

MEMORANDUM

448

OF

L E A S E
(SHORT FORM)

THIS MEMORANDUM OF LEASE, made as of the 26TH day of JUNE, 1978, by and between SUGARLAND, INC., a Wyoming Corporation with an office in Sheridan, Wyoming, hereinafter referred to as "Lessor," and BUTTREY FOOD STORES, Division Jewel Companies, Inc., a New York Corporation, duly qualified to do business in the State of Wyoming hereinafter referred to as "Lessee":

WITNESSETH:

1. Leased Premises. In consideration of the mutual covenants and agreements herein contained, Lessor hereby leases to Lessee the land and improvements to be constructed thereon as hereinafter provided, situated in the County of Sheridan and State of Wyoming designated as BUTTREY," outlined in red on Exhibit "A" hereto attached (hereinafter referred to as "leased premises"), together with all appurtenances and rights of way incident thereto. The entire tract of land shown on Exhibit "A" is legally described on Exhibit "B" hereto attached.

2. Original Term. The term shall begin with the earlier of (i) the day Lessee opens for business with the public in the leased premises, or (ii) the sixtieth (60th) day following the acceptance by Lessee of the improvements to be constructed on the leased premises and shall end on the last day of the twentieth (20th) lease year. Within sixty (60) days after the beginning of the term, Lessee shall certify the beginning and ending dates of the term in a letter to Lessor.

3. Options. Lessee shall have the option to four (4) successive

extensions of the term of this lease for any whole number of lease years not exceeding five (5) full lease years with respect to each such option, subject to the terms, covenants and provisions of this lease. Lessee may exercise each said option by giving Lessor written notice thereof no less than three (3) months prior to the beginning of each such period of extension, in which said notice Lessee shall state the number of lease years it elects to extend said term. The word "term" whenever used herein shall mean the original term and any extensions thereof unless the context otherwise requires.

4. Use. The leased premises may be used for any lawful purpose. Lessor warrants that there is no zoning law, ordinance or regulation prohibiting the use of the building on the leased premises for a retail business including the sale of groceries, meats, prescription drugs, general merchandise, and alcoholic beverages as permitted by state law, nor prohibiting the use of the remainder of the leased premises for accessory automobile parking, signs, and service facilities as herein permitted or required. If any such existing zoning law, ordinance or regulation is in force so as to prohibit such use of the leased premises, Lessee may cancel this lease by giving Lessor not less than ten (10) days written notice unless such prohibition for such use is caused by Lessee's act or failure to act. Lessor and Lessee recognize that the continued successful operation of the business contemplated by the Lessee is in their mutual best interest. Therefore, Lessee may, in its own name or in the name of the Lessor, contest and resist any future zoning law, ordinance or regulation which might be adopted and would prohibit the contemplated use of the leased premises by the Lessee. Lessor agrees to render to Lessee all assistance reasonably possible,

450

including joining in and signing any protest or pleading which Lessee may deem advisable.

This covenant shall run with the ~~land comprising the shopping center~~ *Har* *HL*. In the event of a breach or threatened breach of this covenant, Lessee shall be entitled to injunctive relief or money damages or any other appropriate remedy at law or in equity, and any such remedies shall not be exclusive of any other remedy. Also, in the event of a breach of said covenant, all rents and other charges payable hereunder shall abate from the date of such breach until the same shall be cured.

5. Private Restrictions. Lessor covenants that Lessee will not be prevented from or restricted in the retail selling of any merchandise or rendering of any services on the leased premises nor in exercising the rights herein granted because of any restriction, covenant or agreement entered into by the Lessor or any successor in interest. If Lessee is prevented from or restricted in so using the leased premises or in exercising said rights because of any court order or other judicial determination arising out of any such restriction, covenant or agreement, the rents and other charges to be paid by Lessee hereunder shall abate during the period Lessee is so prevented from or restricted in using the leased premises or exercising said rights; and if said period shall continue for thirty (30) days or more, Lessee may cancel this lease by notice in writing to Lessor at any time thereafter during said period. From and after the execution and delivery hereof, Lessor shall defend, indemnify and save harmless Lessee against all actions, claims, costs (including attorneys' fees) and loss arising out of the existence of any such restriction, covenant or agreement or allegation thereof.

6. Liens. Lessee shall keep the leased premises free from any

Liens for any labor or material furnished Lessee in connection with the leased premises, except that Lessee shall have the right to contest the validity or amount of any such lien. Provided, however, Lessee shall satisfy reasonable requirements of title made by first mortgagees or purchasers of the premises. Lessor may post notice of non-responsibility in the manner provided by law.

7. Fixtures. Any fixtures, equipment, signs or other property however attached to or incorporated in the leased premises or the Shopping Center belonging to the Lessee or its subtenants or licensees are to be and remain its property and it shall have the right to remove them at any time before or within ten (10) days following the termination of this lease by lapse of time or otherwise, provided Lessee shall repair any damage caused by such removal.

8. Lessee's Indemnity. Lessee shall defend, indemnify and save harmless the Lessor, its agents and employees, against any liability or claim thereof whether for injury to persons, including death, or damage to property (1) occurring on or arising out of the use of the leased premises during the term hereof except if caused by an act or omission to act by Lessor, its agents, employees, licensees or contractors; (11) arising out of any default by Lessee hereunder; or (111) arising out of any act or omission to act by Lessee, its agents or employees at any time on the leased premises prior to the beginning of the term; all subject to the provision of Section 7.2. hereof.

9. Lessor's Indemnity. Lessor shall defend, indemnify and save harmless the Lessee, its agents, subtenants and employees, against liability or claim thereof whether for injury to persons, including death, or damage to property (1) occurring on the leased premises prior to the beginning of the term hereof except if caused by an act or omission to the beginning of the term hereof except if caused by an act or omission

to act by Lessee, its agents, employees, licensees or contractors; or (ii) occurring on the leased premises during the term if caused by an act or omission to act by Lessor, its agents, employees, licensees or contractors; or (iii) arising out of any default by Lessor hereunder.

10. Quiet Enjoyment. Lessor covenants that if the Lessee shall perform all of the covenants and provisions of this lease to be performed by the Lessee, the Lessee shall peaceably and quietly occupy and enjoy the full possession and use of the leased premises and if at any time Lessor's title shall fail or be discovered not to enable it to grant the term or said rights with respect to the leased premises, Lessee may at its option cancel this lease by notice in writing to Lessor.

11. Assignment. Lessee may from time to time assign or reassign this lease or sublease the whole or any part of the leased premises for any lawful purpose. In the event of any assignment or subletting, Lessee shall remain primarily liable for the performance of all of its obligation hereunder.

12. Title Evidence and Short Form. Lessor represents that it has good title to the leased premises (as legally described on Exhibit "B") in fee simple absolute subject only to current taxes not past due and utility easements not conflicting with the rights herein granted to Lessee.

13. Subordination. Lessee agrees to subordinate this lease to any mortgage or trust deed which may hereafter be placed on the leased premises, provided such mortgagee or trustee thereunder shall assure to Lessee the right to possession of the leased premises and other rights granted to Lessee herein so long as Lessee is not in default hereunder. Notwithstanding this section, Lessor and Lessee agree that

LESSOR

By: *[Signature]*
 Its (Vice) President
 BUTTREY FOOD STORES
 Division Jewel Companies, Inc.

LESSOR

By: *[Signature]*
 Its (Vice) President
 SUGARLAND, INC.

above written.

their respective seals to this Memorandum as of the day and year first

IN WITNESS WHEREOF, the parties hereto have executed and affixed

Great Falls, Montana 59403, are incorporated herein by this reference.

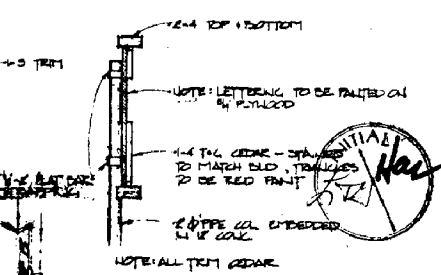
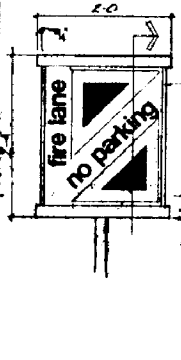
Sheridan, Wyoming, or the offices of the Lessee at 601 6th Street SW,

of the lease, which may be inspected at the offices of Lessor at

14. Lease Incorporated. All the terms, conditions and covenants

mortgage to New York Life Insurance Company.

a short form of this lease may be recorded ahead of Lessor's anticipated



- Legend
- LINE CROWNOUT
 - G GAS LINE
 - W WATER LINE
 - PROPERTY LINE
 - OS SANITARY SINKER
 - ███ PAVING AREA (REMAINDER OF PEG PAVING SURFACE)
 - C CEMENT (UNDERGROUND)
 - SD SEWAGE DRAIN

site plan
SCALE 1"=30'-0"

NOTE: REFER TO ELECTRICAL
FOR ADDITIONAL
LAYOUT

NOTE: ALL GRADES, NEW &
PROVIDED BY OWNER

Exhibit "A" to that certain Lease dated June 26
by and between Sugarland, Inc. and Buttrey Food Store
Division Jewel Companies, Inc.



Beginning at a point on the easterly right-of-way line of U.S. Highway Business Routes 87 and 14 and Coffeen Avenue, said point being located east, 50 feet; thence north, 60 feet from the S 1/4 corner of said Section 35; thence along said right-of-way line, N 0°20' E, 370.0 feet to a point; thence S 80°40' E, 420.0 feet to a point; thence S 0°20' W, 433.3 feet to a point on the southerly line of said Section 35; thence along said line N 89°13' W, 360.0 feet to a point; thence N 0°20' E, 60.0 feet to a point; thence N 89°13' W, 60.0 feet to the point of beginning. Said tract contains 4.08 acres, more or less.

A tract of land located in the SW 1/4 SE 1/4 of Section 35, T 56 N, R 84 W, 6th P.M., Sheridan County, Wyoming, described as follows:

EXHIBIT "B"
LEGAL DESCRIPTION
BUTTREY LEASED PREMISES

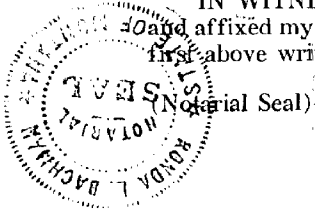
Exhibit "B" to that certain lease dated
JUNE 26, 1978, by and between Sugarland,
Inc. and Buttre Food Stores, Division Jewel
Companies, Inc.

456
STATE OF Montana
COUNTY OF Cascade

} ss.

On this 26th day of June, 1978, before me,
Ronda L. Bachman, a Notary Public for
the State of Montana, personally appeared
Lyne J. Horman, known to me
to be the Vice President of the
Corporation that executed the foregoing instrument, and ac-
knowledged to me that such Corporation executed the same.

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



Ronda L. Bachman

Notary Public for the
State of Montana

Residing at Great Falls, Montana

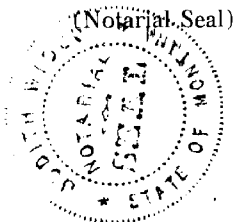
My Commission expires 8-9-80

STATE OF Montana
COUNTY OF Yellowstone

} ss.

On this 28th day of June, 1978, before me,
Judith M. Widup, a Notary Public for
the State of Montana, personally appeared
Harmer Scott, Jr., known to me
to be the President of the
Corporation that executed the foregoing instrument, and ac-
knowledged to me that such Corporation executed the same.

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



Judith M. Widup

Notary Public for the
State of Montana

Residing at Billings, Montana

My Commission expires 6-6-81