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04 MAY 90 08:03 AM  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
ASSOCIATED TITLE  
REC BY: RICHARD BUTLER , DEPUTY

WHEN RECORDED, MAIL TO:

CALLISTER, DUNCAN & NEBEKER  
Suite 800 Kennecott Building  
Salt Lake City, Utah 84133  
ATTN: Steven L. Ingleby, Esq.

### ASSIGNMENT OF CONTRACT

THIS ASSIGNMENT OF CONTRACT (the "Assignment") is made and entered into this 3<sup>rd</sup> day of May, 1990, from HEARTLAND WEST VALLEY COMMERCIAL LIMITED PARTNERS, a Minnesota Limited Partnership ("Assignor"), to ZIONS FIRST NATIONAL BANK, a national banking association ("Assignee").

WHEREAS, pursuant to that certain Promissory Note of even date herewith in which Assignor appears as "Maker" and Assignee appears as "Payee" and which is in the original principal amount of \$6,000,000.00 (the "Zions Note"), Assignee has loaned the proceeds of the Zions Note to Assignor; and

WHEREAS, Assignor has heretofore entered into that certain Contract dated on or about June 24, 1983, wherein SNI 606 LIMITED, a Utah limited partnership, appears as "Seller", and Assignor appears as "Buyer" (the "Contract"), which Contract relates to the sale of certain real property, as hereinafter described; and

WHEREAS, it is the desire and intent of Assignor and Assignee to effect an assignment of the Contract, and all rights and interest of Assignor therein to Assignee to further secure the obligations of Assignor under the Zions Note.

NOW, THEREFORE, in consideration of the above-stated premises and for good and valuable consideration by Assignee to Assignor, the receipt of which is hereby acknowledged, and of the mutual covenants herein contained, the parties hereto agree as follows:

1. Assignment. Assignor hereby assigns, transfers, conveys and sets over to Assignee, its successors and assigns, subject to the terms and conditions set forth herein, and Assignee, for itself, its successors and assigns, hereby accepts the transfer to it of all of Assignor's right, title and interest as Buyer in and to the Contract, as security for

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the Obligations, as such term is defined in paragraph 2 below. The Contract relates to that certain real property located in Salt Lake County, State of Utah, and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference. A Notice of Contract regarding the Contract was recorded in the official records of Salt Lake County, State of Utah on July 8, 1983, as Entry No. 3815961, in Book 5473, at Page 1487.

2. Debts Secured. This assignment is given for the purpose of securing all of Assignor's debts, obligations, and liabilities to Assignee as follows (the "Obligations"):

(a) All obligations of Assignor to Assignee under that certain Promissory Note dated of even date herewith, in the original principal amount of \$6,000,000.00, wherein Assignor appears as Maker and Assignee appears as Payee; and

(b) All obligations of Assignor under this Assignment.

3. Representations and Warranties. Assignor represents, warrants, and covenants that (a) to the best of Assignor's knowledge, the Contract is in full force and effect as of this date; (b) the terms, conditions and provisions of the Contract have not been expressly amended, altered, waived or modified except as disclosed in writing to Assignee; (c) Assignor has the right and authority to assign the Contract, and all of Assignor's right, title and interest therein, or related thereto, and that Assignor has not heretofore assigned, conveyed or transferred to any other entity or person any of the rights or interests, or any part thereof, which are herein assigned to Assignee; (d) Assignor has not heretofore assigned, conveyed or transferred to any other entity or person any of the rights or interest, or any part thereof, which are herein assigned to Assignee; and (e) the current unpaid balance owing under the Contract as of the date hereof, after deduction of all offsets and credits to which Assignor is entitled, is the sum of approximately \$1,571,000, plus accrued interest.

4. Covenants. Assignor hereby covenants that so long as any of the Obligations remain unpaid, it will keep the Contract free and clear of any and all security interests, liens, pledges, or other encumbrances, except for the lien created by this Assignment, and Assignor will not create or make, or permit to be created or made, any liens, security interests, encumbrances, assignments or transfers of or on the Contract, without Assignee's prior written consent.

5. Further Assurances. Assignor, for itself and its successors and assigns, hereby covenants that, from time to time after the delivery of this Assignment, at Assignee's request and without further consideration, Assignor will do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged, and delivered all and every such further acts, conveyances, transfers, assignments, powers of attorney and assurances as Assignee may reasonably require to more effectively convey, transfer to and vest in Assignee, and to put Assignee in possession of, the rights and interests assigned to Assignee hereby; and further will, upon the reasonable request of Assignee, do, perform and execute every such act(s) necessary to fully vest in Assignee the right and power to enforce the full performance of the covenants and agreements contained in the Contract.

6. Events of Default. Time is of the essence of this Assignment. The occurrence of any of the following events shall constitute a default under this Assignment and shall be termed an "Event of Default":

(a) Failure by Assignor to timely make any payment due under any of the Obligations;

(b) The value of the Contract substantially diminishes; or

(c) Any representation or warranty made by or on behalf of Assignor in this Assignment, or in connection with this Assignment, was false or materially misleading when made or furnished.

7. Remedies. Upon the occurrence of an Event of Default, Assignee shall have all the rights and remedies available under the Utah Uniform Commercial Code, Utah Code Ann. Title 70A and all other rights and remedies under law and equity. Assignee may do any and all other things reasonably necessary or proper to carry out the intent of this Assignment and protect the liens and rights of Assignee created under this Assignment.

8. Construction; Interpretation. This Assignment shall be governed by the internal laws of the State of Utah. The captions and descriptive headings used herein are for convenience only and shall not be deemed to affect the meaning or construction of any provisions hereof.

9. Successors and Assigns. All of the terms, conditions, covenants and agreements contained in this Assignment shall be binding upon and inure to the benefit of Assignor, Assignee and their respective successors and assigns.

10. Amendment. This Assignment may be amended, modified, supplemented, discharged or the provisions hereof waived, only by a writing signed by the parties hereto, and then only to the extent and in the manner specified and described in such writing.

11. Notice. Any notice required or desired to be given hereunder shall be in writing and may be delivered in person or by certified mail. Any such notice by certified mail shall be deposited in the United States Mail, with postage fully prepaid, return receipt requested, addressed to the party so to be served at its address stated below. Service of any such notice shall be deemed effective on receipt if delivered in person or on the day of actual delivery as shown by the addressee's return receipt.

Assignor: HEARTLAND WEST VALLEY COMMERCIAL  
LIMITED PARTNERS  
46 West Broadway, Suite 111  
Salt Lake City, Utah 84101  
ATTN: Michael L. Nielsen

Copy to: EDWARDS, MCCOY & KENEDY  
57 West 200 South, #400  
Salt Lake City, Utah 84101  
Attn: Tomas G. Bennett, Esq.

Assignee: ZIONS FIRST NATIONAL BANK  
Real Estate Loan Department  
P.O. Box 26304  
Salt Lake City, Utah 84126-0304  
ATTN: Steven K. Earley  
Asst. Vice President

Copy to: CALLISTER, DUNCAN & NEBEKER  
Suite 800 Kennecott Bldg.  
Salt Lake City, Utah 84133  
Attn: Steven L. Ingleby, Esq.

12. Duration. Assignee and Assignor agree that this Assignment shall continue in full force and effect and the assignment of and security interest in the Contract granted

heroby and the duties, covenants, and liabilities of Assignor hereunder and all terms, conditions, provisions hereof relating thereto, shall continue to be fully operative until all Obligations and all obligations created under or described in this Assignment have been satisfied in full.

13. Severability. Any provision of this Assignment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction only, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

14. Fees and Expenses. Upon the occurrence of an Event of Default under this Assignment, Assignor agrees to pay to Assignee all damages and all costs and expenses, including reasonable attorney fees and legal expenses, incurred in recovering such damages and/or in enforcement of this Assignment. Assignor agrees to pay all expenses, including reasonable attorney fees and legal expenses, incurred by Assignee in any bankruptcy proceeding of any type involving Assignor, or the Contract, including, without limitation, expenses incurred in modifying or lifting the automatic stay, determining adequate protection, use of cash collateral, or relating to any plan of reorganization.

15. Right to Perform for Assignor. Assignor and Assignee agree that Assignee may, in its reasonable discretion, elect to discharge taxes, tax liens, security interests, or any other encumbrances upon the Contract, and any such payments and all expenses incurred in connection therewith shall be obligations of the Assignor, payable immediately upon notice and shall be secured by this Assignment and the Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment effective the day and year first above written.

ASSIGNOR:

HEARTLAND WEST VALLEY COMMERCIAL LIMITED PARTNERS, a Minnesota Limited Partnership

By: WEST VALLEY MANAGEMENT CORPORATION,  
a Utah corporation, as General Partner

By: Michael L. Nielsen  
Michael L. Nielsen  
Its: President

Attest:

Neil Bierly  
Secretary

ASSIGNEE:

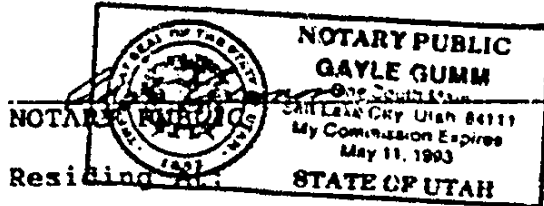
ZIONS FIRST NATIONAL BANK,  
a national banking association

By: Steven K. Earley  
Steven K. Earley  
Its: Asst. Vice President

CDN76051

STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 3rd day of May, 1990, by Michael L. Nielsen and Nephi Bierwolf, President and Secretary, respectively, of WEST VALLEY MANAGEMENT CORPORATION, a Utah corporation, as General Partner of HEARTLAND WEST VALLEY COMMERCIAL LIMITED PARTNERS, a Minnesota Limited Partnership.



My Commission Expires:

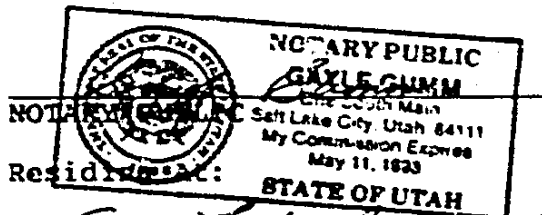
May 11, 1993

Residing At:

Salt Lake City, Utah

STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 3rd day of May, 1990, by Steven K. Earley, Assistant Vice President of ZIONS FIRST NATIONAL BANK, a national banking association.



My Commission Expires:

May 11, 1993

Residing At:

Salt Lake City, Utah

CDN7605I

## EXHIBIT "A"

### Real Property Description

That certain real property located in Salt Lake County, State of Utah, and more particularly described as follows:

#### Parcel 1:

COMMENCING at a point which is North  $89^{\circ}52'34''$  West 330.00 feet and South  $0^{\circ}07'26''$  West 48.00 feet from the Northeast corner of the Northwest quarter of Section 33, Township 1 South, Range 1 West, Salt Lake Base and Meridian, and running thence South  $0^{\circ}07'26''$  West 287.00 feet; thence South  $89^{\circ}52'34''$  East 297.00 feet to the Westerly boundary of 2700 West Street; thence along the Westerly boundary of 2700 West Street South  $0^{\circ}07'26''$  West 745.10 feet; thence North  $89^{\circ}52'34''$  West 499.00 feet to the Easterly boundary of Market Street; thence along the Easterly boundary of Market Street North  $0^{\circ}07'26''$  East 393.10 feet; thence along a 526.66 foot radius curve to the left 107.49 feet; thence along a 526.66 foot radius curve to the left 76.50 feet; thence along a 466.66 foot radius curve to the right 163.03 feet; thence South  $89^{\circ}52'34''$  East 120.00 feet; thence North  $0^{\circ}07'26''$  East 299.00 feet to the Southerly boundary of 3500 South Street; thence along the Southerly boundary of 3500 South Street South  $89^{\circ}52'34''$  East 142.00 feet to the point of COMMENCEMENT.

#### Parcel 2:

A non-exclusive 60.0 foot easement and right of way for road and incidental purposes over the following:

COMMENCING 33.0 feet West and 33.0 feet South of the Northeast corner of the Northwest quarter of Section 33, Township 1 South, Range 1 West, Salt Lake Base and Meridian, and running thence along the West line of 2700 West Street, South 287.00 feet; thence West 60.0 feet; thence North 287.0 feet to the South line of 3500 South Street; thence along the South line of 3500 South Street, East 60.0 feet to the point of COMMENCEMENT.

As created by that certain Warranty Deed dated June 16, 1953, and recorded June 17, 1953, as Entry No. 1432054, in Book 1208, at page 444, of Official Records.