

Recorded at request of *Richard J. Lawrence* Fee Paid \$ 20.00  
Date *JUL 5 1979* at *8:35 AM* CAROL DEAN PAGE Recorder Davis County  
By *Carroll Deane* Deputy Book 778 Page 553

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*Beneficial Business Park I - all*

BENEFICIAL BUSINESS PARK - 1  
A Part of Section 35, Township 2 North, Range 1 West

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 27th day of June, 1979, by MSC FINANCIAL SERVICES COMPANY, a California company, hereinafter referred to as "Declarant:"

W I T N E S S E T H :

WHEREAS, Declarant is the owner of real property located in North Salt Lake, Davis County, Utah, more particularly described as follows:

All of Lot 16, North Salt Lake Industrial Park, Plat "B", according to the official plat recorded in the office of the Davis County Recorder;

WHEREAS, Declarant deems it desirable to establish covenants, condition and restrictions covering the above-described property relating to the maintenance, use, development and sale of such property, and to create a corporation to which shall be delegated and assigned the powers of maintaining and administering services to be provided within said property, and collecting and disbursing funds pursuant to the assessments and charges hereinafter created and referred to; and

WHEREAS, Beneficial Business Park Association - 1, a nonprofit corporation, has been incorporated under the laws of the State of Utah for the purpose of exercising the powers and functions set forth below and set forth in said corporations Articles of Incorporation; and

WHEREAS, Declarant will convey title to all of said property subject to the protective covenants, conditions, and restrictions hereinafter set forth;

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of said property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit

Recorded at request of *Richard J. Lawrence* Fee Paid \$ 20.00  
Date *NOV 5 1980* at *9:09 AM* CAROL DEAN PAGE Recorder Davis County  
By *Carroll Deane* Deputy Book 846 Page 535

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of the whole parcel and all of the property described herein and the owners thereof, their successors and assigns. Each of these covenants, conditions, restrictions and easements shall run with the said real property and shall be binding on all parties having or acquiring any right, title or interest in the described real property or any part thereof and shall inure to the benefit of each owner thereof and are imposed upon said real property and every part thereof as a servitude in favor of each and every parcel thereof as the dominant tenement or tenements.

ARTICLE I  
DEFINITIONS

The following terms used in these covenants, conditions, and restrictions shall be applicable to this Declaration and are defined as follows:

Section 1. "Association" shall mean and refer to Beneficial Business Park Association - 1, a nonprofit company, incorporated under the laws of the State of Utah.

Section 2. "Property" shall mean and refer to all of the real property described as all of Lot 16, North Salt Lake Industrial Park, Plat "B" according to the official plat recorded in the office of the Davis County Recorder, or the Beneficial Business Park - 1.

Section 3. "Common Area" shall mean all real property within the Property which is not immediately beneath a building, and the footings thereto, maintained and administered by the Association for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to a recorded parcel within the property described as lots 1 through 16 on the plat of the Beneficial Business Park - 1, recorded June 13, 1979 at page 841 in book 774 in the office of the Davis County Recorder.

Section 5. "Member" shall mean and refer to every person or entity who owns a share of stock in the Association.

Section 6. "Owner" shall mean and refer to the person or entity, who is the record owner of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to MSC Financial Services Company, a California company, its successors and assigns.

Section 8. "Deed of trust" shall mean the conveyance of any Lot or other portion of the property to secure the performance of an obligation.

Section 9. "Conveyance" shall mean and refer to conveyance of a fee simple title, or lease of any part of the property.

Section 10. "Community services" shall include any and all of the purposes set forth in the Articles of Incorporation of the Association, or the amendments thereto, or as set forth in rules and regulations of the Association including but not limited to garbage removal, the landscaping and maintenance of the Common Area and the other improvements including driveways, sidewalks and off-street parking areas within the Common Area.

ARTICLE II  
MEMBERSHIP

Section 1. Membership. Every person or entity owning a fee or undivided fee interest in any Lot shall be a Member of the Association.

The terms and provisions set forth in this Declaration, which are binding upon all Owners of all Lots and all Members in the Association, are not exclusive as both the Member and the Lot owned by the Member shall, in addition, be subject to the terms and provisions of the Articles of Incorporation, Bylaws, rules and regulations of the Association and the Declaration of Covenants, Conditions and Restrictions recorded March 27, 1979 at page 562 of book 759 in the office of the Davis County Recorder. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from the fee ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

Section 2. Transfer. The membership held by any Owner of a Lot shall not be transferred, pledged or alienated in any way, except upon the sale to the purchaser of such Lot, upon the sale of the Members share as a result of non-payment of his assessment or upon the encumbrance to the deed of trust holder of such Lot. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. In the event the Owner of any Lot should fail or refuse to transfer the Association share registered in his name to the purchaser of such Lot, the Association shall have the right to record the transfer upon the books of the Association.

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Section 2. Voting Rights. Membership in the Association shall be evidenced by shares of common stock, no par value, in the Association. Every Member shall be entitled to one vote for each share standing in his name as set forth in the Bylaws of the Association. Upon the filing of the Articles of Incorporation of the Association, the Declarant will be issued three (3) shares of common stock for each Lot in the Property, or a total of forty-eight (48) shares. Upon the sale of a Lot the Declarant shall transfer one share to the purchaser. At such time as all sixteen (16) lots have been sold the Declarant shall cause all of its remaining shares to be cancelled. For the purpose of assessments only, all shares owned by the Declarant relating to any single lot shall be assessed as if they were one share.

ARTICLE III  
PROPERTY RIGHTS IN THE LOTS AND COMMON AREA

Section 1. Members' Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area, including but not limited to a right of access, an easement for parking purposes and easements for utilities, sewage and drainage, and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area; and

(b) The right of the Association to suspend the voting rights and right to use the Common Area by a Member for any period during which any assessment against his Lot remains unpaid and delinquent.

Section 2. Delegation of Use. Any Member may delegate, in accordance with the Bylaws or rules and regulations of the Association, his right of enjoyment to the Common Area to his employees, his tenants, sublessees or contract purchasers who work on the property and invitees.

Section 3. Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his Lot.

Section 4. Easement Over the Lots. A perpetual and nonexclusive easement for the purpose of ingress and egress in connection

with the maintenance of the Property is hereby granted to the Association and every Member over each Lot, together with the right to grant and transfer the same.

Section 5. Encroachment Easement. Every Lot shall have an encroachment easement which shall permit any portion of the structures constructed thereon, including the roof, eaves, walls and footings to encroach up to two feet into the Common Area or into any adjoining Lot. Such easement shall be appurtenant to and shall pass with the title to each Lot.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien. The Declarant hereby covenants and agrees to pay, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, is deemed to covenant and agree to pay to the Association: (1) regular assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided and as provided in the Bylaws of the Association. The regular and special assessments, together with such interest thereon and costs of collection thereof, including reasonably attorneys fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the Members of the Association and their employees and, in particular, for the improvement and maintenance of the Property, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area.

#### ARTICLE V NONPAYMENT OF ASSESSMENTS

Section 1. Lien for nonpayment of common expenses. It shall be the duty of every Owner to pay any assessment made by the Association. Payment shall be in such amounts and at such times as determined by the Association in accordance with the terms of its Articles of Incorporation, Bylaws, and these Declarations.

The amount assessed against each Lot shall be a

debt of the Owner at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same. If any Owner shall fail or refuse to make any payment of the assessments when due, the amount thereof shall constitute a lien on the interest of the Owner in the Lot, and upon the recording of notice thereof by the Association shall be a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except only

- (1) tax and special assessment liens on the Lot in favor of any assessing unit, and special district, and
- (2) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

The lien for nonpayment of an assessment may be enforced by sale or foreclosure of the Owner's interest by the Association, sale or foreclosure to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deed of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the Owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

Section 2. Tax Sale. In the event any person shall acquire, through foreclosures, exercise of power of sale, or other enforcement of any lien, or by tax deed, the interest of any Owner, the interest acquired shall be subject to all the provisions of this Declaration, and the Articles of Incorporation and Bylaws of the Association.

#### ARTICLE VI ALTERATIONS

No change, alteration or addition shall be made to any building, fence, wall or other structure without the prior written approval of the Association.

#### ARTICLE VII DUTIES AND POWERS OF THE ASSOCIATION

In addition to the duties and powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein,

and without limiting the generality thereof, the Association shall maintain and otherwise manage all of the Common Areas and all facilities, improvements and landscaping thereon, provide for common services as determined by the Association or contract for such management service and maintenance.

ARTICLE VIII  
GENERAL PROVISIONS

Section 1. Enforcement. The Association, Declarant, or any Owner or the successor in interest of any Owner, shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations and the right to recover damages or other dues for such violations; provided, however, that with respect to assessment liens, the Association shall have the exclusive right to the enforcement thereof. Failure by the Association or by any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Lots, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty-five (55) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners of the Lots, has been recorded, agreeing to change said covenants, conditions and restrictions in whole or in part. In the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the rule against perpetuities, then in that event, the term of this Declaration shall be reduced to a period of time which shall not violate the rule against perpetuities as determined by the laws of the state of Utah.

Section 4. Construction. The provisions of this Declaration

shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of an industrial complex and Common Area. The article and section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 5. Amendments. This Declaration of Covenants, Conditions, and Restrictions may be amended only by the affirmative assent or vote of not less than seventy-five percent (75%) of the Owners and, further, this amendment provision shall not be amended to allow amendments by the assent or vote of less than seventy-five percent (75%) of the Owners.

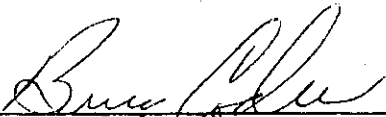
Section 6. Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any deed of trust made in good faith and for value.

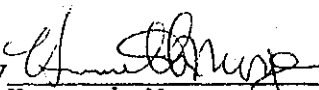
Section 7. Singular Includes Plural. Whenever the context of this Declaration requires the same, the singular shall include the plural and the masculine shall include the feminine.

Section 8. Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement, or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by the Association or any other Owner. Such remedy shall be deemed cumulative and not exclusive.

IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first hereinabove written.

MSC FINANCIAL SERVICES COMPANY

By   
Bruce Coder

By   
Kenneth Morgan



NOTARY PROVISION

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

On the 27th day of June, 1979 A.D. personally appeared before me Bruce Coder, one of the signers of the within instrument, who being by me duly sworn did say that he is a sole proprietor doing business as MSC Financial Services Company, and who duly acknowledged to me that he executed the within instrument.

William E. Vance  
NOTARY PUBLIC

My commission expires:  
September 20, 1982

Residing at:  
Salt Lake City, Utah

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

On the 27th day of June, 1979 A.D. personally appeared before me Kenneth Morgan, one of the signers of the within instrument, who duly acknowledged to me that he executed the same.

William E. Vance  
NOTARY PUBLIC

My commission expires:  
September 20, 1982

Residing at:  
Salt Lake City, Utah