

**PROMISSORY NOTE, MORTGAGE, SECURITY AGREEMENT
AND FINANCING STATEMENT ASSUMPTION AGREEMENT**

THIS AGREEMENT is made among Buxahatchee Enterprises, Inc. d/b/a Buxahatchee Food Mart, Kermit H. Roberson individually and as sole heir and designated personal representative of the unprobated Estate of Mary C. Roberson, Deceased, ("Seller"), whose address is 288 Highway 310, Calera, Alabama 35040, and Higginbotham Oil Company, Inc. ("Purchaser") whose address is P.O. Box 1810 Calera, Alabama 35040 and First Bank of Childersburg ("Creditor"), whose address is P.O. Drawer 329, Childersburg, Alabama 35044. In reliance on this assumption by Purchaser, Creditor agrees to release Seller from further liability under the Promissory Note described below.

WHEREAS Buxahatchee Enterprises, Inc. is currently the owner of property that is secured by a Mortgage dated September 30, 1993, executed by Kermit H. Roberson as President of Buxahatchee Enterprises, Inc., as the Mortgagor, and First Bank of Childersburg, as the Mortgagee pursuant to an Assignment of Real Estate Note and Mortgages, Perfected Security Interests in Collateral and Guaranties executed by Central State Bank, Calera, Alabama dated the 7th day of November, 1996, with the said mortgage recorded on October 1, 1993 at Instrument Number 1993-30366 with the Office of the Judge of Probate of Shelby County, Alabama with a true and correct copy of said mortgage attached hereto and incorporated herein as Exhibit A;

WHEREAS, the Mortgage is security for a promissory note dated September 30, 1993, executed by Kermit H. Roberson as President of Buxahatchee Enterprises, Inc. d/b/a Buxahatchee Food Mart as Maker, and payable to First Bank of Childersburg as assignee of Central State Bank of Calera, Alabama pursuant to that Assignment of Real Estate Note and Mortgages, Perfected Security Interests in Collateral and Guaranties dated the 7th day of November, 1996 in the principal sum of \$425,000.00 with a true and correct copy of said promissory note attached hereto and incorporated herein as Exhibit B;

WHEREAS, the promissory note described above and attached as Exhibit "B" is further secured by a Security Agreement dated September 30, 1993 executed by Buxahatchee Enterprises, Inc. d/b/a Buxahatchee Food Mart as Maker, and payable to First Bank of Childersburg as assignee of Central State Bank of Calera, Alabama pursuant to that Assignment of Real Estate Note and Mortgages, Perfected Security Interests in Collateral and Guaranties dated the 7th day of November, 1996 in the principal sum of \$425,000.00 with a true and correct copy of said promissory note attached hereto and incorporated herein as Exhibit C;

which was assigned and transferred to First Bank of Childersburg pursuant to that Assignment of Real Estate Note and Mortgages Perfected Security Interests in Collateral and Guaranties executed by Central State Bank dated the 7th day of November, 1996 with a true and correct copy of said Security Agreement attached hereto and incorporated herein as Exhibit "C" and the perfected nature of the security interest in collateral being established pursuant to that Financing Statement executed by Buxahatchee Enterprises, Inc. and recorded with the Secretary of State's Office at number B 93 35124 FS of which a true and correct copy of the Financing Statement is attached hereto and incorporated herein as Exhibit "D";

WHEREAS, Buxahatchee Enterprises, Inc. will sell, transfer, and convey to the Purchaser the property secured by the Mortgage, Security Agreement and Financing Statement;

WHEREAS, the Purchaser will assume the obligation represented by the promissory note if the Creditor agrees not to exercise the option to accelerate the unpaid balance of the promissory note or otherwise declare any default of any obligations under any documents referenced herein as a result of the transfer;

NOW THEREFORE, the parties to this agreement agree as follows:

Assumption of Liability

1. The Purchaser assumes and agrees to pay the obligation represented by the promissory note and that as of the 1st day of November, 1996, the Creditor states that the outstanding principal and interest owing was \$402,505.45. The Purchaser acknowledges that the real property and collateral described in the Mortgage, Security Agreement and Financing Statement shall remain subject to the Mortgage, Security Agreement and Financing Statement, and that nothing in this Agreement shall affect the priority of the Mortgage and Collateral, Security Agreement and Financing Statement liens over other liens and encumbrances against the real property and collateral. The Purchaser agrees to be bound by all of the conditions and covenants contained in the Promissory Note, Mortgage, Security Agreement and Financing Statement. Purchaser does herewith warrant

and certify that this agreement is executed with full power, authority and capacity and herewith acknowledges the sufficiency of the consideration for this agreement tendered by Seller and Creditor.

Future Indebtedness of Purchaser

2. The Purchaser also agrees that the Mortgage, Security Agreement and Financing Statement shall secure all other sums that the Purchaser may borrow in the future from the Creditor if evidenced by another note or notes stating that they are so secured.

Consent to Transfer

3. The creditor consents to the transfer of the real property and collateral described in the Mortgage, Security Agreement and Financing Statement and waives the right to accelerate the entire unpaid balance of the promissory note or otherwise declare any default of any obligations under any document referenced herein, by reason of the transfer. It is agreed that this waiver is made solely for the benefit of the Purchaser, and shall not constitute a waiver by the Creditor of any rights under the Mortgage, Security Agreement and Financing Statement in the event of subsequent sale by the Purchaser. Creditor agrees to provide any future notices required under the Mortgage, Promissory Note or Security Agreement directly to Purchaser at its address referenced above.

Assignment

4. For valuable consideration received, the Seller transfers and assigns to the Purchaser any and all refunds and credits that may at any time accrue under the Promissory Note, Mortgage, Security Agreement and Financing Statement.

Title Insurance

5. Purchaser agrees to provide mortgagee title insurance to creditor naming creditor as the mortgagee insured with the superior lien in the policy amount of \$425,000.00. Purchaser shall provide proof of said title insurance at the time of the execution of this document.

Hazard Insurance

6. Purchaser agrees to provide creditor at the time of the execution of this agreement proof of hazard insurance on the property described in the mortgage, security agreement and financing statement and to maintained continuously said insurance. Purchaser does agree to have creditor named as loss payee under said hazard insurance and to maintain said hazard insurance as provided for in the promissory note, mortgage and security agreement.

Governing Law

7. All questions with respect to the construction of this Agreement, and the rights and liabilities of the parties to this Agreement, shall be governed by the laws of the State of Alabama.

Parties Bound

8. This agreement shall inure to the benefit of, and shall be binding on, the assigns, successors in interest, personal representatives, estates, heirs, and legatees of each of the parties to this Agreement.

Entire Agreement

9. This agreement contains the entire agreement of the parties and supersedes any prior written or oral agreements among them concerning the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or written, between and among the parties relating to the subject matter contained in this Agreement that are not fully expressed in this Agreement.

Notice of Secondary Participation

10. Purchaser does acknowledge that a portion of the debt assumed is guaranteed by the S.B.A. and that the guaranteed portion of the note has been transferred to a registered holder for value and that the administration of the debt is pursuant to the Secondary Participation Guaranty and Certification Agreement which is incorporated herein by reference. Purchaser does further agree and acknowledge that this guaranteed S.B.A. Loan is subject to and governed by that certain Authorization and Loan Agreement executed on

September 30, 1993 by Kermit H. Roberson as President of Buxahatchee Enterprises, Inc. d/b/a Buxahatchee Food Mart with Amendments by Letters dated April 8, 1993, August 17, 1993 and September 28, 1993 with the Authorization and Loan Agreement and all such Amendments incorporated herein by reference. Purchaser does acknowledge and agree that all terms and conditions of the Authorization and Loan Agreement and all such Amendments thereto (excluding paragraph 2, subsections C (3) and (4)) shall be binding and of full force and effect upon Purchaser as if Purchaser had originally executed said document.

Dated this the 7th day of November, 1996.

SELLER

Kermit H. Roberson (L.S.)
Kermit H. Roberson, Individually
and as President of Buxahatchee
Enterprises, Inc. d/b/a
Buxahatchee Food Mart

Kermit H. Roberson (L.S.)
Kermit H. Roberson, as sole heir
to the Estate Mary C. Roberson,
Deceased and designated personal
representative under her unprobated
Last Will and Testament

PURCHASER

Burnie H. Higginbotham, Jr. (L.S.)
Burnie H. Higginbotham, Jr., as
President of Higginbotham Oil Company,
Inc.

CREDITOR

Dan W. Cleckler (L.S.)
Dan W. Cleckler, as Chief Executive
Officer of First Bank of Childersburg

STATE OF ALABAMA

COUNTY OF Shelby

I, the undersigned authority a Notary Public in and for said County in said State hereby certify that Kermit H. Roberson, Individually, sole heir to the Estate Mary C. Roberson, Deceased and as President of Buxahatchee Enterprises, Inc. d/b/a Buxahatchee Food Mart whose name as Seller is signed to the foregoing Promissory Note, Mortgage, Security Agreement and Financing Statement Assumption Agreement and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Promissory Note, Mortgage, Security Agreement and Financing Statement Assumption Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 7th day of
November, 1996.

Bessie A. Selmore
Notary Public

STATE OF ALABAMA

COUNTY OF Shelby

I, the undersigned authority a Notary Public in and for said County in said State hereby certify that Burnie H. Higginbotham, Jr. as President of Higginbotham Oil Company, Inc. whose name is signed to the foregoing Promissory Note, Mortgage, Security Agreement and Financing Statement Assumption Agreement and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Promissory Note, Mortgage, Security Agreement and Financing Statement Assumption Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 7th day of
November, 1996.

Bessie A. Selmore
Notary Public

STATE OF ALABAMA

COUNTY OF TALLADEGA

I, the undersigned authority a Notary Public in and for said County in said State hereby certify that Dan W. Cleckler, as Chief Executive Officer of First Bank of Childersburg whose name is signed to the foregoing Promissory Note, Mortgage, Security Agreement and Financing Statement Assumption Agreement and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Promissory Note, Mortgage, Security Agreement and Financing Statement Assumption Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 7th day of
November, 1996.

Dan W. Cleckler
Notary Public

MORTGAGE

(Participation)

— EXHIBIT "A"

This mortgage made and entered into this 30th day of September 1993, by and between Buxahatchee Enterprises, Inc., a corporation

(hereinafter referred to as mortgagor) and Central State Bank

(hereinafter referred to as

mortgagee), who maintains an office and place of business at Calera, Alabama

WITNESSETH, that for the consideration hereinafter stated, receipt of which is hereby acknowledged, the mortgagor does hereby mortgage, sell, grant, assign, and convey unto the mortgagee, his successors and assigns, all of the following described property situated and being in the County of Shelby State of Alabama

PROPERTY BEING DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND MADE PART AND PARCEL HEREOF AND INCORPORATED BY REFERENCE AS FULLY AS IF SET OUT HEREIN, WHICH SAID EXHIBIT IS SIGNED FOR THE PURPOSE OF IDENTIFICATION;

Together with and including all buildings, all fixtures including but not limited to all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air conditioning apparatus, and elevators (the mortgagor hereby declaring that it is intended that the items herein enumerated shall be deemed to have been permanently installed as part of the realty), and all improvements now or hereafter existing thereon; the hereditaments and appurtenances and all other rights thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, all rights of redemption, and the rents, issues, and profits of the above described property (provided, however, that the mortgagor shall be entitled to the possession of said property and to collect and retain the rents, issues, and profits until default hereunder). To have and to hold the same unto the mortgagee and the successors in interest of the mortgagee forever in fee simple or such other estate, if any, as is stated herein.

The mortgagor covenants that he is lawfully seized and possessed of and has the right to sell and convey said property; that the same is free from all encumbrances except as hereinabove recited; and that he hereby binds himself and his successors in interest to warrant and defend the title aforesaid thereto and every part thereof against the claims of all persons whomsoever.

This instrument is given to secure the payment of a promissory note dated September 30, 1993 in the principal sum of \$ 425,000.00 signed by Kermit H. Roberson, President in behalf of Buxahatchee Enterprises, Inc., a corporation

Inst. # 1993-30366

10/01/1993-30366
03:00 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
005 MCO 656.00

Said promissory note was given to secure a loan in which the Small Business Administration, an agency of the United States of America, has participated. In compliance with section 101.1(d) of the Rules and Regulations of the Small Business Administration [13 C.F.R. 101.1(d)], this instrument is to be construed and enforced in accordance with applicable Federal law.

1. The mortgagor covenants and agrees as follows:

- a. He will promptly pay the indebtedness evidenced by said promissory note at the times and in the manner therein provided.
- b. He will pay all taxes, assessments, water rates, and other governmental or municipal charges, fines, or impositions, for which provision has not been made hereinbefore, and will promptly deliver the official receipts therefor to the said mortgagee.
- c. He will pay such expenses and fees as may be incurred in the protection and maintenance of said property, including the fees of any attorney employed by the mortgagee for the collection of any or all of the indebtedness hereby secured, or foreclosure by mortgagee's sale, or court proceedings, or in any other litigation or proceeding affecting said property. Attorneys' fees reasonably incurred in any other way shall be paid by the mortgagor.
- d. For better security of the indebtedness hereby secured, upon the request of the mortgagee, its successors or assigns, he shall execute and deliver a supplemental mortgage or mortgages covering any additions, improvements, or betterments made to the property hereinabove described and all property acquired by it after the date hereof (all in form satisfactory to mortgagee). Furthermore, should mortgagor fail to cure any default in the payment of a prior or inferior encumbrance on the property described by this instrument, mortgagor hereby agrees to permit mortgagee to cure such default, but mortgagee is not obligated to do so; and such advances shall become part of the indebtedness secured by this instrument, subject to the same terms and conditions.
- e. The rights created by this conveyance shall remain in full force and effect during any postponement or extension of the time of the payment of the indebtedness evidenced by said promissory note or any part thereof secured hereby.
- f. He will continuously maintain hazard insurance, of such type or types and in such amounts as the mortgagee may from time to time require on the improvements now or hereafter on said property, and will pay promptly when due any premiums thereof. All insurance shall be carried in companies acceptable to mortgagee and the policies and renewals thereof shall be held by mortgagee and have attached thereto loss payable clauses in favor of and in form acceptable to the mortgagee. In event of loss, mortgagor will give immediate notice in writing to mortgagee, and mortgagee may make proof of loss if not made promptly by mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to mortgagee instead of to mortgagor and mortgagee jointly, and the insurance proceeds, or any part thereof, may be applied by mortgagee at its option either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged or destroyed. In event of foreclosure of this mortgage, or other transfer of title to said property in extinguishment of the indebtedness secured hereby, all right, title, and interest of the mortgagor in and to any insurance policies then in force shall pass to the purchaser or mortgagee or, at the option of the mortgagee, may be surrendered for a refund.
- g. He will keep all buildings and other improvements on said property in good repair and condition; will permit, commit, or suffer no waste, impairment, deterioration of said property or any part thereof; in the event of failure of the mortgagor to keep the buildings on said premises and those erected on said premises, or improvements thereon, in good repair, the mortgagee may make such repairs as in its discretion it may deem necessary for the proper preservation thereof; and the full amount of each and every such payment shall be immediately due and payable; and shall be secured by the lien of this mortgage.
- h. He will not voluntarily create or permit to be created against the property subject to this mortgage any lien or liens inferior or superior to the lien of this mortgage without the written consent of the mortgagee; and further, that he will keep and maintain the same free from the claim of all persons supplying labor or materials for construction of any and all buildings or improvements now being erected or to be erected on said premises.
- i. He will not rent or assign any part of the rent of said mortgaged property or demolish, or remove, or substantially alter any building without the written consent of the mortgagee.
- j. All awards of damages in connection with any condemnation for public use of or injury to any of the property subject to this mortgage are hereby assigned and shall be paid to mortgagee, who may apply the same to payment of the installments last due under said note, and mortgagee is hereby authorized, in the name of the mortgagor, to execute and deliver valid acquittances thereof and to appeal from any such award.
- k. The mortgagee shall have the right to inspect the mortgaged premises at any reasonable time.

2. Default in any of the covenants or conditions of this instrument or of the note or loan agreement secured hereby shall terminate the mortgagor's right to possession, use, and enjoyment of the property, at the option of the mortgagee or his assigns (it being agreed that the mortgagor shall have such right until default). Upon any such default, the mortgagee shall become the owner of all of the rents and profits accruing after default as security for the indebtedness secured hereby, with the right to enter upon said property for the purpose of collecting such rents and profits. This instrument shall operate as an assignment of any rentals on said property to that extent.

3. The mortgagor covenants and agrees that if he shall fail to pay said indebtedness or any part thereof when due, or shall fail to perform any covenant or agreement of this instrument or the promissory note secured hereby, the entire indebtedness hereby secured shall immediately become due, payable, and collectible without notice, at the option of the mortgagee or assigns, regardless of maturity, and the mortgagee or his assigns may before or after entry sell said property without appraisal (the mortgagor having waived and assigned to the mortgagee all rights of appraisal):

(I) at judicial sale pursuant to the provisions of 28 U.S.C. 2001 (a); or

(II) at the option of the mortgagee, either by auction or by solicitation of sealed bids, for the highest and best bid complying with the terms of sale and manner of payment specified in the published notice of sale, first giving four weeks' notice of the time, terms, and place of such sale, by advertisement not less than once during each of said four weeks in a newspaper published or distributed in the county in which said property is situated, all other notice being hereby waived by the mortgagor (and said mortgagee, or any person on behalf of said mortgagee, may bid with the unpaid indebtedness evidenced by said note). Said sale shall be held at or on the property to be sold or at the Federal, county, or city courthouse for the county in which the property is located. The mortgagee is hereby authorized to execute for and on behalf of the mortgagor and to deliver to the purchaser at such sale a sufficient conveyance of said property, which conveyance shall contain recitals as to the happening of the default upon which the execution of the power of sale herein granted depends; and the said mortgagor hereby constitutes and appoints the mortgagee or any agent or attorney of the mortgagee, the agent and attorney in fact of said mortgagor to make such recitals and to execute said conveyance and hereby covenants and agrees that the recitals so made shall be effectual to bar all equity or right of redemption, homestead, dower, and all other exemptions of the mortgagor, all of which are hereby expressly waived and conveyed to the mortgagee; or

(III) take any other appropriate action pursuant to state or Federal statute either in state or Federal court or otherwise for the disposition of the property.

In the event of a sale as hereinbefore provided, the mortgagor or any persons in possession under the mortgagor shall then become and be tenants holding over and shall forthwith deliver possession to the purchaser at such sale or be summarily dispossessed, in accordance with the provisions of law applicable to tenants holding over. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise, and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

4. The proceeds of any sale of said property in accordance with the preceding paragraphs shall be applied first to pay the costs and expenses of said sale, the expenses incurred by the mortgagee for the purpose of protecting or maintaining said property, and reasonable attorneys' fees; secondly, to pay the indebtedness secured hereby; and thirdly, to pay any surplus or excess to the person or persons legally entitled thereto.

5. In the event said property is sold at a judicial foreclosure sale or pursuant to the power of sale hereinabove granted, and the proceeds are not sufficient to pay the total indebtedness secured by this instrument and evidenced by said promissory note, the mortgagee will be entitled to a deficiency judgment for the amount of the *deficiency without regard to appraisal*.

6. In the event the mortgagor fails to pay any Federal, state, or local tax assessment, income tax or other tax lien, charge, fee, or other expense charged against the property the mortgagee is hereby authorized at his option to pay the same. Any sums so paid by the mortgagee shall be added to and become a part of the principal amount of the indebtedness evidenced by said note, subject to the same terms and conditions. If the mortgagor shall pay and discharge the indebtedness evidenced by said promissory note, and shall pay such sums and shall discharge all taxes and liens and the costs, fees, and expenses of making, enforcing, and executing this mortgage, then this mortgage shall be canceled and surrendered.

7. The covenants herein contained shall bind and the benefits and advantages shall inure to the respective successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

8. No waiver of any covenant herein or of the obligation secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the note secured hereby.

9. A judicial decree, order, or judgment holding any provision or portion of this instrument invalid or unenforceable shall not in any way impair or preclude the enforcement of the remaining provisions or portions of this instrument.

10. Any written notice to be issued to the mortgagor pursuant to the provisions of this instrument shall be addressed to the mortgagor at 288 Highway 310, Calera, Alabama 35040 and any written notice to be issued to the mortgagee shall be addressed to the mortgagee at Calera, Alabama 35040

IN WITNESS WHEREOF, the mortgagor has executed this instrument and the mortgagee has accepted delivery of this instrument as of the day and year aforesaid.

ATTEST:

Buxahatchee Enterprises, Inc.

By: Kermit H. Roberson
Kermit H. Roberson, President

Mary C. Roberson
Secretary

Executed and delivered in the presence of the following witnesses:

.....

.....

(Add Appropriate Acknowledgment)

THE STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Kermit H. Roberson whose name as President of Buxahatchee Enterprises, Inc. a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 30th day of September, 1993.

[Signature]
Notary Public 9/97

MORTGAGE

TO

RECORDING DATA

RETURN TO:

Name

Address

EXHIBIT A
LEGAL DESCRIPTION

PARCEL III:

Commence at the Southeast corner of the Northwest 1/4 of the Northeast 1/4 of Section 22, Township 22 South, Range 2 West; thence run North 0 degrees 45 minutes 00 seconds East along the East line of said 1/4-1/4 a distance of 642.00 feet to a point on the North side of Alabama Highway No. 25; thence continue on the last described course and run North 0 degrees 45 minutes 00 seconds East a distance of 518.00 feet to a point on the South side of the Old Highway No. 25; thence run South 56 degrees 30 minutes 00 seconds West, along said South side of the Old Highway No. 25, a distance of 903.60 feet; thence run South 58 degrees 10 minutes 00 seconds West along said South side of the Old Highway No. 25 a distance of 834.00 feet; thence run South 0 degrees 45 minutes 00 seconds West a distance of 234.60 feet; thence run South 89 degrees 59 minutes 60 seconds East a distance of 125.00 feet; thence run South 0 degrees 45 minutes 00 seconds West a distance of 222.57 feet to a set 1/2 rebar, said point being the point of beginning; thence continue on the last described course and run South 0 degrees 45 minutes 00 seconds West a distance of 349.43 feet to a found concrete monument marking the North right of way line of Alabama Highway No. 25; thence run South 74 degrees 30 minutes 09 seconds East, along said right of way line a distance of 99.45 feet to a found concrete monument marking the North right of way line of Alabama Highway No. 25, said point being situated on a curve to the left having a central angle of 20 degrees 56 minutes 45 seconds, a radius of 1382.75 feet; thence run along the arc a distance of 505.50 feet; thence run North 59 degrees 12 minutes 39 seconds West a distance of 138.72 feet; thence run North 28 degrees 58 minutes 47 seconds West a distance of 305.00 feet to a set 1/2 inch rebar; thence run South 65 degrees 51 minutes 40 seconds West a distance of 325.40 feet to a set 1/2 inch rebar and the point of beginning.

SIGNED FOR IDENTIFICATION:

Buxahatchee Enterprises, Inc.

By: Kermit H. Roberson
Kermit H. Roberson, President

Inst # 1993-30366

10/01/1993-30366
03:00 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
DO5 REC 656.00

NOTE HAS BEEN TRANSFERRED TO A
REGISTERED HOLDER FOR VALUE.

U.S. Small Business Administration

DATED: 10-01-93 BY: Ju Ball
TITLE Exec. V.P.

NOTE (39660)

39660

UB Approval No. 3245-0201

83227750

SBA LOAN NUMBER

GP 5552943000 BIR

Calera, Alabama

(City and State)

EXHIBIT "B"

\$ 425,000.00

(date) September 30, 19 93

For value received, the undersigned promises to pay to the order of _____

CENTRAL STATE BANK

(Payee)

at its office in the city of Calera, State of Alabama

or at holder's option, at such other place as may be designated from time to time by the holder _____

FOUR HUNDRED TWENTY FIVE THOUSAND AND NO/100----- dollars,

(Write out amount) as of the date hereof is

with interest on unpaid principal computed from the date of each advance to the undersigned at the rate of 8.75 percent per

annum, payment to be made in installments as follows:

Installments, including principal and interest, each in the amount of 3,756.00, payable monthly, beginning on the first day of the second month following the date of the Note and on the first day of each month thereafter until the indebtedness is paid in full. Each said installment will be first applied to interest accrued to the date of receipt of said installment, and the balance, if any, to principal; and the balance of principal and interest is payable on or before twenty (20) years from date.

Undersigned further agrees that on the first business day of the month following the date of the Note and on the first business day of each succeeding quarter thereafter, the rate of interest herein shall increase or decrease in an amount up to two and three-fourths (2.75) percent per annum above the New York Prime Rate to which this Note is pegged, as published in the then most recent Wall Street Journal, and the change in the rate of interest herein shall be determined and become effective as of the first business day of each said quarter. The change of rate of interest may occur not more than quarterly and must rise and fall on the same basis. Said monthly payment would increase or decrease, as necessary, pursuant to the change of the initial rate cited above.

Holder should give written notice to the undersigned of each increase or decrease in the interest rate within thirty days of each rate adjustment; however, the fluctuation of the interest rate is not contingent upon such notification.

If this Note contains a fluctuating interest rate, the notice provision is not a pre-condition for fluctuation (which shall take place regardless of notice). Payment of any installment of principal or interest owing on this Note may be made prior to the maturity date thereof without penalty. Borrower shall provide lender with written notice of intent to prepay part or all of this loan at least three (3) weeks prior to the anticipated prepayment date. A prepayment is any payment made ahead of schedule that exceeds twenty (20) percent of the then outstanding principal balance. If borrower makes a prepayment and fails to give at least three weeks advance notice of intent to prepay, then, notwithstanding any other provision to the contrary in this note or other document, borrower shall be required to pay lender three weeks interest on the unpaid principal as of the date preceding such prepayment.

The term "Indebtedness" as used herein shall mean the indebtedness evidenced by this Note, including principal, interest, and expenses, whether contingent, now due or hereafter to become due and whether heretofore or contemporaneously herewith or hereafter contracted. The term "Collateral" as used in this Note shall mean any funds, guaranties, or other property or rights therein of any nature whatsoever or the proceeds thereof which may have been, are, or hereafter may be, hypothecated, directly or indirectly by the undersigned or others, in connection with, or as security for, the Indebtedness or any part thereof. The Collateral, and each part thereof, shall secure the Indebtedness and each part thereof. The covenants and conditions set forth or referred to in any and all instruments of hypothecation constituting the Collateral are hereby incorporated in this Note as covenants and conditions of the undersigned with the same force and effect as though such covenants and conditions were fully set forth herein.

The Indebtedness shall immediately become due and payable, without notice or demand, upon the appointment of a receiver or liquidator, whether voluntary or involuntary, for the undersigned or for any of its property, or upon the filing of a petition by or against the undersigned under the provisions of any State insolvency law or under the provisions of the Bankruptcy Reform Act of 1978, as amended, or upon the making by the undersigned of an assignment for the benefit of its creditors. Holder is authorized to declare all or any part of the Indebtedness immediately due and payable upon the happening of any of the following events: (1) Failure to pay any part of the Indebtedness when due; (2) nonperformance by the undersigned of any agreement with, or any condition imposed by, Holder or Small Business Administration (hereinafter called "SBA"), with respect to the Indebtedness; (3) Holder's discovery of the undersigned's failure in any application of the undersigned to Holder or SBA to disclose any fact deemed by Holder to be material or of the making therein or in any of the said agreements, or in any affidavit or other documents submitted in connection with said application or the indebtedness, of any misrepresentation by, on behalf of, or for the benefit of the undersigned; (4) the reorganization (other than a reorganization pursuant to any of the provisions of the Bankruptcy Reform Act of 1978, as amended) or merger or consolidation of the undersigned (or the making of any agreement therefor) without the prior written consent of Holder; (5) the undersigned's failure duly to account, to Holder's satisfaction, at such time or times as Holder may require, for any of the Collateral, or proceeds thereof, coming into the control of the undersigned; or (6) the institution of any suit affecting the undersigned deemed by Holder to affect adversely its interest hereunder in the Collateral or otherwise. Holder's failure to exercise its rights under this paragraph shall not constitute a waiver thereof.

Upon the nonpayment of the Indebtedness, or any part thereof, when due, whether by acceleration or otherwise, Holder is empowered to sell, assign, and deliver the whole or any part of the Collateral at public or private sale, without demand, advertisement or notice of the time or place of sale or of any adjournment thereof, which are hereby expressly waived. After deducting all expenses incidental to or arising from such sale or sales, Holder may apply the residue of the proceeds thereof to the payment of the Indebtedness, as it shall deem proper, returning the excess, if any, to the undersigned. The undersigned hereby waives all right of redemption or appraisal whether before or after sale.

Holder is further empowered to collect or cause to be collected or otherwise to be converted into money all or any part of the Collateral, by suit or otherwise, and to surrender, compromise, release, renew, extend, exchange, or substitute any item of the Collateral in transactions with the undersigned or any third party, irrespective of any assignment thereof by the undersigned, and without prior notice to or consent of the undersigned or any assignee. Whenever any item of the Collateral shall not be paid when due, or otherwise shall be in default, whether or not the indebtedness, or any part thereof, has become due, Holder shall have the same rights and powers with respect to such item of the Collateral as are granted in this paragraph in case of nonpayment of the Indebtedness, or any part thereof, when due. None of the rights, remedies, privileges, or powers of Holder expressly provided for herein shall be exclusive, but each of them shall be cumulative with and in addition to every other right, remedy, privilege, and power now or hereafter existing in favor of Holder, whether at law or equity, by statute or otherwise.

The undersigned agrees to take all necessary steps to administer, supervise, preserve, and protect the Collateral; and regardless of any action taken by Holder, there shall be no duty upon Holder in this respect. The undersigned shall pay all expenses of any nature, whether incurred in or out of court, and whether incurred before or after this Note shall become due at its maturity date or otherwise, including but not limited to reasonable attorney's fees and costs, which Holder may deem necessary or proper in connection with the satisfaction of the Indebtedness or the administration, supervision, preservation, protection of (including, but not limited to, the maintenance of adequate insurance) or the realization upon the Collateral. Holder is authorized to pay at any time and from time to time any or all of such expenses, add the amount of such payment to the amount of the Indebtedness, and charge interest thereon at the rate specified herein with respect to the principal amount of this Note.

The security rights of Holder and its assigns hereunder shall not be impaired by Holder's sale, hypothecation or rehypothecation of any note of the undersigned or any item of the Collateral, or by any indulgence, including but not limited to (a) any renewal, extension, or modification which Holder may grant with respect to the Indebtedness or any part thereof, or (b) any surrender, compromise, release, renewal, extension, exchange, or substitution which Holder may grant in respect of the Collateral, or (c) any indulgence granted in respect of any endorser, guarantor, or surety. The purchaser, assignee, transferee, or pledgee of this Note, the Collateral, and guaranty, and any other document (or any of them), sold, assigned, transferred, pledged, or repledged, shall forthwith become vested with and entitled to exercise all the powers and rights given by this Note and all applications of the undersigned to Holder or SBA, as if said purchaser, assignee, transferee, or pledgee were originally named as Payee in this Note and in said application or applications.

This promissory note is given to secure a loan which SBA is making or in which it is participating and, pursuant to Part 101 of the Rules and Regulations of SBA (13 C.F.R. 101.1(d)), this instrument is to be construed and (when SBA is the Holder or a party in interest) enforced in accordance with applicable Federal law.

If the undersigned shall be in default in payment due on the indebtedness herein and the Small Business Administration (SBA) purchases its guaranteed portion of said indebtedness, the rate of interest on both the guaranteed and unguaranteed portion herein shall become fixed at the rate in effect as of the initial date of default. If the undersigned shall not be in default in payment when SBA purchases its guaranteed portion, the rate of interest on both the guaranteed and unguaranteed portion herein shall be fixed at the rate in effect as of the date of purchase by SBA.

WITNESS the Seal of the corporation and the signatures of its duly authorized officers the day and year first above written.

(CORPORATE SEAL)

Buxahatchee Enterprises, Inc. d/b/a
Buxahatchee Food Mart

ATTEST:

Mary C. Roberson
Secretary

BY:

Ermit H. Roberson
President

Note.—Corporate applicants must execute Note, in corporate name, by duly authorized officer, and seal must be affixed and duly attested; partnership applicants must execute Note in firm name, together with signature of a general partner.

4. Debtor shall keep, store or regularly garage all Collateral at locations approved by Secured Party in writing.

5. Debtor shall not conduct business under any other name than that given above nor change or reorganize the type of business entity under which it does business except upon prior written approval of Secured Party. If such approval is given, Debtor guarantees that all documents, instruments and agreements demanded by Secured Party shall be prepared and filed at Debtor's expense before such change of name or business entity occurs.

6. Debtor shall pay the filing and recording costs of any documents or instruments necessary to perfect, extend, modify, or terminate the security interest created hereunder, as demanded by Secured Party.

7. Debtor shall maintain all Collateral in good condition, pay promptly all taxes, judgments, or changes of any kind levied or assessed thereon, keep current all rent due on premises where Collateral is located, and maintain insurance on all Collateral against such hazards, in such amounts and with such companies as Secured Party may demand, all such insurance policies to be in the possession of Secured Party and to contain a Lender's Loss Payable Clause naming Secured Party in a manner satisfactory to Secured Party. Debtor hereby assigns to Secured Party any proceeds of such policies and all unearned premiums thereon, and authorizes and empowers Secured Party to collect such sums and to execute and endorse in Debtor's name all proofs of loss, drafts, checks and any other documents necessary to accomplish such collections, and any persons or entities making payments to Secured Party under the terms of this Paragraph are hereby relieved absolutely from any obligation to see to the application of any sums so paid.

8. Debtor shall be in default hereunder if Debtor fails to perform any of the liabilities imposed hereby or any other obligation required by the various instruments or papers evidencing or securing this loan, or if the full balance of the loan becomes immediately payable under the terms of such instruments, either automatically or by declaration of the Secured Party. In the event of any default, Secured Party may, in its own discretion, cure such default and, if it does so, any expenditures made for such purpose shall be added to the principal of the Note.

9. In the event of default, Debtor shall assemble and make available all Collateral at any place designated by Secured Party. Debtor acknowledges being advised of a constitutional right to a court notice and hearing to determine whether, upon default, there is probable cause to sustain the validity of the Secured Party's claim and whether the Secured Party is entitled to possession of the Collateral and being so advised, Debtor hereby voluntarily gives up, waives and surrenders any right to a notice and hearing to determine whether there is probable cause to sustain the validity of Secured Party's claim. Any notices required pursuant to any state or local law shall be deemed reasonable if mailed by Secured Party to the persons entitled thereto at their last known addresses at least ten days prior to disposition of the Collateral, and, in reference to a private sale, need state only that Secured Party intends to negotiate such a sale. Disposition of Collateral shall be deemed commercially reasonable if made pursuant to a public offering advertised at least twice in a newspaper of general circulation in the community where the Collateral is located or by a private sale for a sum equal to or in excess of the liquidation value of the Collateral as determined by Secured Party.

10. All rights conferred on Secured Party hereby are in addition to those granted to it by any state or local law or any other law. Failure or repeated failure to enforce any rights hereunder shall not constitute an estoppel or waiver of Secured Party's rights to exercise such rights accruing prior or subsequent thereto. Secured Party shall not be liable for any loss to Collateral in its possession, nor shall such loss diminish the debt due, even if the loss is caused or contributed to by Secured Party's negligence.

IN WITNESS WHEREOF, the seal of the corporation and the signatures of its

duly authorized officers, have been placed hereto on this the 30th of
September, 1993.

ATTEST:

By: Mary C. Robinson
Secretary

Buxahatchee Enterprises, Inc.

By: Ernest H. Robinson
President

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority a Notary Public in and for said County in said State, hereby certify that Kermit H. Roberson whose name as President of Buxahatchee Enterprises, Inc., a corporation, is signed to the foregoing Security Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Security Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 30th day of September, 1993.

Conway H. Johnson
Notary Public

EXHIBIT "A"

TC SECURITY AGREEMENT AND FINANCING STATEMENT

BUXAHATCHEE ENTERPRISES, INC.
288 HIGHWAY 310
CALERA, ALABAMA 35040

LIST OF EQUIPMENT

<u>NAME:</u>	<u>QUANTITY</u>
1. Commercial walk-in cooler	1
2. 30' x 80" service door	1
3. Set of (13) 23" x 72" glass merchandising doors	1
4. Air curtain	1
5. 5 HP condensing unit with 2 - 16,000 BTU evaporator	1
6. 16' run of cooler shelvin	1
7. Water filter system	1
8. 12' wall section, 36" H	1
9. 3 - 17' Gondola, 48" H with white shelves	1
10. Hoshizaki ice machine remote with 900 lb. bin KR B	1
11. Low profile ice merchand.	1
12. Set of 3 double booths	1
13. Set of 2 single booths	1
14. Sales counter with 12' built in wire display shelving	1
15. 18' fast food counter custom-built and laminate	1
16. 5 cup dispensers	5
17. 2 - lid holders	2
18. Condiment holder	1
19. Trash door	1
20. Acrylic pastry case	1
21. 6' alto sham warmer	1
22. Used self serv display case with doors on both sides	1
23. Garland stove with two eyes, griddle and oven KR B	1
24. True three door freezer with compressor warranty	1
25. Two door, T-49 cooler	1
26. 8' exhaust hood with make-up air and roof curb	1
27. Ansul auto fire system installed	1
28. Dump table installation of hood only	1
29. EZ-bagger and 1000 bags	1
30. Extra cooler shelves (13)	1
31. Alto sham oven KR MCR	1
32. Used TSSU-27 delprep	1
33. 4' stainless steel table	1
34. TAC II safe	1
35. 8'6" console counter cust OM-built and laminated	1
36. 8' storage shelving (kit)	1
37. 14' wall section of sheln behind sales counter	1
38. Bell South Communication System	1
39. Integrated Systems security system:	1
Z880 system	1
Contact all outside doors	1
Smoke with heat	1
Glass break	1
Rate of rise heat	1
Cameras with lens	3
Camera mounts	4
7 day recorder	1
Quad switcher	1
Monitor	1
Power supply for cameras	3
Wire/connectors/etc.	1
40. Intercom	1
Airphone master LEF-3	1
Airphone sub LED	2
Power supply GS12C	1
Wire/underground PVC	1
41. CB Radio	1
Radio with mike and speaker	1
Antenna	1
Mast 30'	1
Wire/connectors/etc.	1
41. Pollution control system	1

EXHIBIT "D"

☐ The Debtor is a transmitting utility as defined in ALA CODE 7-9-105(n).

No. of Additional Sheets Presented: **(2)**

This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

1. Return copy or recorded original to:

Central State Bank
P.O. Box 180
Calera, AL 35040

THIS SPACE FOR USE OF FILING OFFICER
Date, Time, Number & Filing Office

39660

A

Pre-paid Acct. # _____

2. Name and Address of Debtor

(Last Name First if a Person)

Buxahatchee Enterprises, Inc.
288 Highway 310
Calera, Alabama 35040

Alabama
Sec. Of State

B 93-35124 FS

Date 10/06/93

Time 10:56 AM

File \$10.00

Exp \$2.00

EXNm \$0.00

Form \$0.00

\$12.00

Social Security/Tax ID # _____

2A. Name and Address of Debtor

(IF ANY)

(Last Name First if a Person)

Social Security/Tax ID # _____

☐ Additional debtors on attached UCC-E

3. SECURED PARTY (Last Name First if a Person)

Central State Bank
P.O. Box 180
Calera, Alabama 35040

Social Security/Tax ID # _____

☐ Additional secured parties on attached UCC-E

4. ASSIGNEE OF SECURED PARTY

(IF ANY)

(Last Name First if a Person)

5. The Financing Statement Covers the Following Types (or Items) of Property:

All of the Debtor's right, title, and interest in and to the following:

(1) All of Debtor's Accounts Receivable, including but not limited to all rights of the Debtor to payment for goods, sold or leased, or to be sold or to be leased, or for services rendered or to be rendered, however evidenced or incurred, including, without limitation, all accounts, instruments, chattel paper and general intangibles, all returned or repossessed goods and all books, records, computer tapes, programs, and ledger books arising therefrom or relating thereto, whether now owned or hereafter acquired or arising.

(2) All contract rights, whether now owned, now in force, or hereafter acquired or existing.

(3) All of the inventory of the Debtor, now existing and acquired or

(Continued on additional sheet)

Check X if covered: ☐ Products of Collateral are also covered.

6. This statement is filed without the debtor's signature to perfect a security interest in collateral (check X, if so)

- ☐ already subject to a security interest in another jurisdiction when it was brought into this state.
☐ already subject to a security interest in another jurisdiction when debtor's location changed to this state.
☐ which is proceeds of the original collateral described above in which a security interest is perfected.
☐ acquired after a change of name, identity or corporate structure of debtor
☐ as to which the filing has lapsed.

7. Complete only when filing with the Judge of Probate:
The initial indebtedness secured by this financing statement is \$ _____

Mortgage tax due (15¢ per \$100.00 or fraction thereof) \$ **10 + 2 ± 1**

8. ☐ This financing statement covers timber to be cut, crops, or fixtures and is to be cross indexed in the real estate mortgage records (Describe real estate and if debtor does not have an interest of record, give name of record owner in Box 5).

Signature(s) of Secured Party(ies)

(Required only if filed without debtor's Signature — see Box 8)

Buxahatchee Enterprises, Inc., a corporation

Signature(s) of Debtor(s)

By: Donna H. Robinson PRES

Signature(s) of Debtor(s)

By: Mark C. Robinson - Sec

Type Name of Individual or Business

Signature(s) of Secured Party(ies) or Assignee

CENTRAL STATE BANK

Signature(s) of Secured Party(ies) or Assignee

Type Name of Individual or Business

(1) FILING OFFICER COPY — ALPHABETICAL
(2) FILING OFFICER COPY — NUMERICAL

(3) FILING OFFICER COPY — ACKNOWLEDGEMENT
(4) FILE COPY — SECOND PARTY(S)

(5) FILE COPY DEBTOR(S)

STANDARD FORM — UNIFORM COMMERCIAL CODE — FORM UCC-1
Approved by The Secretary of State of Alabama

STATE OF ALABAMA
UNIFORM COMMERCIAL CODE - FINANCING STATEMENT - FORM 1

CONTINUATION OF DESCRIPTION OF COLLATERAL

created from time to time hereafter, whether such inventory is in transit or in the constructive, actual or exclusive possession of the Debtor or of the Secured Party or held by the Debtor or others for the Secured Party's account, and wherever the same may be located, including, without limiting the generality of the foregoing, all warehousemen, vendors, selling agents, processors or other third parties; all proceeds and products of, and additions and accessions to, inventory (including, without limitation, accounts that are proceeds of inventory); all inventory that may be reclaimed or repossessed from or returned by Purchasers; all of the Debtor's rights as an unpaid vendor or lienor, including stoppage in transit, replevin and reclamation; and any other of the property of the Debtor now or hereafter held by the Secured Party or by others for the Secured Party's account..

(4) All of Debtor's equipment, machinery, tools, supplies, furniture, furnishings, fixtures, trade fixtures, computers and software, telephone equipment, security equipment, and pollution control equipment, whether now owned or hereafter acquired by Debtor, and all accessories, attachments, and additions thereto and replacements therefor, including without limitation those located at Debtor's place of business at 11843 Highway 25, Calera, Alabama 35040, and including the types and items of property more particularly described on and incorporated in Exhibit "A" attached hereto, and all of Debtor's patents, trademarks, service marks, trade names, copyrights and applications therefor, whether now owned or hereafter acquired by Debtor.

EXHIBIT "A"

TO SECURITY AGREEMENT AND FINANCING STATEMENT

BUXAHATCHEE ENTERPRISES, INC.
288 HIGHWAY 310
CALERA, ALABAMA 35040

LIST OF EQUIPMENT

<u>NAME:</u>	<u>QUANTITY</u>
1. Commercial walk-in cooler	1
2. 30' x 80" service door	1
3. Set of (13) 23" x 72" glass merchandising doors	1
4. Air curtain	1
5. 5 HP condensing unit with 2 - 16,000 BTU evaporator	1
6. 16' run of cooler shelvin	1
7. Water filter system	1
8. 12' wall section, 36" H	1
9. 3 - 17' Gondola, 48" H with white shelves	1
10. Hoshizaki ice machine remote with 900 lb. bin KR	1
11. Low profile ice merchand.	1
12. Set of 3 double booths	1
13. Set of 2 single booths	1
14. Sales counter with 12' built in wire display shelving	1
15. 18' fast food counter custom-built and laminate	1
16. 5 cup dispensers	5
17. 2 - lid holders	2
18. Condiment holder	1
19. Trash door	1
20. Acrylic pastry case	1
21. 6' alto sham warmer	1
22. Used self serv display case with doors on both sides	1
23. Garland stove with two eyes, griddle and oven KR	1
24. True three door freezer with compressor warranty	1
25. Two door T-49 cooler	1
26. 8' exhaust hood with make-up air and roof curb	1
27. Ansul auto fire system installed	1
28. Dump table installation of hood only	1
29. EZ-bagger and 1000 bags	1
30. Extra cooler shelves (13)	1
31. Alto sham oven KHR MCR	1
32. Used TSSU-27 delprep	1
33. 4' stainless steel table	1
34. TAC II safe	1
35. 8'6" console counter cust OM-built and laminated	1
36. 8' storage shelving (kit)	1
37. 14' wall section of shehn behind sales counter	1
38. Bell South Communication System	1
39. Integrated Systems security system:	1
Z880 system	1
Contact all outside doors	1
Smoke with heat	1
Glass break	1
Rate of rise heat	1
Cameras with lens	3
Camera mounts	4
7 day recorder	1
Quad switcher	1
Monitor	1
Power supply for cameras	3
Wire/connectors/etc.	1
40. Intercom	1
Airphone master LEF-3	2
Airphone sub LED	1
Power supply GS12C	1
Wire/underground PVC	1
41. CB Radio	1
Radio with mike and speaker	1
Antenna	1
Mast 30'	1
Wire/connectors/etc.	1
41. Pollution control system	1

Inst # 1996-37112

11/07/1996-37112
02:06 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
021 MCD 662.25