lot)					
FCA#139/SMI#264 - Cahokia		1290	\$2,107.00	\$2,107.00	1998 CAM Invoiced 5-5-99; processing for payment by 5-14-99 per def. notice dated 5-10-99. '99 cam charges unbilled to date.
Camp Jackson Road					
Cahokia, Illinois					
FCA#147/SMI#265 - Sugar Creek		N/A	N/A		Net lease - N/A
1200 Sugar Creek Drive					
Fenton, Missouri					

(1) Net Lease

CAM SCHEDULE
FAMILY COMPANY OF AMERICA PROPERTIES
 (as of 05/21/99)

Store Number	Name/Location	1998	1999	Total Through 5/31/99	Comments
FCA#154/SM#270 - Arnold	215 Arnold Crossroads				
MO					
FCA#162/SM#277 - Forder	4432 Lemay Ferry Road	None	\$11,002.13	\$11,002.13	\$10,484.75 represents 1st quarter '99 CAM charges billed 4/16/99. No further charges will be billed during '99 because we will have exceeded the cap. The \$517.38 represents the applicable insurance share. Enviroscap/mowing = \$150
FCA#170/SM#280 - Fairview	10865 Lincoln Trail	Unknown	Unknown	\$150.00	FCA responsible for performing. FCA to bill other tenants directly for their prorata shares except for Golf USA - bill LL for that T's prorata share. Enviroscap/mowing = \$150
FCA#188/SM#285 - Clayton/Baxter	14885 Clayton Road		\$22,643.56		PLL maintains everything except for parking lot lights. Expense summary dated 5/10/99 from PLL for period 10/1/98 through 4/30/99: St. Louis County Water. Cam 10-1-98/4-30-99 \$22,643.56
	Chesterfield, Missouri				Pkg Lot lgtg. maintained by FCA (1 meter in groc. bldg.). FCA to bill PLL for strip users' prorata sh. of Pkg. lot lgtg. FCA has not billed SC Owner for 1998 usage by strip users.
FCA#97/SM#294 - Riverview	8945 Riverview Drive	Unknown	Unknown		PLL bills June and December. CAM capped at \$.15/sf (\$3,697). Lease provides that if PLL does not bill within 12 months, reimbursement requirement waived.
	Missouri				
TOTALS		\$3,735.67	\$45,386.29	\$2,055.15	

(i) Net Lease

Copies mailed to:

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St. Louis, MO 63101

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Clayton, MO 63105

Paul Otto (Received Signed Copy in Court)
Attorney for 24 Hour Fitness

EXHIBIT F

FOURTH AMENDMENT TO
LEASE AND SETTLEMENT AGREEMENT

This FOURTH AMENDMENT TO LEASE AND SETTLEMENT AGREEMENT (this "Agreement") is made and entered into this __ day of June, 2008 (the "Effective Date") by and among ARNOLD CROSSROADS, LLC, a Missouri limited liability company ("Landlord"); SCHNUCK MARKETS, INC., a Missouri corporation ("Tenant"); and 24 HOUR FITNESS USA, INC., a California corporation ("Subtenant"). The following recitals form the basis of this Agreement:

A. Landlord and Tenant are parties to that certain Lease Agreement, dated on or about November 12, 1976, as amended (the "Lease"), for that certain premises located at 215 Arnold Crossing, Arnold, Missouri (the "Premises") located within the Arnold Crossroads Shopping Center ("Shopping Center").

B. Tenant has subleased the premises to Subtenant pursuant to the terms and conditions of that certain Sublease, dated March 18, 1996.

C. Landlord, Tenant and Subtenant were parties to a lawsuit in the Circuit Court for the County of St. Louis, State of Missouri, entitled 24 Hour Fitness USA, Inc. v. Arnold Crossroads, LLC, et al., Case No. 07CC-001380 (the "Lawsuit"), wherein Subtenant had requested, among other things, that the Court enter an order and judgment declaring the rights and obligations of Landlord and Tenant with respect to certain disputes regarding (i) maintenance and repair of the roof of the Premises; and (ii) payment of premiums for insurance.

D. Landlord and Tenant had denied the various claims made against them in the Lawsuit and had raised a variety of defenses to those claims.

E. Landlord, Tenant and Subtenant all recognize the uncertainty of litigation and the substantial costs of continuing the legal proceedings between them and therefore, Subtenant has dismissed the Lawsuit, without prejudice, with the understanding that Landlord, Tenant and Subtenant shall fully and finally settle all disputes and matters in controversy among them relating to the Lawsuit as set forth in this Agreement.

F. Separate and apart from the matters involved in the Lawsuit, Landlord desires to substantially redevelop the Shopping Center in a manner that requires the consent of Tenant under the Lease and the consent of Tenant to an amendment of the Declaration of Reciprocal Easements currently encumbering the Shopping Center. Under the terms of the Sublease, Tenant requires the consent of Subtenant to grant such consents.

G. Separate and apart from the matters involved in the Lawsuit, as part of its redevelopment of the Shopping Center, Landlord has requested that Tenant and Subtenant surrender and reconvey to Landlord a portion of the Premises in exchange for a reduction in the future rental and other obligations of Tenant and Subtenant as more fully set forth herein.

H. Tenant and Subtenant are willing to consent to Landlord's redevelopment of the Shopping Center and to an amendment of the Declaration of Reciprocal Easements provided the operations and interests of Subtenant are adequately protected as set forth in this Agreement.

NOW THEREFORE, IT IS HEREBY AGREED, in consideration of the foregoing recitals and the mutual promises, covenants and agreements hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, as follows:

1. Reimbursement for Interior Damage. Landlord agrees to pay to Subtenant the sum of Sixty Thousand Dollars (\$60,000.00) as reimbursement for interior damage to the Premises. Payment of said sum shall be made in the form of a fifty percent (50%) abatement of base rent (Subtenant shall continue to pay all additional rent) payable under the Lease. Rent abatement shall commence on the first day of the calendar month immediately following the date of this Agreement and continue until Subtenant has received credit for the full amount of the reimbursement. Rent for the last month of the abatement period shall be pro rated.

2. New Façade. (a) In connection with Landlord's redevelopment of the Shopping Center, Landlord agrees that it shall, at Landlord's sole cost and expense, construct a new façade on the Premises and on the building of which the Premises are a part (the "Façade Improvements") (i) substantially as shown on Exhibit A attached hereto, (ii) in accordance with the plans and specifications and a reasonably detailed construction schedule approved by Tenant and Subtenant, which approval shall not be unreasonably withheld or delayed ("Approved Façade Plans and Specifications"), (iii) in compliance with all applicable laws, (iv) in a good and workmanlike manner, and (v) using only new, high-quality materials. Such Façade Improvements shall include the installation by Landlord of new Subtenant signage on the façade of the Premises, which signage shall be consistent in size and type with Subtenant's prototypical signage for clubs of the size of the Premises and as specified in the Approved Façade Plans and Specifications. Any changes to the Façade Improvements from that shown on Exhibit A attached hereto and detailed in the Approved Façade Plans and Specifications shall be subject to the approval of Tenant and Subtenant, which approval shall not be unreasonably withheld or delayed.

(b) Landlord covenants and agrees that the Façade Improvements shall be completed on or before January 31, 2009 (the "Façade Outside Completion Date"); provided, however, if Subtenant takes more than ten (10) business days after its receipt of any Landlord submittal of proposed plans and specification for the Façade Improvements to provide Subtenant's comments, if any thereto, then the Façade Outside Completion Date shall be extended by one day for each day beyond such 10-business day period that it takes Subtenant to provide its comments, if any. If for any reason the Façade Improvements are not completed by the Façade Outside Completion Date, Landlord and Tenant agree that Subtenant may deduct from base rent under the Lease the sum of \$500.00 per day for each day after the Façade Outside Completion Date that it takes for Landlord to complete the Façade Improvements. In addition to the foregoing, Landlord further agrees that once Landlord commences any portion of the Façade Improvements (the "Façade Improvements Commencement Date"), Landlord will complete the Façade Improvements within a period of no more than one hundred twenty (120) days after the Façade Improvements Commencement Date; Landlord and Tenant agree that if for any reason the Façade Improvements are not completed within such 120-day period, Subtenant may deduct from base rent the sum of \$1,000.00 per day for each day after such 120-day period that it takes for Landlord to complete the Façade Improvements. Among other things, the Façade Improvements shall not be deemed to be completed until Landlord has removed all construction materials and equipment from that portion of the Shopping Center surrounding the Premises and from that portion of the Shopping Center identified on the Site Plan attached hereto as Exhibit B as "24 Hour Fitness Parking Field," unless such construction materials and equipment are located thereon in connection with the performance by Landlord of the 24 Hour Fitness Parking Field Improvements as provided in Section 3(b) below.

(c) Landlord agrees to construct the Façade Improvements in a manner such that (i) access by

Tenant, its agents, employees, patrons and invitees to and from the Premises through the front doors of the Premises shall not be materially impaired, and (ii) use of the Premises and utility service to the Premises shall not be materially disturbed. Landlord agrees that for each day, or any portion thereof that (i) access by Tenant, its agents, employees, patrons and invitees to and from the Premises through the front doors of the Premises is materially impaired in connection with the construction of the Façade Improvements, or (ii) use of the Premises or utility service to the Premises is materially disturbed in connection with the construction of the Façade Improvements, then (A) Subtenant may provide Landlord with written notice (in accordance with the provisions of Section 24 below) of any such material impairment of access or material disturbance of use of the Premises or utility service; (B) Landlord shall have the right to cure such condition within a period of twenty-four (24) hours after receipt of Subtenant's notice; and (C) if Landlord fails to cure such condition within said 24-hour period, then Subtenant may deduct from base rent the sum of \$10,000 per day that such condition exists. If Subtenant gives two (2) such notices during construction of the Façade Improvements, Subtenant shall not be required to provide any further notices, and Subtenant shall thereafter be entitled to deduct \$10,000 per day immediately upon the occurrence of any such material impairment of access or material disturbance of use of the Premises or utility service.

3. Parking Area; Driveways and Other Common Areas and Facilities. (a) Landlord covenants and agrees that all construction, improvement, redevelopment, relocation and related work or activities in connection with the redevelopment of the Shopping Center (the "Redevelopment Work") shall be performed in such a manner that: (i) in no event shall the entrance/exit from Missouri State Highway 141 to the Shopping Center (as such entrance shall be relocated in connection with the redevelopment), with reasonably direct vehicular access to and from the 24 Hour Fitness Parking Field from such entrance/exit, be closed or the use of which otherwise materially impaired for more than a total of forty-five (45) days during the course of the Redevelopment Work, (ii) in no event shall the entrance/exit from Jeffco Boulevard to the Shopping Center, with reasonably direct vehicular access to and from the 24 Hour Fitness Parking Field from such entrance/exit, be closed or the use of which otherwise materially impaired for more than a total of fifteen (15) days during the course of the Redevelopment Work, (iii) at all times during the Redevelopment Work, at least one of the access points described in clauses (i) or (ii) above shall remain open and available to provide substantially normal vehicular access to and from the 24 Hour Fitness Parking Field, (iv) at no time shall any utility service to the Premises be interrupted or materially impaired, and (v) except as provided in paragraph (b) below, normal use of the 24 Hour Fitness Parking Field, including access to and from the Premises, by Subtenant and its agents, employees, patrons and invitees shall not be materially impaired. Landlord agrees that for each day, or any portion thereof, that a violation of the provisions of any of clauses (i) through (v) above exists, then (A) Subtenant may provide Landlord with written notice (in accordance with the provisions of Section 24 below) of any such violation(s); (B) Landlord shall have the right to cure such violation within a period of twenty-four (24) hours after receipt of Subtenant's notice; and (C) if Landlord fails to cure a violation of either of clauses (i) or (ii) above within said 24-hour period, then Subtenant may deduct from base rent the sum of \$1,000 per day that such violation exists, or if Landlord fails to cure a violation of any of clauses (iii), (iv) or (v) above within said 24-hour period, then Subtenant may deduct from base rent the sum of \$10,000 per day that such violation exists. If Subtenant gives two (2) notices of violations under the provisions of this Section 3(a) during the course of the Redevelopment Work, Subtenant shall not be required to provide any further notices, and Subtenant shall thereafter be entitled to deduct \$1,000 per day for a violation of clause (i) or (ii) above or \$10,000 per day for a violation of any of clauses (iii), (iv) or (v) above immediately upon the occurrence of any such violation.

(b) In connection with Landlord's redevelopment of the Shopping Center, Landlord agrees that it shall, at Landlord's sole cost and expense, improve the 24 Hour Fitness Parking Field (the "24 Hour Fitness Parking Field Improvements") (i) substantially as shown on Exhibit B attached hereto,

(ii) in accordance with the plans and specifications and a reasonably detailed construction schedule approved by Tenant and Subtenant, which approval shall not be unreasonably withheld or delayed ("Approved Parking Field Plans and Specifications"), (iii) in compliance with all applicable laws, (iv) in a good and workmanlike manner, and (v) using only new, high-quality materials. Any changes to the 24 Hour Fitness Parking Field Improvements from that shown on Exhibit B attached hereto and detailed in the Approved Parking Field Plans and Specifications shall be subject to the approval of Tenant and Subtenant, which approval shall not be unreasonably withheld or delayed. The term "24 Hour Fitness Parking Field Improvements" shall include any and all construction, improvement, redevelopment, relocation and related work or activities in connection with the redevelopment of the Shopping Center that take place in the 24 Hour Fitness Parking Field, specifically including the installation, repair or relocation of utilities. Landlord covenants and agrees that the 24 Hour Fitness Parking Field Improvements shall be completed on or before January 31, 2009 (the "Parking Field Outside Completion Date"); provided, however, if Subtenant takes more than ten (10) business days after its receipt of any Landlord submittal of proposed plans and specification for the 24 Hour Fitness Parking Field Improvements to provide Subtenant's comments, if any, thereto, then the Parking Field Outside Completion Date shall be extended by one day for each day beyond such 10-business day period that it takes Subtenant to provide its comments, if any. If for any reason the 24 Hour Fitness Parking Field Improvements are not completed by the Parking Field Outside Completion Date, Landlord and Tenant agree that Subtenant may deduct from base rent under the Lease the sum of \$500.00 per day for each day after the Parking Field Outside Completion Date that it takes for Landlord to complete the 24 Hour Fitness Parking Field Improvements. In addition to the foregoing, Landlord further agrees that once Landlord commences any portion of the 24 Hour Fitness Parking Field Improvements (the "Parking Field Improvements Commencement Date"), Landlord will complete the 24 Hour Fitness Parking Field Improvements within a period of no more than one hundred fifty (150) days after the Parking Field Improvements Commencement Date. Landlord and Tenant agree that if for any reason the 24 Hour Fitness Parking Field Improvements are not completed within such 150-day period, Subtenant may deduct from base rent the sum of \$1,000.00 per day for each day after such 150-day period that it takes for Landlord to complete the 24 Hour Fitness Parking Field Improvements. Among other things, the 24 Hour Fitness Parking Field Improvements shall not be deemed to be completed until Landlord has removed all construction materials and equipment from that portion of the Shopping Center surrounding the Premises and from 24 Hour Fitness Parking Field, unless such construction materials and equipment are located thereon in connection with the performance by Landlord of the Facade Improvements as provided in Section 2 above. Landlord agrees to construct the 24 Hour Fitness Parking Field Improvements and program the timing of such Improvements in such a manner that (a) access by Tenant, its agents, employees, patrons and invitees to and from the 24 Hour Fitness Parking Field through the front doors of the Premises shall not be materially impaired, and (b) that at all time during the course of performing the 24 Hour Fitness Parking Field Improvements at least 225 parking spaces in the 24 Hour Fitness Parking Field plus spaces in the "Adjacent Parking Field" (as shown on the Site Plan attached as Exhibit B), with reasonable direct, safe and surfaced access from such spaces to the Premises, shall be maintained. Landlord agrees that for each day, or any portion thereof that (a) access by Tenant, its agents, employees, patrons and invitees to and from the 24 Hour Fitness Parking Field through the front doors of the Premises is materially impaired in connection with the construction of the 24 Hour Fitness Parking Field Improvements, or (b) the number of parking spaces and access to the Premises from such parking spaces as described in clause (b) above is not maintained, then (A) Subtenant may provide Landlord with written notice (in accordance with the provisions of Section 24 below) of any such violation; (B) Landlord shall have the right to cure such violation within a period of twenty-four (24) hours after receipt of Subtenant's notice; and (C) if Landlord fails to cure such violation within said 24-hour period, then Subtenant may deduct from base rent the sum of \$10,000 per day that such violation exists. If Subtenant gives two (2) such notices during construction of the 24 Hour Fitness Parking Field Improvements, Subtenant shall not be required to provide any further notices, and Subtenant shall

thereafter be entitled to deduct \$10,000 per day immediately upon the occurrence of any such violation.

4. New Tenant Pylon Signage. In connection with Landlord's redevelopment of the Shopping Center, Landlord agrees that it shall, at Landlord's sole cost and expense, construct three new Shopping Center pylons and install 24 Hour Fitness panels thereon (the "24 Hour Fitness Pylon Sign Improvements") (i) substantially as shown on Exhibit A attached hereto (it being acknowledged, however, that Exhibit A is for demonstration purposes only and the signage actually installed shall be consistent with Subtenant's then-current prototypical signage), (ii) in accordance with the plans and specifications and a reasonably detailed construction schedule approved by Tenant and Subtenant, which approval shall not be unreasonably withheld or delayed ("Approved Pylon Sign Plans and Specifications"), (iii) in compliance with all applicable laws, (iv) in a good and workmanlike manner, and (v) using only new, high-quality materials. Any changes to the 24 Hour Fitness Pylon Sign Improvements from that shown on Exhibit A attached hereto and detailed in the Approved Pylon Sign Plans and Specifications shall be subject to the approval of Tenant and Subtenant, which approval shall not be unreasonably withheld or delayed. Landlord covenants and agrees that the 24 Hour Fitness Pylon Sign Improvements shall be completed on or before January 31, 2009 (the "Pylon Sign Outside Completion Date"); provided, however, if Subtenant takes more than ten (10) business days after its receipt of any Landlord submittal of proposed plans and specification for the 24 Hour Fitness Pylon Sign Improvements to provide Subtenant's comments, if any, thereto, then the Pylon Sign Outside Completion Date shall be extended by one day for each day beyond such 10-business day period that it takes Subtenant to provide its comments, if any. If for any reason the 24 Hour Fitness Pylon Sign Improvements are not completed by the Pylon Sign Outside Completion Date, Landlord and Tenant agree that Subtenant may deduct from base rent under the Lease the sum of \$1,000.00 per day for each day after the Pylon Sign Outside Completion Date that it takes for Landlord to complete the 24 Hour Fitness Pylon Sign Improvements.

5. Repair and Maintenance of Roof. Notwithstanding any provision of the Lease to the contrary, from and after the date of this Agreement, Landlord, at Landlord's expense, shall be responsible for the repair, maintenance and replacement of the roof of the building in which the Premises is located, except for maintenance and repairs necessitated by the negligent or intentional acts of Tenant or Subtenant first occurring after the date of this Agreement. The cost of any repairs, maintenance and replacement required to be made by Landlord (except to the extent caused by the negligent or intentional acts of Tenant or Subtenant) shall not be charged back to Tenant as additional rent or operating expenses. Landlord acknowledges and agrees that Tenant and Subtenant have fully compensated Landlord for any damage or injury to the roof or exterior walls that they may have caused prior to the date of this Agreement, and Landlord hereby releases Tenant and Subtenant with respect to any and all damage that they may have caused to the roof or exterior walls prior to the date of this Agreement. At Landlord's request, Landlord, Tenant and Subtenant shall jointly prepare and implement written procedures governing roof top access to prevent damage to the roof.

6. Demising of Premises. (a) The Premises currently consists of approximately 41,000 square feet of floor area that Subtenant has built-out for the operation of its health club facility (the "Occupied Space") and approximately 15,160 square feet of floor area that Subtenant has walled-off from the Occupied Space and which currently remains vacant and unimproved (the "Vacant Space"). Landlord, Tenant and Subtenant desire for Tenant and Subtenant to surrender and reconvey to Landlord the Vacant Space in exchange for a reduction in the future rental and other obligations of Tenant and Subtenant as more fully set forth in this Section 6.

(b) The roof access hatch serving the Premises and some, if not all, of the utilities/meters serving the Premises are located in the Vacant Space portion of the Premises. Landlord agrees that it shall, at

Landlord's sole cost and expense, provide a new roof access hatch and stairs thereto in the Occupied Space, separate all utilities from the Vacant Space so as to separately meter all utilities directly to the Occupied Space, and take all other actions as may be reasonably required to demise the Occupied Space and the Vacant Space as two separate, self-sustaining spaces (the "Demising Work"): (i) in accordance with the plans and specifications and a reasonably detailed work schedule approved by Tenant and Subtenant, which approval shall not be unreasonably withheld or delayed ("Approved Demising Work Plans and Specifications"), (ii) in compliance with all applicable laws, (iii) in a good and workmanlike manner, (iv) using only new, high-quality materials, (v) in a manner designed to minimize disruption of Subtenant's on-going operations in the Occupied Space, and (vi) upon such other reasonable terms and conditions as the parties may agree after completion of the Approved Demising Work Plans and Specifications. Landlord agrees to perform the Demising Work and program the timing of such Improvements in a manner such that (a) normal use and operation of the Occupied Space by Tenant, its agents, employees, patrons and invitees shall not be materially impaired, and (b) any anticipated interruptions of utility services to the Premises shall be coordinated with Subtenant in advance and shall further be limited to the shortest time reasonably necessary to complete the Demising Work. Subtenant acknowledges that in connection with the switch-over of utilities in the Premises, Landlord may have to interrupt utility service to the Occupied Space up to two (2) times during the course of the Demising Work for up to six (6) hours at a time (the "Scheduled Utility Interruptions"), and Landlord agrees that (i) the timing of such Scheduled Utility Interruptions shall be coordinated with Subtenant in advance and shall further be limited to the shortest time reasonably necessary to complete the necessary work, (ii) to the extent reasonably feasible, the Scheduled Utility Interruptions shall not occur during Subtenant's "peak hours", and (iii) Landlord shall use reasonable efforts to provide Subtenant with at least seven (7) days advance notice of the Scheduled Utility Interruptions. If additional Scheduled Utility Interruptions are required, Subtenant shall not unreasonably withhold its consent to same, subject to the requirements of the preceding sentence. If at any time during construction of the Demising Work (i) normal use and operation of the Occupied Space by Subtenant, its agents, employees, patrons and invitees is materially impaired, or (ii) utility service to the Premises is materially disturbed, other than with respect to the Scheduled Utility Interruptions, then (A) Subtenant may provide Landlord with written notice (in accordance with the provisions of Section 24 below) of any such material impairment or material disturbance; (B) Landlord shall have the right to cure such material impairment or material disturbance within a period of twenty-four (24) hours after receipt of Subtenant's notice; and (C) if Landlord fails to cure such material impairment or material disturbance within said 24 hour period, then Subtenant may deduct from base rent the sum of \$10,000 per day that such material impairment or material disturbance exists. If Subtenant gives two (2) notices of such material impairment or material disturbance during the course of the Demising Work, Subtenant shall not be required to provide any further notices, and Subtenant shall thereafter be entitled to deduct \$10,000 per day immediately upon the occurrence of any such material impairment or material disturbance.

(c) Landlord shall not perform any work in or about the Vacant Space, other than the Demising Work, until the Demising Work is completed and Tenant and Subtenant have surrendered the Vacant Space portion of the Premises to Landlord. Upon satisfactory completion of the Demising Work, Tenant and Subtenant shall surrender possession of the Vacant Space to Landlord in "as is" condition, and thereafter, the Premises shall consist solely of the Occupied Space portion of the Premises, and Tenant and Subtenant shall have no further rights or obligations with respect to the Vacant Space.

(d) From and after the earlier of the date Tenant and Subtenant surrender possession of the Vacant Space to Landlord (which shall not occur prior to December 31, 2008) or October 31, 2009, base rent under the Lease shall be reduced to \$13,290.84 per month and additional rent calculated on the basis of square footage/floor area of the Premises will be calculated based on a Premises square footage/floor area of 41,000 square feet.

7. Liability Insurance Premiums. Landlord, Tenant and Subtenant shall submit the pending dispute concerning whether Tenant has any obligation to pay a proportionate share of insurance premiums for insurance maintained by Landlord to a binding arbitration proceeding (the "ADR Proceeding") in accordance with the procedure set forth on Exhibit C attached hereto.

8. Landlord's Release of Tenant and Subtenant. Subject only to the satisfaction of any judgment or other obligation rendered by the arbitrator in the ADR Proceeding, Landlord, for itself and for any person or entity which may claim by or through it, specifically including but not limited to its insurers, heirs, assigns, representatives and attorneys, hereby releases and forever discharges Tenant and Subtenant, and each of their successors, assigns, heirs, trustees, agents, employees, members, shareholders, officers, directors, managers, parent entities, subsidiary entities, affiliated entities, predecessor entities, successor entities, servants, attorneys and representatives, jointly and severally, from and against any and all civil and/or administrative actions, claims, demands, rights, proceedings, actions, causes of action, expenses or remedies of any nature and description whatsoever, whether state or federal, or at common law, legal, equitable or regulatory in nature, known or unknown, foreseen or unforeseen, pending or not pending, suspected or unsuspected, disclosed or undisclosed, absolute or contingent, whether or not asserted in the Lawsuit, that Landlord may now have, or ever had, or is or ever was capable of asserting, against Tenant and/or Subtenant which, by reason of any event occurring at any time since the beginning of the world through the date of this Agreement, relate in any way to (i) the parties' respective obligations for repair and maintenance of the roof and/or exterior walls of the Premises or the building of which the Premises are a part; (ii) the parties' respective obligations for the payment of insurance premiums; and (iii) all claims which were or which could have been asserted in the Lawsuit (collectively, the "Claims").

9. Tenant's Release of Landlord and Subtenant. Subject only to the satisfaction of any judgment or other obligation rendered by the arbitrator in the ADR Proceeding, Tenant, for itself and for any person or entity which may claim by or through it, specifically including but not limited to its insurers, heirs, assigns, representatives and attorneys, hereby releases and forever discharges Landlord and Subtenant, and each of their successors, assigns, heirs, trustees, agents, employees, members, shareholders, officers, directors, managers, parent entities, subsidiary entities, affiliated entities, predecessor entities, successor entities, servants, attorneys and representatives, jointly and severally, from and against any and all civil and/or administrative actions, claims, demands, rights, proceedings, actions, causes of action, expenses or remedies of any nature and description whatsoever, whether state or federal, or at common law, legal, equitable or regulatory in nature, known or unknown, foreseen or unforeseen, pending or not pending, suspected or unsuspected, disclosed or undisclosed, absolute or contingent, whether or not asserted in the Lawsuit, that Tenant may now have, or ever had, or is or ever was capable of asserting, against Landlord and/or Subtenant which, by reason of any event occurring at any time since the beginning of the world through the date of this Agreement, relate in any way to the Claims.

10. Subtenant's Release of Landlord and Tenant. Subject only to the satisfaction of any judgment or other obligation rendered by the arbitrator in the ADR Proceeding, Subtenant, for itself and for any person or entity which may claim by or through it, specifically including but not limited to its insurers, heirs, assigns, representatives and attorneys, hereby releases and forever discharges Landlord and Tenant, and each of their successors, assigns, heirs, trustees, agents, employees, members, shareholders, officers, directors, managers, parent entities, subsidiary entities, affiliated entities, predecessor entities, successor entities, servants, attorneys and representatives, jointly and severally, from and against any and all civil and/or administrative actions, claims, demands, rights, proceedings, actions, causes of action, expenses or remedies of any nature and description whatsoever, whether state or federal, or at common law, legal, equitable or regulatory in nature, known or unknown, foreseen or unforeseen,

pending or not pending, suspected or unsuspected, disclosed or undisclosed, absolute or contingent, whether or not asserted in the Lawsuit, that Subtenant may now have, or ever had, or is or ever was capable of asserting, against Landlord and/or Tenant which, by reason of any event occurring at any time since the beginning of the world through the date of this Agreement, relate in any way to the Claims.

11. Liquidated Damages. (a) Landlord acknowledges that Subtenant is extremely concerned about potential loss or damage to its business and loss of goodwill with its patrons and customers (among other things, potentially causing such patrons and customers to cancel their memberships with Subtenant) that may result from disruption to Subtenant's normal business operations and/or inconvenience to its patrons and customers arising out of Landlord's redevelopment of the Shopping Center and the performance of the Façade Improvements, Redevelopment Work (including the 24 Hour Fitness Parking Field Improvements), the 24 Hour Fitness Pylon Sign Improvements and/or the Demising Work (collectively, "Landlord's Work"). Landlord further acknowledges that the loss or damage to Subtenant's business and loss of goodwill with its patrons and customers would be irreparable and that it would be impossible to accurately measure said loss or damage, and, therefore, Landlord and Subtenant have jointly established and agreed upon the dollar amounts set forth in Sections 2, 3, 4 and 6 of this Agreement as reasonable estimates of the damages that would be suffered by Subtenant, and not as a penalty, in the event of Landlord's violation of the respective provisions contained in Sections 2, 3, 4 and 6 and to encourage Landlord to conduct its redevelopment of the Shopping Center in a manner designed to minimize interference with Subtenant's normal business operations. Landlord further agrees that in lieu of deducting from base rent the amounts that may accrue under the provisions of Sections 2, 3, 4 and/or 6 above, Subtenant may send Landlord an invoice for same, and Landlord shall pay the amounts set forth in such invoice within twenty (20) days after the receipt of such invoice. Landlord further agrees that if Subtenant deducts any sums from base rent pursuant to the provisions of Sections 2, 3, 4 or 6 of this Agreement, and a court of competent jurisdiction later determines that Subtenant was not entitled to such deduction, Tenant and Subtenant shall not be in default under the terms of the Lease, but Subtenant shall be required to reimburse Landlord for all amounts the court determines that Subtenant was not entitled to deduct, together with interest on such amounts from the date(s) deducted until the date(s) repaid at ten percent (10%) per annum. Landlord further acknowledges and agrees that Tenant and Subtenant would not have consented to Landlord's redevelopment of the Shopping Center or the amendment of the Declaration of Reciprocal Easements but for the protections afforded Subtenant and its business set forth in the provisions of Sections 2, 3, 4 and 6 of this Agreement and this Section 11. The provisions of this section shall be binding upon and inure to Landlord and Tenant, their successors and assigns.

(b) Landlord shall be excused from performing any obligation or undertaking in this Agreement for so long as the performance of any such obligation or undertaking is prevented or delayed, by fire, earthquake, flood, explosion, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure equipment, facilities, materials, or supplies in open market, strikes, lockouts, condemnation, or any other cause, not within the reasonable control of Landlord (collectively, "Force Majeure Events"). Any deadlines for performance shall be extended and the imposition of any liquidated damages provision whether in the form of rent deduction or otherwise shall be deferred by the number of days that performance has been delayed by Force Majeure Events. If Landlord has notice of any Force Majeure Events or any other material delay in the completion of Landlord's Work, then Landlord shall promptly provide written notice on a monthly basis to Subtenant describing the reason for the delay and the anticipated delay, if any, in the substantial completion of Landlord's Work.

12. Amendment of Lease. This Agreement shall be incorporated into and made a part of the Lease, and (i) in the event of any conflict with the Lease, the terms of this Agreement shall govern, and (ii) all provisions of the Lease not expressly modified or amended hereby shall remain in full force and

effect.

13. Multiple Originals. This Agreement may be executed in one or more identical counterparts, and execution and delivery of said executed counterparts by each party shall have the same force and effect as if all Parties had signed the same counterpart.

14. Authority of Signatories to this Agreement. Each party hereto expressly represents and warrants that the person executing this Agreement is fully and duly authorized to bind that party to all the terms hereof, that it has taken all necessary steps to authorize this Agreement and the obligations evidenced by same, and that it is the sole owner of the claims being released herein.

15. Absence of Warranties. Other than as may be specifically set forth herein, the parties hereto have not made any representations, warranties, covenants or promises in connection with the execution of this Agreement. With the sole exception of those specific representations, promises, covenants and warranties contained herein, each party hereto acknowledge that they are not relying on any statement, representation or report by any other party in connection with the settlement of the Lawsuit or the execution of this Agreement.

16. Binding Effect of this Agreement. This Agreement and the terms, covenants, conditions, provisions, obligations, undertakings, rights and benefits hereof shall be binding upon, and shall inure to the benefit of, the undersigned parties and their respective officers, trustees, agents, servants, attorneys, employees, directors, representatives, shareholders, executors, administrators, beneficiaries, heirs, successors and assigns.

17. Entire Agreement. This Agreement, the Lease (as amended hereby), the amendment to the Declaration of Reciprocal Easements, the ADR Agreement and the dismissal herein provided for constitute and express the entire understanding, agreement and undertaking of the parties with respect to the subject matter hereof, and supersedes all prior agreements, if any, written or oral. There is no understanding, agreement, undertaking, representation or warranty, express or implied, which in any way limits, extends, defines or relates to the subject matter of this Agreement that is not incorporated herein. The parties hereto agree that this Agreement shall not be amended or modified unless done so in writing and signed by the party against whom enforcement is sought.

18. No Admission of Liability. It is understood and agreed by the parties that this Agreement is a compromise of disputed claims, and that neither this Agreement nor any of its provisions constitutes or shall be construed as an admission of any liability by any of the parties, and to the contrary that all parties specifically deny any wrongdoing under any federal, state or local statute, public policy, tort law, contract law or common law.

19. Governing Law. Except as otherwise expressly provided herein, the terms of this Agreement shall in all respects be interpreted and construed in accordance with the substantive laws of the State of Missouri, without regard to its choice of law rules. The parties agree that, in the event any party breaches any term of this Agreement, the non-breaching parties shall have the right to seek from the breaching party all available remedies and damages, including but not limited to full restitution of all amounts paid or to be paid pursuant to this Agreement, and that the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred as a result of any breach of this Agreement.

20. Interpretation. The parties acknowledge that the drafting of this Agreement was a joint effort between them, with the assistance and counsel of their respective attorneys, and that, as a result, this Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party.

21. Voluntary Execution of this Agreement. The undersigned each represent to the other party that each has read and fully understands this Agreement and that each has had the advice of legal counsel of his or its own choosing in considering and deciding to execute this Agreement, that each has fully weighed and considered all of the facts and matters that might influence its judgment in regard to this Agreement, that each has executed this Agreement freely and voluntarily, that each is not relying on any representation of the other in entering into this Agreement and that each is under no form of duress or undue influence in deciding to execute this Agreement.

22. Severability Provision. If any term, condition, part or provision of this Agreement is held by a court to be invalid, illegal, unenforceable or in conflict with any law, the validity of the remaining terms, conditions, parts or provisions shall not be affected, and the rights, obligations and covenants of the undersigned parties shall be construed and enforced as if the Agreement did not contain the particular term, condition, part or provision held to be unlawful.

23. Conduct of Work. Landlord covenants and agrees that it shall use substantially all union labor in completing Landlord's Work.

24. Notices to Landlord. All notices required to be given to Landlord hereunder shall be in writing and shall be served on Landlord by i) facsimile to (636) 287-2703 in which case notice shall be deemed delivered upon electronic confirmation by sender's facsimile machine of transmission of such notice; and (ii) sent by electronic mail to ljones@jonesrealty.org, in which case notice shall be deemed delivered upon transmission of such notice to the foregoing electronic mail address.

[Signatures appear on next page.]

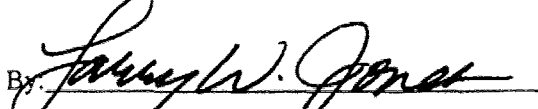
SIGNATURE PAGE FOR
FOURTH AMENDMENT TO LEASE AND SETTLEMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective
Date.

SO AGREED:

"Landlord"

ARNOLD CROSSROADS, LLC, a Missouri limited liability company

By: 

Printed Name: Larry W. Jones

Title: Managing Member

"Tenant"

SCHNUCK MARKETS, INC., a Missouri corporation

By: _____

Printed Name: _____

Title: _____

"Subtenant"

24 HOUR FITNESS USA, INC., a California corporation

By: _____

Printed Name: _____

Title: _____

SIGNATURE PAGE FOR
FOURTH AMENDMENT TO LEASE AND SETTLEMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective
Date.

SO AGREED:

"Landlord"

ARNOLD CROSSROADS, LLC, a Missouri limited liability company

By: _____

Printed Name: _____

Title: _____

"Tenant"

SCHNUCK MARKETS, INC., a Missouri corporation

By: _____

Printed Name: _____

Title: _____

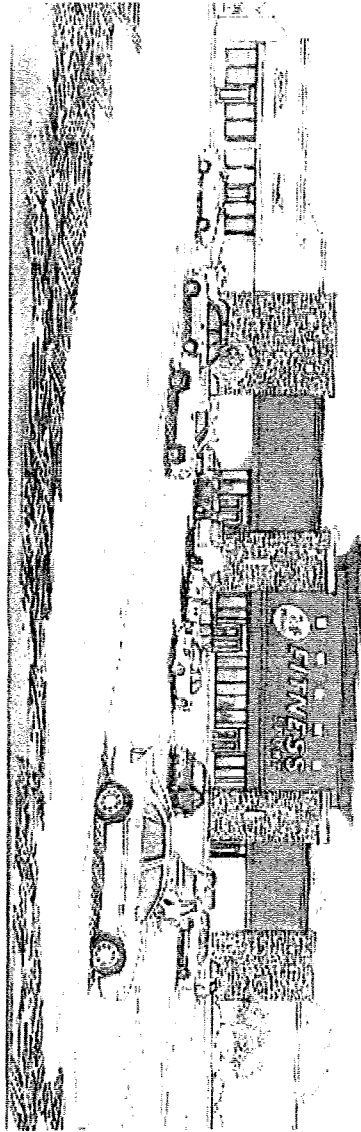
"Subtenant"

24 HOUR FITNESS USA, INC., a California corporation

By:  _____

Printed Name: ~~James T. McPhail~~
SVP - Real Estate and Development

Title: ~~24 Hour Fitness, USA, Inc.~~



* With respect to the 24 Hour Fitness façade sign, this Exhibit is for demonstration purposes only and the 24 Hour Fitness façade sign actually installed shall be consistent with Subtenant's then-current prototypical signage.

EXHIBIT C

Alternative Dispute Resolution Procedure

ARBITRATION AGREEMENT

THIS ARBITRATION AGREEMENT ("Agreement") is made and entered into this ____ day of ____, 2008, by and among 24 Hour Fitness USA, Inc., a California corporation ("24 Hour Fitness" or "Subtenant"); Schnuck Markets, Inc., a Missouri corporation ("Tenant"); and Arnold Crossroads, LLC, a Missouri limited liability company ("Arnold" or "Landlord").

WHEREAS, Landlord is the owner of a certain real estate development in Jefferson County, Missouri, known as the "Arnold Crossroads Shopping Center" (the "Shopping Center"); and

WHEREAS, Landlord and Tenant are parties to that certain Lease Agreement dated on or about November 12, 1976 (as amended, Lease"), for that certain premises located at 215 Arnold Crossing, Arnold, Missouri (the "Premises") located within the Shopping Center;

WHEREAS, Tenant has subleased the Premises to Subtenant pursuant to the terms and conditions of that certain Sublease dated March 18, 1996; and

WHEREAS, a dispute has arisen between Landlord and Tenant/Subtenant with respect to the interpretation of the Lease with respect to whether or not Tenant/Subtenant has any obligation to pay a share of the cost of Landlord's insurance premiums with respect to the Shopping Center; and

WHEREAS, the parties desire to resolve this dispute via binding arbitration pursuant to the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties agree as follows:

1. The parties hereby select Richard Sher of Devereaux Murphy (the "Arbitrator") as the arbitrator to preside over the resolution of this dispute.

2. No earlier than thirty (30) days or later than sixty (60) days after selection, or at such other times as the parties may agree or may be ordered by the Arbitrator to accommodate his schedule, the Arbitrator shall hold a hearing to resolve this dispute. The hearing shall take place at the office of Devereaux Murphy or at such place as the Arbitrator shall designate in the metropolitan St. Louis area. The parties shall have the right to be represented by counsel in such a proceeding.

3. At least seven (7) days prior to the hearing, each party shall submit the following to the other parties and the Arbitrator:

(a) A copy of all exhibits on which such party intends to rely in any oral or written presentation to the Arbitrator;

(b) A list of any witnesses such party intends to call at the hearing.

4. The parties shall be permitted to request the production of documents from any other party, so long as said requests do not request documents already in the possession of said party, including, but not limited to, those documents produced in the matter of 24 Hour Fitness USA, Inc. v. Arnold Crossroads, LLC, et al., Cause No. 07CC-001380, Division 33, in the Circuit Court of the County of St. Louis, State of Missouri.

5. Except as expressly set forth in Paragraph 4, no discovery shall be required or permitted by any means, including depositions, interrogatories, requests for admissions, or production of documents, unless same is allowed by the Arbitrator.

6. The hearing shall be conducted in one (1) day or for such period as may be determined by the Arbitrator and shall be governed by the following rules:

(a) Each party shall be entitled, but not required, to make an opening statement, to present regular and rebuttal testimony and documents or other evidence, to cross-examine witnesses, and to make a closing argument.

(b) Subtenant and/or Tenant shall initiate the hearing and, if Subtenant chooses, shall make an opening statement. Landlord, if it chooses, shall make an opening statement. Thereafter, the presentation of regular and rebuttal testimony and documents, other evidence, and closing arguments shall proceed in the same sequence.

(c) Except when testifying, witnesses shall be excluded from the hearing until closing arguments.

(d) The Arbitrator shall have sole discretion regarding the admissibility of any evidence.

7. Following completion of the hearing, each party may submit to the other parties and the Arbitrator a post-hearing brief in support of its position of such length and under such terms and conditions as the Arbitrator may determine.

8. The Arbitrator shall render a decision in favor of Landlord or Tenant/Subtenant, as follows:

(a) If the Arbitrator finds in favor of Landlord, then Landlord may retain all insurance premiums paid to date, and Tenant/Subtenant shall pay its proportionate share of insurance premiums on a prospective basis.

(b) If the Arbitrator finds in favor of Tenant/Subtenant, then Subtenant shall be entitled to reimbursement from Landlord in an amount equal to the sum of \$39,245.89 plus all insurance premiums paid since April 2006, and Tenant shall not be responsible for the payment

of any insurance premiums on a prospective basis.

9. The Arbitrator shall be paid a reasonable fee plus expenses. These fees and expenses shall be paid as follows:

(a) Any retainer paid which may be required by the Arbitrator shall be split evenly by Landlord and Subtenant.

(b) Landlord and Subtenant shall each be responsible for 50% of the fees and expenses due the Arbitrator.

(c) Upon conclusion of the Arbitration, the prevailing party shall be entitled to reimbursement of its fees and expenses paid to the Arbitrator from the non-prevailing party as follows:

1) If the Arbitrator determines that Tenant/Subtenant is not responsible for payment of a share of the cost of Landlord's insurance premiums with respect to the Shopping Center, Landlord shall reimburse Subtenant for 100% of any retainer, fees and expenses paid by Subtenant to the Arbitrator;

2) If the Arbitrator determines that Tenant/Subtenant is responsible for payment of a share of the cost of Landlord's insurance premiums with respect to the Shopping Center, Subtenant shall reimburse Landlord for 100% of any retainer, fees and expenses paid by Landlord to the Arbitrator.

Notwithstanding the foregoing, each party shall bear the expenses of its own legal counsel, fees of any expert witnesses and all other fees and expenses of such party incurred in preparation for and conducting the arbitration hearing.

9. The rulings of the Arbitrator and the allocation of fees and expenses shall be binding upon the parties, and may be entered as a final judgment in any court having jurisdiction. In the event that any party is forced to pursue enforcement of the arbitrator's decision in any court of competent jurisdiction, the enforcing party shall recover and non-enforcing party shall pay the enforcing party's costs and reasonable attorneys' fees, provided that such recovery shall not include any fees related to the prosecution of the arbitration action.

10. The existence of the dispute, any settlement negotiations, the ADR hearing, any submissions (including exhibits, testimony, proposed rulings, and briefs), and the rulings shall be deemed confidential information. The Arbitrator shall have the authority to impose sanctions for unauthorized disclosure of confidential information.

11. The scope of the arbitration hearing shall be limited as follows:

(a) The sole question to be determined by the arbitrator is whether or not Tenant/Subtenant has any obligation to pay a share of the cost of Landlord's insurance

premiums with respect to the Shopping Center under the terms of the Lease.

(b) The parties agree that the sole purpose of the arbitration is to interpret and declare the rights of the parties under the Lease, that the arbitration is not intended to modify or alter the terms of the Lease, which terms shall remain in full force and effect throughout the remainder of the lease term.

12. The ruling of the arbitrator shall be binding on the parties and their successors and assignees.

AGREED AND ACCEPTED:

24 HOUR FITNESS USA, INC.

BY: _____

TITLE: _____

ARNOLD CROSSROADS, LLC

BY: 
Larry W. Jones

TITLE: Managing Member

SCHNUCK MARKETS, INC.

BY: _____

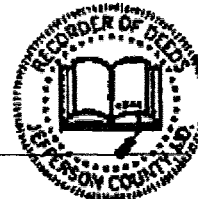
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2008R-035335

FILED AND RECORDED
IN OFFICIAL RECORD
09/12/2008 11:17:25AM
MARLENE CASTLE, RECORDER
PAGES 34
REC FEE: 123.00
NS FEE:



Space Above for Recorder's Use Only

DOCUMENT COVER SHEET

TITLE OF DOCUMENT: Third Amendment to Declaration of Reciprocal Easements

DATE OF DOCUMENT: July 29, 2008

GRANTOR: See Exhibit A
Mailing Address: See Exhibit A

GRANTEE: See Exhibit A
Mailing Address: See Exhibit A

LEGAL DESCRIPTION: See Exhibits P through I-1

REFERENCE BOOK & PAGE: Book 567, Page 952
Book 586, Page 730
Book 590, Page 27
Book 599, Page 740
Book 614, Page 454
Book 741, Page 490
Book 741, Page 501
Plat Book 253, Pages 1 and 2
Plat Book 253, Pages 9 and 10

34/1123 Ret
Armstrong Leasdale LLP
One Metropolitan Square
St Louis, MO
63102

THIRD AMENDMENT TO DECLARATION OF RECIPROCAL EASEMENTS

THIS THIRD AMENDMENT TO DECLARATION OF RECIPROCAL EASEMENTS

(this "Amendment") is made and entered into as of this 29th day of July, 2008, by and between the parties listed on Exhibit A attached hereto and incorporated herein (the "**Parties**"), each of which shall be deemed to be a Grantor and a Grantee hereunder. The Parties' mailing addresses are also on Exhibit A.

RECITALS:

WHEREAS, Jeffco Associates, a Missouri general partnership (the "Original Declarant"), made that certain Declaration of Reciprocal Easements dated August 29, 1977 and recorded at Book 590, Page 27 of the Jefferson County, Missouri Records, as amended by that certain First Amendment to Declaration of Reciprocal Easements dated February 22, 1978 and recorded at Book 599, Page 740 of the Jefferson County, Missouri Records, as further amended by the certain Second Amendment to Declaration of Reciprocal Easements dated December 15, 1983 and recorded at Book 741, Page 490 of the Jefferson County, Missouri Records, as modified by that certain Restrictive Covenant Agreement dated December 15, 1983 and recorded at Book 741, Page 501 of the Jefferson County, Missouri Records (collectively, as amended and modified, the "Declaration"); and

WHEREAS, Arnold Crossroads is the owner of certain real property legally described on Exhibit B attached hereto and incorporated herein (the "Arnold Crossroads Property"); and

WHEREAS, prior to that certain "Boundary Adjustment Plat of Arnold Crossroads Plaza & McDonalds" recorded at Plat Book 253, Pages 9 and 10 of the Jefferson County, Missouri Records, and that certain "Boundary Adjustment Plat of Arnold Crossroads Plaza & Steak N Shake" recorded at Plat Book 253, Pages 1 and 2 of the Jefferson County, Missouri Records, Arnold Crossroads owned "Tract A" depicted in the Declaration; and

WHEREAS, the Arnold Crossroads Property includes certain real property not originally subject to the Declaration but hereby being made subject to the Declaration (including, but not limited to, former excess rights of way from the City of Arnold, Missouri and the State of Missouri, and property formerly owned by MR-S Properties, LLC and Sinclair Refining Company and comprising parts of Lots 1, 2, 4, 6, and 7 as shown on the Site Plans, defined below); and

WHEREAS, pursuant to that certain Lease Agreement dated November 12, 1976 between W.B. Wiggins, Sr., as landlord, and The Kroger Co., as tenant (as amended, modified, supplemented, and assigned from time to time, the "Grocery Store Lease"), a certain portion of the Arnold Crossroads Property was leased from the landlord named therein to the tenant named therein (the "Grocery Store Premises"), such Grocery Store Lease being described in and incorporated into that certain recorded "Lease" recorded at Book 567, Page 952 of the Jefferson County, Missouri Records and certain amendments thereto recorded at Book 586, Page 730 and Book 614, Page 454 of the Jefferson County, Missouri Records; and

WHEREAS, Arnold Crossroads and Schnucks are the current landlord and tenant under the Grocery Store Lease, and 24 Hour Fitness is the current subtenant of Schnucks pursuant to that certain Sublease dated March 18, 1996 between Schnucks and the Family Company of America, L.C., as such sublease was assigned to 24 Hour Fitness pursuant to that certain Assignment of Sublease dated June 1, 1999 (as assigned, the "Sublease"); and

WHEREAS, Smitmart is the owner of certain real property legally described on Exhibit C attached hereto and incorporated herein (the "Smitmart Property"), such Smitmart Property being "Tract F" depicted in the Declaration; and

WHEREAS, Steak N Shake is the owner of certain real property legally described on Exhibit D attached hereto and incorporated herein (the "Steak N Shake Property"); and

WHEREAS, prior to that certain "Boundary Adjustment Plat of Arnold Crossroads Plaza & Steak N Shake" recorded at Plat Book 253, Pages 1 and 2 of the Jefferson County, Missouri Records, Steak N Shake owned "Tract C" depicted in the Declaration; and

WHEREAS, McDonald's is the owner of certain real property legally described on Exhibit E attached hereto and incorporated herein (the "McDonald's Property"); and

WHEREAS, prior to that certain "Boundary Adjustment Plat of Arnold Crossroads Plaza & McDonalds" recorded at Plat Book 253, Pages 9 and 10 of the Jefferson County, Missouri Records, McDonald's owned "Tract B" depicted in the Declaration; and

WHEREAS, Drury Inns is the owner of certain real property legally described on Exhibit F attached hereto and incorporated herein (the "Drury Inns Property"), such Drury Inns Property being all or part of "Tract D" depicted in the Declaration; and

WHEREAS, Drury Development Corporation is the owner of certain real property legally described on Exhibit G attached hereto and incorporated herein (the "Drury Development Property") and Drury Petroleum is the owner of certain real property legally described on Exhibit G attached hereto and incorporated herein (the "Drury Petroleum Property"); and

WHEREAS, JSZ is the owner of certain real property legally described on Exhibit H attached hereto and incorporated herein (the "JSZ Property"), such JSZ Property being "Tract E" depicted in the Declaration; and

WHEREAS, collectively, JSZ Property, the Drury Inns Property, the McDonald's Property, the Steak N Shake Property, the Smitmart Property, and the Arnold Crossroads Property are referred to hereinafter as the "Property"; and

WHEREAS, pursuant to the Declaration, the Property was subjected to the restrictions, requirements and burdens imposed by the Declaration;

WHEREAS, Arnold Crossroads, JSZ, Drury Inns, Smitmart, McDonald's, and Steak N Shake are the successors in interest to the Original Declarant as the owners of the Property; and

WHEREAS, Arnold Crossroads has been designated as redeveloper of certain portions of the Crossroads Redevelopment Area (the "Redevelopment Area") by the City of Arnold, Missouri, which Redevelopment Area includes the Property; and

WHEREAS, in connection with the redevelopment of the Redevelopment Area, the Parties desire to approve the proposed redevelopment of the same as shown on the Site Plan attached hereto as Exhibit I (the "Site Plan") and the Drury Site Plan attached hereto as Exhibit I-1 (the "Drury Site Plan"; and together with the "Site Plan", the "Site Plans"), such approval requiring this Amendment to the Declaration.

NOW THEREFORE, in consideration of the premises, the sum of Ten Dollars (\$10.00) paid by each of the Parties to the other, the agreements herein contained and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Approval of Site Plans. The Parties hereby approve of the Site Plans and agree that any redevelopment of the Property which complies with the Site Plans in all material respects is permitted. The Parties further agree that, in the event of any inconsistency or conflict between the terms of the Declaration or the Grocery Store Lease and Sublease, as applicable, and the terms of the Site Plans,

including, but not limited to the size and location of drives, utilities, parking areas, sidewalks, signs, entrances, exits, building locations, and buildings (including any building height indicated on the Site Plans), the Site Plans shall govern and control, and Arnold Crossroads (and Drury Inns, as applicable) shall have the right to redevelop the Property in compliance in all material respects with the Site Plans. No future alterations or changes to the Property which materially deviate from the Site Plans shall be made unless the Party desiring to make such changes obtains the consent of the other Parties hereto, such consent not to be unreasonably withheld, delayed, or conditioned. If any Party(ies) hereto fails to consent or object to such request within 30 days' after such Party's receipt of written request to make changes to the Property which materially deviate from the Site Plans, the requesting Party may give the Party(ies) who failed to respond within such initial 30-day period a second notice clearly and prominently stating in bold-faced type that if such Party's failure to respond continues for an additional period of fifteen (15) days after receipt of such second notice such Party shall be deemed to have consented to the requested changes to the Site Plans, and if such Party continues to fail to respond within such 15-day period, such Party shall be deemed to have consented to such requested changes.

2. Specific Items Shown on Site Plans. Except with the prior written consent of the Parties hereto, which shall not be unreasonably withheld, delayed, or conditioned, the Parties agree that:

(a) The height of the buildings shown on Lots 2, 3, 4, 5, 6, and 7 shall not be greater than 24 feet (exclusive of flag poles and signage which may be greater than 24 feet if permitted by the ordinances of the City of Arnold, Missouri);

(b) The potential locations of the buildings on Lots 2, 3, 4, 5, 6, and 7 are shaded in gray on the attached Site Plans. No building shall be built, in whole or in part, outside of such building areas. The term "building" or "building areas" refers only to the primary restaurant, bank or other commercial building improvement on each of the lots, and does not include, and the Parties do not intend to restrict on the lots the location of, such items as dumpster pads and fences, flag poles, signs, landscaping, sidewalks, curbs, greenery, internal parking areas and drives, retaining walls, lightposts, and other such accessory improvements which are normally associated with a restaurant, bank, or other commercial use. The location of the primary restaurant, bank or other commercial building on Lots 2 and 7 may be in either of the locations depicted on the Site Plans; and

(c) The Fireworks Stand Site shown on the Site Plan is to be used by the lessee thereof only during the periods of June 20 through July 7 of each calendar year.

3. Declaration, Grocery Store Lease and Sublease Remain in Effect. All terms of the Declaration, the Grocery Store Lease and Sublease remain in full force and effect except as they are modified by the terms of this Amendment.

4. Additional Land Owned by Arnold Crossroads Made Subject to and Benefited by Declaration. To the extent that any portion of the Arnold Crossroads Property was not previously subject to the Declaration, Arnold Crossroads hereby subjects such portions of the Arnold Crossroads Property to the Declaration, and the Parties agree that such portions of the Arnold Crossroads Property not previously subject to the Declaration shall be benefited and burdened by the easements, conditions and restrictions contained in the Declaration.

5. Additional Land Owned by Drury Petroleum and Drury Development Made Subject to and Benefited by Declaration. Drury Development and Drury Petroleum hereby subject the Drury Development Property and the Drury Petroleum Property to the Declaration and the Parties agree that the Drury Development Property and the Drury Petroleum Property shall be benefited and burdened by the easements, conditions and restrictions contained in the Declaration.

6. Other Agreements. Nothing in the Declaration (as amended hereby), the Grocery Store Lease or the Sublease shall be deemed to prohibit one or more of the Parties from entering into any other agreement with one another or with third parties (including an agreement by one or more of the Parties to

further restrict the use of their respective parcel) so long as such other agreements are not in conflict with the terms of the Declaration (as amended hereby), the Grocery Store Lease, the Sublease or the Site Plans; provided, however, in no event shall any such agreement be binding on Schnucks or 24 Hour Fitness unless Schnucks or 24 Hour Fitness consent thereto in writing. In the event that such other agreement does conflict with this Declaration, the Grocery Store Lease, the Sublease, or the Site Plans, the terms of the Declaration (as amended hereby), the Grocery Store Lease, the Sublease or the Site Plans shall govern and control.

7. Entire Agreement. This Amendment constitutes the entire agreement between the Parties respecting the subject matter hereof and supersedes all prior agreements, proposals, communications and understandings relating to such subject matter.

8. Successors. This Amendment shall be binding upon the Parties and their successors and assigns

9. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

[The remainder of this page is intentionally blank—signature pages follow.]

IN WITNESS WHEREOF, this Amendment has been executed by the Parties hereto in manner and form sufficient to bind them, their successors and assigns as of the day and year first above written.

The Parties:

24 Hour Fitness USA, Inc.

By: 

Printed Name:

Title: James T. McPhail

SVP - Real Estate and Development
24 Hour Fitness, USA, Inc.

**CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT**

State of California

County of Contra Costa

On June 24, 2008 before me, Sherae D. Bell
(here insert name and title of the officer)

personally appeared James T. McPhail

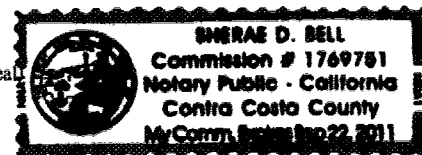
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sherae D. Bell
Signature of Notary Public

(Notary Seal)



Arnold Crossroads, LLC

By: Larry W. Jones
Larry W. Jones, Managing Member

STATE OF MISSOURI)
) SS.
COUNTY OF Jefferson)

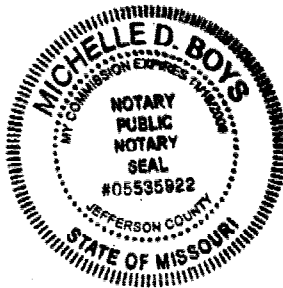
On this 25th day of June, 2008 before me, personally appeared Larry W. Jones, the Managing Member of Arnold Crossroads, LLC, a Missouri limited liability company, to me known to be the person who executed the foregoing instrument on behalf of said limited liability company and acknowledged to me that he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Michelle D. Boys
Notary Public
Printed Name: Michelle D. Boys

My Commission Expires:

11-18-2009



Drury Inns, Inc.

By: [Signature]

Printed Name: Charles L. Drury Jr

Title: President/CEO

STATE OF Missouri)
) SS.
COUNTY OF St. Louis)

On this 29th day of July, 2008, before me appeared Charles L. Drury, Jr., to me personally known, who, being by me duly sworn did say that he is the President/CEO, of Drury Inns, Inc., a Missouri corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said Charles L. Drury, Jr. acknowledged said instrument to be the free act and deed of said corporation.

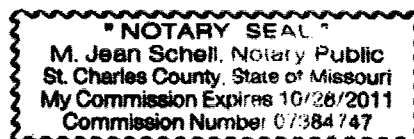
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

[Signature]
Notary Public

Printed Name: M. Jean Schell

My commission expires:

10/28/2011



Drury Development Corporation

By: Charles L. Drury
Printed Name: CHARLES L. DRURY
Title: CHAIRMAN / CEO

STATE OF MISSOURI)
COUNTY OF ST. LOUIS) SS.

On this 28th day of JULY, 2008, before me appeared CHARLES L. DRURY, to me personally known, who, being by me duly sworn did say that he is the CHAIRMAN / CEO, of Drury Development Corporation, a Missouri corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said CHARLES L. DRURY acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

David E. Wilson
Notary Public
Printed Name: DAVID E. WILSON

My commission expires:

9/14/2011

DAVID E. WILSON
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
COUNTY OF ST. LOUIS
MY COMMISSION EXPIRES: SEPTEMBER 14, 2011
COMMISSION #07493265

Drury Petroleum, Inc.

By: *Charles L. Drury*

Printed Name: CHARLES L. DRURY

Title: VICE PRESIDENT

STATE OF Missouri)
) SS.
COUNTY OF ST. LOUIS)

On this 28th day of JULY, 2008, before me appeared CHARLES L. DRURY, to me personally known, who, being by me duly sworn did say that he is the Vice President of Drury Petroleum, Inc., a Missouri corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said CHARLES L. DRURY acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

David E. Wilson
Notary Public

Printed Name: DAVID E. WILSON

My commission expires:

9/14/2011

DAVID E. WILSON
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
COUNTY OF ST. LOUIS
MY COMMISSION EXPIRES: SEPTEMBER 14, 2011
COMMISSION #07493265

JSZ Estate Corporation

By: Larry W. Jones

Printed Name: LARRY W. JONES

Title: PRESIDENT

STATE OF Missouri)
) SS.
COUNTY OF Jefferson)

On this 25th day of June, 2008, before me appeared
Larry W. Jones, to me personally known, who, being by me duly sworn did say that he is
the president, of JSZ Estate Corporation, a Missouri corporation, and that the seal
affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was
signed and sealed in behalf of said corporation by authority of its board of directors, and said
he acknowledged said instrument to be the free act and deed of said
corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the
County and State aforesaid, the day and year first above written.

Michelle D. Boys
Notary Public

Printed Name: Michelle D. Boys

My commission expires:

11-18-2009



McDonald's USA, LLC

By: Kathleen Madigan

Printed Name: Kathleen Madigan

Title: Senior Counsel

STATE OF Illinois)
COUNTY OF DuPage) SS.

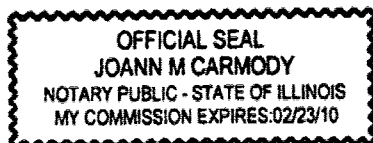
On this 24th day of June in the year 2008 before me,
Joann M. Carmody, a Notary Public in and for said state, personally appeared
Kathleen Madigan the Senior Counsel of McDonald's USA, LLC, a Delaware limited
liability company, known to me to be the person who executed the within instrument in behalf of said
limited liability company and acknowledged to me that he executed the same for the purposes therein
stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the
County and State aforesaid, the day and year first above written.

Joann M. Carmody
Notary Public
Printed Name: Joann M. Carmody

My commission expires:

2/23/2010





Schnuck Markets, Inc.

By: [Signature]
Printed Name: Mark J. Schnuck
Title: Vice President

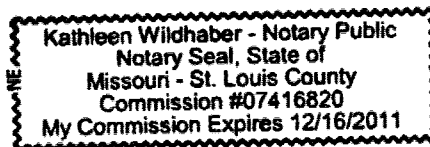
STATE OF Missouri)
COUNTY OF St. Louis) SS.

On this 15th day of July, 2008, before me appeared Mark J. Schnuck, to me personally known, who, being by me duly sworn did say that he is the Vice President, of Schnuck Markets, Inc., a Missouri corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said Mark J. Schnuck acknowledged said instrument to be the free act and deed of said corporation.


IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

[Signature]
Notary Public Kathleen Wildhaber
Printed Name: Kathleen Wildhaber

My commission expires:
12/16/2011



Smitmart, L.L.C.
An Arizona Limited Liability Company

By 
Peter A. Zarcades, Trustee of the Trust Indenture of
Peter A. Zarcades and Sandra Rae Zarcades, and any
amendments thereto, dated July 19, 1972
By: Its Manager

STATE OF _____)
COUNTY OF _____) SS. _____

On this _____ day of _____ in the year 20____ before me,
_____, a Notary Public in and for said state, personally appeared
_____ the _____ of Smitmart, LLC, an Arizona limited liability
company, known to me to be the person who executed the within instrument in behalf of said limited
liability company and acknowledged to me that he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the
County and State aforesaid, the day and year first above written.

Notary Public
Printed Name: _____

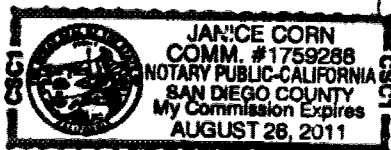
My commission expires:

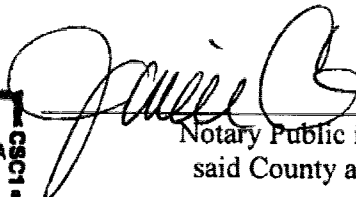
STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On July 2, 2008, before me, Janice Corn, Notary Public, personally appeared Peter A. Zarcades, who 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.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.




Notary Public in and for
said County and State

Steak N Shake Operations, Inc.

By: The Steak N Shake Company,
its agent

By: [Signature]

Printed Name: Dave Milne

Title: Vice President, General Counsel &
Corporate Secretary

STATE OF INDIANA)
) SS.
COUNTY OF MARION)

On this 16th day of JULY, 2008, before me appeared DAVE MILNE, to me personally known, who, being by me duly sworn did say that HE is the VP, ~~GENERAL COUNSEL & LAWYER~~ of Steak N Shake Operations, Inc., an Indiana corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said VP, GENERAL COUNSEL & LAWYER acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

[Signature: Rebecca L. Willis]
Notary Public

Printed Name: REBECCA L. WILLIS

My commission expires:

JUNE 24, 2016

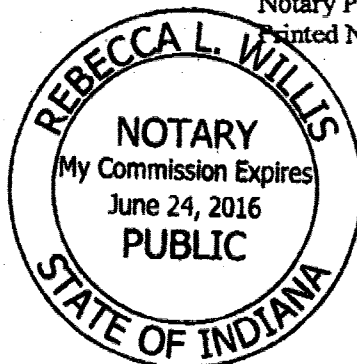


Exhibit A

The Parties:

24 Hour Fitness USA, Inc. ("24 Hour Fitness")
12647 Alcosta Blvd., Fifth Floor
San Ramon, California 94583

Arnold Crossroads, LLC ("Arnold Crossroads")
P.O. Box 528
St. Albans, Missouri 63073-0528

Drury Development Corporation ("Drury Development")
8315 Drury Industrial Parkway
St. Louis, Missouri 63114

Drury Inns, Inc. ("Drury Inns")
8315 Drury Industrial Parkway
St. Louis, Missouri 63114

Drury Petroleum, Inc. ("Drury Petroleum")
8315 Drury Industrial Parkway
St. Louis, Missouri 63114

JSZ Estate Corporation ("JSZ")
P.O. Box 528
St. Albans, Missouri 63073

McDonald's USA, LLC ("McDonald's")
One McDonald's Plaza
Oak Brook, Illinois 60523
Attn: L/C: 024-0113

Schnuck Markets, Inc. ("Schnucks")
11420 Lackland Road
St. Louis, Missouri 63146

Smitmart, LLC ("Smitmart")
c/o The Midtown Niki Group
3655 Nobel Drive, Suite 650
San Diego, California 92122

Steak N Shake Operations, Inc. ("Steak N Shake")
500 Century Building
36 S. Pennsylvania Street
Indianapolis, Indiana 46204

Exhibit B

[Legal Description of the Arnold Crossroads Property]

Readjusted Tract A of the "Boundary Adjustment Plat of Arnold Crossroads Plaza & McDonalds", according to the plat thereof recorded at Plat Book 253, Pages 9 and 10 of the Jefferson County, Missouri Records.

Exhibit C

[Legal Description of the Smitmart Property]

A tract of land located in Lots 29 and 30 of U.S. Survey 2991, Township 43 North, Range 6 East, Jefferson County, Missouri and being more particularly described as follows: Starting at an iron pin at the point of intersection of the Northwest line of Lot 30 and the Southeast line of Lot 29 in U.S. Survey 2991 and the Northeast line of a 16 foot road easement as recorded in Book 32 Page 13 of the Jefferson County Land Records; thence South 47 degrees 15 minutes East along said easement line, a distance of 37.34 feet to the point of intersection with the Northwest right of way line (80 feet right of way) of Route 61-67; thence following said right of way line (80 feet right of way) along an arc of a curve to the left having a radius of 859.00 feet, a distance of 53.72 feet (having a chord bearing South 27 degrees 02 minutes West, a distance of 53.71 feet) to the point of beginning; thence leaving said right of way line and running North 47 degrees 15 minutes West, a distance of 46.78 feet to a point; thence North 37 degrees 30 minutes West, a distance of 152.00 feet to a point; thence South 52 degrees 34 minutes West, a distance of 125.00 feet to a point; thence South 35 degrees 34 minutes West, a distance of 45.00 feet to a point; thence South 4 degrees 52 minutes 28 seconds East, a distance of 71.11 feet to a point; thence South 52 degrees 45 minutes 40 seconds East, a distance of 68.00 feet to an old stone on the Northwest line of Lot 30 of U.S. Survey No. 2991, being South 52 degrees 34 minutes West, a distance of 236.21 feet from the point of intersection of said Northwest line with the Northeast line of a 16 foot road easement as recorded in Book 32 Page 13 of the Jefferson County Records; thence South 38 degrees 15 minutes East along the Northeast line of a tract of land now or formerly owned by Joseph and Katherine Kochner (Book 152 Page 578), a distance of 22.05 feet; thence South 73 degrees 44 minutes East, a distance of 104.88 feet to a point of intersection with the Northwest right of way line of Old Route 141 (S.J.); thence along said right of way, North 46 degrees 13 minutes East, a distance of 25.65 feet; thence North 33 degrees 15 minutes East, a distance of 74.50 feet to the point of intersection with the Northwest right of way line of Route 61-67; thence following said right of way line of Route 61-67, along the arc of a curve to the right having a radius of 859.00 feet, a distance of 40.72 feet (chord distance of 40.71 feet bearing North 24 degrees 44 minutes 27 seconds East) to the point of beginning.

Exhibit D

[Legal Description of the Steak N Shake Property]

Adjusted Tract C of the "Boundary Adjustment Plat of Arnold Crossroads Plaza & Steak N Shake", according to the plat thereof recorded at Plat Book 253, Pages 1 and 2 of the Jefferson County, Missouri Records.

Exhibit E

[Legal Description of the McDonald's Property]

Adjusted Tract B of the "Boundary Adjustment Plat of Arnold Crossroads Plaza & McDonalds", according to the plat thereof recorded at Plat Book 253, Pages 9 and 10 of the Jefferson County, Missouri Records.

Exhibit F

[Legal Description for the Drury Inn Property]

PARCEL 1: Tract A and Tract B of DRURY INN TRACT, a subdivision according to the plat thereof recorded in Plat Book 82 page(s) 26 of the Jefferson County Records.

PARCEL 2: Non Exclusive Easement Estate created under that certain Declaration of Reciprocal Easements dated August 29, 1977 and recorded in Deed Book 590 Page 27, Jefferson County, Missouri Records, as amended by First Amendment to Declaration of Reciprocal Easements dated February 22, 1978 and recorded in Deed Book 599 Page 740 and Second Amendment to Declaration of Reciprocal Easements recorded in Book 741 Page 490 over the following described property: All that tract or parcel of land lying or being in Lot 29 and Lot 30 of U.S. Survey 2991, Township 43 North, Range 6 East and being more particularly described as follows: Beginning at an iron pin at the intersection of the Southwesterly line of Lot 29, U.S. Survey 2991 (also the Northeast line of Arnold Terrace, Block 3) and the Northerly right of way line of relocated Route 141; thence along said Southwesterly line of Lot 29, North 37 degrees 31 minutes West, a distance of 663.69 feet to the point of intersection with the Southeasterly right of way line of Interstate 55; thence along said right of way, North 2 degrees 33 minutes 30 seconds East, a distance of 104.88 feet to a point; thence continuing North 13 degrees 40 minutes East, a distance of 321.06 feet to a point; thence leaving said right of way, South 37 degrees 31 minutes East, a distance of 195.36 feet to a point; thence North 52 degrees 29 minutes East, a distance of 300.00 feet to a point on the Southwesterly line of the 100 foot wide Union Electric Company right of way; thence following said right of way line, North 37 degrees 31 minutes West, a distance of 137.16 feet to an axle; thence crossing said Union Electric right of way line, North 52 degrees 34 minutes East, a distance of 100.00 feet to a point on the Northeasterly line of said right of way; thence following said right of way line, South 37 degrees 31 minutes East, a distance of 159.0 feet to a point; thence leaving said right of way, North 52 degrees 34 minutes East, a distance of 330.00 feet to a point; thence South 37 degrees 30 minutes East, a distance of 676.36 feet to a point; thence South 35 degrees 34 minutes West, a distance of 32.41 feet to a point; thence South 4 degrees 52 minutes 28 seconds East, a distance of 71.11 feet to a point; thence South 54 degrees 45 minutes 40 seconds East, a distance of 68.00 feet to a point; thence South 52 degrees 34 minutes West, a distance of 15.00 feet to a point; thence South 21 degrees 30 minutes 43 seconds West, a distance of 67.67 feet to a point; thence North 49 degrees 10 minutes West, a distance of 131.00 feet to a point; thence South 51 degrees 47 minutes West, a distance of 235.00 feet to a point; thence South 37 degrees 57 minutes 18 seconds East, a distance of 236.26 feet to a point on the Northerly right of way line of Old Route 141; thence along said right of way and along the chord of a curve (radius 789.00 feet), South 54 degrees 50 minutes 42 seconds West, a distance of 71.72 feet to a concrete monument; thence continuing along said right of way and along the chord of a curve (radius 789.00 feet), South 63 degrees 06 minutes West, a distance of 154.69 feet to a concrete monument; thence continuing along said right of way, South 72 degrees 59 minutes West, a distance of 100.35 feet to a point; thence leaving said right of way North 14 degrees 04 minutes West, a distance of 263.0 feet to a point; thence South 66 degrees 30 minutes 40 seconds West, a distance of 206.79 feet to a point; thence South 14 degrees 04 minutes East, a distance of 206.00 feet to a point on the Northern right of way of relocated Route 141; thence South 75 degrees 56 minutes West, a distance of 137.01 feet to a point; thence South 59 degrees 14 minutes West, a distance of 44.65 feet to an iron pin and the point of beginning.

PARCEL 3: Non Exclusive Easement Estate created under a certain Indenture dated February 16, 1959 and recorded in Book 282 Page 523 of the Jefferson County, Missouri Records, and as relocated and amended by deed dated October 31, 1961 and recorded in Book 320 Page

329 over the following described property: Part of Lone Pine Drive (as now traveled), being part of Lot 13 of Arnold Terrace, Block 2, as shown on plat of said Arnold Terrace recorded in Plat Book 17 Page 18 in the Office of the Recorder of Jefferson County, Missouri and located in Lot 27 of U.S. Survey 2991, Township 43 North, Range 6 East, Jefferson County, Missouri, said tract of land being more particularly described as follows: Beginning at an iron pin, being the Northeasterly lot corner of Lot 13 in said Arnold Terrace, Block Two, said point also being on the Westerly right of way line of said relocated and as platted "Lone Pine Drive"; thence North 52 degrees 30 minutes East along the prolongation of the Northern lot line of said Lot 13, in said Arnold Terrace Block Two, a distance of 40 feet to a point on the Easterly right of way line of relocated and as platted "Lone Pine Drive", said point also being the Northwestern lot corner of Lot 9 of Arnold Terrace Block Three recorded in Plat Book 20 Page 5; thence South 37 degrees 30 minutes East along said relocated and as platted "Lone Pine Drive" Easterly right of way line, and along the Westerly lot line of said Lot 9 of Arnold Terrace Block Three, a distance of 28.0 feet to a point; thence South 9 degrees 43 minutes East along said located "Lone Pine Drive", Easterly right of way line, a distance of 95.0 feet to a point on the Northwestern right of way line of relocated "State Highway Number 141", as recorded in Book 368 Page 742 of the Jefferson County Land Records, said point also being the Southwesterly corner of a tract of land conveyed to Amoco Oil Company, a Maryland Corporation, as recorded in Book 529 Page 885 in the Office of the Recorder of said Jefferson County, Missouri; thence along the Northwestern right of way line of said relocated "State Highway 141" and along a bearing of South 52 degrees 32 minutes West, a distance of 45.20 feet to a point, said point being the most Easterly corner of a tract of land conveyed to Texaco, Inc., a Delaware Corporation, as recorded in Book 453 Page 786 in said Jefferson County Land Records, said point also being the most Northerly corner of a tract of land conveyed to the State of Missouri Commission of Missouri recorded in Book 368 Page 640 of said Jefferson County Land Records; thence departing said Northwestern right of way line of said relocated "State Highway 141" and running along the Westerly right of way line of Relocated "Lone Pine Drive"; along a bearing of North 9 degrees 43 minutes West and along the Easterly boundary of said tract of land recorded in Book 453 Page 786 of said Jefferson County Land Records, a distance of 106.16 feet to a point; thence North 37 degrees 30 minutes West 18.10 feet to the point of beginning.

Exhibit G

[Legal Description for the Drury Development Property and the Drury Petroleum Property]

Parts of Lots 9 & 10 of Block #3, ARNOLD TERRACE SUBDIVISION (Bk. 20 P. 5) and part of relocated Lone Pine Drive and part of Lot #13 of Block #2, ARNOLD TERRACE SUBDIVISION, all in Lot 27 of U.S. Survey 2991, Township 43 North, Range 6 East, in Jefferson County, Missouri, more specifically described as follows: Beginning at the Southwest corner of Lot 9, Block 3 of Arnold Terrace; thence North 52 degrees 30 minutes East along the Northwest line of Lots 9 & 10 a distance of 170.31 feet to the Northwest corner of Lot 10, also being on the line between Lot 27 & Lot 29 in U.S. Survey 2991; thence South 37 degrees 31 minutes East along the Northeast line of Lot 10, a distance of 119.83 feet to the new right of way line of Missouri Highway 141; thence South 59 degrees 20 minutes West along said right of way line a distance of 85.02 feet to an angle point in right of way line (also being Point "A" in description of property conveyed to Highway Department in deed recorded in Book 368 Page 742); thence South 52 degrees 03 minutes West along new right of way line, a distance of 86.10 feet (being Point "B" in before described deed to Highway Department); thence continuing on the bearing of South 52 degrees 03 minutes West (and on new right of way line), a distance of 44.28 feet to a point in the Eastern line of relocated Lone Pine Drive (40 feet wide); thence North 9 degrees 43 minutes West along the said Eastern line of relocated Lone Pine Drive, a distance of 95.00 feet to an angle point in relocated Lone Pine Drive and also being on the Southwesterly line of Lot 9; thence North 37 degrees 30 minutes West along the Northeasterly line of Lone Pine Drive and Southwesterly line of Lot 9, a distance of 28.00 feet to the point of beginning.

A tract of land situated in the City of Arnold, the County of Jefferson, and the State of Missouri, lying in part of Lot 27 of U.S. Survey 2991, Township 43 North, Range 6 East, being part of Lots 9 and 10, and part of Lone Pine Drive, 40 feet wide, as shown on a Plat of Arnold Terrace Block Three, a subdivision filed for record in Plat Book 20 page 5 of the land records of Jefferson County, Missouri, and part of Lot 13 of Arnold Terrace Block Two, a subdivision filed for record in Plat Book 17 page 18 of said Jefferson County Records, being the same tract of land conveyed to Amoco Oil Company as recorded in Deed Book 529 page 885 of said Jefferson County Land records, and being more particularly described as follows:

Commencing at a found 3/4 inch iron pipe marking the Westernmost corner of said Lot 9, said corner being on the Southeasterly line of Tract "A" of Drury Inn Tract, a subdivision filed for record in Plat Book 82 page 26 of said Jefferson County records, said corner also being the True Point of Beginning of the tract herein described; Thence along the common line between said Tract "A" and said Lots 9 and 10 of Arnold Terrace Block Three North 52 degrees 30 minutes 00 seconds East, a distance of 170.30 feet to the Northernmost corner of said Lot 10, said Northernmost corner being on the common line between Lot 27 and Lot 29 of U.S. Survey 2991; Thence South 37 degrees 35 minutes 25 seconds East, a distance of 120.06 feet along said common line between Lot 27 and Lot 29 to a found 3/4 inch iron rod marking the intersection of said common line between Lot 27 and Lot 29 and the Northwesterly Right-of-way line of Missouri Route 141, as widened by deed recorded in Book 368 page 742 of said Jefferson County Records; Thence along said Northwesterly Right-of-way line as follows: South 58 degrees 36 minutes 46 seconds West, a distance of 84.87 feet to an "X" cut in concrete; Thence South 52 degrees 03 minutes 00 seconds West, a distance of 130.38 feet to a railroad spike set in asphalt marking the intersection of said Northwesterly Right-of-way line and the Easterly line of relocated Lone Pine Drive; Thence along said Easterly line of relocated Lone Pine Drive as follows: North 09 degrees 43 minutes 00 seconds West, a distance of 95.00 feet to a railroad spike set in asphalt; Thence North 37 degrees 30 minutes 00 seconds West, a distance of 28.00 feet to the point of beginning.

Exhibit H

[Legal Description for the JSZ Property]

PARCEL NO. 1: All that part of revised Tract "E" described in First Amendment to declaration of Reciprocal Easements recorded in Book 599 Page 740 now being known as all of Tract III of Boundary Line Adjustment Plat of Tract E and Zelch Tract and part of Tracts 1, 2 and 3 of Jennemann Estates, situated in Lots 29 and 30 of U.S. Survey 2991, Township 43 North, Range 6 East, in Jefferson County, Missouri, as per plat thereof recorded in Plat Book 149 Pages 17 and 18, and being described as follows: Commencing at an old iron pin marking the most Northerly corner of Tract 2 of the Jennemann Estate; thence South 37 degrees 30 minutes East, a distance of 158.42 feet along the Northeasterly boundary line of said Tract 2 to a point; thence South 52 degrees 34 minutes West, a distance of 49.98 feet to a point; said point being the point of beginning of the following described tract; thence South 37 degrees 30 minutes East, a distance of 672.68 feet to a point marked by an iron pin; thence South 52 degrees 34 minutes West, a distance of 125.00 feet to a point marked by an iron pin; thence South 35 degrees 34 minutes West, a distance of 12.59 feet to a point marked by a railroad spike; thence North 37 degrees 30 minutes West, a distance of 366.36 feet to a point; thence North 10 degrees 56 minutes 06 seconds West, a distance of 44.72 feet to a point; thence North 34 degrees 19 minutes 11 seconds West, a distance of 270.38 feet to a point; thence North 52 degrees 34 minutes East, a distance of 102.04 feet to the point of beginning containing 1.94 acres, more or less.

PARCEL NO. 2: A non-exclusive Easement Estate for ingress and egress over a 50 foot wide strip of land being described as follows: All that part of revised Tract "E" described in First Amendment to Declaration of Reciprocal Easements recorded in Book 599 Page 740 now being known as All of Tract I of Boundary Line Adjustment Plat of Tract E and Zelch Tract and part of Tracts

1, 2 and 3 of Jennemann Estates, situated in Lots 29 and 30 of U.S. Survey 2991, Township 43 North, Range 6 East, in Jefferson County, Missouri, as per plat thereof recorded in Plat Book 149 Pages 17 and 18, and being described as follows: Commencing at an old iron pin marking the most Northerly corner of Tract 2 of Jennemann Estate; thence South 37 degrees 30 minutes East, a distance of 158.42 feet along said Tract 2 Northeasterly boundary to the point of beginning of the following described easement; thence continuing along said Tract 2 Northeasterly boundary South 37 degrees 30 minutes East, a distance of 811.04 feet to an old bolt on the line between Lots 29 and 30 of said U.S. Survey 2991; thence South 47 degrees 15 minutes East, a distance of 37.34 feet to a point marked by an old railroad spike on the Northwestern right of way of Missouri Highway 61-67; thence along a curve on said right of way to the left having a radius of 859.00 feet and an arc distance of 53.52 feet to a point marked by a railroad spike; thence departing from said right of way and bearing North 47 degrees 15 minutes West, a distance of 46.78 feet to a point marked by an iron pin; thence North 37 degrees 30 minutes West, a distance of 824.68 feet to a point; thence North 52 degrees 34 minutes East, a distance of 49.98 feet to the point of beginning, containing 0.99 acres, more or less.

PARCEL NO. 3: A 0.28 acre +/- tract of land being part of Tract II of the Boundary Line Adjustment Plat, Tract E and Zelch Tract, City of Arnold, located in Lot 29 of U.S. Survey 2991, Township 43 North, Range 6 East, Jefferson County, Missouri, as recorded in Plat Book 149 Pages 17 and 18, in the Office of the Recorder of Jefferson County, Missouri, being more particularly described as follows: Commencing at an old iron pin marking the most Northerly corner of Tract 2 of Jennemann Estates; thence South 37 degrees 30 minutes East a distance of 158.42 feet along the Northeasterly boundary line of

said Tract 2 to a point, thence, South 52 degrees 34 minutes West a distance of 49.98 feet to a point, said point being the Northeasterly boundary corner of a 1.94 acre +/- tract of land, conveyed to JSZ Estate Corporation, being recorded in General Warranty Deed Book 741 Page 2038 in the Office of the Recorder of said Jefferson County and the point of beginning of the following described tract of land; thence South 52 degrees 34 minutes West, along the Northern boundary line of the aforesaid 1.94 acre +/- tract, a distance of 102.04 feet to a point, said point being the Northwesterly boundary corner of said 1.94 acre tract of land; thence South 34 degrees 19 minutes East, along the Western boundary line of said 1.94 acre tract of land, a distance of 270.38 feet to a point; thence 1.94 acre +/- tract, a distance of 102.04 feet to a point, said point being the Northwesterly boundary corner of said 1.94 acre tract of land; thence South 34 degrees 19 minutes East, along the Western boundary line of said 1.94 acre tract of land, a distance of 270.38 feet to a point; thence continuing along said 1.94 acre tract of land's Western boundary line, South 10 degrees 56 minutes 06 seconds East, a distance of 44.72 feet to a point; thence departing from said Western boundary line, North 37 degrees 30 minutes West a distance of 335.00 feet to a point; thence North 52 degrees 34 minutes East 137.04 feet to a point; thence South 37 degrees 30 minutes East, a distance of 25.00 feet back to the point of beginning.

Exhibit I

[Site Plan of the Redevelopment Area]

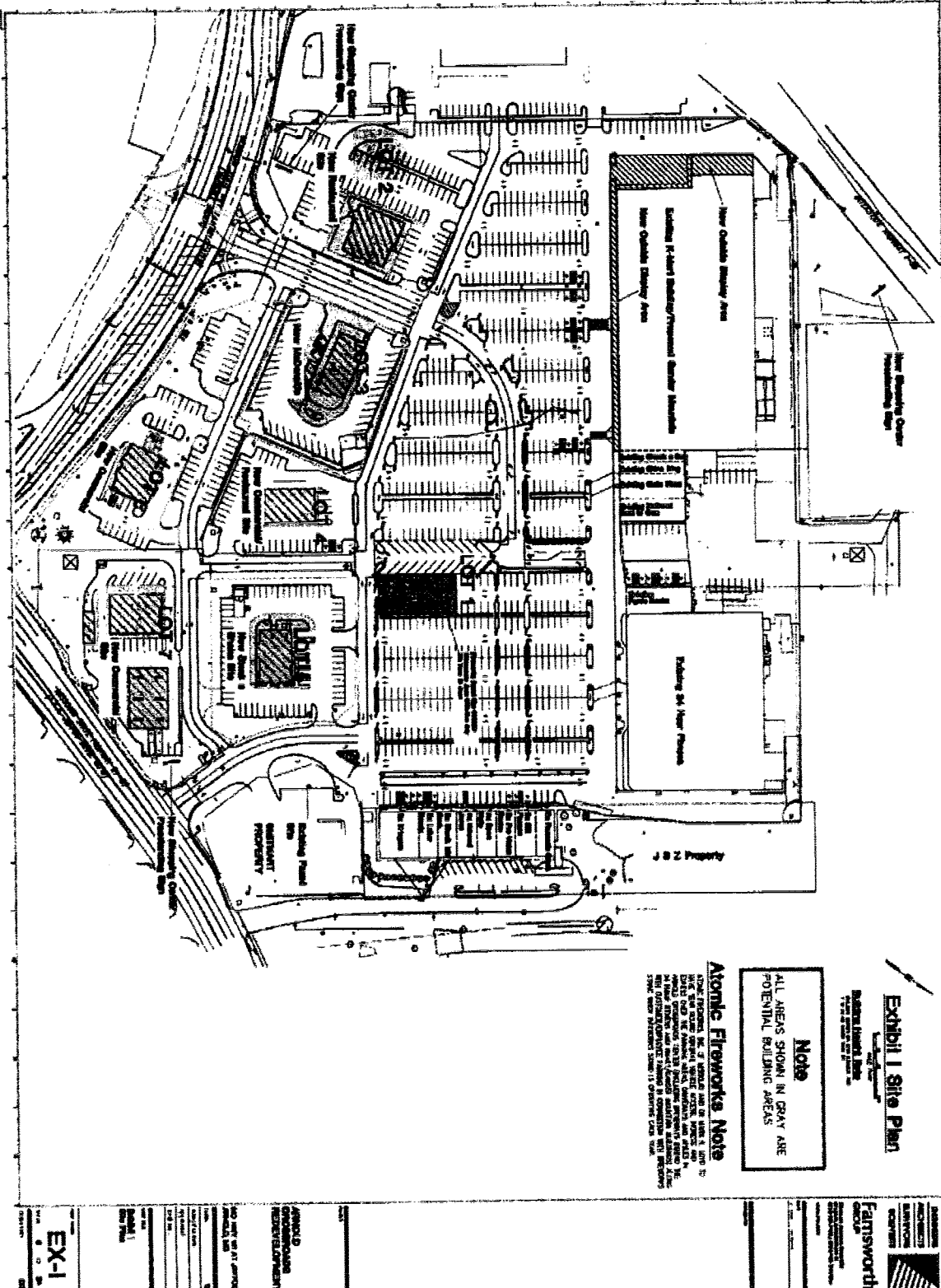


Exhibit I-1
[Drury Site Plan]

IN WITNESS WHEREOF, this Consent has been executed by the Bank as of the day
and year first above written.

Bank: Eagle Bank and Trust Company of Missouri

By: Kent A. Rawizza
Printed Name: Kent A. Rawizza
Title: Sr. Vice President

STATE OF Missouri)
COUNTY OF St. Louis) SS.

On this 20th day of May in the year 2008, before me personally appeared Kent
Rawizza, to me personally known, who, being by me duly sworn, did
state that he/she is the Sr. Vice President of Eagle Bank and Trust Company of Missouri, a Missouri
banking corporation and that said instrument was signed on behalf of said banking corporation,
by authority of its Board of Directors, and said Kent Rawizza acknowledged said instrument to
be the free act and deed of said banking corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal
in the County and State aforesaid, the day and year first above written.

Carla R. Faulkner
Notary Public

My commission expires:
9-9-09



CARLA R. FAULKNER
My Commission Expires
September 9, 2009
Jefferson County
Commission #05401999

CONSENT

Document
Number
2006R-
006936

The undersigned, CitiBank, ("Bank"), being the holder of that certain Deed of Trust dated as of February 8, 2006 by and among JSZ Estate Corporation, a Missouri Corp. ("JSZ"), the grantor thereunder, Scott Terrill, as trustee, and the Bank, as the grantee thereunder, and recorded at Book-----, Page----- of the Jefferson County, Missouri Records, as the same may have been amended from time to time (the "Deed of Trust"), hereby consents to the foregoing Third Amendment to Declaration of Reciprocal Easements between JSZ and the other parties thereto (the "Amendment") and subordinates the lien of its Deed of Trust to the Declaration (as defined in the Amendment) as amended by the Amendment. The Declaration shall in no way be affected or disturbed by the undersigned or its successors and assigns, or by the exercise of any rights under the Deed of Trust or any documents related to the Deed of Trust. In the event of any foreclosure, the undersigned agrees that the Declaration shall continue in full force and effect. Except as expressly otherwise provided in this consent, nothing contained herein shall be deemed or construed to be a subordination by the undersigned to any lien or other matter affecting the lands subject to the Declaration.

Bank:

CitiBank

By: Scott Terrill

Printed Name: Scott Terrill

Title: Vice President

STATE OF Missouri)
) SS.
COUNTY OF St. Louis)

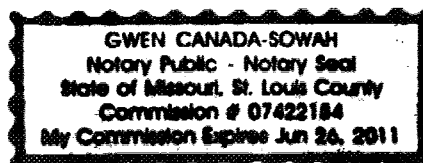
On this 5th day of February, 2008, before me appeared Scott Terrill, to me personally known, who, being by me duly sworn did say that he is the Vice President, of CitiBank, a Federal Savings banking association, and that the seal affixed to foregoing instrument is the corporate seal of said Federal Savings banking association, and that said instrument was signed and sealed in behalf of said Federal Savings banking association by authority of its board of directors, and said Vice President acknowledged said instrument to be the free act and deed of said Federal Savings banking association.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Gwen Canada-Sowah
Notary Public

My commission expires:

6/26/2011

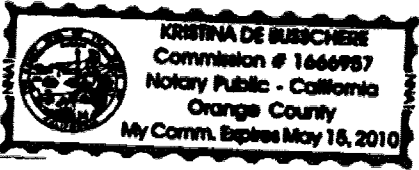


Bank:

TOM STADLBAUER
Vice President
Citicorp Leasing, Inc.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

see next page for California Acknowledgment

<p>State of California County of <u>Orange</u></p> <p>On <u>July 3, 2008</u> before me, <u>Kristina DeBusschere, Notary</u> Date Name, Title of Officer-e.g. "Jane Doe, Notary"</p> <p>personally appeared <u>Thomas A. Stadlbauer</u> who proved to me on basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.</p> <p>I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.</p> <p>WITNESS my hand and official seal.</p> <p><u>[Signature]</u> SIGNATURE OF NOTARY</p> <p> (Notary Seal)</p>		<p>CAPACITY CLAIMED BY SIGNER</p> <p><input type="checkbox"/> INDIVIDUAL</p> <p><input checked="" type="checkbox"/> CORPORATE OFFICER(S)</p> <p><input type="checkbox"/> PARTNER(S)</p> <p><input type="checkbox"/> ATTORNEY-IN-FACT</p> <p><input type="checkbox"/> TRUSTEE(S)</p> <p><input type="checkbox"/> SUBSCRIBING WITNESS</p> <p><input type="checkbox"/> GUARDIAN/CONSERVATOR</p> <p><input type="checkbox"/> OTHER: _____</p> <p>SIGNER IS REPRESENTING: _____</p>
<p>ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized documents.</p> <p>THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT AT THE RIGHT:</p> <p>Title or Type of Document _____ Number of Pages _____ Date of Document _____ Signer(s) Other Than Named Above: _____</p>		

ARBITRATION PROCEEDING

24 HOUR FITNESS USA, INC.,

v.

ARNOLD CROSSROADS, LLC

)
)
)
) Before Richard P. Sher
)
)

AWARD

I. Introduction

This case concerns a lease of space at the Arnold Crossroads Shopping Center in Jefferson County, Missouri. The landlord of the space is Arnold Crossroads, LLC ("Arnold"). The tenant is Schnuck Markets, Inc. ("Schnuck"). Schnuck has subleased the space to 24 Hour Fitness USA, Inc. ("24 Hour Fitness"). These three parties have submitted this matter to arbitration under an Arbitration Agreement dated August 7, 2008. The issue to be resolved is stated succinctly in the Arbitration Agreement:

The sole question to be determined by the arbitrator is whether or not Tenant/Subtenant [Schnuck/24 Hour Fitness] has any obligation to pay a share of the cost of Landlord's [Arnold's] insurance premiums with respect to the Shopping Center under the terms of the Lease.

The arbitrator conducted a hearing on June 3, 2010. 24 Hour Fitness and Arnold appeared and presented evidence. By consent, Schnuck did not appear or participate in the evidentiary hearing. All three parties submitted post-hearing briefs.

II. Discussion

The critical documents in this case are a Lease Agreement and a Rider to the Lease Agreement. These documents were executed in 1976 by predecessors of the parties.

There are two relevant provisions. The Lease Agreement, paragraph 3, last lines, states:

Landlord agrees, at its own expense, to maintain all Common Area in good repair, to keep such area clean, to remove snow and ice therefrom, to keep such area lighted during hours of darkness when stores are open for business and to keep the parking area properly striped to assist in the orderly parking of cars. Any claim for damage to property and any claim arising from or out the injury or death of any person while on the Common Area shall be the responsibility of Landlord, and Landlord agrees to carry ample Public Liability and Property Damage insurance to protect Landlord and Tenant properly and adequately against such claims.

The Rider to the Lease Agreement, in an addition to paragraph 3, states:

Tenant agrees to pay Landlord its proportionate share of Landlord's actual cost of care and upkeep of the Common Area... Care and upkeep shall include, among other things, such items as lighting, police, cleaning, snow removal, striping, and landscaping maintenance, but shall not include repairs which Landlord undertakes to make at its own expense as provided for heretofore.

Arnold contends that insuring the common areas of the shopping center is "care and upkeep" of the common areas within the meaning of the Rider and, therefore, Schnuck and its subtenant, 24 Hour Fitness, are obligated to pay their proportionate share of the cost of such insurance. 24 Hour Fitness contends the cost of insuring the common areas does not constitute "care and upkeep" of the common areas and that it is not obligated to pay a proportionate share of this cost. (Schnuck agrees with 24 Hour Fitness' position.) 24 Hour Fitness has been paying a proportionate share of the insurance costs since Arnold acquired the shopping center in 2002. 24 Hour Fitness claims that, from 2002 to 2004, it paid Arnold's charges for this expense by mistake. From 2004 to date, it has paid under protest.

I find the Lease Agreement and Rider to be unambiguous on the issue presented in this case. The Lease Agreement obligates Arnold to carry liability and property

insurance adequate to protect "Landlord and Tenant" against damage to property or claims for injury to or the death of any person in connection with the common areas. The Rider allows Arnold to recoup 24 Hour Fitness' proportionate share of the cost of "care and upkeep" of the common areas. Thus, the issue is whether insuring the common areas constitutes "care and upkeep" of the common areas under the Lease Agreement.

I find that it does not. Insuring against the risk of damage to the common areas or against the risk of injury or death occurring in connection with use of the commons areas is not "care and upkeep" within the plain and ordinary meaning of these terms. Furthermore, if the original parties to the lease had intended the tenant to pay for the insurance the landlord was obligated to obtain under paragraph 3 of the Lease Agreement, it would have been a simple matter for them to say so specifically in the Rider. I therefore find for 24 Hour Fitness (and Schnuck) on this issue.

Arnold raises two other arguments. First, Arnold asserts that 24 Hour Fitness does not have standing to "challenge" the terms of the lease. The arbitration agreement, however, confers upon 24 Hour Fitness the right to obtain a declaration from the arbitrator whether it has an obligation to pay a portion of Arnold's costs to insure the common areas of the shopping center. Furthermore, Schnuck is a party to this arbitration. There is no contention that Schnuck lacks standing to obtain a declaration of rights and obligations under the Lease Agreement. Accordingly, I find that Arnold's standing argument is without merit.

Second, Arnold asserts that 24 Hour Fitness (and Schnuck) are estopped from claiming they are not obligated to pay their share of the insurance premiums for the commons areas because (i) they executed estoppel certificates in connection with

Arnold's purchase of the shopping center confirming there were no actual or alleged defaults on the lease and there were no amounts owed under the lease and (ii) 24 Hour Fitness reimbursed Arnold for its share of common area insurance premiums without objection from June 2002 through July 2004. I find that Arnold has failed to establish that 24 Hour Fitness (or Schnuck) is estopped from contending it is not obligated to pay a proportionate share of common area insurance premiums under the lease. Among other things, the estoppel certificates are not sufficiently specific to give rise to the estoppel claimed by Arnold. In addition, Arnold has failed to show how it changed its position as a result of 24 Hour Fitness' reimbursement of common area insurance premiums during the two year period following Arnold's acquisition of the shopping center.

III. Award

The Arbitration Agreement provides, in paragraph 8 (b):

If the Arbitrator finds in favor of Tenant/Subtenant, then Subtenant shall be entitled to reimbursement from Landlord in an amount equal to the sum of \$39,245.89 plus all insurance premiums paid since April 2006, and Tenant shall not be responsible for the payment of any insurance premiums on a prospective basis.

I find that 24 Hour Fitness and Schnuck are entitled to this relief.

The Arbitration Agreement further provides in paragraph 9(c)(1):

If the Arbitrator determines that Tenant/Subtenant is not responsible for payment of a share of the cost of Landlord's insurance premiums with respect to the Shopping Center, Landlord shall reimburse Subtenant for 100% of the retainer, fees and expenses paid by Subtenant to the Arbitrator.

I find that 24 Hour Fitness is also entitled to this relief.

24 Hour Fitness also seeks pre-award interest on the amounts it paid to Arnold for common area insurance premiums. The Arbitration Agreement, however, does not

provide for the payment of such interest. Accordingly, I find that 24 Hour Fitness is not entitled to recover pre-award interest.

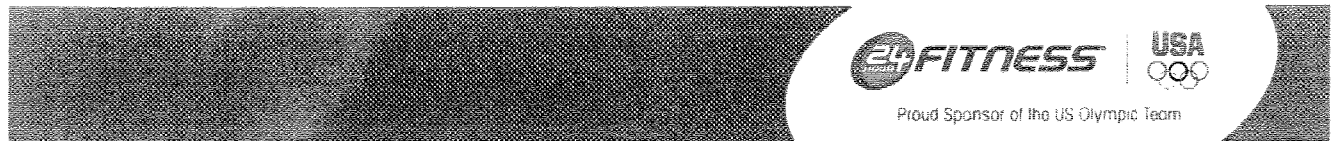
Accordingly, I declare and award as follows:

1. 24 Hour Fitness and Schnuck do not have "any obligation to pay a share of the cost of Landlord's [Arnold's] insurance premiums with respect to the Shopping Center under the terms of the Lease."
2. Arnold shall reimburse 24 Hour Fitness in the amount of \$39,245.89 plus all insurance premiums paid by 24 Hour Fitness since April 2006. (24 Hour Fitness calculates this amount to be \$79,774.88.) 24 Hour Fitness' request for interest on the reimbursement amount is denied.
3. 24 Hour Fitness and Schnuck "shall not be responsible for the payment of any insurance premiums on a prospective basis."
4. Arnold shall reimburse 24 Hour Fitness in the amount of \$1,900.00 for arbitrator fees paid by (and not reimbursed to) 24 Hour Fitness in this case. (This amount does not include the fee for one hour of the arbitrator's time that resulted from counsel for 24 Hour Fitness being delayed at the commencement of the hearing. While the delay was understandable, it was not caused by or the responsibility of Arnold.)
5. Otherwise, each party shall bear its own costs and attorneys' fees.

Date: July 27, 2010



Richard P. Sher
Arbitrator



Sent via FedEx Overnight

June 28, 2016

Schnuck Markets, Inc.
11420 Lackland Road
PO Box 46928
St. Louis, MO 63146-6928
Attention: Legal Department

with a copy to:
The DESCO Group, Inc.
25 North Brentwood Boulevard
St. Louis, MO 63105-3709
Attention: Corporate Real Estate

Re: Sublease dated March 18, 1996 (as amended, "Lease"), by and between 24 Hour Fitness, Inc. ("Subtenant") and Schnuck Markets, Inc. ("Tenant") | 24 Hour Fitness Club 339 located in Arnold, Missouri

Dear Tenant:

This letter is serving as a formal notice that Subtenant has finalized a Lease Assignment Agreement with Genesis Health Clubs of the Midwest LLC. Effective as of June 15, 2016, you may contact the new tenant at:

Genesis Health Clubs of the Midwest LLC
6100 E. Central, Suite #3
Wichita, KS 67208

If you have any questions, please feel free to contact me at the number or e-mail below.

Best Regards,

A handwritten signature in cursive script that reads "Kyoko Huey".

Kyoko Huey
24 Hour Fitness | Senior Lease Administrator | Property Management
tel: 925 543 3021 | fax: 925 543 3221
email: khuey@24hourfit.com

EXHIBIT J

Notice of Lease Assignment Agreement

between Subtenant Genesis Health Clubs of the Midwest, LLC and Gold's Gym of St. Louis, LLC

Requested, to be attached when received.

Northern District of Texas Claims Register

20-31333-hdh11 Gold's St. Louis, LLC

Judge: Harlin DeWayne Hale **Chapter:** 11

Office: Dallas **Last Date to file claims:**

Trustee: **Last Date to file (Govt):**

<i>Creditor:</i> (18979143)	Claim No: 1	<i>Status:</i>
Schnucks Market, Inc.	<i>Original Filed</i>	<i>Filed by:</i> CR
11420 Lackland Road	<i>Date:</i> 09/08/2020	<i>Entered by:</i> E. Rebecca Case
Po Box 46928	<i>Original Entered</i>	<i>Modified:</i>
St. Louis MO 63105-3709	<i>Date:</i> 09/08/2020	

Amount claimed: \$244618.61

History:

Details 1-1 09/08/2020 Claim #1 filed by Schnucks Market, Inc., Amount claimed: \$244618.61 (Case, E.)

Description: (1-1) Rejection of unexpired lease

Remarks: (1-1) See Attachments

Claims Register Summary

Case Name: Gold's St. Louis, LLC

Case Number: 20-31333-hdh11

Chapter: 11

Date Filed: 05/04/2020

Total Number Of Claims: 1

Total Amount Claimed*	\$244618.61
Total Amount Allowed*	

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured		
Priority		
Administrative		