

LEASE FOR UNIMPROVED LAND

STATE OF ALABAMA

COUNTY OF SHELBY

This Lease made this 7th day of JULY, 1978, by and between CLYDE E. and FANNIE M. CARDEN, residing at R.F.D. Route 1, Box 287, Wilsonville, Alabama, [hereinafter "Lessors"], and TRI-STATE CULVERT MANUFACTURING, INC., a Georgia corporation having its principal office at Seaboard Industrial Park, Lawrenceville, Georgia, [hereinafter "Lessee"]:

W I T N E S S E T H:

That the Lessors do hereby demise and let unto the Lessee the following described parcel of unimproved land in Shelby County, Alabama, to wit:

The east four acres of the northeast quarter of the northeast quarter of the northwest quarter of Section 20, Township 22 South, Range 2 West, Shelby County, Alabama, being more precisely described as being bounded on the north, east and south by the north, east and south boundaries of the above-described 1/64th Section and on the west by a line parallel to the east boundary of said 1/64th Section and 265.33 feet more or less therefrom.

Subject to existing easements, if any, and to the right of way of County Road 16 and to the regulatory laws and ordinances of the political subdivision in which the property is situated, for use and occupation by the Lessee as a yard for the parking of trucks and forklifts and for the storage of materials and for all purposes ancillary thereto, for and during the term of two years, beginning on the first day of August 1978 and ending on the 31st day of July 1980.

In consideration whereof, the Lessee agrees to pay the Lessors at the above address or, at the Lessors' option, care of Central Alabama Paving and Construction Co., Inc., Post Office Box F, Calera, Alabama, on the first day of each month of said term, in advance, as rent for said premises, the sum of \$250.00, being at the rate of \$3,000.00 per annum.

1. Lessors hereby agree, at their own expense, to clear and grade the demised premises in a workmanlike manner and with adequate provision for drainage and to cover the same with crushed rock of a consistency and to a depth adequate to permit the use of the premises by heavy trucks and forklifts and for the storage thereon of heavy materials in the ordinary course of the Lessee's business, the nature and extent of which are known to the Lessors.

2. Lessors hereby agree to erect a six-foot high chain-link fence around the entirety of said 1/64 Section and to erect a twenty-foot-wide gate therein at the entrance on County Road 16.

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Tri-State Culvert Manufacturing Co.
P.O. Box 304 Lawrenceville Ga. 30246

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3. Lessors hereby agree that the above-described work shall be completed not later than July 31, 1978; provided, however, that should premises be completed and turned over to the Lessee either prior to or after such date, then, in that event, rent for such fractional month shall be prorated and this lease term shall commence the first day of the next calendar month.

4. Lessors hereby agree to extend this Lease to any portion or all of the 1/64th Section described above for an additional rental of Twenty and no/100 Dollars (\$20.00) per month per acre, and to clear, grade and rock any such additional acreage leased hereunder in the same manner as set forth in paragraph 1.

5. The Lessors covenant to keep the Lessee in possession of said premises during the said term but shall not be liable for the loss of use by eminent domain nor the failure or inability of the Lessee to obtain possession thereof, provided that Lessors shall exercise due diligence and effort to place the Lessee in possession. The Lessee has examined the leased premises and accepts the same in the physical condition in which the same now exists, except as otherwise expressly provided herein.

6. Lessors shall not be obligated or required to make any repairs or do any other work on or about said premises or any part thereof, except that Lessors shall repair any defect in or damage to the above-described chain-link fence and gate arising from any cause other than the acts of the Lessee or his agents, invitees or its licensees. The premises shall be kept in good repair by the Lessee, and, at the end of the term hereof, the Lessee shall deliver the demised premises to the Lessors in good repair and condition, reasonable wear and tear excepted.

7. Lessors reserve the right to enter upon said premises and to make such repairs and to do such work on or about said premises as Lessors may deem necessary or proper or that the Lessors may be lawfully required to make. Lessors reserve the right to visit and inspect said premises at all reasonable times, and the right to show said premises to prospective tenants and purchasers, and the right to display "For Sale" and "For Rent" signs on said premises.

8. Should the Lessee fail to make repairs agreed to by it under this Lease, the Lessors may enter the premises and make such repairs and collect the cost therefor from the Lessee as additional rent.

9. The Lessee may make any alterations, additions, improvements or changes in the premises which he may deem desirable, at its own expense; provided, however, that in the event that the above-described option shall not be exercised, all such alterations, additions, improvements or changes shall become the property of the Lessors.

10. Lessee agrees to indemnify and hold the Lessors harmless against any liability that may accrue against them on account of any occurrences in or about the demised premises in consequence of the Lessee's occupancy thereof and resulting in personal injury or death or property damage.

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11. Upon the happening of any one or more of the events of default as expressed in this paragraph, and failure of the Lessee to remedy such default or to exercise its Option to Purchase within thirty (30) days after written notice thereof is given by the Lessors to the Lessee, the Lessors shall have the right, at the option of the Lessors, to either annul and terminate this Lease upon two days' written notice to Lessee and thereupon re-enter and take possession of the premises; or the right upon two days' written notice to the Lessee to re-enter and re-let said premises, from time to time, as agents of the Lessee; and such re-entry or re-letting, or both shall not discharge the Lessee from any liability or obligation hereunder, except that gross rents collected as a result of such re-letting shall be credited on the Lessee's liability up to the amount due under the terms of this Lease and the balance, if any, credited to the Lessors. Nothing herein, however, shall be construed to require the Lessors to re-enter and re-let, nor shall anything herein be construed to postpone the right of the Lessors to sue for rents, whether matured by acceleration or otherwise; but, on the contrary, the Lessors are hereby given the right to sue therefor at any time after default. The events of default referred to herein are: failure of the Lessee to pay any one or more of the installments of rent, or any other sum provided for in this Lease as and when the same become due; the filing of a petition in bankruptcy, a petition for an arrangement or reorganization by or against the Lessee; the appointment of a receiver or trustee, or other court officer, for the assets of the Lessee; the execution of an assignment for the benefit of creditors of the Lessee; the vacation or abandonment by the Lessee of the leased premises for more than sixty (60) days; or the use thereof for any purpose not reasonably related to the purpose for which the same are hereby let; the violation by the Lessee of any other of the terms, conditions or covenants not set out in this paragraph on the part of the Lessee herein contained.

12. Upon termination for breach of this Lease, or re-entry upon said premises for any one or more of the causes set forth above, the rents provided for in this Lease for the balance of the original rental term, or any renewal term or other extended term, and all other indebtedness to the Lessors owed by the Lessee, shall be and become immediately due and payable at the option of the Lessors and without regard to whether or not possession of the premises shall have been surrendered to or taken by the Lessors.

13. No re-entry hereunder shall bar the recovery of rent or damages for the breach of any of the terms, conditions, or covenants on the part of the Lessee herein contained.

14. If this Lease is terminated by the Lessors for any reason, including nonpayment of rent, and the Lessee pays the rent, attorneys' fees and other charges, and thus makes himself current, and/or remains or continues to be in possession of the leased premises or any part thereof, with the Lessors' consent (which shall be presumed from any acceptance of rental payments hereunder), this Lease will be considered reinstated, and will continue in effect as though it had not been terminated.

15. All improvements and additions to the leased premises shall adhere to the leased premises, and become the property of



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the Lessors, with the exception of movable buildings, trailers and such additions as are usually classed as furniture and trade fixtures; said buildings, furniture, trailers and trade fixtures are to remain the property of the Lessee.

16. Each and every transfer or assignment of this Lease, or any interest therein, and each and every sub-letting of said premises, or any part thereof, or any interest therein, shall be null and void, unless the written consent of the Lessors be obtained thereto. As a condition precedent to the obtaining of such consent, the assignee or sub-lessee must assume, in writing, all the obligations of the Lessee hereunder, but such assumption shall not operate to release the Lessee from any agreement or understanding on the part of the Lessee expressed or implied in this Lease, unless expressly so stated in such consent.

17. All notices and demands authorized or required to be given to the Lessee under any provision hereof must be in writing, and may be delivered to the Lessee in person or left on or in the leased premises or shall be conclusively deemed to have been delivered to the Lessee if the same be deposited in the United States mail addressed to the Lessee at the leased premises, with the proper postage affixed thereto. All notices herein authorized or required to be given to the Lessors may be given by certified mail, addressed to the Lessors at the address of the Lessors shown on page 1 of this Lease, and said notices must be in writing.

18. Lessee will indemnify and hold Lessors free and harmless from all demands, claims and suits or expenses caused by any default committed hereunder on the part of the Lessee. Lessee will further indemnify and save harmless Lessors from any loss, cost, damage and/or expenses caused by injuries to persons or property while in, on or about the demised premises, not attributable to the wilfully wrongful act of the Lessors. Any property stored in the demised premises shall be at the sole risk of Lessee.

19. Neither Lessors nor Lessee shall be liable to the other for any loss or damage to the extent that any such loss or damage shall be compensated by insurance owned by the party suffering such loss or damage or liable for such loss or damage to third parties.

20. Should the Lessee continue to occupy the premises after the expiration of the said term or after a forfeiture incurred, whether with or against the consent of the Lessors, such tenancy shall be a tenancy at sufferance and in no event a tenancy from month to month, or from year to year.

21. The failure of the Lessors to insist, in any one or more instances, upon a strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option, but the same shall continue and remain in full force and effect; provided, however, that the acceptance by the Lessors of rent, with knowledge of the breach of any covenant hereof, shall be deemed a waiver of such breach; but no waiver by the Lessors of any provision hereof shall otherwise be deemed to have been made unless expressed in writing, and signed by the Lessors.

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In R [redacted] the lesser will extend the [redacted] to all or as much additional [redacted] acreage as can practically be accomplished by the lessor (but in no event less than a total of 6 acres) Without an: unreasonable expense to the lessor, it being understood that the lessor is capable of doing work on the additional land. as with the first areage but does not want to assume unreasonable cost on the additional land.

C.E.C.
J.M.C.

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22. If all of the demised premises, or such portion of the demised premises as shall render the remainder inadequate for its intended use, is taken by eminent domain ("eminent domain" shall include the exercise of any similar power of taking and any purchase or acquisition in lieu of condemnation), or in the event the intended purpose shall be prohibited or enjoined by lawful authority, then the term of this Lease shall cease as of the date of possession shall be taken by the condemning authority, or as of the date of prohibition or injunction, whichever may be applicable, with the rent to be apportioned as of the date of such taking or of such order, as the case may be. In any such event, the Lessee may, at its option, exercise his option to purchase the premises; and, in that event, shall be entitled to receive all the proceeds of any total or partial taking of the demised premises by eminent domain; or, in the alternative, may relinquish such option and accept such portion of any award as may be attributable to such option and the unexpired leasehold interest or the rights of the Lessee in the premises.

23. The Lessee hereby agrees that upon the expiration or prior termination of this Lease, the Lessee will promptly remove from the leased premises all signs, trash, debris and property of the Lessee.

24. This Lease shall be renewable for two additional terms of two years by written notice given to the Lessors not less than thirty (30) days prior to the end of the original term or the first renewal thereof.

25. The Lessors hereby agree to grant to the Lessee an Option to Purchase the 1/64th Section described in this Lease, in the form annexed hereto as Schedule "A".

26. This agreement shall be binding upon the parties hereto, their executors, administrators, heirs, assigns, survivors, or successors.

IN WITNESS WHEREOF, the Lessors have hereunto set their hands and seals and the Lessee has caused this Lease to be executed by its officers thereunto duly authorized, as of the day and year first above written.

James L. Carden
Witness

Witness

[SEAL]

Robert J. Frost
Secretary

Clyde E. Carden (L.S.)
CLYDE E. CARDEN

Fannie M. Carden (L.S.)
FANNIE M. CARDEN

TRI-STATE CULVERT
MANUFACTURING, INC.

BY: Robert Johnson
Its _____

OPTION AGREEMENT

THIS AGREEMENT, made the 7th day of ^{JULY}~~June~~, 1978, by and between CLYDE E. CARDEN and FANNIE M. CARDEN, residing at RFD Route 1, Box 288, Wilsonville, Alabama (hereinafter "Optionors") and TRI-STATE CULVERT MANUFACTURING, INC., a Georgia corporation, having its principal office at Seaboard Industrial Park, Lawrenceville Georgia, (hereinafter "Optionee");

W I T N E S S E T H :

WHEREAS, Optionor and Optionee have this day entered into a Lease Agreement annexed hereto as Schedule "A" (the "Lease") pursuant to which the Optionee has leased a portion of, and has the option to lease the remainder of, the Northeast quarter of the Northeast quarter of the Northwest quarter of Section 20, Township 22 South, Range 2 West, Shelby County, Alabama (hereinafter referred to as the "Property"); and

WHEREAS, in connection with such lease Optionors have agreed to grant to Optionee an option to purchase some portion or all of the Property;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and of other good and valuable consideration, and Ten Dollars (\$10.00) in hand paid, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1.

Optionors hereby grant to Optionee an option to purchase all or any portion of the Property upon the terms and conditions hereinafter set forth, provided that, if less than all of the Property is purchased under this Option, the unpurchased portion shall not be deprived of reasonable access to adjoining property owned by Optionors.

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2.

This Option shall expire on the expiration of the Lease or any subsequent renewal thereof unless sooner terminated in accordance with Paragraph 10 hereinbelow.

3.

This Option shall be exercised by Optionee by thirty (30) days' written notice signed by Optionee and sent by certified mail prior to the expiration date hereof to Optionors at RFD Route 1, Box 288, Wilsonville, Alabama. Such notice shall specify, with sufficient precision to permit ready identification, the portion of the Property with respect to which the Option is exercised if less than all of the Property is to be purchased.

4.

Upon exercise of the option, Optionor shall deliver to Optionee a duly executed warranty deed or deeds conveying marketable and unencumbered title to the Property, subject only to the then current year's taxes and assessments, which shall be prorated as of the date of closing, to any utility, access or other like easement of record as of the date hereof, and excepting a one-half (1/2) undivided interest in mineral and mining rights to which the property is subject, and the right-of-way of County Road 16. The closing of the purchase shall be on the last day of the calendar month in which the thirty (30) day notice period expires.

5.

The purchase price for the portion of the Property with respect to which this Option is exercised shall be Three Thousand and No/100 (\$3,000.00) Dollars per acre, payable in cash at closing. The precise acreage to be conveyed pursuant hereto shall be determined by a survey, the expense of which shall be borne by Optionee.

It is understood that at the present time the lessor has an obligation on a small business loan secured by the land and that it may run for approximately an additional three years. The lessor shall not be required to release this obligation unless he can do so with the permission of the Small Business Administration handled through The First Alabama Bank. The lessor will have the right to use the proceeds of the sale to obtain the release if the lessor needs these funds to do so.

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It is agreed that the land under option is on the north side of Shelby County Road 16. This option does not apply to any land the Lessor may own on the south side of Shelby County Road 16. C.E.C.
J.M.C.

6.

If Optionee does not exercise this Option, neither party shall have any further rights or claims against the other.

7.

Optionors hereby warrant and represent that the Property is not subject to any mortgage, and that no interest therein has been given by deed to secure debt, deed of trust, or otherwise, to secure any indebtedness or any guaranty of any indebtedness; and Optionors further agree that they shall not encumber the Property during the term of this Option. In the event Optionors shall breach this provision, Optionee shall have the right, from time to time, to make good any payment on any indebtedness secured by the Property on which Optionors shall have defaulted, together with all interest and penalties thereon, and to have the total of such payments applied against the purchase price as set forth in this Option Agreement; and to take the Property subject to such debt, deducting the unpaid principal thereof from the purchase price.

8.

This Option may be recorded by Optionee and any future conveyance or mortgage of the Property or any portion thereof shall be subject to this Option.

9.

This Option and all rights hereunder shall be freely assignable and, if assigned by Optionee, any and all acts performable by it hereunder, including the execution and delivery of any purchase money note and deed to secure debt, may be performed by any assignee, whether such assignment is made before or after the exercise of this Option.

10.

This Option shall terminate thirty (30) days after any

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re-entry by Optionors upon the Property leased to Optionee under the Lease pursuant to the judgment of any court of competent jurisdiction in a dispossessory action brought for non-payment of rent or other material breach of the Lease; and, in the event of such termination, Optionee agrees to execute such instrument as Optionors may require to cancel this Option of record.

11.

Optionors hereby warrant that they have clear and unencumbered fee simple title to the Property except for an undivided one-half interest in mineral and mining rights and the right-of-way of County Road 16; that there are no liens against the Property and no mortgages, deeds to secure debt or deeds of trust against the Property not satisfied of record; and that the Property is subject to no easements Optionors hereby acknowledge that they are aware of the purposes for which the Optionee intends to use the Property and hereby warrant and represent that the Property is zoned in a manner consistent with such use and that it is not subject to any other restriction prohibiting such use.

12.

Optionors hereby warrant and represent that they have not been represented by any broker or agent in this transaction, and agree to indemnify and hold Optionee harmless against any claim for broker's or agent's commissions.

13.

Optionors shall perform such acts and execute such documents as may be required for the removal of exceptions to the title by any insurer thereof, except for exceptions expressly set forth herein.

14.

The Optionors' warranties herein shall survive the closing of any purchase made pursuant to the exercise of this Option.

15.

This Agreement shall be binding upon and shall inure to

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the benefit of the heirs, successors, assigns, survivors, legal representatives, successors in interest and grantees of the parties hereto.

IN WITNESS WHEREOF, the Optionors have set their hands and seals and Optionee has caused this instrument to be executed by its officers thereunto duly authorized the day and year first above written.

As to the Optionors:
Signed, sealed and delivered
in the presence of:

Beverly S. White
Unofficial Witness

Kate S. Davis
Notary Public

[NOTARIAL SEAL]

My Commission Expires:

~~My Commission Expires October 30, 1978~~

As to the Optionee:
Signed, sealed and delivered
in the presence of:

W. W. Jackson
Unofficial Witness

Blair K. Watson
Notary Public

[NOTARIAL SEAL]

~~My Commission Expires:~~

~~My Commission Expires Sept. 20, 1980~~

By: Clyde E. Carden (SE)
Clyde E. Carden

By: Fannie M. Carden (SE)
Fannie M. Carden

TRI-STATE CULVERT MANUFACTURING,
INC.

By: W. W. Johnson
President

[SEAL]

Attest: W. J. Truitt
Secretary

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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1978 AUG 21 PM 2:11

James P. Shaw
JUDGE OF PROBATE

Deed 5.50
Rec. 15.00
Ind. 1.00
21.50