

PRIOR LIENHOLDER'S AGREEMENT

This PRIOR LIENHOLDER'S AGREEMENT is by and between AMSOUTH BANK (the "Prior Lienholder") and SOUTHERN DEVELOPMENT COUNCIL, INC. (hereinafter along with its successors and assigns, the "CDC").

WHEREAS, McCain Enterprises, L.L.C. (the "Borrower") is the owner of the real estate described on the attached Exhibit A (the "Real Estate"). Prior Lienholder has made a loan in the original principal amount of \$739,999.00 (the "Prior Loan"). The Prior Loan is secured by a first Mortgage dated September 28, 1998 and recorded in Instrument 1998-38186 in the Office of the Judge of Probate of Shelby County, Alabama (the "Prior Mortgage"). The Prior Loan is further secured by a security interest in the equipment and machinery (the "Equipment") owned by Borrower (the "Security Interest").

WHEREAS, CDC has agreed to make a loan in the amount of \$341,000.00 (the "504 Loan") to Borrower. The 504 Loan will be secured by a mortgage (the "504 Mortgage") to be recorded in the Office of the Judge of Probate of Shelby County, Alabama, contemporaneously with this agreement, and a security interest in the Equipment.

NOW, THEREFORE, for and in consideration of the foregoing recitals, the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Balance of the Prior Loan. Following the funding of the 504 Loan, Prior Lienholder will receive \$328,888.00 from CDC in accordance with instruction given to CDC by Borrower. Such \$328,888.00 will reduce the note secured by the Prior Mortgage, and Security Interest, and the principal balance of the Prior Loan will upon such reduction be no more than \$411,111.00, and will be the only obligation superior to Borrower's obligations to CDC which are secured by the Mortgage, and the Security Interest.

2. Subordination of Future Advances, Prepayment Fees, Late Fees, and Increased Post-Default Interest Fees. Except for liens arising from advances under the Prior Mortgage or Security Interest intended to preserve the Real Estate or Equipment and made pursuant to the Prior Mortgage or Security Interest, any lien securing any sum advanced to Borrower by Prior Lienholder after the date of this Agreement, any prepayment fees, any late fees, and any increased post-default interest fees will be subordinate to the lien created by the 504 Mortgage and the security interest in favor of CDC in the Equipment.

3. Waiver of Enforcement of Covenant Not to Encumber the Real Estate. If the Prior Mortgage or any document evidencing the Prior Loan contains any provision prohibiting Borrower from further encumbering the Real Estate, Prior Lienholder waives its right to enforce any such provision as it might apply to the lien arising from the 504 Mortgage securing or any document evidencing the 504 Loan.

4. Notice of Default Under the Prior Loan. If an event of default occurs under the Prior Mortgage or any document evidencing the Prior Loan, Prior Lienholder will give CDC and the U.S. Small Business Administration (the SBA) written notice of the event of default within

11/16/1999
11:00 AM
SHELBY COUNTY JUDGE OF PROBATE
13.50
1999-46884

thirty (30) days after the occurrence of the event of default. After an event of default, Prior Lienholder will not sell all or any portion of the Real Estate without giving CDC and the SBA at least sixty (60) days' prior written notice of its intent to sell the Real Estate or any portion thereof. Notice under this Section shall be deemed to have been given when sent by certified or registered mail, return receipt requested, addressed, as the case may be, to CDC, SOUTHERN DEVELOPMENT COUNCIL, INC. at 8132 Old Federal Road, Montgomery, Alabama, 36117, and to the SBA at its Birmingham District Office, Suite 200, 2121 Eighth Avenue North, Birmingham, Alabama 35203-2398, Attention: District Counsel.

5. Successors and Assigns. This Agreement shall inure to the benefit of and bind the respective parties to this Agreement and their successors and assigns.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this 9 day of November, 1999.

AMSOUTH BANK

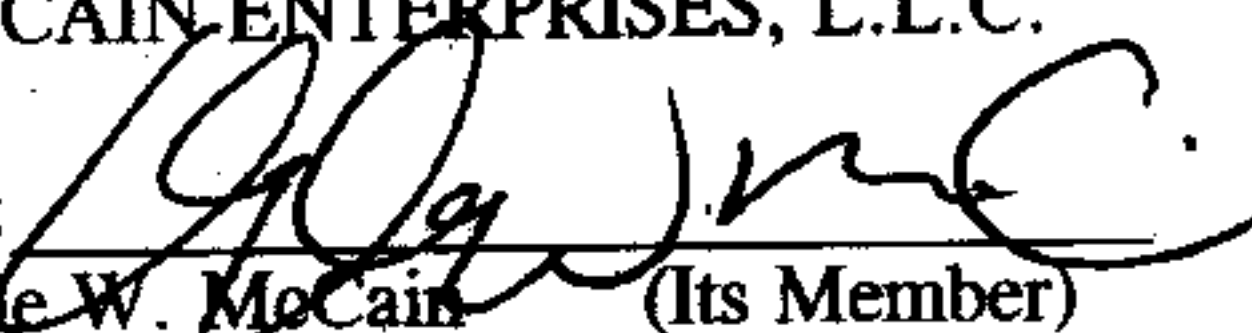
By


W. Burr Weatherly (Vice President)

ACKNOWLEDGED AND CONSENTED TO:

McCain Enterprises, L.L.C.

By:

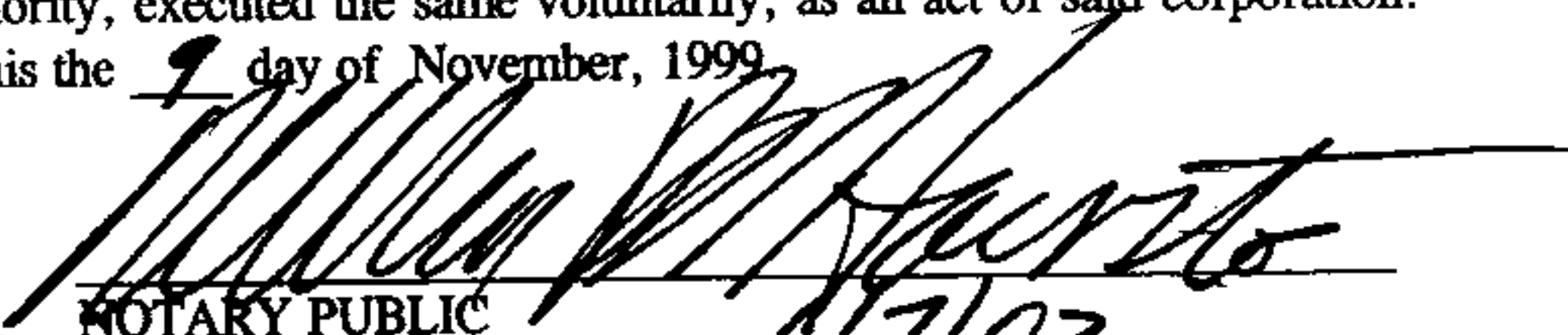

Kyle W. McCain (Its Member)

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that W. Burr Weatherly, whose name as Vice President of AMSOUTH BANK, 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, as an act of said corporation.

Given under my hand and official seal, this the 9 day of November, 1999.


NOTARY PUBLIC

My Commission Expires: 6/7/03

THIS INSTRUMENT PREPARED BY:

William B. Hairston III

ENGEL HAIRSTON & JOHANSON, P.C.

4th Floor 109 North 20th Street

P.O. Box 370027

Birmingham, Alabama, 35237-0027

(205) 328-4600

EXHIBIT "A"

TO

**MORTGAGE
LESSOR'S AGREEMENT
ASSIGNMENT OF LEASE
FINANCING STATEMENT (UCC-1)
PRIOR LIENHOLDER'S AGREEMENT
ASSIGNMENT OF LEASES AND RENTS
ESTOPPEL CERTIFICATE AND ATTORNEY AGREEMENT
HAZARDOUS SUBSTANCE INDEMNIFICATION AND WARRANTY AGREEMENT**

BORROWER: *McCAIN ENTERPRISES, L.L.C.*
LENDER: *SOUTHERN DEVELOPMENT COUNCIL, INC.*

A parcel of land situated in the SE ¼ of the NE ¼ and the NE ¼ of the SE ¼ of Section 25, Township 20 South, Range 3 West, and being more particularly described as follows:

Commence at the NE corner of Section 25, Township 20 South, Range 3 West; thence South 1°59'08" West along the East line of said Section for a distance of 3030.58 feet to a point on the Northerly right of way line of CSX Transportation railroad; thence North 65°18'47" West along said right of way for a distance of 394.50 feet to the point of beginning; thence North 65°18'47" West along said right of way for a distance of 277.88 feet to a point on the Easterly right of way line of U.S. Highway 65; thence North 28°24'48" West along said U.S. right of way and leaving said CSX right of way for a distance of 24.75 feet; thence North 00°19'13" West along said U.S. right of way line for a distance of 438.05 feet; thence South 81°04'44" East and leaving said U.S. right of way for a distance of 397.61 feet to a point on the Westerly right of way line of McCain Parkway (50 foot R.O.W.); thence South 08°45'59" West along said right of way for a distance of 75.12 feet to the end of said right of way line; thence North 81°14'01" West for a distance of 51.54 feet; thence South 08°05'49" West for a distance of 452.33 feet to the point of beginning.

Situated in Shelby County, Alabama.

Subject to: i) taxes and assessments for the year 1999, ii) restrictions, conditions and limitations recorded in Real Volume 320, page 378, iii) less and except any part of property now a part of any roadway and/or railroad; iv) transmission line permit to Alabama Power Company recorded in Deed Book 126, page 303; v) right of way to Seaboard Coast Line Railroad; and vi) sewer easement to City of Pelham recorded in Real Volume 136, page 777, 1999-46884

Ex.a 9/1/99 12:02PM

11/16/1999-46884
11:00 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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