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WHEN RECORDED, RETURN TO:
PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, Utah 84147-0898
ATTN: W. Jeffery Fillmore

090408 Mk 0630 Pg 0713
Lynn Adams, Box Elder County Recorder
08/20/1996 3:59pm FEE: 24.00 Dep:RJ
Rec'd For: OLD REPUBLIC TITLE

03-154-0043
**ASSIGNMENT, SUBORDINATION,
NON-DISTURBANCE, ATTORNTMENT, AND ESTOPPEL**
(State of Utah)

THIS ASSIGNMENT, SUBORDINATION, NON-DISTURBANCE, ATTORNTMENT AND ESTOPPEL ("Agreement") is made and entered into as of this 8th day of August, 1996, by and among BOYER BEAR RIVER, L.C., a Utah limited liability company, of 127 South 500 East, Salt Lake City, Utah 84102 ("Borrower"); BANK ONE, ARIZONA, NA, a national banking association, Western Region Real Estate Division, 201 North Central Avenue, Phoenix, Arizona 85004 ("Lender"); and THE STATE OF UTAH, DIVISION OF CONSTRUCTION AND FACILITIES MANAGEMENT for and in behalf of the Department of Human Services ("Tenant").

RECITALS:

- A. Pursuant to a Loan Agreement (the "Loan Agreement") and related loan documents (the "Loan Documents") of even date herewith, Lender has agreed to make a loan ("Loan") to Borrower, secured in part by a Deed of Trust, Assignment of Rents, Security Agreement and Financing Statement ("Deed of Trust") on real property more particularly described on Exhibit A attached hereto (the "Real Property").
- B. Borrower, as a lessor, pursuant to that certain Lease Agreement executed April 11, 1996 (the "Lease") has leased the Real Property to the Tenant.
- C. The Loan Agreement requires as part of the Collateral for the Loan and as provided in this Agreement, that Borrower assign the Lease to Lender as collateral for the Loan and that Tenant agree to subordinate the Lease and its interest in the Real Property to the lien of the Deed of Trust, acknowledge that the Lease is in full force and effect, and agree to attorn to Lender.
- D. Pursuant to the terms and conditions of this Agreement, Lender is willing to accept the assignment of the Lease and the agreements with the Tenant.

NOW, THEREFORE, in reliance on the above Recitals for and in consideration of the premises and covenants as set forth herein and other good and valuable consideration, Lender, Borrower, and Tenant agree as follows:

- 1. Borrower's Assignment of the Lease. To secure the performance by Borrower of all of its obligations under the Loan Agreement and the Loan Document,

Borrower hereby sells, assigns, transfers, grants a security interest in, pledges, and sets over to Lender all of the Borrower's right, title, and interest in and to the Lease, including all amendments, modifications, supplements, documents, or addenda thereto made at any time, whether heretofore or hereafter.

2. Perfection of Security Interest. Borrower shall execute and deliver to Lender any financing statements, supplements thereto, or other instruments which Lender may, from time to time, reasonably require to perfect or preserve Lender's interests in the Lease or the priority thereof.

3. Borrower's Enjoyment Prior to Default. So long as no event of default ("Event of Default") has occurred under the Loan Agreement or the Loan Documents, Borrower shall be entitled to receive, exercise, and retain all of its rights, titles and interests in the Lease.

4. Enjoyment After Borrower's Default. Upon the occurrence of an Event of Default and thereafter, unless such Event of Default is cured or waived, Borrower hereby authorizes Lender, at Lender's option, to receive, exercise, or retain any or all of the right, title and interest of Borrower in and to the Lease, provided that from and after Lender's exercise of such option, and through a written amendment to the Lease, Lender performs all of the lessor's obligations accruing under the Lease.

5. Borrower's Indemnification. Nothing herein shall be construed to obligate Lender to perform any of Borrower's obligations under the Lease or otherwise to impose any obligation on the Lender. Borrower shall indemnify and hold Lender harmless from any and all liability, loss, claims, damage, costs, expenses, or fees, including attorneys' fees, which Lender may pay or incur in connection with the Lease by reason of the assignment or the enforcement of the Lease, or by reason of any alleged obligation or undertaking to be discharged or performed by Lender in connection with the Lease or this Agreement. Should Lender pay or incur any liability, loss, claim, damage, cost, expense, or fee covered by this Paragraph, Borrower, upon demand, shall immediately reimburse Lender for the entire amount thereof.

6. Borrower's Warranties and Covenants. Borrower represents and warrants that: (i) it is the sole holder and owner of all of the right, title and interest of the lessor under the Lease; (ii) upon Tenant's approval and consent, it has the right to assign such right, title and interest upon the terms and conditions herein contained; (iii) the Lease is valid and in full force and effect; (iv) there is no outstanding assignment of, pledge of, or security interest concerning the Lease which would adversely affect or make ineffective the assignment herein created; (v) Borrower is not presently in default under the Lease; and (vi) Borrower has not performed any act or executed any instrument which could prevent Lender from enforcing, or limit Lender's enforcement of, any of the provisions of this Assignment. Borrower covenants and agrees that, so long as the Loan is outstanding, Borrower: (i) shall not make any subsequent assignment or concerning the Lease to any person other than Lender; and (ii) shall fulfill and discharge all obligations and duties of the lessor under the Lease and shall maintain said Lease in good standing and in full force and effect.

7. Lender's Right to Cure Borrower's Lease Default; Consent by Tenant.

In the event Borrower receives any notice of default under the Lease, Borrower shall immediately deliver a copy thereof to Lender. Lender shall have the right, but not the duty, to make such payment or to take such action as may be necessary to cure the alleged default. All costs incurred by Lender curing any default, including attorneys' fees, shall become any additional obligation of Borrower to Lender, which amounts, together with interest thereon at the rate of interest provided in the Loan Agreement. Tenant agrees that Borrower shall not be in default under the Lease, unless written notice specifying such default is given to Lender. Tenant agrees that Lender shall have the right to cure such default on behalf of Borrower as provided in the Lease. Tenant further agrees not to invoke any of its remedies under the Lease until the cure periods in the Lease have elapsed, or during any period that Lender is proceeding to cure such default with due diligence, or is diligently taking steps to obtain the right to enter the Real Property and cure the default.

8. Lender's Assurance to Tenant.

Borrower hereby irrevocably authorizes Tenant, upon receiving notice from Lender that an Event of Default has occurred, to recognize and deal with Lender as fully vested with all of the right, title, and interest of Borrower under the Lease. Borrower hereby acknowledges to, and agrees in favor of Tenant that to the extent Tenant performs the obligations under the Lease for the benefit of Lender, and otherwise recognizes Lender as being entitled to exercise all of Borrower's rights under the Lease, Tenant will have fully complied with its obligations under the Lease regarding the performance of any obligation concerned and shall thereby incur no liability to Borrower.

9. Tenant Acknowledgement.

Tenant acknowledges that (a) the interest of Borrower in the Lease has been assigned to Lender as security for the Loan; (b) all rents due under the Lease are security for the Loan; (c) Lender assumes no duty, liability or obligation under the Lease or any extension or renewal of the Lease, either by virtue of said assignment or by receipt or collection of rents under the assignment; and (d) no rental shall be paid other than as now provided in the Lease or in such modification of the Lease as may receive the written approval of Lender.

10. Tenant Subordination.

The Lease, and the rights of Tenant in, to and under the Lease and the Real Property, are hereby subjected and subordinated, and shall remain in all respects and for all purposes, subject and subordinate to the lien of the Deed of Trust and to any and all renewals, modifications and extensions of the Loan, the Deed of Trust, and any and all other rights and instruments held by Lender as security for the Loan.

11. Tenant Not to be Disturbed.

So long as Tenant is not in default (beyond any period given Tenant by the terms of the Lease to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, (a) Tenant's possession of the Real Property, or any extension or renewal rights therefore in the Lease shall not be diminished or interfered with by Lender, and Tenant's occupancy of the Real Property shall

not be disturbed by Lender during the term of the Lease or any such extensions or renewals thereof, and (b) Lender will not join Tenant as a party defendant in any action or proceeding foreclosing the Deed of Trust, unless such joinder is necessary to foreclose the Deed of Trust, and then only for such purpose and not for the purpose of terminating the Lease.

12. Tenant Rental Payments to Borrower. Until Tenant is otherwise notified in writing by Lender, Tenant shall make all rental payments under the Lease to Borrower.

13. Tenant Payment to Lender. Through a written amendment to the Lease (the "Lease Amendment"), which Lease Amendment will be reasonably concluded, Tenant agrees to pay directly to Lender all rents due under the terms of the Lease. Borrower acknowledges and agrees that such payment by Tenant to the extent of such payment, shall pay and discharge Tenant's obligation of such payment to Borrower.

14. Tenant to Attorn to Lender. If Lender shall become the owner of the Real Property or the Real Property shall be sold by reason of foreclosure or other proceeding brought to enforce the Deed of Trust or the Real Property shall be transferred by deed in lieu of foreclosure or any proceedings are brought for foreclosure of the Deed of Trust, the Lease shall continue in full force and effect as a direct Lease between the then owner of the Real Property and Tenant, and Tenant hereby attorns to Lender, or any other such owner as its lessor, said attornment to be effective upon the signing of the Lease Amendment; provided, however, that without the execution of any further instruments, Lender or such other owner shall not be (a) liable for any act or omission of any prior lessor (including Borrower as lessor), or (b) subject to any offsets or defenses which Tenant might have against any such prior lessor, or (c) bound by any prepayment of rent or additional rent which Tenant might have paid, except as otherwise expressly required by the terms of the Lease, or (d) bound by any amendment or modification of the Lease or by waiver or forbearance on the part of any such prior lessor made or given without the written consent of Lender or any subsequent holder of the Deed of Trust. Tenant shall be under no obligation to pay rent to Lender or any such other owner until Tenant receives written notice from Lender or any such other owner that it has succeeded to Borrower's interest under the Lease.

15. Purchase Options Subordinate. Any option or rights contained in the Lease, or otherwise existing, to acquire any or all of the Real Property are hereby made subject and subordinate to the rights of Lender under the Deed of Trust and any acquisition of any or all of the Real Property made by Tenant during the term of the Loan shall be made subordinate and subject to the Deed of Trust.

16. Tenant Estoppel. Tenant hereby certifies to Lender that, subject to the construction of the premises which are covered by the Lease and other conditions of the Lease for the occupancy of the Real Property (a) the Lease is in full force and effect as written and unmodified; (b) the Borrower is not in default under the Lease; (c) Tenant is

not in default under the Lease; (d) no rent required under the Lease has been paid for more than thirty (30) days in advance of its due date; (e) Tenant has, at this time, no defense, charge, lien, claim or offset under the Lease or otherwise against the rents, obligations or stipulations due or to become due or required thereunder; and (f) except as Tenant under the Lease, Tenant does not possess any right, title or interest in the Real Property evidenced by option, contract, agreement or deed, for the purchase of, or affecting, all or any part of the Real Property, whether by verbal understanding or by recorded or unrecorded instrument.

17. No Modification of Lease. Nothing herein contained is intended, nor shall it be construed, to abridge any right or remedy of Borrower under the Lease in the event of any default by Tenant (beyond any period given Tenant to cure such default) in the performance of the Lease.

18. Assignability, Duration. Lender shall have the right to assign its rights under this Agreement to any holder of the Loan Agreement or to any person who, through foreclosure or otherwise, acquires an interest in the real property as a result of the occurrence of an Event of Default. This Agreement shall remain in full force and effect, and the interests of the Lender in the Lease shall continue to exist, so long as the Loan is outstanding.

19. Rights Cumulative. The rights accorded Lender by this Agreement are in addition to, and not in substitution or limitation of, any right, remedy, power, or authority of Lender under the Loan Agreement, or under any Loan Document, or under now existing or hereafter arising applicable law. All rights, remedies, powers, or authorities of Lender hereunder, the Loan Agreement or under any other instrument relating to the security for the Loan or under now existing or hereafter arising applicable law, are distinct and cumulative and may be exercised concurrently, independently, or successively.

20. Interpretation. The captions which precede the paragraphs of this Agreement are for conveniences only and shall in no way affect the manner in which any provision hereof is construed. This Agreement shall be governed by and construed in accordance with the laws of the state of Utah.

21. Notices. Whenever this Agreement requires or permits any consent, approval, notice, request or demand from one party to another, the consent, approval, notice request or demand must be in writing to be effective and shall be deemed to have been given and received on the earlier of the date (1) when actually delivered to the address of the party to be notified if delivered by messenger or courier, or (2) if mailed, on the earlier of the date actually delivered to the address of the party to be notified or (whether ever so delivered or not) on the third business day after it is enclosed in an envelope, properly stamped, sealed and deposited in the United States mail, certified, return receipt requested. For purposes hereof, the address of Lender, Tenant and Borrower are as set forth on page one of this Agreement (or is at such other address as may have been designated by written notice given in accordance herewith).

22. Binding Effect. This Agreement shall inure to and be binding upon the heirs, successors and assigns of the parties hereto.

23. Entire Agreement. This Agreement constitutes the entire Agreement among the parties hereto with respect to the subject matter of this Agreement and no modification or waiver shall be effective unless in writing and signed by the parties to be charged and may not be contradicted by any evidence of any alleged oral agreement.

24. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered shall be an original but all of which shall together constitute one and the same Agreement.

IN WITNESS WHEREOF, Borrower has caused this Agreement to be signed by authority duly given as of date first above written.

TENANT:

THE STATE OF UTAH DIVISION OF CONSTRUCTION AND FACILITIES MANAGEMENT

By: [Signature]
Title: Program Director, Facilities Management

LENDER:

BANK ONE, ARIZONA, NA, a national banking association

By: [Signature]
Title: Vice President

BORROWER:

BOYER BEAR RIVER, L.C., a Utah limited liability company

By: Its Manager
THE BOYER COMPANY, L.C., a Utah limited liability company

By: [Signature]
Ken C. Gardner, Manager and President

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

The foregoing ASSIGNMENT, SUBORDINATION, NON-DISTURBANCE, ATTORNMEN, AND ESTOPPEL was acknowledged before me this 16th day of August, 1996, by Jack Quintera, the Program Director, Facilities Management of THE STATE OF UTAH, DIVISION OF CONSTRUCTION AND FACILITIES MANAGEMENT, who signed on behalf of said entity.

My Commission Expires: 2-29-2007
[Signature]
NOTARY PUBLIC
Salt Lake County



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

The foregoing ASSIGNMENT, SUBORDINATION, NON-DISTURBANCE, ATTORNMENT, AND ESTOPPEL was acknowledged before me this 19 day of August, 1996, by KEM C. GARDNER, Manager and President of THE BOYER COMPANY, L.C., a Utah limited liability company, the Manager of BOYER BEAR RIVER, L.C., a Utah limited liability company, assigned on behalf of said limited liability company.

My  KIMBERLY GARDNER
127 South 500 East #310
Salt Lake City, Utah 84102
My Commission Expires
December 31, 1999
STATE OF UTAH

Kimberly Gardner
NOTARY PUBLIC
Residing at: _____

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

The foregoing ASSIGNMENT, SUBORDINATION, NON-DISTURBANCE, ATTORNMENT, AND ESTOPPEL was acknowledged before me this 19 day of August, 1996, by John F. Sorenson, the Vice President of BANK ONE, ARIZONA, NA, a National Banking Association, who signed on behalf of said national banking association.

My Commission Expires:

 DAVID A. SORENSON
1328 South Main
Salt Lake City, Utah 84118
My Commission Expires
June 20, 1997
State of Utah

David A. Sorenson
NOTARY PUBLIC
Residing at: Salt Lake County

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EXHIBIT A

PROPERTY DESCRIPTION

That certain parcel of property located in Box Elder County, Utah and which is more particularly described as follows:

All of Lot 11, GEORGIA ESTATES SUBDIVISION NO. 4, according to the official plat thereof, recorded May 3, 1996 as Entry No. 86871 in Book 26-9 of Plats at Page 2 of the official records, Box Elder County Recorder's Office.
