

4143

THIS LEASE, made this 1st day of June, 1963, by and between J. B. Spradley and wife, Rena Merle Spradley hereinafter called "Landlord" and HUFFSTUTLER-WALTERS OIL COMPANY, INC., hereinafter called "Tenant":

WITNESSETH:

That Landlord does hereby demise and lease unto Tenant, subject to the provisions hereinafter set forth, all that property described as follows: Service Station located at Sterrett, Shelby County, Alabama. Begin at the intersection of Alabama Highway #25 Western Right-of-way and the Southern boundary line of the Southwest Quarter of Southwest Quarter, Section 19, Township 18, Range 2 East; thence West 1°30' North 200 feet; thence north 29° West 100 feet to the starting point of the following described lot; thence North 29° West 150 feet; then West 1°30' North 100 feet; thence South 29° East 150 feet; thence East 1°30' South 100 feet to the starting point. Also: Beginning at the intersection of Alabama Highway #25 Western right-of-way and the Southern boundary line of Southwest Quarter of Southwest Quarter, Section 19, Township 18, Range 2 East; thence North 29° West along said Highway Right-of-way 250 feet to the starting point of the following described lot; thence West 1°30' North 300 feet; thence Easterly 280 feet to the intersection of Highway No. 25 Western Right-of-way; thence South 29° East along said Right-of-way 111 feet to the starting point. Being a part of the Southwest Quarter of Southwest Quarter, Section 19, Township 18, Range 2 East, Shelby County, Alabama.

Landlord agrees to furnish water to tenants without charge during the term of this lease or any extension thereof.

TOGETHER WITH all appurtenant rights, easements and approaches and all buildings, improvements and equipment thereon or connected therewith; said property and rights hereinafter collectively called the "Premises," for use and occupation by Tenant as a gasoline service station or other commercial uses and for no other or different purpose.

TO HAVE AND TO HOLD the premises unto Tenant for a term of ( 5 ) years beginning on the 1st day of June 1963, and ending on the 31st day of May 1968, (which period, together with any extensions or renewals thereof, hereinafter referred to as the "Term"). The Landlord covenants to keep the Tenant in possession of said premises during said term.

Tenant will pay Landlord as rental for the premises on the first day of each month in advance the sum of Forty and no/100----- Dollars (\$ 480.00 ) per annum.

Tenant shall have an option to renew and extend this lease for a term of five (5) years upon the same terms and conditions as herein provided, said option shall be exercisable by Tenant giving written notice to Landlord not less than sixty (60) days prior to the expiration of the primary term of this lease, as the case may be.

Tenant agrees at Tenant's sole cost and expense to do all painting of the improvements on the demised premises and to perform minor repairs so as to maintain such improvements (except roof) in as good condition as when received except for damage or destruction caused by ordinary deterioration and depreciation or by casualty. Landlord agrees to maintain the roof of buildings upon the demised premises and to make all repairs to the improvements thereon not required to be made by Tenant. Except for major damage to or destruction of the premises by fire or other casualty, all repairs or replacements to be made by Landlord which shall be necessary to permit the continued operation of the premises as a gasoline service station shall be commenced promptly and, in any event, within Five (5) days after notice from Tenant. Any other repairs or replacements required to be made by Landlord shall be commenced within Thirty (30) days after notice from Tenant. In the event Landlord shall fail to commence repairs or replacements as herein required, or shall fail diligently to prosecute the same to completion, Tenant shall have the right to make or complete such repairs and replacements at the expense of Landlord (any rental payable hereunder may be retained by Tenant and used for such purpose) or Tenant may cancel this Lease upon written notice to Landlord of Tenant's intention so to do. No rental shall accrue or be payable during the period of any reconstruction which may in any manner interfere with the conduct of Tenants business upon the premises.

In the event the Landlord employs an attorney to collect any delinquent rents due hereunder by Tenant, or to protect the interest of the Landlord by reason of any default or breach by the Tenant, the Tenant agrees to pay all costs including a reasonable attorney's fee incurred by Landlord in enforcing the terms of this Lease.

Landlord further grants unto the Tenant the right to erect, install, maintain and operate on the demised premises, on, under and above the ground such equipment, signs, advertising devices, flood lights and other trade fixtures, buildings, improvements and additions as Tenant in its discretion may deem desirable; and the right to improve, add to, change, raze, or alter the buildings and equipment thereon

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in any manner that the Tenant may deem desirable. It is understood and agreed that any buildings and driveways erected, constructed or built upon the demised premises shall upon the termination of this lease become the property of Landlord. It is further understood and agreed that all equipment, signs, advertising devices, floodlights and all other trade fixtures installed under the authority of Landlord herein granted shall always be and remain the personal property of Tenant and may be removed by Tenant at any time.

Landlord shall, during the term of this Lease or any renewal thereof, pay all taxes and assessments on the demised premises and on the use thereof. Landlord further covenants and agrees to warrant, protect and defend Tenant, its successors and assigns, from and against all or any loss or damage that Tenant may sustain by reason of the enforcement of any mortgage or other lien upon the demised premises. In the event of any default under any such mortgage or lien, Tenant, its successors and assigns, may, at its option, cure the same and deduct from the rent payable by Tenant hereunder any sum expended in so doing.

Landlord further covenants and agrees that Tenant, its successors or assigns, shall have the right to assign this Lease or sublet the same or any part thereof, provided, however, that in the event of any such assignment of subletting, Tenant shall remain liable to Landlord for the payment of any rentals due hereunder and for all the other obligations herein imposed on the Tenant.

In the event licenses, permits and franchises, or any of them for maintaining and operating a drive-in gasoline filling and service station upon the demised premises shall be revoked, or any renewal thereof denied, by any duly constituted authority without fault on the part of Tenant, its successors and assigns, or if Tenant, its successors and assigns, shall be otherwise prevented, without fault, from conducting its drive-in gasoline filling and service station upon the demised premises, Tenant shall have the right, at its option, to terminate this Lease.

In the event of any change in grade or relocation of Highway(s) No. 25 abutting the demised premises, or the condemnation, other taking of the whole or any part of the demised premises, which Tenant shall deem to have rendered the demised premises, or such portion thereof as shall remain after such condemnation or other taking, unsuitable for the purpose of a drive-in gasoline filling and service station, Tenant may, at its option, terminate this Lease, in which event all liability on the part of Tenant shall cease upon payment of rent proportionately to the date of such termination; or Tenant may continue in possession of the remaining portion of the demised premises, in which event there shall be a proportionate reduction in the rental in the same ratio as the area taken shall bear to the entire area included in this demise. Tenant's option herein conferred to terminate this Lease by reason of any change in grade or relocation of the highway(s) abutting the demised premises shall be exercisable only upon ninety (90) days notice to Landlord and provided said notice is given within sixty (60) days after such change in grade or relocation. In the event of any such condemnation proceeding, or other taking of the demised premises or any part thereof, Tenant shall have any and all right or rights of action against any public or private authority that shall institute and prosecute such condemnation proceeding for all damages which may accrue to Tenant by reason of any loss or damage to any of its property that shall then be in, on, under or about the demised premises; and such right or rights of action shall be in addition to the rights of Tenant to terminate this lease as above set forth. Landlord agrees in the event of any change in grade or relocation of abutting highway(s), or the condemnation or other taking of any part of the demised premises, under which Tenant elects to continue in possession, that Landlord will reimburse and indemnify Tenant against all cost and expense of readapting the demised premises for use as a drive-in service station.

Either party shall have the right to terminate this lease upon the breach or default by the other party of any covenant herein contained, provided said breach or default shall continue for a period of 30 days after notice by the one party to the other of such breach or default. It is further understood and agreed that no waiver of any breach or non-performance of any covenant herein contained shall operate as a waiver of said covenant itself or any subsequent breach thereof.

Tenant shall have two (2) successive options to renew and extend this lease for terms of five (5) years each upon the same terms and conditions as herein provided. Each of said options shall be exercisable by Tenant giving written notice to Landlord not less than sixty (60) days prior to the expiration of the primary term or of the first renewal term of this lease, as the case may be.

Landlord hereby grants to Tenant the right and option to purchase the premises at any time during the term of this Lease, or any renewal or extension thereof or continuing tenancy thereafter, at and for the price and upon the terms offered therefor by the Landlord and accepted by any responsible third party, or which is offered therefor by any responsible third party and acceptable to the Landlord. Upon the making of any offer or the receipt of any acceptable offer, Landlord shall promptly notify Tenant in writing stating the name and address of the intended purchaser and all terms of the offer with copies of all correspondence relating thereto. Without prejudice to any other of its rights hereunder, Tenant shall have thirty (30) days from receipt of such notice and correspondence to exercise this option by written notice to Landlord. In the event of such exercise, Landlord covenants and agrees within thirty (30) days thereafter, upon compliance by Tenant with the terms of the offer, to convey the premises to Tenant, its successors and assigns, in fee simple by a good and marketable title, free and clear of all liens and encumbrances, with covenants against encumbrances, or special warranty and of further assurances, and, in the event of personality, by good and sufficient bill of sale. All expenses incident to transfer of title as covenanted shall be borne in accordance with the prevailing practice of the jurisdiction wherein the property is situated. In the event Landlord's title shall be such as will not be guaranteed by any title guarantee company selected by Tenant and licensed to do business in the State where the premises are situated at such company's regular rates, Tenant may reject title to said property. Tenant's failure at any time to exercise any option extended under this paragraph shall not affect this Lease or the continuance of Tenant's option under this or any of the other paragraphs of this Lease, it being agreed that any such option shall be binding upon all successors or purchasers in title during the term of this Lease.

All notices given under the terms of this lease must be in writing and notices to Landlord sent by registered mail addressed to Landlord at

and if to Tenant, sent by registered mail addressed to it at 1130 Bank Building, Birmingham, Alabama. Either party may change its place of notice by giving notice in writing of such change to the other party in the manner described.

Rentals hereunder shall be paid by check to Landlord by the Tenant, and Tenant shall not be bound by any assignment or change in interest of Landlord, whether recorded or unrecorded, until Tenant shall receive by registered mail at its office in Birmingham, Alabama, actual notice of such assignment. The terms, covenants and conditions of this lease shall be binding upon, and inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed, and their respective seals affixed thereto, the day and year first above written.

WITNESS TO ALL SIGNATURES:

*A. C. Goodwin*

ATTEST:

*A. C. Goodwin*

*J. B. Spradley* (SEAL)  
J. B. Spradley  
*Rena Merle Spradley* (SEAL)  
Rena Merle Spradley  
HUFFSTUTLER-WALTERS OIL COMPANY, INC.  
By *R. L. Walters*  
President (Tenant)

STATE OF ALA.  
I CERTIFY THAT THIS INSTRUMENT WAS FILED IN THE PUBLIC RECORDS OF THE COUNTY OF BIRMINGHAM, ALABAMA, ON 11/30/57.

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*1130 Bank Building  
Birmingham, Alabama*

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1.00  
1.00*