

9826185
8/28/2006 11:44:00 AM \$33.00
Book - 9341 Pg - 9748-9758
Gary W. Ott
Recorder, Salt Lake County, UT
METRO NATIONAL TITLE
BY: eCASH, DEPUTY - EF 11 P.

WANT #06047252

WHEN RECORDED PLEASE RETURN TO:
Sean Monson
BENNETT TUELLER JOHNSON & DEERE
3865 S. Wasatch Blvd, Suite 300
Salt Lake City, Utah 84109

Salt Lake County
Parcel I.D. No.
2701301012
2701301013
2701301014

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

This Declaration of Easements, Covenants and Restrictions (this "**Declaration**") is entered into as of the 24th day of August, 2006, by and between Tai-Pan Sandy, LLC (formerly named Tai-Pan Holdings, LLC) a Utah limited liability Company ("**Tai-Pan**") and M&T Investments, LLC, a Utah limited liability company ("**M&T**").

WHEREAS, Tai-Pan is the Owner of a certain parcel of real estate located in Utah County, State of Utah as more fully described on Exhibit "A" ("**Parcel 1**"); and

WHEREAS, M&T is the Owner or Lessor of certain parcels of real estate located adjacent to Parcel 1 as more fully described on Exhibit "B" ("**Parcel 2**"); and

WHEREAS, the parties hereto desire to provide reciprocal easements for pedestrian and vehicular ingress, egress, parking, passage and traffic and for the other obligations set forth herein;

NOW THEREFORE, the above recitals are incorporated herein, and in consideration of the reciprocal benefits to be derived from the easements, restrictions, covenants, and requirements set forth below, the parties hereto consent, acknowledge, and agree to the following terms and provisions:

1. General Grant of Easement. Tai-Pan and M&T hereby grant to each other, and Parcel 1 and Parcel 2 shall have appurtenant thereto and shall be benefited and burdened by, a non-exclusive easement for ingress and egress by vehicular and pedestrian traffic over and across such portions of each of the respective parcels where improvements are located on such portions at the time concerned which are intended and designated for use as parking areas for automobiles, driveways and sidewalks as the same may be composed of from time to time (the “*Common Areas*”).

2. Mutual Benefits and Burdens. The mutual benefits and burdens herein include:

a. Pedestrian easement. A non-exclusive easement for the purpose of pedestrian traffic between each parcel and the public streets and ways now and hereafter adjacent to or located on any portion of either parcel, the parking areas now and hereinafter located on either parcel, over, across, and upon the Common Areas; limited, however, to those portions of each site which are improved from time to time for pedestrian sidewalks, parking lots and driveways and made available by such Owner for general use, as such portions may be reduced, increased or relocated from time to time by each such Owner.

b. Vehicle Easement. A non-exclusive easement for the purpose of vehicular traffic over, upon, across and between each parcel and public streets and ways now and hereafter adjacent to or located upon any portion of either parcel; limited, however, to those portions of each parcel which are improved from time to time for vehicular access as such portions may be relocated from time to time by the Owner of each parcel, the vehicular easements herein described shall include a non-exclusive right of the parking of vehicles upon either parcel in such areas as the Owner of such parcel may designate, provided, however, the Owner of each respective parcel shall retain the

right to designate up to one hundred percent (100%) of any such parking stalls for the exclusive use of the Owner or its designees. Such designation shall be effective upon notice to the other party hereto in any manner reasonably calculated to convey the intent to designate such parking areas as exclusive. No such designation of exclusive parking areas shall in any way impair the non-exclusive easements for vehicular traffic over and across each parcel as hereinbefore agreed.

c. No Barriers. Except to the extent approved in writing by the other Owner, no Owner shall permit or suffer to be constructed or placed upon any portion of the Common Areas, any fence, wall, barricade, or other obstruction, whether temporary or permanent in nature, which would unreasonably limit or impair vehicular or pedestrian traffic from one portion of the Common Areas to another or shall otherwise unreasonably obstruct or interfere with the flow of traffic upon the Common Areas, except (i) as may be reasonably necessary or appropriate during periods that construction activities are ongoing or to the extent that it may be necessary to do so temporarily to prevent a public dedication of, or the accrual of any rights in the public in either parcel or to the extent objectively necessary to prevent eminent damage to the Common Areas, provided that any obstruction or interference permitted under this clause (i) shall be done in a manner reasonably calculated to minimize its impact upon the businesses located on the parcels, or (ii) that each Owner may construct such obstructions within the Common Areas owned by such Owner as long as such Owner provides a reasonable interconnection with the adjacent Common Area owned by the other Owner.

3. Restrictions of Use and Development. Neither party shall construct any building or other structure of whatsoever nature or allow any use of their respective property which construction or use would entail or be the subject of any law, ordinance, or regulation, wherein the parking

requirements under such law ordinance or regulation with respect to such parcel upon which such use or construction would be in excess of the areas actually dedicated to parking on such parcel. It is the intent of this provision that except as parking may be available on the Owner's parcel, the easements and other rights herein conveyed shall not be considered as parking available for any development or use of the Owner's parcel for purposes of compliance with parking laws, regulations, or ordinances, and that each parcel must be used and developed with adequate parking facilities associated with each individual parcel.

4. Maintenance. Each Owner shall be solely responsible for maintaining the Common Areas on the parcel owned by such Owner, and neither Owner shall have any obligation to maintain land or Common Areas owned by the other Owner.

5. Easements Appurtenant. Each and all of the easements and rights granted or created herein are appurtenant to the affected portions of the entire parcel and none of easements and rights may be transferred, assigned, or encumbered, except as an appurtenance to such parcel. For the purposes of such easements and rights, the entire parcel which is benefited by such easements shall constitute the dominant estate and the particular areas of the entire parcel which are burdened by such easements and rights shall constitute the servient estate.

6. Nature and Effect of Easements. Each and all of the easements, restrictions and covenants, and provisions contained in this Declaration: (a) are made for the direct, mutual, and reciprocal benefit of the respective parcels; (b) create mutual equitable servitudes upon each parcel in favor of the other; (c) constitute covenants running with the land; (d) shall bind every person or entity that may have, or acquire any fee, leasehold or other interest in any portion of either parcel at any time or from time to time to the extent that such interest is affected or bound by the easement,

covenant, restriction or provision or to the extent that such easement, covenant, restriction, or provision is to be performed by such person.

7. Taxes. The Owner of each parcel shall pay or cause to be paid all real estate taxes and special assessments which are levied against that portion of the Common Area on its parcel prior to delinquency of such taxes or special assessments.

8. Representations and Warranties. The person signing on behalf of each Owner represents and warrants (i) that such person has the authority to sign for and bind such Owner and (ii) that such Owner is the legal owner of the parcel as set forth in the recitals above.

9. Acceptance of Improvements. M&T agrees and acknowledges that all of the improvements as presently constructed on Parcel 1 comply with the terms of this Declaration. Tai-Pan agrees and acknowledges that all of the improvements as presently constructed on Parcel 2 comply with the terms of this Declaration.

10. No Third Party Enforcement. It is the intent of this Declaration that only the parties hereto or their successors or assigns in title shall be entitled to enforce or bring an action to enforce the terms hereof and no tenant, occupant or third party is an intended beneficiary hereof and any benefits flowing to such persons are merely incidental and it is the intent of the parties hereto that no such third person shall have an independent right of action hereunder.

11. Duration. The easements, covenants, restrictions and other provisions of this Declaration shall become effective upon the filing of the same with the Office of the Salt Lake County Recorder and shall terminate 99 years after the filing of this Declaration with the Office of the Salt Lake County Recorder unless extended or earlier terminated by mutual agreement of the parties or their successors in interest.

12. Discharge of Rights and Duties Upon Transfer. In the event of assignment, transfer or conveyance of the whole of the interest of any Owner in and to any parcel, without retaining any beneficial interest other than under the terms of a deed of trust, mortgage or similar instrument, the powers, rights and obligations created hereunder will be deemed assigned, transferred and conveyed to such transferee, and such powers, rights and obligations will be deemed assumed by such transferee, effective as of the date of transfer. The obligations and rights of the transferor shall immediately thereafter be deemed discharged as to any such rights and obligations arising after transfer of the interest.

13. Amendment. This Declaration or any easement, covenant, restriction, or undertaking contained herein, may be terminated, extended or amended by recording of an appropriate document in the Office of the Salt Lake County Recorder, State of Utah, which document must be executed by the parties or their successors or assigns in title.

14. No Public Dedication. Nothing contained in this Declaration shall, constitute a gift or dedication of any portion of any parcel to the general public or for any public purpose whatsoever.

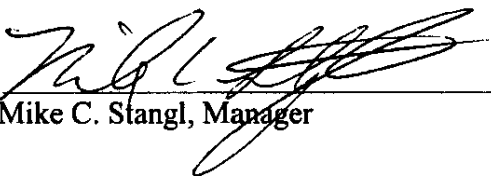
15. Waiver. No waiver of any breach of any of the terms hereof shall be construed as or constitute a waiver of any other breach or acquiescence in or consent to any further or succeeding breach of the same or other covenant or term of this Declaration.

16. Enforcement and Severability. If any party to this Declaration takes action to enforce the terms of this Declaration, the substantially prevailing party shall be entitled to its reasonable attorneys' fees incurred in any reasonable enforcement of this Declaration. If any term or provision hereof shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of

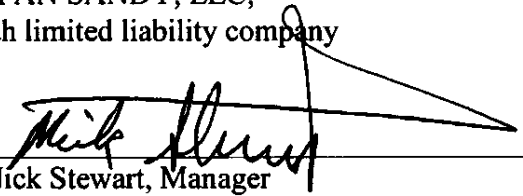
this Declaration shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by the law.

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

M & T INVESTMENTS, LLC,
a Utah limited liability company

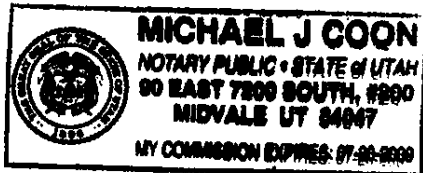
By: 
Mike C. Stangl, Manager

TAI-PAN SANDY, LLC,
a Utah limited liability company

By: 
Nick Stewart, Manager

State of Utah)
) ss:
County of SALT LAKE

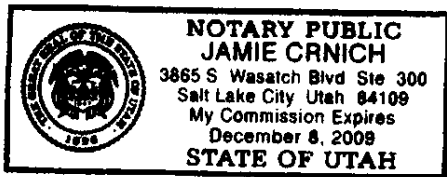
On the 21st day of August, 2006, personally appeared before me Mike Stangl, who being by me duly sworn did say that he is the Manager of M&T Investments, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed by him as the manager for said company with full authority to sign on behalf of said company.



Michael J. Coon
Notary Public

STATE OF)
) ss:
County of)

On the 24th day of August, 2006, personally appeared before me Nick Stewart, who being by me duly sworn did say that he is the Manager of Tai-Pan Sandy, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed by him as the manager for said company with full authority to sign on behalf of said company.



Nick Stewart
Notary Public

Exhibit "A"

Parcel 1 Description

Located in the Southwest Quarter of Section 1,
Township 3 South, Range 1 West,
Salt Lake Base & Meridian.

Beginning at a point being Northwest Corner of Sandy Parkway Plat B and also being on the south line of 9000 South Street, said point being South 89°58'11" East 1015.74 feet along the quarter section line and South 0°00'41" East 17.02 feet along the extension of west line of said Sandy Parkway Plat B from the West Quarter Corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base & Meridian, and running;

Thence South 0°00'41" East 526.43 feet along the west line of said Sandy Parkway Plat B;

thence North 89°59'43" West 537.46 feet;

thence due North 443.70 feet to the south line of 9000 South Street;

thence North 89°53'45" East 120.07 feet along the south line of said 9000 South Street;

thence North 78°49'15" East 425.35 feet along the south line of said 9000 South Street to the point of beginning,

Containing approximately 255,774 square feet (5.87 acres), and also described as Salt Lake County Parcel ID # 2701301014.

Exhibit "B"

Parcel 2 Description

Located in the Southwest Quarter of Section 1,
Township 3 South, Range 1 West
Salt Lake Base & Meridian

Part A

Beginning at a point being South 89°58'11" East 478.38 feet along the quarter section line and South 246.92 feet from the West Quarter Corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base & Meridian, and running;

thence South 296.78 feet;
thence North 89°59'43" West 355.48 feet;
thence North 15°18'32" West 7.91 feet;
thence North 5°04'33" West 179.22 feet;
thence West 66.40 feet to the east line of 700 West Street;
thence North 0°13'48" East 46.28 feet along the east line of said 700 West Street;
thence East 56.76 feet;
thence North 80°27'48" East 388.24 feet to the point of beginning,

Containing approximately 100,636 square feet (2.31 acres), and also described as Salt Lake County Parcel ID # 2701301013.

and

Part B

Beginning at a point on the south line of 9000 South Street, said point being South 89°58'11" East 478.38 feet along the quarter section line and South 100.00 feet from the West Quarter Corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base & Meridian, and running;

thence South 146.92 feet;
thence South 80°27'48" West 388.24 feet;
thence West 56.76 feet to the east line of 700 West Street;
thence North 0°13'48" East 210.45 feet along the east line of said 700 West Street to the south line of 9000 South Street;
thence North 89°53'45" East 438.79 feet along the south line of said 9000 South Street to the point of beginning,

Containing approximately 80,293 square feet. 1.84 acres, and also described as Salt Lake County Parcel ID # 2701301012.

and

Part C

The eastern portion of the real property leased by M&T from the Utah Department of Transportation pursuant to a lease agreement with a commencement date of March 1, 2003, which portion of the leased property is described as follows:

Beginning at the intersection of the south line of 9000 South Street and the extension of the west line of Sandy Parkway Plat "B" said point being South 89°58'11" East 1015.74 feet along the quarter section line to the extension of the west line of said Sandy Parkway Plat "B" and South 0°00'41" East 17.02 feet along the extension of the west line of said Sandy Parkway Plat "B" from the West Quarter Corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said point of beginning also being Southwesterly 256.25 feet along the arc of a 2864.79 foot radius curve to the left, (center bears South 1°21'05" East and the long chord bears South 86°05'10" West 256.16 feet with a central angle of 5°07'30"), along the centerline of 9000 South Street and South 6°28'35" East 75.00 feet to the south line of said 9000 South Street and South 78°49'15" West 62.88 feet along the south line of said 9000 South Street from a monument found at the intersection of said 9000 South Street and 500 West Street, and running;

- thence South 78°49'15" West 425.35 feet along the south line of said 9000 South Street;
- thence South 89°53'45" West 80.0 feet;
- thence Due North approximately 56 feet to the northern boundary of said leased property;
- thence North 83°46'44" along said northern boundary of the leased property to the extension of the west line of Sandy Parkway Plat "B";
- thence South 0°00'41" East 28.61 feet along the extension of the west line of said Sandy Parkway Plat "B" to the point of beginning.