

9094394

MIT: 04038219

PARCELS: 26-11-329-004; 003

When Recorded, Mail to:
Bingham Park, L.C.
P.O. Box 520370
Salt Lake City, Utah 84152-0370
Attention: Steven M. Perry

9094394
06/18/2004 10:58 AM 68.00
Book - 9002 Pg - 7617-7621
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
METRO NATIONAL TITLE
BY: ZJM, DEPUTY - WI 5 P.

**SUPPLEMENT NO. 5 TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BINGHAM BUSINESS PARK**

THIS SUPPLEMENT NO. 5 TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BINGHAM BUSINESS PARK (this "Supplement No. 5") is made this 16 day of June, 2004, by BINGHAM PARK, L.C., a Utah limited liability company ("Declarant").

RECITALS:

A. On April 14, 1999 Declarant caused to be recorded in the Office of the Recorder of Salt Lake County, Utah the subdivision plat (the "Plat") for Bingham Business Park as Entry No. 7322350.

B. In connection with the creation of Bingham Business Park, Declarant executed that certain Declaration of Covenants, Conditions and Restrictions for Bingham Business Park dated June 26, 2000 (the "Initial Declaration"). The Initial Declaration was recorded in the Office of the Recorder of Salt Lake County, Utah on June 27, 2000 as Entry No. 7668499 in Book 8371 at Pages 1663 through 1679. The Initial Declaration pertains to and affects all of Lots 1 through 10, inclusive, and Lot 19 of Bingham Business Park.

C. Section 1.1(1) of the Initial Declaration contains a definition of the "Property" that is subject to the terms and conditions of the Initial Declaration. Section 1.1(1) of the Initial Declaration provides that the term "Property" shall mean all of Lots 1 through 10, inclusive, and Lot 19 of Bingham Business Park, located in the City of West Jordan, Salt Lake County, State of Utah, as subdivided by the Plat which was recorded on April 14, 1999 as Entry No. 7322350 in the Office of the Recorder of Salt Lake County, Utah, and any other Lots within Bingham Business Park that may be subjected to the Initial Declaration by a Supplemental Declaration executed and recorded by Declarant or by the then owner of the property within Bingham Business Park that is subjected to the Initial Declaration.

D. The Initial Declaration was supplemented and amended by those certain Supplements to Declaration of Covenants, Conditions and Restrictions for Bingham Business Park as shown on *EXHIBIT "A"* to this document (the "Supplements").

E. Declarant owns Lot(s) 16 and 17 of Bingham Business Park (herein individually referred to as "Lot 16" and "Lot 17"). Pursuant to Section 1.1(1), Declarant desires to subject Lot 16 and Lot 17 to the Initial Declaration.

F. Declarant will convey all of Lot 16 and all of Lot 17 subject to all the covenants, conditions and restrictions as set forth in the Initial Declaration, as supplemented and amended

by the Supplements and as supplemented and amended by this Supplement No. 5, all of which are deemed to be covenants running with the land, mutually burdening and benefiting all of the Property subject to the Initial Declaration, as supplemented and amended by the Supplements.

ARTICLE I

DECLARATION

1.1 Initial Declaration Incorporated by Reference. The Initial Declaration as supplemented and amended by Supplement No. 1, 2, 3 and 4 in its entirety is hereby incorporated by reference and made a part of this Supplement No. 5 as though it were set forth herein in its entirety. The Initial Declaration, as supplemented and amended by Supplements No. 1, 2, 3 and 4 and as supplemented and amended by this Supplement No. 5 shall herein collectively be referred to as "this Declaration."

1.2 Lots 16 and 17 Subjected to this Declaration. Declarant hereby declares that, subject to paragraph 3.1(1) all of Lot 16 and all of Lot 17 are subject to this Declaration, and Lot 16 and Lot 17, together with all of Lots 1 through 10, inclusive and Lot 18, 19, 20, 21, 26, 38 and 41 of Bingham Business Park, shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to and in strict accordance with all of the terms and conditions of this Declaration, including without limitation all of the covenants, conditions and restrictions set forth herein, all of which are created for the mutual benefit of the Owners of the Property. All of the terms and conditions of this Declaration, including without limitation all covenants, conditions and restrictions set forth herein, are intended to and shall in all cases run with the title of the land comprising the Property and shall be binding upon and inure to the benefit of the Owners, their successors, assigns, heirs, lien holders, and any other person holding any interest in the Property. All of the terms and conditions of this Declaration, including without limitation the covenants, conditions and restrictions set forth herein, shall be binding upon Declarant as well as all of Declarant's successors in interest, and may be enforced by Declarant, by the Architectural Committee, or by any Owner.

ARTICLE II

DEFINITIONS

2.1 All of the terms which are defined in the Initial Declaration shall continue to have the same meaning when used in this Declaration, except with respect to the following terms defined in Section 1.1 of the Initial Declaration, which are hereby amended to have the following meanings:

(e) "Declaration" shall mean the Initial Declaration, as supplemented and amended by Supplement No. 1, 2, 3 and 4 and as supplemented and amended by this Supplement No. 5, together with any subsequent supplements or amendments to this Declaration.

(l) "Property" shall mean all of Lots 1 through 10, inclusive, Lots 16, 17, 18, 19, 20, 21, 26, 38 and 41 of Bingham Business Park, located in the City of West Jordan, Salt Lake County, Utah, as subdivided by the Plat which was recorded on April 14, 1999 as Entry No.

7322350 in the Office of the Recorder of Salt Lake County, Utah, and any other Lots within Bingham Business Park that may be subjected to this Declaration by a Supplemental Declaration executed and recorded by Declarant or by the then owner of the property within Bingham Business Park that is subjected to this Declaration.

ARTICLE III

ADDITIONAL AMENDMENT

3.1 The Initial Declaration is hereby amended by adding the following additional language:

3.1(1) Lot 16 and Lot 17 shall be exempt from the Initial Declaration and the Supplements provided; a) Lot 16 and Lot 17 remain under the ownership of the Utah Department of Transportation (U.D.O.T.) and; b) Lot 16 and Lot 17 are used specifically for the purposes of developing, constructing and building the contemplated "Mountain View Corridor" or other like kind improvements through Lot 16 and Lot 17.

3.1(2) At the time U.D.O.T. sells, leases, transfers or conveys either one or both of Lots 16 and 17 paragraph 3.1(1) shall no longer apply and Lot 16 and Lot 17 shall be immediately subject to and benefit from this Declaration and the Supplements in their entirety.


ARTICLE IV

Except as expressly provided in this Supplement No. 5, all other terms and conditions of the Declaration are unmodified and remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has executed this Supplement No. 5 as of the date first above written.

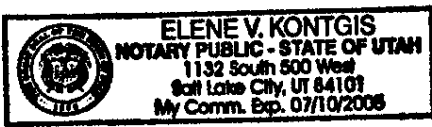
BINGHAM PARK, L.C., a Utah limited liability company

By: PACIFIC COMERCIAL PROPERTIES
CORP., a Utah corporation
Title: Member

By: 
Richard Matthews
Title: CFO

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 16 day of June, 2004 by Richard Matthews in his capacity as the CFO of Pacific Commercial Properties Corp., a Utah corporation, which executed the foregoing instrument in its capacity as the Manager of Bingham Park, L.C., a Utah limited liability company.



Elene V. Kontgis
NOTARY PUBLIC
Residing at: SLC, Utah

My Commission Expires:

7.10.05

EXHIBIT "A"

This EXHIBIT "A" is attached and made part of that certain SUPPLEMENT NO. 5 TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BINGHAM PARK Dated June 2, 2004 wherein Bingham Park, L.C. is the "Declarant".

16
PM

15. Declaration of Covenants, Conditions and Restrictions for BINGHAM BUSINESS PARK and the obligations thereof:

Recorded | JUNE 27, 2000
Entry No. | 7668499
Book/Page | 8371/1663

Except to the extent that they are exempt therefrom all declarations, covenants or restrictions based upon race, color, religion, sex, handicap, familial status or national origin are deleted herefrom pursuant to Federal Law Title 42, Section 3607 or other applicable federal or state law.

Supplement No. 1 to Declaration of Covenants, Conditions and Restrictions for BINGHAM BUSINESS PARK

Recorded | SEPTEMBER 19, 2000
Entry No. | 7721491
Book/Page | 8388/5212

Supplement No. 2 to Declaration of Covenants, Conditions and Restrictions for BINGHAM BUSINESS PARK

Recorded | APRIL 18, 2003
Entry No. | 8616880
Book/Page | 8780/3134

Supplement No. 3 to Declaration of Covenants, Conditions and Restrictions for BINGHAM BUSINESS PARK

Recorded | DECEMBER 31, 2003
Entry No. | 8936967
Book/Page | 8929/4404

Supplement No. 4 to Declaration of Covenants, Conditions and Restrictions for BINGHAM BUSINESS PARK

Recorded | MARCH 11, 2004
Entry No. | 9001558
Book/Page | 8956/7489