

WHEN RECORDED MAIL TO:

U.S. Bank of Nevada
Commercial Services Group
1 East Liberty Street
Reno, Nevada 89501

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT, made as of the 28th, day of August, 1995, by **ROGER H. ELTON**, Trustee of the **RHE TRUST** dated May 1, 1990 (the "Assignor") to **U.S. BANK OF NEVADA**, a Nevada state-chartered commercial bank ("Assignee").

WITNESSETH:

WHEREAS, to evidence and secure a loan (the "Loan") evidenced by a Construction/Permanent Loan Agreement of even date herewith (the "Loan Agreement"), Assignor has made and delivered to Assignee a Promissory Note Secured By Deed of Trust of even date herewith (the "Note") in the principal amount of \$2,872,392.00, payable monthly, with interest as therein expressed, and Assignor has executed and delivered a Deed of Trust And Security Agreement And Fixture Filing With Assignment of Rents ("Deed of Trust") to secure the Note and creating a lien on Assignor's interest in certain real property situate in Douglas County, Nevada, more particularly described in **Exhibit "A-1" and Exhibit "A-2"** attached hereto and by this reference made a part hereof, including the improvements now or hereafter constructed thereon and the easements, rights and appurtenances thereunto belonging, all of which are hereinafter called the "Premises"; and

WHEREAS, Assignee has required the assignment hereafter made as a condition to making the Loan;

NOW, THEREFORE, for value received, Assignor hereby grants, transfers, assigns, and sets over to Assignee all rents, issues, and profits of and from the Premises, and in and to all leases ("leases") now or hereafter existing, of all or any part of the Premises.

Without limiting the generality of the foregoing, it is agreed as follows:

1. Assignor hereby absolutely and unconditionally assigns and transfers to Assignee all the leases, income, rent, issues, deposits, profits and proceeds of the Premises to which Assignor may be entitled, whether now due, past due or to become due, and hereby gives to and confers

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upon Assignee the right, power and authority to collect such income, rents, issues, deposits, profits and proceeds of the Premises to which Assignor may be entitled, whether now due, past due or to become due. The assignment of the leases constitutes an irrevocable direction and authorization of all tenants under the leases to pay all rent, income and profits into an account specified by Assignee upon demand and without further consent or other action by Assignor. Assignor irrevocably appoints Assignee its true and lawful attorney, at the option of Assignee at any time to demand, receive and enforce payment, to give receipts, releases, and satisfactions, and to sue, either in the name of Assignor or in the name of Assignee, for all such income, rents, issues, deposits, profits and proceeds and apply the same to the indebtedness evidenced by the Note. It is understood and agreed that neither the foregoing assignment of leases, income, rents, issues, deposits, profits and proceeds to Assignee nor the exercise by Assignee of any of its rights or remedies hereunder shall be deemed to make Assignee a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Premises or the use, occupancy, enjoyment or operation of all or any portion thereof.

2. Assignor represents that (a) Assignor is the lessor under the terms and provisions of any existing lease, either as the named lessor or as successor in interest to the named lessor; (b) the existing leases, if any, are not in default; (c) Assignor is entitled to receive all the rents, issues and profits and to enjoy all the rents and benefits mentioned herein and assigned hereby; (d) the same have not been heretofore sold, assigned, transferred or set over by any instrument now in force and will not at any time during the term of the Loan be sold, assigned, transferred, or set over by Assignor or any other person or persons taking under or through Assignor, except subject to this assignment; and (e) Assignor has the sole right to sell, assign, transfer, and set over the same and to grant and confer upon Assignee the rights, interests, powers, and authorities herein granted and conferred.

3. Assignor will from time to time execute any and all instruments requested by Assignee in order to effectuate this assignment and to accomplish any of the purposes that are necessary or appropriate in connection with this assignment including without limitations, specific assignments of any lease or agreement relating to the use and occupancy of the Premises or to any part thereof now or hereafter in effect and not specifically defined herein as an existing lease, as may be necessary or desirable in Assignee's opinion in order to constitute the same an existing lease hereunder.

4. This assignment shall in no way operate to restrict or prevent Assignee from pursuing any remedy which it may now or hereafter have because of any present or future breach of the terms or conditions of the Note, the Deed of Trust, the Loan Agreement or other loan documents.

5. Assignee shall not in any way be responsible for any failure to do any or all of the things for which the rights, interests, power, and authority are herein granted; and Assignee shall not be responsible for or liable under any of the agreements undertaken or obligations imposed upon the lessor under the leases or other agreements with respect to the Premises.

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6. Assignee shall be accountable only for such cash as it receives under the terms of this assignment.

7. Assignee's failure to do any of the things or exercise any of the rights, interests, powers, and authority granted hereunder shall not be construed as a waiver of any of the rights, interests, powers, or authorities assigned and granted to the Assignee under this assignment.

8. Assignee may assign this assignment and the rights accruing hereunder to any subsequent assignee and holder of the Note and Deed of Trust.

9. The parties agree that this assignment is effective as of the date hereof, and that upon demand made by the Assignee on the lessee under the leases or on any person liable for any of the rents, issues, and profits of and from the Premises or any part thereof, such lessee or person liable for any of such rents, issues, and profits shall, and is hereby authorized and directed to pay to or upon Assignee's order, and without any inquiry of any nature, all rents then or thereafter accruing under the leases or any other instrument or agreement, oral or written, granting rights to, and creating an obligation to pay, rents, issues, or profits in connection with the Premises.

10. As long as Assignor is not in default in the payment of any indebtedness evidenced by the Note or secured by the Deed of Trust, or in the performance of any obligation, covenant, or agreement contained in the Note, the Deed of Trust, the Loan Agreement or other loan documents executed in connection with the Loan, Assignee agrees not to demand from any lessee under the leases or from any other persons liable therefor, any of the rents, issues, or profits hereby assigned but grants Assignor a license to collect all such rents, issues, and profits from the Premises and the leases on but not prior to accrual and to retain and enjoy the same, provided, however, that notwithstanding the provisions of this section, all lessees under the leases and all persons liable for rents, issues, and profits of and from the Premises shall comply with any demands for rents made by Assignee pursuant to the provisions of this assignment without reference to whether or not the same is made in accordance with this section.

11. Upon or at any time after default in the payment of any indebtedness evidenced by the Note or secured by the Deed of Trust, or in the performance of any term, provision, condition, obligation, covenants, or agreement contained herein or in the Note, the Deed of Trust or other loan documents executed in connection with the Loan, and after the expiration of any period of grace, if any, with respect to any such default provided for in the Note, or Deed of Trust, Assignee may declare all sums secured by the Deed of Trust immediately due and payable, may revoke Assignor's license to collect the rents, issues and profits of and from the Premises, and may, at the Assignee's option, without notice, either in Assignee's person or by agent and with or without bringing any action or proceeding, or by any receiver to be appointed by a court enter upon, take possession of, and manage and operate the Premises and each and every part thereof, and in connection therewith, Assignee may make, cancel, endorse, and modify leases (including the existing lease); fix or modify rents; repair, maintain, and

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improve the Premises; employ contractors, subcontractors, and workmen in and about the Premises; obtain and evict tenants; in its own name, sue for or otherwise collect or reserve any and all rents, issues, and profits, including those past due and unpaid; employ leasing agents, managing agents, attorneys, and accountants in connection with the enforcement of Assignee's rights hereunder and pay the reasonable fees and expenses thereof; and otherwise do and perform any and all acts which Assignee may deem necessary and appropriate in and about the Premises for the protection thereof and of the Assignee's rights hereunder or under the Note and Deed of Trust, and any and all amounts expended by Assignee in connection with the foregoing shall constitute an additional indebtedness secured by the Deed of Trust. Assignee shall apply any moneys collected by Assignee, as aforesaid, less costs and expenses incurred, as aforesaid, upon any indebtedness secured hereby in such order and manner as Assignee may determine. The entering upon and taking possession of the Premises; the collection of rents, issues, and profits; the exercise of any rights hereinabove specified; and the application of collections, as aforesaid, shall not cure, waive, modify, or affect any default hereunder or under the Note or Deed of Trust.

12. All tenants or occupants of any part of the Premises (including, without limitation, all persons claiming any interest as lessee under the existing lease) are hereby authorized to recognize the claims and demands of Assignee without investigation as to the reason for any action taken by Assignee or the validity or the amount of indebtedness owing to Assignee or the existence of any default hereunder or under the Note, the Deed of Trust, the Loan Agreement or other loan documents executed in connection with the Loan, or the application to be made by Assignee, of any amounts to be paid to Assignee. Assignee's sole signature shall be sufficient for the exercise of any right under this assignment and Assignee's sole receipt given for any sums received shall be a full discharge and release therefor as to any such tenant or occupant of the Premises. Checks for all or any part of the rental collected under this assignment of rents and leases shall be made to the exclusive order of the Assignee.

13. Assignee shall not be obligated to perform or discharge any obligation, duty, or liability under the leases, nor shall this assignment operate to place upon the Assignee responsibility for the control, operation, management, or repair of the Premises or the carrying out of any of the terms and conditions of the leases; nor shall this assignment operate to make the Assignee liable for any waste committed on the Premises by the lessee under any lease or any other party, or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair, or control of the Premises, resulting in loss, injury, or death to any tenant, licensee, employee, invitee, or stranger.

14. Assignor shall, and does hereby agree to, indemnify and hold Assignee harmless of and from any and all liability, loss, or damage which it may or might incur under the leases or under or by reason of this assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in the leases. Should Assignee incur any such liability, loss, or damage under the leases or under or

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by reason of this assignment, or in the defense of any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall be secured hereby and Assignor shall reimburse the Assignee therefor immediately upon demand, and upon Assignor's failure to do so, the Assignee may declare all sums thereby immediately due and payable.

15. Assignee has not received, nor have any securities deposited by any lessee with the lessor under the terms of existing leases been transferred to Assignee; and the Assignee assumes no responsibility or liability for any securities so deposited.

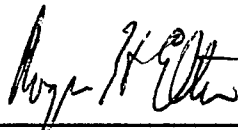
16. Assignor has not and will not accept rent in advance under any leases of all or any part of the Premises except only monthly rents for current months which may be paid in advance.

17. Assignor shall cause copies of this assignment to be served upon the lessees under the leases at Assignor's sole cost and expense, and will cause this assignment to be recorded and filed and rerecorded and refiled in each and every public office in which said filing and recording may be necessary to constitute record notice of this assignment and the terms and provisions hereof as applicable to the Premises.

18. Upon payment in full of all indebtedness and on the performance of all the obligations secured hereby, this assignment shall become null and void and of no effect.

19. This assignment is binding upon and inures to the benefit of the parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Assignor," as used herein, shall include each Assignor whose name appears below, severally and all such assignors, jointly and severally, and their respective heirs, legatees, devisees, executors, successors, and assigns. The term, "Assignee," as used herein, shall include the named Assignee and all said Assignee's successors and assigns, including each and every person or entity who or which from time to time, becomes owner and holder of the Note and Deed of Trust, and such successors and assigns shall have, hold, and enjoy all of the rights, and benefits hereby afforded and conferred upon the named Assignee as fully and with the same effect as if such successors and assigns were by name herein designated as Assignee.

IN WITNESS WHEREOF, the Assignor has executed this assignment as of the day, month, and year, first-above written.



ROGER H. ELTON, Trustee of the RHE TRUST
dated May 1, 1990

"Assignor"

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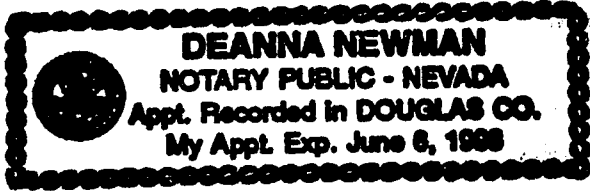
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STATE OF NEVADA)
)ss.
COUNTY OF ~~WASHOE~~)
 DOUGLAS

This instrument was acknowledged before me on AUGUST 28, 1995, by Roger H. Elton, Trustee of the RHE TRUST dated May 1, 1990.



Deanna Newman
Notary Public
My Commission Expires: JUNE 6, 1998

COPY

LEGAL DESCRIPTION

PARCEL 1

All that certain lot, piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

Lots 120, 121, 122, 123, 152, 153 and 154, as shown on the map of TOPAZ SUBDIVISION, filed in the office of the County Recorder of Douglas County, Nevada, on August 10, 1954, as File No. 9774.

TOGETHER WITH that real property lying and being in Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, State of Nevada, and more particularly described as follows:

Commencing at a point on the Northwest corner of Lot 123 of the Topaz Subdivision as recorded August 10, 1954, in the Official Records of Douglas County, Nevada, said point being the TRUE POINT OF BEGINNING; thence West, a distance of 60.00 feet; thence South $00^{\circ}04'$ West, a distance of 420.00 feet thence East, a distance of 60.00 feet to the Southwest corner of Lot 120 of aforesaid subdivision; thence North $00^{\circ}04'$ East, a distance of 420.00 feet to the True Point of Beginning.

ALSO TOGETHER WITH all that certain piece or parcel of land situated in the Southwest Quarter of Section 29, Township 10, North, Range 22 East, M.D.B. & M., County of Douglas, State of Nevada, described as follows:

Beginning at the intersection of the West line of Genoa Street and the South line of Topaz Subdivision, as shown on the map thereof, filed in the office of the County Recorder of Douglas County, Nevada, on August 10, 1954; thence North $0^{\circ}04'$ East along said West line of Genoa Street, a distance of 154.86 feet to the true point of beginning; thence continuing North $0^{\circ}04'$ East 265.14 feet to the South Line of Kit Carson Avenue, as shown on the map of Topaz Subdivision; thence West 385.87 feet to a point on the Easterly right of way curve of U.S. Highway 395 as described in the conveyance to the State of Nevada, recorded August 31, 1948, in Book Y of Deeds at Page 474, Douglas County, Nevada, records; thence Southeasterly along a curve having a radius of 4575 feet subtending a central angle of $3^{\circ}28'38''$ an arc distance of 277.71 feet to a point; thence leaving said right of way line, East a distance of 303.29 feet to the true point of beginning.

All that certain piece or parcel situate in the Southwest Quarter of Section 29, Township 10 North, Range 22, East, M.D.B. & M., described as follows:

Beginning at a 7/8 inch iron bar at the intersection of the West line of Genoa Street and the South line of Topaz Subdivision, as shown on the map of said subdivision, filed in the Office of the County Recorder of Douglas County, Nevada, on August 10, 1954, under Document No. 9774, Douglas County, Nevada, Records; thence from the point of beginning North $0^{\circ}04'$ East along the West line of Genoa Street a distance of 154.86 feet to a 7/8 inch iron bar, thence West 303.29 feet, to a point in the Easterly Right of Way line of U.S. Highway 395, as described in the conveyance to the State of Nevada, recorded August 31, 1948, in Book Y of Deeds at Page 473, Douglas County, Nevada records, thence along said highway right of way line along a curve to the right having

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EXHIBIT "A-1" (continued)

a radius of 4575 feet, through an angle of $2^{\circ}00'12''$, for an arc distance of 160.00 feet, to the intersection thereof, with the North line of the parcel conveyed to the M.K. & D. Company, recorded April 1, 1955 in Book B-1 of Deeds at Page 316, Douglas County, Nevada, Records; thence East along the line common to said M.K. & D. Company parcel a distance of 263.06 feet to the point of beginning.

ALSO TOGETHER WITH all that certain piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

A parcel of land being a portion of the Northwest 1/4 of the Southwest 1/4 of Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, Nevada and more particularly described as follows:

COMMENCING at the Southwest corner of Lot 152, TOPAZ SUBDIVISION, filed in the Douglas County Recorder's Office on August 10, 1954, thence West a distance of 60 feet to the true point of beginning;

Thence continuing West a distance of 406.39 feet more or less, to a point in the curve of the Easterly right of way Line of U.S. Highway 395, and thence a Radial bearing South $70^{\circ}20'59''$ West, thence Northerly along said right of way line through a curve whose central angle is $3^{\circ}45'26''$ having a radius of 4574.00 feet, an arc length of 300.00 feet to a point; thence South $89^{\circ}57'00''$ East, a distance of 516.88 feet to a point in the Westerly line of Genoa Street. (60 feet in width) thence South $0^{\circ}04'00''$ West along said Westerly line, a distance of 288.50 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH all that real property lying and being in the Southwest 1/4 of Section 29, Township 10 North, Range 22 East, M.D.B. & M., Douglas County, State of Nevada, and more particularly described as follows:

Commencing at the Southwest corner of Lot 152 of the Topaz Subdivision (as recorded August 10, 1954) thence West 60.00 feet to the TRUE POINT OF BEGINNING; thence West, a distance of 406.39 feet more or less to a point on the Easterly right-of-way of U.S. Highway 395; thence in a generally Southerly direction along the Easterly right-of-way of U.S. Highway 395 to the Northwest corner of that certain parcel of land as defined on page 4 of Exhibit A as recorded in Book 784 at page 138 of County Records, said point being further defined as lying on the South right-of-way line of Kit Carson Avenue per aforesaid subdivision; thence East, a distance of 385.87 feet more or less to the Southwest corner of Kit Carson Avenue with Genoa Street per aforesaid Subdivision; thence North $00^{\circ}04'$ East, a distance of 60.00 feet to the TRUE POINT OF BEGINNING.

ALSO TOGETHER WITH commencing at a point on the Northeast corner of that certain parcel of land as defined in Book 1084 at page 2650 of County Records, said point being the TRUE POINT OF BEGINNING; thence East, 60.00 feet, to the Easterly right-of-way line of Genoa Street as shown on the Topaz Subdivision (as recorded August 10, 1954): thence South $00^{\circ}04'$ West along the Easterly right-of-way line of Genoa Street to the Southwest corner of Lot 152 of the aforesaid Topaz Subdivision; thence East 200 feet to the Southeast corner of aforesaid Lot 152; thence South $00^{\circ}04'$ West, 60 feet to the Northeast corner of Lot 123 of the aforesaid Topaz Subdivision; thence West along the Southerly right-of-way line of Kit Carson Avenue to the Southwest corner at the intersection of Kit Carson Avenue with Genoa Street; thence North $00^{\circ}04'$ East along the Westerly right-of-way of Genoa Street to the TRUE POINT OF BEGINNING.

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EXHIBIT "A-1" (continued)

EXCEPTING THEREFROM a general Public Utility Easement being a strip of land, ten (10) feet in width, (measured at right angles) lying five (5) feet on both sides of the following described centerline being in portions of the former Kit Carson Avenue right-of-way as shown on the Topaz Subdivision (as recorded August 10, 1954); and being more particularly described as follows:

SECTION 1:

Beginning at the Northeast corner of Lot 123 of said Topaz Subdivision; thence North $0^{\circ}04'00''$ East, 5.00 feet to the TRUE POINT OF BEGINNING; thence North $89^{\circ}59'04''$ West, 524.00 feet to an angle point in said centerline; thence South $55^{\circ}14'05''$ West, 5 feet to the end thereof.

SECTION 2:

Beginning at the angle point in the above-described Section 1; thence North $89^{\circ}59'04''$ West, 22.00 feet to the end thereof.

A.P.N. 39-121-08

PARCEL 2

A parcel of land on the East side of U.S. Highway 395 in the South 1/2 of the Southwest 1/4 of Section 29, Township 10 North, Range 22 East, M.D.B. & M. in Douglas County, Nevada, more fully described as follows:

BEGINNING at a point which the 1/4 corner on the South boundary of said Section 29 lies East 1070.00 feet and South 225 feet; thence West parallel to the South line of Section 29, 416.84 feet to a point on the East right of way line of Highway 395; thence following the said right of way line Northerly on a curve to the left with a radius of 4,575 feet from a tangent bearing to the left with a radius of 4,575 feet from a tangent bearing North $5^{\circ}23'40''$ West, a distance of 608.90 feet; thence East 519.13 feet; thence South 600 feet to the Point of Beginning.

A.P.N. 39-142-11

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EXHIBIT "A-2"

LEGAL DESCRIPTION

NOTE: AS TO PARCEL 3 ONLY

All the leasehold estate under that certain lease as evidenced by that certain Memorandum of Lease with Purchase, dated May 17, 1990, between Donald Scott as lessor and Topaz Lodge Enterprises as lessee, the interest of Topaz Lodge Enterprises was deeded to Topaz Lodge, Inc., a Nevada corporation by document recorded November 23, 1993, in Book 1193, at Page 4657, as Document No. 323304, the interest of Topaz Lodge, Inc. was deeded to Roger H. Elton, as Trustee of the RHE Trust dated May 1, 1990 by Document recorded December 16, 1994 in Book 1294, at Page 2633, as Document No. 352783 and corrected by Document recorded March 9, 1995 in Book 395, at Page 1101, as Document No. 357585, for the lease of all that certain property situate, lying and being in the County of Douglas, State of Nevada, located in the South 1/2 of the Southwest 1/4 of Section 29, Township 10 North, Range 22, East, M.D.B. & M., in Douglas County, Nevada, more particularly described as follows:

BEGINNING at a point on the Southline of said Section 29, from which the South 1/4 corner thereof bears East 1,076.30 feet; thence along the said Section line West 394.00 feet to the Easterly right-of-way line of U.S. Highway 395; thence Northerly along said right-of-way line following a curve to the left with a radius of 4,575 feet, through an angle of 2°49'35" from a tangent bearing of 2°56'44" length of 225.69 feet; thence East 411.24 feet; thence South 225.00 feet to the TRUE POINT OF BEGINNING.

A.P.N. 39-142-03

Said Memorandum of Lease with Purchase having been recorded on May 25, 1990, in Book 590, at Page 4049, as Instrument No. 226864, Official records of Douglas County.

REQUESTED BY
WESTERN TITLE COMPANY, INC.
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

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LINDA SLATER
RECORDER
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