

PRIOR LIENHOLDER'S AGREEMENT

This PRIOR LIENHOLDER'S AGREEMENT is by and between BANK OF THE WEST (the "Prior Lienholder") and BIRMINGHAM CITY WIDE LOCAL DEVELOPMENT COMPANY (hereinafter along with its successors and assigns, the "CDC").

RECITALS

WHEREAS, EXPRESSWAY, INC. (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 \$497,500.00 (the "Prior Loan"). The Prior Loan is secured by a first Mortgage dated this date and recorded as Instrument No. 2001-21123 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 \$310,000.00 (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.

AGREEMENT

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, the principal balance of the Prior Loan will be no more than \$497,500.00, 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 advances made for reasonable costs of collection, maintenance and protection of the Prior Mortgage or Security Interest, the Prior Lienholder hereby subordinates to the 504 Loan and the lien(s) securing the 504 Loan (a) any sum advanced to the Borrower by the Prior Lienholder after the date of this Agreement and (b) any prepayment penalties, late fees, and increased default interest in connection with the Prior Loan.

3. Compliance with 504 Loan Program Requirements. Prior Lienholder confirms that the note and all other documents executed in connection with the Prior Loan (a) evidence a loan that does not exceed the principal amount permitted by the Authorization for Debenture Guarantee (SBA 504 Loan) issued by the U.S. Small Business Administration ("SBA") to CDC to assist Borrower, (b) have no open-ended features and allow only future advances for the reasonable costs of collection, maintenance and protection of the Prior Lienholder's lien thereunder, (c) are not cross-collateralized with any other financing now or hereafter to be

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provided by Prior Lienholder, (d) have no early call features, (e) are not payable on demand unless the Prior Loan is in default, (f) have a term of at least, and do not require a balloon payment prior to, ten years for a 20-year 504 loan or seven years for a 10-year 504 loan, (g) have a reasonable interest rate that does not, and will not, exceed the maximum interest rate for a third party loan as published by SBA, and (h) do not establish a preference in favor of the Prior Lienholder as compared to CDC or SBA other than the Prior Lienholder's senior lien position. The Prior Lienholder agrees that if any provision in the note or any other document executed in connection with the Prior Loan does not comply with these requirements, then the Prior Lienholder waives its right to enforce any such provision.

4. 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.

5. Notice of Default Under the Prior Loan. If any default, event of default or delinquency, upon which the Prior Lienholder intends to take action, occurs under the Prior Mortgage or Security Interest or any document executed in connection with the Prior Loan, then the Prior Lienholder agrees to give the CDC and the U.S. Small Business Administration (the "SBA") written notice of such default, event of default or delinquency and the opportunity to cure or to purchase the note evidencing the Prior Loan and the Prior Mortgage prior to foreclosure. Such notice must be given within thirty (30) days after the default, event of default or delinquency upon which the Prior Lienholder intends to take action and at least sixty (60) days prior to the date of any proposed sale and the Prior Lienholder will not sell all or any portion of its collateral without giving the CDC and the SBA such notice. Notice under this Agreement shall be deemed to have been given when sent by certified or registered mail, return receipt requested, addressed, as the case may be, to the CDC, BIRMINGHAM CITY WIDE LOCAL DEVELOPMENT COMPANY at 110 -- 12th Avenue North, Birmingham, Alabama, 35203, and to the SBA at its Birmingham District Office, 801 Tom Martin Drive, Suite 201, Birmingham, Alabama 35211, Attention: District Counsel.

6. 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 ____ day of May, 2001.

BANK OF THE WEST

By *A. Bertanelli*
(Its *Assistant Vice President*)

ACKNOWLEDGED AND CONSENTED TO:

EXPRESSWAY, INC.

By: [Signature]
Claire Kuan-an Rebillot (Its President)

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that D
Baptistelli, whose name as Asst Vice Pres of BANK OF
THE WEST, 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/she, as such officer, and with full authority,
executed the same voluntarily, as an act of said corporation, acting in his/her capacity as aforesaid.

Given under my hand and official seal, this the 23 day of May, 2001.

[Signature]
NOTARY PUBLIC
My Commission Expires: 6/1/03

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

Lots 6, 7 and 8, Block 1, according to the Survey of Pelham Estates, as recorded in Map Book 3, page 57, in the Probate Office of Shelby County, Alabama. TOGETHER WITH all rights, title and interest in and to that certain easement reserved in Book 345, Page 632, in the Probate Records of Shelby County, Alabama, more particularly described as follows:

Beginning at the Southwestern corner of the Burger King Property, thence running North $9^{\circ}39'9''$ West along the right of way of U.S. Highway No. 31 for 5 feet to a point, thence departing said right of way and running South $88^{\circ}9'8''$ East for 15 feet to a point, thence running South $9^{\circ}39'9''$ East for 5 feet to a point on the Southern line of the above described tract, thence running North $88^{\circ}9'8''$ West along the Southern line of the tract for 15 feet to an iron pin and the point of beginning.

LESS AND EXCEPT right of way of 4-lane Birmingham-Montgomery Highway. Situated in Shelby County, Alabama.

ALSO LESS AND EXCEPT property hereinafter referred to as the "Burger King Property", and being more particularly described as follows:

Lot 6 and the North $\frac{1}{2}$ of Lot 7 of Block 1, Pelham Estates, as recorded in Map Book 3, page 57, in the Probate Office of Shelby County, Alabama, less and except that part of same said Lots 6 and N $\frac{1}{2}$ of Lot 7, Block 1, Pelham Estates, that is incorporated into the right of way of Highway 31 (U.S. 31 South), same said property being described more particularly by metes and bounds as follows:

Commence at the Southwest corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 13, Township 20 South, Range 3 West, Shelby County, Thence run Easterly along the South line of said $\frac{1}{4}$ - $\frac{1}{4}$ 552.40 feet to a point on the East right of way line of U.S. Highway 31 (South) and the Northwest corner of Lot 1, Block 1, of Pelham Estates, thence run Southerly along the said East right of way line of said Highway 31 a chord distance of 500.22 feet to the Northwest corner of Lot 6, Block 1, Pelham Estates and the point of beginning of the property being described, thence turn angle of $78^{\circ}42'27''$ left from chord and run South $88^{\circ}21'36''$ East a distance of 272.24 feet to an iron pin; thence turn an interior angle of $99^{\circ}20'19''$ and run South $07^{\circ}41'55''$ East a distance of 150.06 feet to an iron pin, thence turn an interior angle of $80^{\circ}27'13''$ and run North $88^{\circ}09'08''$ West a distance of 267.22 feet to a steel spike on the East right of way line of U.S. Highway 31, thence turn an interior angle of $101^{\circ}30'01''$ and run North $09^{\circ}39'09''$ West a distance of 150.01 feet to a steel spike on the East right of way line of said Highway U.S. 31, and the point of beginning.

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