

STATE OF ALABAMA
COUNTY OF SHELBY

This Instrument Prepared By:
John G. Lowther, Attorney at Law
3500 Independence Drive
Birmingham, Alabama 35209

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN THE LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT, made this 8 day of October, 1997, by JMJ, L.L.C., the owner of the land hereinafter described and hereinafter referred to as "Owner," and Columbiana Skating Rink, Inc., the present owner and holder of the leasehold estate created by the lease hereinafter described and hereinafter referred to as "Lessee";

WITNESSETH

THAT WHEREAS, JMJ, L.L.C., as lessor, executed a lease dated October 17, 1996, covering real property described in Exhibit A, attached hereto and incorporated herein by this reference, more commonly known as 405 West College Street, Columbiana, Alabama, 35051, in favor of Columbiana Skating Rink, Inc., as lessee, which lease is unrecorded; and

WHEREAS, Owner and Lessee have executed, or are about to execute a mortgage and note in the sum of \$272,000.00 - dated October 8, 1997, in favor of Southern Development Council, Inc., and assigned to U.S. Small Business Administration, hereinafter referred to as "Lender," payable with interest and upon the terms and conditions described therein, which mortgage is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said mortgage last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land herein before described, prior and superior to the lease above described and to the leasehold estate created thereby; and

WHEREAS, Lender is willing to make said loan provided the mortgage securing the same is a lien or charge upon said land prior and superior to the lease above described and to the leasehold estate created thereby and provided that Lessee will specifically and unconditionally subordinate and subject the lease above described, the leasehold estate created thereby together with all rights and privileges of Lessee thereunder, to the lien or charge of the mortgage in favor of Lender; and

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner and Lessee; and Lessee is willing that the mortgage securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lease above described and to the leasehold estate created thereby.

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NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed as follows:

- (1) That said mortgage securing said note in favor of Lender, and any renewals and extensions thereof, shall unconditionally be and remain at all times a lien or charge on the land described therein, prior and superior to the lease above described, to the leasehold estate created thereby and to all rights and privileges of Lessee thereunder, and said lease, the leasehold estate created thereby together with all rights and privileges of Lessee thereunder is hereby subjected, and made subordinate, to the lien or charge of the mortgage in favor of Lender.
- (2) That Lender would not make its loan above described without this subordination agreement.
- (3) That this agreement shall be the whole and only agreement with regard to the subjection and subordination of the lease above described, and the leasehold estate created thereby, together with all rights and privileges of Lessee thereunder, to the lien or charge of the mortgage in favor of Lender above referred to, and shall supersede and cancel, but only insofar as would affect the priority between the lease and the mortgage hereinbefore specifically described, any prior agreements as to such subjection or subordination, including, but not limited to, those provisions, if any, contained in the lease above described, which provide for the subjection or subordination of said lease and the leasehold estate created thereby to a mortgage or mortgages.

Lessee declares, agrees and acknowledges that

- (a) It consents to and approves (i) all provisions of the note and mortgage in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's Loan;
- (b) Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part; and
- (c) It intentionally and unconditionally waives, relinquishes, subjects and subordinates the lease above described, the leasehold estate created thereby together with all rights and privileges of Lessee thereunder in favor of the lien or charge upon said land of the mortgage in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment, subjection and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment, subjection, and subordination.

**IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS
SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR
ATTORNEYS WITH RESPECT THERETO.**

Lessee:

Columbiana Skating Rink, Inc.

By:

John A. Simonetti, Jr., President

Owner:

JMJ, L.L.C.

By:

John A. Simonetti, Jr., Manager

State of Alabama

County of Jefferson

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that John A. Simonetti, Jr., whose name as Manager of JMJ, L.L.C., 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 said instrument, he, as such Manager, and with full authority, executed the same voluntarily for and as the act of said limited liability company, acting in his capacity as aforesaid. Given under my hand this the 8 day October, 1997.


Notary Public

My Commission Expires: 1-5-99

State of Alabama

County of Jefferson

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that John A. Simonetti, Jr., whose name as President of Columbiana Skating Rink, Inc., a corporation, 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 said instrument, he, as such Officer, and with full authority, executed the same voluntarily for and as the act of said corporation, acting in his capacity as aforesaid. Given under my hand this the 8 day October, 1997.


Notary Public

My Commission Expires: 1-5-99

EXHIBIT "A"

TO

**MORTGAGE
ASSIGNMENT OF RENTS AND LEASES
LIEN AFFIDAVIT
FINANCING STATEMENT (UCC-1) , . . .
PRIOR LIENHOLDER'S AGREEMENT
ENVIRONMENTAL INDEMNITY AGREEMENT
SUBORDINATION OF LEASE AGREEMENT**

MORTGAGOR/

OWNER: JMJ, L.L.C.

BORROWER: JMJ, L.L.C. and Columbiana Skating Rink, Inc.

LENDER: SOUTHERN DEVELOPMENT COUNCIL, INC.

LEGAL DESCRIPTION:

Commence at the Northwest corner of Section 26, Township 21 South, Range 1 West, Columbiana, Shelby County, Alabama, and run thence southerly along the West line of said Section 26 a distance of 1,321.72 feet to a point; thence turn 89 degrees 53' 16" left and run easterly 799.62 feet to a steel pin corner on the southerly margin of Shelby County Highway No. 70 and the point of beginning of the property being described; thence turn 87 degrees 38' 11" right and run southerly a distance of 747.00 feet to a point in the centerline of the Little Beeswax/Town Creek; thence turn 102 degrees 06' 44" left and run easterly along centerline of said Creek 120.00 feet to a point; thence turn 74 degrees 21' 21" left and run northerly 749.00 feet to a steel pin corner on the same said southerly margin of same said Highway No. 70; thence turn 105 degrees 54' 39" left and run westerly along said margin of said Highway 52.00' to the P.C. of a curve; thence turn 04 degrees 54' 59" right to chord and continue westerly along the chord of said curve a chord distance of 112.71 feet to the point of beginning.

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