

FILED  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

APR 04 2001

Debtor(s): *Furr's*

United States Bankruptcy Court  
Albuquerque, New Mexico

Case No. *11-01-10779*

EXHIBIT LIST

From hearing on (matter): *April 3, 2001*

Held (date): *Motion for Extension of Time of Assume/Reject Leases*

Introd. by party	Exhibit #	Witness	Description	Offered/Obj./Ruling
---------------------	-----------	---------	-------------	---------------------

<i>Dtr.</i>	<i>A</i>	<i>Reeves</i>	<i>Potential Rejection &amp; Admin Claims of 9 leases.</i>	<i>no obj Admit</i>
<i>Tri State Comm'l</i>	<i>1</i>	<i>Quine</i>	<i>Lease</i>	<i>no obj Admit</i>

G:\exh.lst

*325*

**POTENTIAL REJECTION AND ADMINISTRATIVE CLAIMS  
 UNDER NINE FURR'S SUPERMARKETS, INC. LEASES  
 (prepared 4/2/2001)**

Store	Lessor	Original Lease Term (starting & ending dates)	Remaining Months on Lease (w/o unexercised extensions)	Currently Monthly Rent <sup>1</sup>	Potential Rejection Damages Under § 502(b)(6) (as of 4/1/01) <sup>2</sup>	Potential Administration Claim (as of 4/1/01) <sup>3</sup>
1. Bassett Shopping Center 1117 Geronimo El Paso, TX (Store #933)	LSF Bassett, L.P.	8/30/84 - 8/30/04	41	\$28,683	\$428,553	\$1,464,124
2. 10500 Railroad Dr. El Paso, TX (Cold Storage Warehouse)	Millard Refrigerated Services, Inc.	7/1/99 - 6/30/02	15	\$46,831	\$574,670	\$860,120



Store	Lessor	Original Lease Term (starting & ending dates)	Remaining Months on Lease (w/o unexercised extensions)	Currently Monthly Rent <sup>1</sup>	Potential Rejection Damages Under § 502(b)(6) (as of 4/1/01) <sup>2</sup>	Potential Administration Claim (as of 4/1/01) <sup>3</sup>
3. 319 S. Main Anthony, TX (Store #954)	La Feria Park & Shop, Inc.	1/11/99 - 1/31/19	214	\$26,250	\$928,082	\$6,187,210
4. Los Lunas, NM (Store #862)	Los Lunas Shopping Center-East	2/1/82 - 3/31/02	12	\$17,000	\$225,234	\$225,234
5. Taos, NM (Store #896)	Cruz Alta Plaza Ltd	3/7/78 - 7/31/10	112	\$14,763	\$369,496	\$2,463,309



Store	Lessor	Original Lease Term (starting & ending dates)	Remaining Months on Lease (w/o unexercised extensions)	Currently Monthly Rent <sup>1</sup>	Potential Rejection Damages Under § 502(b)(6) (as of 4/1/01) <sup>2</sup>	Potential Administration Claim (as of 4/1/01) <sup>3</sup>
9,1700 St. Michael's Dr. Santa Fe, NM (Store #889)	NYDES Prop.	12-1-73 - 6-30-04	39	\$9,381	\$149,446	\$485,597

<sup>1</sup>Current Monthly Rent only includes base rent and does not reflect any amounts for real estate taxes, common area maintenance, or contingency rent.

<sup>2</sup>Greater of (a) twelve months of rent or (b) rent reserved for 15% of remaining term, not to exceed three years. Includes all increases in rent, real estate taxes, common area maintenance, and contingency rent.

<sup>3</sup>Includes all remaining rent with all increases in rent, real estate taxes, common area maintenance, and contingency rent for remaining term of the lease

# LEASE

THIS LEASE, made this 29th day of August, 1976,  
between KIMBELL, INC., a Texas corporation,

(hereinafter called "Landlord"),  
and WINN-DIXIE TEXAS, INC., a Florida corporation duly qualified to  
transact business in the state of Texas (hereinafter called "Tenant");  
which terms "Landlord" and "Tenant" shall include, wherever the context permits or requires,  
singular or plural, and the heirs, legal representatives, successors and assigns of the respective  
parties;

### WITNESSETH:

#### PREMISES

That the Landlord, in consideration of the rents herein reserved and of the covenants of  
the Tenant, does hereby lease and demise unto the Tenant, for the term hereinafter specified,  
the following described land and improvements thereon:

That certain piece, parcel or tract of land located at 1300 West  
Dickerson Blvd.  
in the City of Fort Stockton, County of Pecos,  
State of Texas, more particularly described as:

SEE EXHIBIT "B"

Together with a store building, approximately 190 feet in width by 130  
feet in depth (and annex \_\_\_\_\_),  
parking area, sidewalks, service areas and other improvements constructed there-  
on.



TERM FOR THE TENANT TO HAVE AND TO HOLD for an initial term of fifteen (15) years commencing on August 29, 1976 and expiring at midnight on August 28, 1991.

This lease is granted and accepted upon the foregoing and upon the following terms, covenants, conditions and stipulations:

RENTAL 1. The Tenant agrees to pay to the Landlord as rental for the demised premises during the term of this lease, and any extensions thereof, the sum of Sixty Nine Thousand Seven Hundred Forty Two and 93/100 Dollars (\$ 69,742.93 ) per annum. The rental shall be paid in twelve (12) equal monthly installments of Five Thousand Eight Hundred Eleven and 91/100 Dollars (\$ 5,811.91 ) per month, which installments shall be due and payable in advance on the first day of each and every calendar month of the lease term, and any extensions thereof. Rent for fractional years and fractional months at the beginning and end of the term shall be pro-rated on the basis of the annual rate. The first monthly payment of rent shall be due on the first day of the next succeeding calendar month after the date of this lease, and shall include any rent due for the preceding fractional month.

UTILITIES 2. Tenant agrees to pay all charges for telephone, gas, electricity, water and all other utilities used by Tenant on the premises, and the Landlord agrees to provide access to such utilities at all times during the term of this lease.

TENANT'S REPAIRS 3.1 Upon acceptance of the demised premises by Tenant, Tenant agrees to keep the interior of the demised premises in good condition and repair, excepting structural repairs and all repairs which are the responsibility of the Landlord or which are made necessary by reason of fire and other unavoidable casualties covered by Landlord's fire and extended coverage insurance, and excepting reasonable wear and tear. Also within Tenant's repair responsibility shall be included: all other repairs to the demised premises, excepting those which are hereinafter made the express responsibility of Landlord, such repair responsibility to include, without limitation, the repair and maintenance of all electrical, mechanical, heating and air conditioning installations and systems, the sprinkler system, if any, the plumbing and plumbing fixtures, including any stoppages thereof, except such as may be caused by structural defects or faulty construction, the doors and automatic door operators, the windows and plate glass (except such replacement thereof as is covered by Landlord's fire and extended coverage insurance), the floor surfacing, and any incinerators, trash balers or compactors.

3.2 Also within Tenant's repair responsibility shall be included the routine operation and maintenance of the parking area, sidewalks, ramps and service areas consisting only of cleaning and sweeping, lighting, repainting of parking area striping and watering and maintenance of landscaped areas. Tenant also shall maintain and repair all parking lot light standards and other exterior lighting fixtures, including any repairs made necessary by the fault, act or negligence of Tenant, or any of its servants, agents, or employees, or any of its customers and invitees, provided, however, Landlord shall be responsible for the maintenance and repair thereof in the case of damage by fire or the elements or other casualty.

LANDLORD'S  
REPAIRS

4.1 The Landlord shall, at its cost and expense, keep and

~~maintain the exterior of Tenant's store building, including roof, gutters, downspouts, exterior painting, masonry walls, foundation and structural members, and the sewers from the outfall side of grease traps, if any, (or otherwise from the exterior walls of the building) and the electric power facilities from the weatherhead to the public or private power supply source, and the gas lines from the meter to the public or private gas supply source, and Landlord shall also make any and all structural repairs to both the exterior and interior of said premises. Landlord shall be responsible only for those repairs herein-~~

**FIXTURES  
AND  
ALTERATIONS**

5. The Tenant, at its own expense, may from time to time during the term of this lease make any alterations, additions and improvements in, on and to the demised premises which it may deem necessary or desirable and which do not adversely affect the structural integrity thereof, but it shall make them in a good workmanlike manner and in accordance with all valid requirements of municipal or other governmental authorities. All permanent structural improvements shall belong to the Landlord and become a part of the premises upon termination or expiration of this lease.

Tenant shall not make any exterior alterations, additions or improvements or structural changes in the building without the prior consent of Landlord, which shall not be unreasonably withheld. Tenant agrees to cause any mechanics' or materialmen's liens incurred as a result of construction work instigated by Tenant to be promptly discharged and hereby agrees to indemnify and hold harmless Landlord from any expense occasioned thereby.

Tenant may construct and build or install on and in said premises any and all signs, racks, counters, shelves and other fixtures and equipment of every kind and nature as may be necessary or desirable in the Tenant's business, which signs, racks, counters, shelves and other fixtures and equipment shall at all times be and remain the property of the Tenant, and Tenant shall have the right to remove all or any part of the same from said premises at any time; provided, Tenant shall repair or reimburse Landlord for the cost of repairing any damage to said premises resulting from the installation or removal of such items.

**INDEMNIFICATION**

6. The Tenant agrees to indemnify and save harmless the Landlord from any claim or loss by reason of accident or damage to any person or property happening on or about the demised premises, except in case of accident or damage caused by the fault or negligence of Landlord, its servants, agents or employees.

**FIRE**

7.1 In the event that the demised premises shall be totally destroyed or damaged to the extent of 75% or more of the value thereof by fire or other casualty, then either party may elect within thirty (30) days after such damage to terminate this lease by giving to the other a written notice of termination, and thereupon both parties shall stand released of and from all further liability under this lease. If the demised premises shall thereby suffer damage to any extent less than 75% of the value thereof, or if neither party has elected to terminate as aforesaid, then the Landlord agrees to proceed promptly and without expense to the Tenant to repair the damage or restore the improvements, remitting a fair and just portion of the rent, according to the unusable space, until said premises are completely reinstated or restored.

7.2 If damage to Tenant's building in excess of fifty percent (50%) of the value thereof shall occur within the last two (2) years of the initial term or any of the option extension periods provided for herein, the obligation of Landlord to restore the premises shall not arise unless Tenant shall give notice to Landlord within thirty (30) days after such damage of its desire to extend the term of this lease for an additional period so as to expire five (5) years from the date of such damage, and on the same conditions and for the same rentals. Upon such notice, Landlord agrees with all due diligence to repair and restore Tenant's building and the lease shall continue and the remaining option periods, if any, shall be construed to follow upon the end of such extended term. Failing such notice to extend, Landlord at its option shall have the right to terminate this lease or to restore the premises and the lease shall continue for the remainder of the then unexpired term.

7.3 Landlord agrees to carry fire and extended coverage insurance on Tenant's building and any additions, alterations and improvements made thereto by Landlord or Tenant

in the amount necessary to avoid co-insurance and hereby expressly waives any and all claims against the Tenant for loss or damage due to fire, explosion, windstorm or other casualty coverable by standard fire and broad form extended coverage insurance policies (whether or not actually carried), regardless of the cause of such damage, including without limitation, damage resulting from the negligence of the Tenant, its agents, servants or employees; and Tenant hereby expressly waives any and all claims against the Landlord for loss or damage to Tenant's merchandise, fixtures and equipment due to fire, explosion, windstorm or other casualty coverable by standard fire and broad form extended coverage insurance policies (whether or not actually carried), regardless of the cause of such damage, including, without limitation, damage resulting from the negligence of the Landlord, its agents, servants or employees.

Subject to non-disturbance protection being accorded to Tenant with respect to existing mortgages as contemplated in Article 20 hereof, the

QUIET  
ENJOYMENT

8. / Landlord covenants, warrants, and represents that upon commencement of the lease term, the demised premises will be free and clear of all liens and encumbrances superior to the leasehold hereby created; that the Landlord has full right and power to execute and perform this lease and to grant the estate demised herein; and that the Tenant on paying the rent herein reserved and performing the covenants and agreements hereof shall peaceably and quietly have, hold and enjoy the demised premises and all rights, easements, appurtenances and privileges belonging or in anywise appertaining thereto, during the full term of this lease and any extensions thereof.

The Landlord warrants the non-existence of any zoning or other restriction preventing or restricting use of the demised premises for the conduct of a general mercantile business, including parking in conjunction therewith, and that should such zoning or other restriction be in effect or adopted at any time during the term of this lease, preventing or restricting the Tenant from conducting a general mercantile business, including parking in conjunction therewith, the Tenant at its option may terminate this lease and shall stand released of and from all further liability hereunder. For the purposes hereof "blue laws" or "Sunday closing laws" and any alcoholic beverage license restrictions shall not be considered a restriction upon the permitted uses of the demised premises.

TAXES  
LIENS  
AND  
INSURANCE  
PREMIUMS

9.1 All taxes, assessments, and charges on land or improvements and obligations secured by mortgage or other lien upon the premises shall be promptly paid by Landlord when due. The Tenant may perform, acquire or satisfy any lien, encumbrance, agreement or obligation of the Landlord which may threaten its enjoyment of the premises, and if it does so it shall be subrogated to all rights of the obligee against the Landlord or the premises or both and shall be reimbursed by the Landlord for resulting expenses and disbursements, together with interest thereon at six per cent (6%) per annum.

9.2 To the extent hereinafter set forth, as additional rental hereunder and during the initial term of this lease, and any exercised option extensions thereafter, Tenant agrees to reimburse Landlord for 75% only (with Landlord being responsible for the remaining 25%) of Tenant's pro rata share of any increases in the annual ad valorem taxes levied on the demised premises [REDACTED] in excess of the amount of such taxes levied thereon for the tax year 1976. Tenant shall be responsible only for its pro rata portion of such taxes for fractional years occurring at the beginning and expiration of the term of this lease. For the purposes hereof, the increased taxes to which Tenant is to contribute computed in accordance with this sub-section 9.2 is hereinafter called the "first increment of increased taxes".

9.3 The amount of taxes attributable to the demised premises and for which Tenant is to reimburse Landlord in part, shall be less any abatements, discounts or refunds thereon. Upon request of Tenant, Landlord agrees to exhibit to Tenant the paid tax statements as evidence of the basis upon which any increase in taxes is chargeable to Tenant and the basis for computation of Tenant's pro rata share, and such additional rental shall be payable by Tenant on demand after payment by Landlord. All taxes, other than ad valorem real estate taxes, including special assessments, improvement liens and the like, shall remain the sole responsibility of the Landlord.

9.4 Tenant shall have the right from time to time to contest or protest or review by legal proceedings or in such other manner as may be provided, any such taxes, assessments or other governmental impositions aforementioned, and to institute such proceedings in the name of the Landlord as the Tenant may deem necessary; provided, however, any expense incurred by reason thereof shall be borne by the Tenant and such proceedings conducted free of all expense to the Landlord.

9.5 In the event Tenant's store building is expanded or enlarged in accordance with the Article on that subject hereinafter set forth, Tenant shall also contribute to Landlord 100% of that segment of increased taxes consisting of the following:

The difference between the tax amount allocated to the demised premises (before enlargement) for the year next preceding the first year in which the augmented value of the enlarged building, including the addition and renovations, is assessed for tax purposes, and the tax amount allocated to the enlarged demised premises for that first year. For the purposes hereof, such amount is hereinafter called the "second increment of increased taxes". Tenant shall continue to reimburse Landlord for this second increment of increased taxes throughout the remainder of the then term of this lease, and any exercised option extensions thereafter.

As to any further increases in the ad valorem taxes which may occur in subsequent years following the first year in which the augmented value of the enlarged building is assessed for tax purposes, Tenant's contribution of its pro rata share of ad valorem taxes shall revert to the original basis of 75% for Tenant and 25% for Landlord.

9.6 In the event Tenant's store building is expanded or enlarged in accordance with the Article on that subject hereinafter set forth, Tenant agrees to reimburse Landlord for the increased annual cost of fire and extended coverage insurance resulting from the construction of the building addition and any other renovations and alterations to the then existing building. Tenant's share of such increased cost shall be obtained by multiplying the new premium for fire and extended coverage insurance (for the same type coverages as previously carried) on the enlarged building by a fraction in which the numerator shall be the square footage of the expansion area and the denominator shall be the square footage of the total enlarged building. Once the increased insurance premium and the fractional part thereof which Tenant is to contribute to Landlord are established, Tenant shall pay a like amount to Landlord in each year during the remainder of the then term of the lease, and any exercised option extensions thereafter. Such amounts as Tenant shall owe under this sub-section shall be payable annually by it on demand from Landlord to Tenant and Landlord agrees to evidence to Tenant statements for all premiums and any other pertinent information reasonably required to demonstrate Tenant's precise obligation in respect of the insurance premium increase. Any payments to be made by Tenant to Landlord under the provisions of this sub-section shall be prorated for fractional years occurring at the beginning and end of the period during which this insurance contribution provision shall be in effect.

shall, within ninety (90) days from when possession of the condemned area is required by the condemning authority,

**CONDEMNATION** 10.1 If any part of the store building located on the demised premises be taken for any public or quasi-public use, under any statute or by right of eminent domain, or private purchase in lieu thereof, or in the event that any portion in excess of ten per cent ( 10%) of the overall parking area constructed for Tenant's use on the demised premises be so taken, or in the event that any portion of the demised premises (including parking area) be so taken so as to interfere materially or substantially with the conduct of Tenant's business in the demised premises, then in any such event, the Tenant shall be entitled to termination of this lease at its option, and any unearned rent or other charges paid in advance shall be refunded to the Tenant. In the event the Tenant does not elect to terminate this lease as above provided, or in the event of any taking which does not permit a termination by the Tenant, the Landlord shall promptly restore the premises to a condition comparable to the condition at the time of taking, and the lease shall continue, but Tenant shall be entitled to such division of proceeds and abatement of rent and other adjustments as shall be just and equitable under all circumstances.

10.2 The right of Tenant to a division of condemnation proceeds under this Article shall extend only to such portion of the award as may be attributable by the Court to disturbance of Tenant's established business and to Tenant's trade fixtures, equipment, leasehold improvements and moving expenses, and Tenant shall not thereby be entitled to any portion of the award attributable to the land and building, or to the value of the unexpired portion of the Tenant's term.

**DEFAULT**

11. In the event the Tenant should fail to pay any of the monthly installments of rent reserved herein, or any other amounts payable hereunder, for a period of more than ten (10) days after the same shall become due and payable, or if the Tenant shall fail to keep or shall violate any other condition, stipulation or agreement herein contained, on the part of the Tenant to be kept and performed, and if either such failure or violation shall have continued for a period of ten (10) days as to non-payment of rent, or any other amounts payable hereunder, or thirty (30) days as to other violations, after the Tenant shall have received written notice by certified or registered mail at its office address hereinafter designated, from the Landlord to pay such rent or to cure such violation or failure, then, in any such event, the Landlord, at its option, may either (a) terminate this lease, or (b) re-enter the demised premises by summary proceedings or otherwise expel Tenant and remove all property therefrom and relet the premises at the best reasonable rental then obtainable, making reasonable efforts therefor and receive the rent therefrom; but Tenant shall remain liable for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Landlord on reletting, less reasonable expenses related to such reletting. However, a default (except as to payment of rentals) shall be deemed cured if Tenant in good faith commences performance requisite to cure same within thirty (30) days after receipt of notice and thereafter continuously and with reasonable diligence proceeds to complete the performance required to cure such default.

**BANKRUPTCY**

12. The Tenant further covenants and agrees that if, at any time, the Tenant is adjudged bankrupt or insolvent under the laws of the United States or of any state, or makes a general assignment for the benefit of creditors, or if a receiver of all the property of the Tenant is appointed and shall not be discharged within ninety (90) days after such appointment, then the Landlord may, at its option, declare the term of this lease at an end and shall forthwith be entitled to immediate possession of the premises.

**ARTICLE 13 IS OMITTED IN ITS ENTIRETY.**

**NUISANCES**

14. The Tenant agrees that the leased demised premises or any portion thereof shall not be used for any illegal or unlawful purpose, and that the Tenant will not make or suffer any waste of the premises or permit anything to be done in or upon the demised premises creating a nuisance thereon.

**EXTENSIONS**

15. It is further agreed that Tenant, at its option, shall be entitled to the privilege of three ( 3 ) successive extensions of this lease, each extension to be for a period of five ( 5 ) years and on the same terms and conditions and at the same rentals as required during the initial lease term.

Such option privilege may be exercised by the Tenant giving to the Landlord a notice in writing at least six (6) months before the expiration of the initial term, and if extended, at least six (6) months before the expiration of such extended term, stating the intention of the Tenant to exercise such option and the period for which such option is exercised and thereupon this lease shall be so extended without the execution of any other or further document.

NOTICES

16. All notices required to be given to Landlord hereunder shall be sent by registered or certified mail to, and all rent payments shall be made to Landlord at P. O. Box 1540,  
Fort Worth, Texas 76101,

or to such other address as Landlord may direct from time to time by written notice forwarded to Tenant by registered or certified mail.

All notices required to be given to Tenant shall be sent by registered or certified mail to Tenant at P. O. Box 1540, Fort Worth, Texas 76101, together with a duplicate of the notice to tenant at P. O. Box 3, General Mail Center, Jacksonville, Florida 32203, or to such other address as Tenant may direct from time to time by written notice forwarded to Landlord by registered or certified mail.

, if Tenant be not in default,

END OF TENANCY

17. The Tenant will yield up the demised premises and all additions thereto (except signs, equipment and trade fixtures installed by Tenant at its expense) or the termination of the tenancy in as good and tenantable condition as the same are at the beginning of Tenant's occupancy, reasonable wear and tear, damage by fire and other casualties and condemnation appropriation by eminent domain excepted, and also excepting any damage, disrepair and other condition that the Landlord is obligated hereunder to repair or correct.

FORCE MAJEURE

18. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay provided that the party so delayed proceeds as expeditiously as possible under the circumstances. The provisions of this Article shall not operate to excuse Tenant from prompt payment of rent or any other payments required by the terms of this lease.

ASSIGNMENT

19. The Tenant may without the consent of the Landlord assign or sublease or vacate the demised premises in whole or in part, provided, the Tenant herein shall continue to remain liable and responsible for the payment of rentals and due performance of all other terms, covenants and conditions of this lease.

- SUBORDINATE** 20. The Tenant agrees that this lease shall at all times be subject and subordinate to the lien of any mortgage (which term shall include all security instruments) that may be placed on the demised premises by the Landlord; and Tenant agrees, upon demand, without cost, to execute any instrument as may be required to effectuate such subordination; provided, however, as a condition to this subordination provision, the Landlord shall obtain from any such mortgagee an agreement in writing, which shall be delivered to Tenant, providing in substance that, so long as Tenant shall faithfully discharge the obligations on its part to be kept and performed under the terms of this lease, its tenancy shall not be disturbed, nor shall this lease be affected by any default under such mortgage, and in the event of foreclosure or any enforcement of any such mortgage, the rights of Tenant hereunder shall expressly survive, and this lease shall in all respects continue in full force and effect; provided, however, that Tenant fully performs all of its obligations hereunder.
- BENEFIT** 21. This lease and all of the covenants and provisions thereof shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the parties.
- SHORT FORM LEASE** 22. The Landlord agrees that at any time on request of the Tenant it will execute a short form of this lease in form permitting its recording.
- MARGINAL TITLES** 23. The marginal titles appearing in this lease are for reference only and shall not be considered a part of this lease or in any way to modify, amend or affect the provisions thereof.
- COMPLETE AGREEMENT** 24. This written lease contains the complete agreement of the parties with reference to the leasing of said property. ~~\_\_\_\_\_~~ No waiver of any breach of covenant herein shall be construed as a waiver of the covenant itself or any subsequent breach thereof.
- NO BROKER** 25. The parties hereto mutually covenant, warrant and represent to each other that there was no broker instrumental in consummating this lease, and that no conversations or prior negotiations were had with any broker concerning the renting of the premises. The parties agree to hold each other harmless from any claims for brokerage commission arising out of any conversation or negotiations had by either party with any broker.

OPTION 26.1 Tenant is hereby granted the option at any time during the  
FOR term of this lease, or any extensions thereof, of enlarging its  
EXPANSION demised store building. This privilege is expressly subject to  
compliance with setback requirements and parking ratio requirements  
imposed by governmental authority.

26.2 As a result of Tenant's constructing an addition to its  
building, there shall not be any change or adjustment in the annual  
rental payable hereunder.

26.3 Nothing herein contained shall constitute any express or  
implied obligation on the part of the holder of a first mortgage  
encumbering the fee simple title to the demised premises, or of  
any purchaser at a sale under foreclosure of such mortgage, to  
comply with the terms and provisions of this Article, it being  
the understanding of the parties that the obligation to cause  
such expansion is the sole obligation of the Tenant, its heirs,  
legal representatives, successors and assigns.

26.4 Only in the event there has been an enlargement by Tenant as  
contemplated in this Article, the proceeds of the fire and extended  
coverage insurance which Landlord is required under the terms of  
this lease to carry on the building on the demised premises, includ-  
ing enlargements thereof as contemplated by this Article, shall be  
made available to Landlord for the purpose of restoring the entire  
enlarged building, provided neither party shall have elected to  
terminate the lease as provided in Article 7 hereof; but the excess,  
if any, of such proceeds over the cost of restoration, shall be  
divided between the parties with the Tenant to receive the same  
fractional part thereof as is established as Tenant's share of  
increased insurance premium cost under Section 9.6 hereof, and  
the Landlord to receive the balance; or in the event of termination  
of the lease as provided in said Article 7, the proceeds shall be  
similarly divided in like ratio. In the event of construction of  
an addition to the demised premises by Tenant as contemplated  
herein, the insurance policy or policies maintained by the Landlord  
shall name the Tenant as an additional insured with the Landlord  
as their interest may appear, and Tenant shall be provided with a  
copy of such insurance policy or policies.

OPTION TO  
TERMINATE

27.1 Landlord agrees that Tenant may, subject to the following conditions, at the option of Tenant, terminate this lease at any time during the first five (5) years of the initial term of the lease. In the event Tenant desires to exercise this option and to terminate this lease, it shall give written notice within such period to Landlord of its intention to terminate this lease and as a part of such notice offer to purchase the demised premises from Landlord for the purchase price computed in accordance with the formula set forth hereinafter.

27.2 In the event Landlord elects to accept said offer to purchase, Landlord shall within sixty (60) days after the date of Tenant's notice to Landlord, deliver to Tenant written notice of such acceptance, and Landlord shall immediately provide to Tenant such title evidence and such surveys of the demised premises as it then has and all such documents, if any, shall become the property of Tenant upon completion of the purchase hereunder, or be returned to Landlord if the purchase is not closed for any reason. Further, Tenant, in its discretion and at its sole expense, may obtain such additional title evidence or surveys as Tenant may desire to assure itself that the title to the real property in the Landlord is a good and marketable title of record. Tenant shall obtain such title evidence and surveys within forty-five (45) days after the date of Landlord's notice to Tenant of acceptance and within the fifteen (15) days immediately following thereafter Tenant shall furnish Landlord with a written statement of the acceptability of the title or of Tenant's objections to title by reason of matters disclosed in such title evidence or survey, and Landlord, immediately after such fifteen (15) day period shall have forty-five (45) days thereafter in which to cure or remove such matters objected to.

In the event the title evidence then shows a good and marketable title of record in the Landlord, free of defects, liens and encumbrances (except ad valorem taxes for the year in which the sale is closed and applicable zoning laws and regulations, which excepted items shall not constitute a basis for title objection hereunder), or upon the satisfactory removal or waiver of objections to the title, the sale and purchase shall be consummated within fifteen (15) days after the expiration of time allotted for title examination herein, if the title be clear, or within a like period following the satisfactory removal or waiver of objections to the title. At the closing Landlord shall execute and deliver to Tenant a good and sufficient warranty deed conveying title to the demised premises to Tenant, and Tenant shall concurrently pay the purchase price in cash or by cashier's check or certified check, which sum shall not be delivered to Landlord at closing but shall be held in trust by an escrow agent mutually selected by the parties until such time as Tenant has determined by review of the public records of the county in which the property is located that no intervening conveyances or other instruments have been recorded which affect the title to the property being conveyed from the date of the abstract of title or other title evidence through the recording of the warranty deed to the buyer. Such time for recording the deed and reviewing the public records shall in no event exceed five (5) days. Should there be no intervening conveyances or other instruments adversely affecting title which have been recorded, then the purchase price shall be disbursed directly by the escrow agent to Landlord.

If Tenant purchases the leased premises as herein provided, Tenant shall pay rent to the date of its purchase of said property; and Tenant shall pay the escrow fees, if any, the recording fee for the deed to be delivered, the premium for an owner's policy of title insurance and/or the expense of an attorney's title opinion, and abstract continuation charges, if any. Landlord shall pay the documentary stamps to be affixed to the deed, or for any deed tax or similar charges. All real property taxes and rentals and unexpired insurance premiums shall be prorated between the parties as of the closing date and each party shall pay its respective attorneys' fees.

27.3 Should written notice of the acceptance of Tenant's offer to purchase, signed by Landlord, not be received by Tenant within sixty (60) days after the date of Tenant's notice to Landlord, or should Landlord, after having accepted Tenant's offer to purchase, be unable to convey title to the demised premises to Tenant, as hereinbefore set out, within the forty-five (45) day time period herein limited for curing defects, then (a) if Tenant's offer to purchase is not accepted as aforesaid, in such event this lease shall terminate and end at the expiration of one hundred thirty-five (135) days after the date of Tenant's original notice of offer to purchase to Landlord, or (b) if Landlord is unable to convey good title as aforesaid, in such event this lease shall terminate and end at the expiration of one hundred sixty-five (165) days or at the end of the expiration of thirty (30) days after Tenant's final notice of rejection of title, whichever is the later date. In the event of such termination as provided for herein, all parties hereto shall be discharged from further liability by reason of this lease and this lease shall be of no further force and effect. Tenant shall pay rent to the date of termination, and shall vacate and remove its property from the leased premises by such date of termination.

Further, upon the occurrence of either of the events described in the preceding paragraph whereby Tenant's lease is to be terminated, at any time within ninety (90) days in the situation described in subsection (a) or within one hundred sixty-five (165) days in the situation described in subsection (b), each after the date of Tenant's original notice to Landlord, Landlord shall have the right, at its sole option, upon written notice to Tenant to repurchase the furniture, fixtures and equipment utilized in the operation of Tenant's grocery or supermarket business conducted in the demised premises at the net book value thereof as of the repurchase date, such value to be determined in the same fashion as provided in that certain "Agreement for Sale of Certain Assets of Kimbell, Inc. to Winn-Dixie Stores, Inc." dated August 27, 1976. Should written notice of Landlord's election to repurchase the fixtures be received by Tenant at or before the expiration of either of the specified periods, the parties, or their representatives, shall promptly undertake to value the equipment and mutually agree upon a repurchase date (in no event later than thirty (30) days after the date of Landlord's notice of repurchase to Tenant) and on the repurchase date Landlord will pay to Tenant the purchase price by cashier's or certified checks on a bank or banks against delivery by Tenant to Landlord of an executed Bill of Sale for the fixtures. Before the repurchase date Tenant shall be permitted to cease the conduct of its business and dispose of its inventory and stock-in-trade as Tenant may determine and after closing of the repurchase, this lease shall terminate and end in the identical fashion as provided in the preceding paragraph.

27.4 The following method shall be used in determining the purchase price hereunder, which shall consist of the net book value of the demised premises.

(a) All furniture, fixtures, equipment and personal property, and all parking lot improvements and all buildings and other improvements on the demised premises shall be valued at cost less depreciation taken by Landlord for federal income tax purposes.

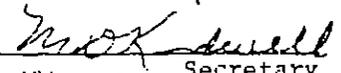
(b) Land shall be valued at original cost to Landlord.

(c) The Landlord shall give to Tenant, its accountants, counsel and other representatives, full access during normal business hours throughout the period prior to and after the closing to all properties, books, contracts, accounts and records of Landlord pertaining to the demised premises and shall furnish the Tenant during such period with all such information concerning the demised premises as the tenant reasonably requests and as shall be required for purposes of determining the net book value.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this agreement the day and year first above written.

KIMBELL, INC.

By   
Its President

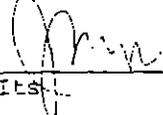
Attest:   
Its ASSISTANT Secretary

(CORPORATE SEAL)

Landlord

WINN-DIXIE TEXAS, INC.

By   
Its President

Attest:   
Its Secretary

(CORPORATE SEAL)

Tenant

G U A R A N T Y

In consideration of the sum of Ten Dollars (\$10.00) paid by  
KIMBELL, INC., a Texas corporation,

hereinafter called "Landlord", to WINN-DIXIE STORES, INC., a Florida corporation with its principal office at 5050 Edgewood Court, Jacksonville, Florida 32205, hereinafter called "Guarantor", the receipt and sufficiency whereof are hereby acknowledged, Guarantor does hereby guarantee unto Landlord, its heirs, legal representatives, successors and assigns, the due performance and observance by WINN-DIXIE TEXAS, INC.

hereinafter called "Tenant", of all the terms, covenants and conditions on the part of Tenant to be performed and observed including, without limitation, payment of rentals under the attached and foregoing lease agreement dated August 29, 1976, covering certain premises located at 1300 West Dickerson Blvd Fort Stockton

Pres. County, Texas

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be executed in its corporate name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized this 30<sup>th</sup> day of August, 1976.

Signed, sealed and delivered in the presence of:

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

WINN-DIXIE STORES, INC.

By: [Signature]  
its President

Attest: [Signature]  
its Secretary

(Corporate Seal)

THE STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared BOB E. SCOTT, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said KIMBELL, INC., a Texas corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 30th day of August, 1976.

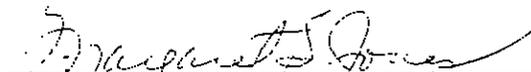
  
Notary Public, Tarrant County, Texas  
My commission expires June 1, 1977

THE STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared SAMUEL W. EVANS, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of WINN-DIXIE TEXAS, INC., a Florida corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 30th day of August, 1976.

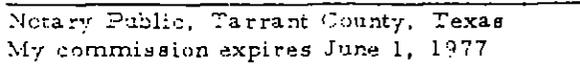
  
Notary Public, Tarrant County, Texas  
My commission expires June 1, 1977

THE STATE OF TEXAS §

COUNTY OF TARRANT §

~~BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of WINN-DIXIE STORES, INC., a Florida corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.~~

~~GIVEN UNDER MY HAND AND SEAL OF OFFICE this 30th day of August, 1976.~~

~~  
Notary Public, Tarrant County, Texas  
My commission expires June 1, 1977~~

4111

PECCS

3

DICKINSON

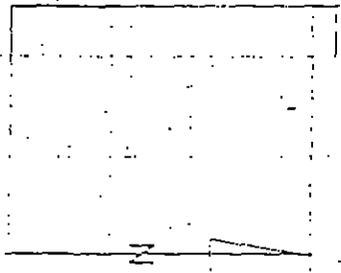
BLVD

ELK HILLS

11th St

COLPITTS BLVD

BUDDIES FOODWAY #179  
 FORT STOCKTON TEXAS  
 LOTS 1 THRU 12 BLOCK #165  
 ORIENT ADDITION  
 LAND AREA 7410 sq ft  
 BUILDING AREA 25,500



*Colpitts A*

[Stamp: PUBLIC RECORDS, FORT STOCKTON, TEXAS]  
 [Signature]

THE STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared BOB E. SCOTT, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said KIMBELL, INC., a Texas corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 30th day of August, 1976.

Margaret Jones  
Notary Public, Tarrant County, Texas  
My commission expires June 1, 1977

THE STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared SAMUEL W. EVANS, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of WINN-DIXIE TEXAS, INC., a Florida corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 30th day of August, 1976.

Margaret Jones  
Notary Public, Tarrant County, Texas  
My commission expires June 1, 1977

THE STATE OF TEXAS §

COUNTY OF TARRANT §

~~BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of WINN-DIXIE STORES, INC., a Florida corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.~~

~~GIVEN UNDER MY HAND AND SEAL OF OFFICE this 30th day of August, 1976.~~

~~\_\_\_\_\_  
Notary Public, Tarrant County, Texas  
My commission expires June 1, 1977~~

Block 165, Orient Addition to the City of Ft. Stockton, Pecos Co., Texas as shown on Plat of Record in Vol. 1, pg. 61 of the plat records of Pecos Co. Texas and being the same land described in deed from Edward Winkler to Kimbell Properties Inc. dated 8-25-72 and recorded in Vol. 382, pg. 611 of the deed records of Pecos Co. Texas to reference is hereby made for all purposes, said Block 165 of the Orient Addition being more particularly described as follows:

BEGINNING at a 1/2" iron rod set for the Northwest corner of Block 165 of the Orient Addition to the City of Ft. Stockton, Texas, from which said 1/2" iron rod a 1/2" Iron Pipe bears N.0°08'E. 60 ft. at the Southwest corner of Block 212 of said Orient Addition.

THENCE N. 89°42'E. along the South line of Eleventh Street 275 ft. to a 1/2" Iron Rod set for the Northeast corner of said Block 165, from which a 1/2" Iron Pipe bears N.0°08'E. 60 ft. at the Southeast corner of said Block 212.

THENCE S.0°08'W. along the West line of N. Colpitts Blvd. 280 ft. to a 5/8" Iron Rod set for the Southeast corner of Block 165.

THENCE S.89°42'W. along the North line of Dickinson Blvd. 275 ft. to a 5/8" Iron Rod set for the Southwest corner of said Block 165.

THENCE N.0°08'E. along the East line of Pecos Street 280 ft. to the point of beginning and containing 1.77 Ac of land more or less.

EXHIBIT "B"