

3856

PURCHASE OPTION

The undersigned, Lewis White of Shelby County Alabama, referred to herein as "Seller", in consideration of the sum of Ten Dollars and no/100 (\$10.00) Dollars, receipt whereof is hereby acknowledged, hereby gives and grants to Service Properties, Incorporated, an Alabama Corporation having an office at 1501 Royce Road, Birmingham, Alabama 35209, referred to herein as "Service" the exclusive option to purchase for the sum of Twelve Thousand and no/100 (12,000.00) Dollars, the premises situate at Highway 31 and Interstate 65 in the City of Alabaster, County of Shelby, State of Alabama, described as follows:

Lots 9 and 10 of Block A of Hickersons addition to Alabaster, lying and being in the southwest quarter of Section 1, Township 21, Range 3, West, Alabaster, Shelby County, Alabama. Except that part of Lots 9 and 10, taken by State of Alabama Highway Department for new U.S. Highway #31 South.

together with all easements and appurtenances thereto belonging, including any improvements and equipment thereon, all referred to herein as "premises" ;

1. Term: Term of this option shall commence on the date hereof and end at midnight on the fourteenth day of January, 1970. Service may exercise this option by giving written notice to Seller as hereinafter provided. In such event the terms and conditions hereinafter set forth shall be deemed the contract of purchase and sale of said premises at the price above specified.
2. Seller's Representation: To induce Service to exercise this option to purchase said premises, Seller makes the representations set forth below on which Service, without independent investigation of available sources of information or otherwise, shall be entitled to rely, each of which shall be construed to be material:
 - (a) That said real estate abuts a minimum of 350 feet on the South side of Highway 31; contains not less than 70,000 square feet, and all improvements are entirely within the boundaries thereof with no encroachments thereon;
 - (b) That there are no easements, deeds, agreements, statutes ordinances or restrictions of any nature which now or may in the future limit access to said premises from any street specified in subparagraph (a) above; of which will prevent or interfere with the use of said premises or the obtaining of permits for constructions, installations, maintenance and operation of the facilities and business thereon as hereinafter provided.
3. Survey and Tests: Seller hereby gives to Service the right to enter upon the premises at any time for the purpose of making soil tests and borings, and a survey.
4. Examination of Title: Service shall have a reasonable time after the exercise of this option in which to examine the title to said premises and to determine whether Seller is vested with fee simple title with good right to convey the same free and clear of any and all liens, easements, restrictions and encumbrances of any nature whatsoever. Service shall transmit to Seller a copy of the title report or interim binder rendered by a responsible title insurance company specifying in detail any defects in the title. Seller agrees to exercise good faith and due diligence to correct any such defects within thirty days (30) after notice thereof, unless the time therefor shall be extended by Service. In the event Seller shall not correct such defects and Service shall not elect to waive the same, Service shall have the option to terminate this contract and have all its remedies provided by law against Seller for failure to do so and, in addition, the right to recover from Seller the amount of consideration paid for this option and any extension thereof. Nothing herein contained shall be construed to require Service to accept other

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than a fee simple title free and clear of all liens, easements, restrictions and encumbrances.

5. Conveyance: Upon acceptance by Service of said title and payment to Seller of the purchase price, Seller shall convey to Service, or its nominee, by General Warranty Deed with Revenue Stamps attached, a fee simple title to said premises free and clear of all liens, encumbrances and charges not waived by Service, with release of dower, curtesy, homestead and all statutory rights. Payment hereunder may be made by Service tendering its check or draft in the amount of the purchase price, and if there be more than one Seller, tender to one shall constitute tender to all.
6. Taxes and assessments: Seller shall pay in full all general taxes and assessments of every kind and nature levied against said premises prior to delivery of the Deed. General taxes shall be prorated as of the date of closing on the basis of the latest available official tax information.
7. Condition of premises: On closing, Seller agrees to deliver said premises to Service in substantially their condition on the date hereof and warrants that Service may enter in and upon said premises without interference from any source whatsoever. The risk of damage or destruction to the premises by fire or other casualty and the obligation to restore said premises before conveyance hereunder is hereby expressly assumed by Seller.
8. Termination Without Breach: Service shall have the right to terminate the contract formed by its exercise of this option upon the happening of any event as follows:
- (a) If Seller's representations hereinabove set forth shall prove to be untrue or incorrect in whole or in part; or
 - (b) If Service shall be unable to procure all necessary permits, licences, consents and authorizations (Referred to herein collectively as "permits") to construct, install, operate and maintain on said premises the necessary buildings, structures, tanks, machinery, equipment and appliances on or under the ground for the conduct of the business of storing, marketing and distributing petroleum products and commodities generally marketed in connection therewith, together with the right to install and maintain driveways and approaches over and across public sidewalks and curbing adjoining the same (It being understood that Seller shall do those things required by municipal or governmental agencies to enable Service to procure such permits), or if Service shall determine at any time that said permits cannot be obtained; or
 - (c) If the premises or any part thereof shall be condemned or otherwise restricted or denied eminent domain, the exercise of police power, the construction or establishment of a limited access street, one-way traffic, medial dividers, change of grade, or otherwise; or
 - (d) If, as a consequence of the construction of a limited access street, the status of any street abutting premises shall have been reduced to a service, frontage or access street.

In the event of termination in accordance with the foregoing, both Service and Seller shall be relieved of all liability hereunder except that the consideration paid by Service for this option and any extensions thereof shall be refunded by seller; otherwise, such consideration shall be applied to the purchase price.

9. Notices: All notices to be given hereunder shall be in writing and may be given by depositing the notice in the United States mail, in an envelope addressed to the party to be notified at such party's address as herein set forth; and the day upon which such notice is so mailed shall be treated as the date of service.
10. Incidental expenses: Seller shall pay all transfer taxes and recording fees other than the cost of recording the Deed and shall reimburse Service at the time of closing for the cost of title insurance issued in the full amount of the purchase price. Seller also agrees to reimburse Service for the cost of the aforementioned survey in an amount not to exceed \$300.00.
11. Service may extend the time within which this option may be exercised until midnight on the 14th day of July 1970 by paying to seller in cash or by check the sum of One Hundred and no/100 (\$100.00) Dollars and by giving written notice of its election to do so prior to the time fixed in Clause 1 hereof and in the same manner as set forth in said Clause 1.

This agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the Seller has caused this instrument to be executed this 14th day of July, 1969.

Witness or attest:

Lenny White (SEAL)

(SEAL)

STATE OF ALA. SHELBY CO.
I HEREBY CERTIFY THIS
INSTRUMENT WAS FILED
1969 SEP -2 PM 3:48
U.S.C. FILE NUMBER OR
REC. BK. & PAGE AS SHOWN ABOVE
JUDGE OF PROBATE
David H. Anderson