

## ASSIGNMENT OF LEASES AND CONTRACTS

THIS ASSIGNMENT was executed as of August 23, 1993, by and between FES PROPERTIES, an Alabama general partnership ("FES"), and EFV Properties, Ltd., an Alabama limited partnership ("EFV").

### R E C I T A L S:

A. FES holds the title to approximately 15.25 acres in the City of Alabaster, including the approximately 7.87 acre tract situated at the intersection of Highway 119 and 6th Avenue Northwest (the "Project Site").

B. The respective partners of FES and EFV are parties to a certain Agreement of Purchase and Sale dated as of August 4, 1993 (the "FES/EFV Agreement"), under which they have agreed to cause the Project Site to be transferred from FES to EFV.

C. FES has conveyed the Project Site to EFV, pursuant to the FES/EFV Agreement, by warranty deed executed and delivered on this date.

D. FES has executed this agreement in order to document the transfer and assignment of certain leases and other agreements relating to the Project Site from FES to EFV.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties have executed this agreement in order to effect the transactions contemplated by the FES/EFV Agreement, and hereby agree as follows:

1. Assignment of Leases. FES hereby assigns to EFV all of its rights and obligations under the following leases (the "Leases"):

(a) Lease Agreement dated July 21, 1993 by and between FES and Harco Drug, Inc.; and

(b) Lease dated August 3, 1993 by and between FES and Winn-Dixie Montgomery, Inc., together with guaranty of Winn-Dixie Stores, Inc.

FES hereby represents and warrants to EFV that the Leases are each in full force and effect, that the copies provided to EFV of such Leases are complete and accurate, and that there are no understandings or agreements between FES and such tenants except as set forth in said Leases.

2. Assignment of Contracts. FES does hereby assign to EFV all of its rights and obligations under the following agreements (the "Contracts"):

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SHELBY COUNTY JUDGE OF PROBATE  
004 MCD 17.00

*Berkowitz*

Inst # 1994-13988

(a) Abbreviated form of Agreement Between Owner and Architect, dated June 3, 1993, by and between FES and Holmes-Wilkins/Architects, P.C., including any and all rights of FES in and to the plans, specifications, and other contract documents produced thereunder; and

(b) Development Agreement dated June 29, 1993 by and among FES, The Trotman Company, Inc., and Richard G. Schmalz d/b/a RGS Properties.

FES represents to EFV that the Contracts are each in full force and effect, that the copies provided to EFV of such Contracts are complete and accurate, and that there are no understandings or agreements between FES and the parties to such Contracts except as set forth therein.


3. Permits and Documentation. FES hereby assigns to EFV all of its rights and obligations with respect to all governmental permits relating to the Project Site, together with all of its rights in and to any and all surveys, site plans, environmental assessments, geotechnical reports, zoning certificates, and other documentation relating to the development of the Project Site.

4. Assumption by EFV. EFV hereby assumes and agrees to perform all obligations of FES under the Leases and under the Contracts. EFV agrees to indemnify FES from and against all actions, claims, damages, and expenses, including, without limitation, reasonable attorneys' fees, based upon or arising out of the Leases and Contracts and any other matter accruing after the date hereof and arising out of any contract or agreement made by EFV with respect to the Project Site.

5. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to its subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement as of August 23, 1993.

FES PROPERTIES

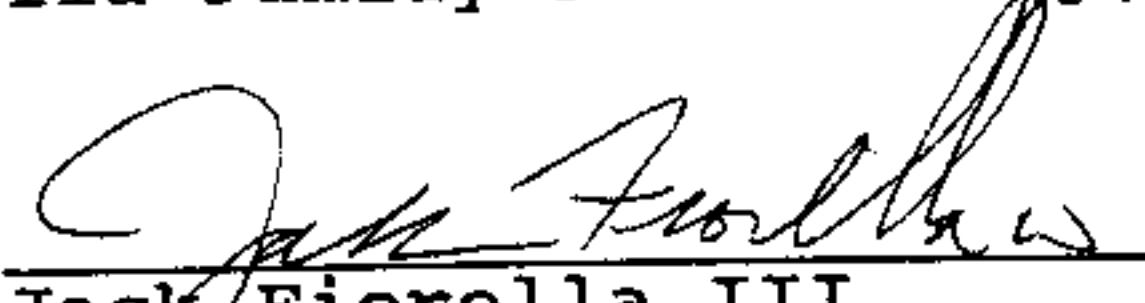
By:   
Marc A. Eason

By:   
A. Charles Ferlisi

By:   
Paul J. Spina, Jr.

By: Fiorella Family Partnership,  
Ltd.

By:


  
\_\_\_\_\_  
Jack Fiorella III  
Its General Partner

Consisting of all of the  
Partners of FES Properties

**EFV PROPERTIES, LTD.,**  
an Alabama limited partnership

By: EFV Properties, Inc.,  
an Alabama corporation  
Its General Partner

By:

  
\_\_\_\_\_  
Marc A. Eason, President

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Marc A. Eason, A. Charles Ferlisi, Paul J. Spina, Jr. and Jack Fiorella III, whose names as General Partners of FES Properties, an Alabama general partnership, are signed to the foregoing Assignment of Leases and Contracts, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, in their capacity as such General Partners and with full authority executed the same voluntarily for and as the act of said general partnership on the day the same bears date.

Given under my hand this the 23rd day of August, 1993.

*Wm R Lyle*

Notary Public

My Commission Expires: \_\_\_\_\_

MY COMMISSION EXPIRES SEPTEMBER 28, 1997

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Marc A. Eason, whose name as President of EFV Properties, Inc., an Alabama corporation, in its capacity as sole general partner of EFV Properties, Ltd., an Alabama limited partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as general partner as aforesaid.

Given under my hand and official seal this 23rd day of August, 1993.

*Wm R Lyle*

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

MY COMMISSION EXPIRES SEPTEMBER 28, 1997  
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