

STATE OF ALABAMA )  
COUNTY OF SHELBY )

**PRIOR LIENHOLDER AGREEMENT**

This PRIOR LIENHOLDER AGREEMENT ("Agreement"), dated this 28<sup>th</sup> day of July, 2003, by and between GENERAL ELECTRIC CAPITAL CORPORATION, A DELAWARE CORPORATION ("Third Party Lender") and BIRMINGHAM CITY WIDE LOCAL DEVELOPMENT COMPANY, the Certified Development Company ("CDC"), recites and provides:

**RECITALS**

HENRY EVERETTE WALKER, JR. AND SHANNON SIMONE WALKER (collectively, the "Borrower") is the owner of the real property described on the attached Exhibit "A" (the "Real Estate").

Bank of Alabama ("Interim Lender") made a loan to Borrower in the amount of One Hundred Sixty Thousand Six Hundred and No/100 Dollars (\$160,600.00) (the "Interim Loan") which is secured by a Mortgage on the Real Estate dated July 28, 2003, to be recorded in the Probate Office of Shelby County, Alabama (the "Interim Mortgage").

Third Party Lender made a loan to Borrower in the amount of Two Hundred Thousand Eight Hundred and No/100 Dollars (\$200,800.00) (the "Third Party Loan") which is secured by a Mortgage on the Real Estate dated July 28, 2003, to be recorded in the Probate Office of Shelby County, Alabama (the "Third Party Mortgage")

CDC has agreed to make a loan in the amount of One Hundred Sixty Eight Thousand and No/100 Dollars (\$168,000.00) (the "504 Loan") to Borrower. The 504 Loan will be secured by a Mortgage (the "504 Mortgage") to be recorded immediately prior hereto in office of the Probate Office of Shelby County, Alabama.

**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 Loan. At the date hereof, the balance of the Interim Loan is One Hundred Sixty Thousand Six Hundred and No/100 Dollars (\$160,600.00). All loan proceeds have been disbursed. Borrower is current on its payments on the Interim Loan and is not in default. Following the making of the 504 Loan, Interim Lender will receive One Hundred Sixty Thousand Six Hundred and No/100 Dollars (\$160,600.00) from CDC to pay off the Interim Loan and shall satisfy the Interim Mortgage. The SBA 504 Mortgage shall then be a second lien junior to the Third Party Loan secured by the Third Party Mortgage in the amount of Two Hundred Thousand Eight Hundred and No/100 Dollars (\$200,800.00).

2. Subordination of Future Advances and Default Charges. Except for liens arising from reasonable advances under the Third Party Mortgage intended to preserve the Real Estate and made pursuant to the Third Party Mortgage, any lien securing any sum advanced to the Borrower by Third Party Lender after the date of this Agreement and any prepayment penalties, late fees, default interest or other default charges in connection with the Third Party Loan will be subordinate to the lien created by the 504 Mortgage.

3. Waiver of Enforcement of Covenant Not to Encumber the Real Estate. If the Third Party Lender Mortgage or any document evidencing the loan contain any provision prohibiting Borrower from further encumbering the Real Estate, Third Party Lender 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. Compliance with 504 Loan Program Requirements. Third Party Lender confirms that the note and all other documents executed in connection with the Third Party 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 Third Party Lender's lien thereunder, (c) are not cross-collateralized

with any other financing now or hereafter to be provided by the Third Party Lender, (d) have no early call features, (e) are not payable on demand unless the Third Party 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 Third Party Lender as compared to CDC or SBA other than the Third Party Lender's senior lien position. Third Party Lender agrees that any provision in the note or any other document executed in connection with the Third Party Loan does not comply with these requirements, then the Third Party Lender waives its right to enforce such provision.

5. Notice of Default Under the Loan. If a default occurs under the Third Party Mortgage or any document evidencing the Third Party Loan upon which Third Party Lender intends to take action, Third Party Lender will give CDC and the SBA written notice of the default within thirty (30) days after the occurrence of the default. After such a default, Third Party Lender 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, Birmingham City Wide Local Development Company, 110 North 12th Street, Birmingham, Alabama 35203, Attention: Robert Dickerson, and to the SBA at Alabama District Office, 801 Tom Martin Drive, Suite 201, Birmingham, AL 35211, Attn: 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.

WITNESS the following signatures on the date written above:

GENERAL ELECTRIC CAPITAL CORPORATION

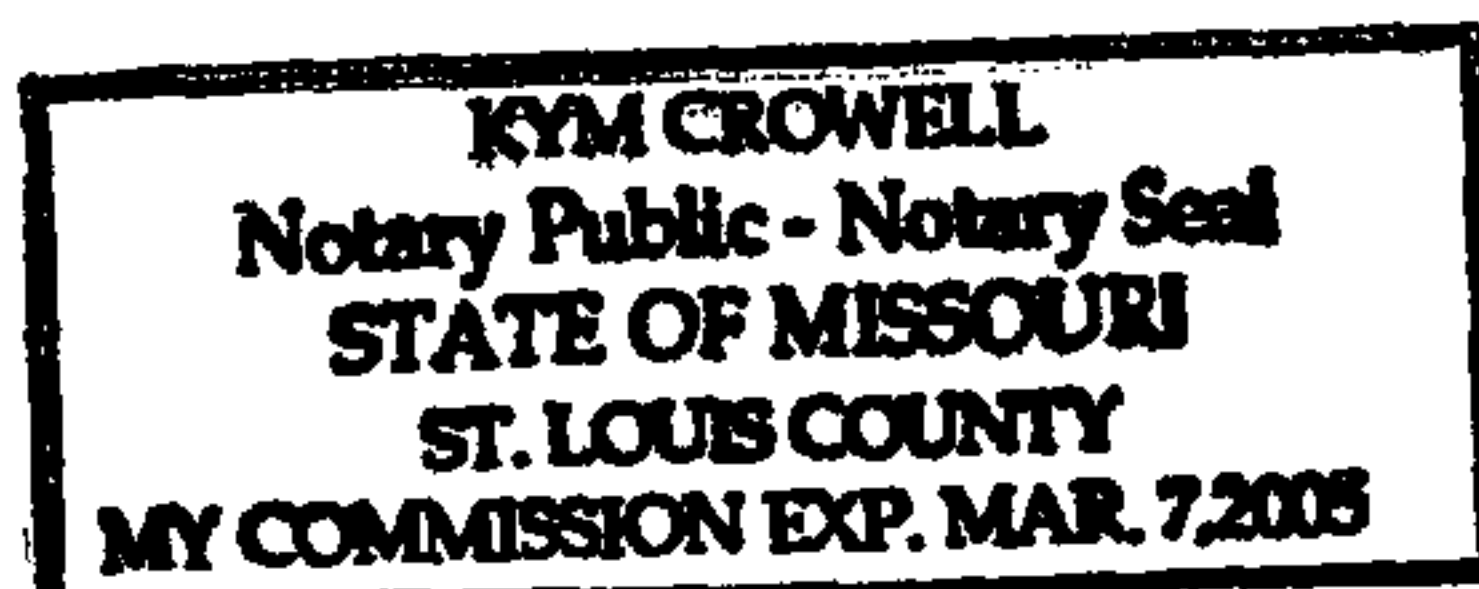
By: Kathy S. Kleine

Printed Name: Kathy S. Kleine

Title: Sr Loan closing Specialist

STATE OF Missouri )  
COUNTY OF St. Louis )

The foregoing Prior Lienholder Agreement was acknowledged before me in the above jurisdiction this 5<sup>th</sup> day of August, 2003, by Kathy S. Kleine, as Sr. Loan closing Specialist of GENERAL ELECTRIC CAPITAL CORPORATION,, on behalf of said lender.



[Signature]  
NOTARY PUBLIC  
My Commission Expires: 3-7-05



**EXHIBIT A**

A parcel of land situated in the SW ¼ of the SW ¼ of Section 23, and the NW ¼ of NW ¼ of Section 26, all in Township 20 South, Range 3 West, City of Helena, Shelby County, Alabama, and being more particularly described as follows:

Commence at the Southwest corner of Section 23, Township 20 South, Range 3 West, Shelby County, Alabama; thence S 00° 00' 00" W, a distance of 88.93' (deed) along the Easterly R.O.W. of Shelby County Highway No. 95 to a point, said point being the beginning of a non tangent curve to the right, having a radius of 2,840.65', a central angle of 00° 12' 40", and subtended by a chord which bears S 02° 07' 56" E, and a chord distance of 10.47'; thence along the arc of said curve and said Highway #95, a distance of 10.47' to a point on the Northerly Right-Of-Way line of Townhouse Road (50' R. O. W.) as shown on a Plat of Dearing Downs, Second Addition, as recorded in Map Book 9, Page 33, in the Office of the Judge of Probate, Shelby County, Alabama, said point also being a reverse curve to the left, having a radius of 25.00 feet, a central angle of 89° 00' 53", and subtended by a chord which bears S 46° 32' 02" E, and a chord distance of 35.05'; thence along the arc of said curve and said Townhouse Road R. O. W., a distance of 38.84'; thence N 88° 57' 31" E and along said Townhouse Road R. O. W., a distance of 33.64' (Deed); thence S 01° 02' 29" E and crossing over to the Southerly R. O. W. line of above said Townhouse Road, a distance of 50.00' (Deed) to a point, said point being the beginning of a non tangent curve to the left, having a radius of 211.66', a central angle of 36° 03' 25", and subtended by a chord which bears N 70° 25' 59" E, and a chord distance of 131.01'; thence along the arc of said curve and said R. O. W., a distance of 133.20 (Deed) to the POINT OF BEGINNING; thence continue along last described course of said curve, through a central angle of 20° 18' 06", and subtended by a chord which bears N 42° 15' 13" E, and a chord distance of 74.61'; thence along the arc of said curve and said R. O. W., a distance of 75.00' (Deed); thence N 32° 19' 56" E and along said R. O. W., a distance of 64.74' (Meas) 64.77' (Deed) to a point, said point being the beginning of a curve to the right, having a radius of 101.28', a central angle of 47° 25' 47", and subtended by a chord which bears N 56° 02' 49" E, and a chord distance of 81.47'; thence along the arc of said curve and said R. O. W., a distance of 83.84' (Deed); thence S 24 ° 00' 00" E and leaving said R. O. W., a distance of 284.35 (Meas) 284.29 (Deed) to a point on the Northwesterly R. O. W. line of a 80' Colonial Pipeline Easement; thence S 65° 03' 25" W and along said 80' easement, a distance of 296.75' (Deed) to the POINT OF BEGINNING.