



MISC 2016051410



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COMP: AH

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Register of Deeds, Douglas County, NE  
06/30/2016 10:49:14.00



2016051410

**FIRST AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR AV ZONE 5  
OMAHA, DOUGLAS COUNTY, NEBRASKA**

This First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for AV Zone 5 ("First Amendment") is made effective as of the Effective Date (as hereinafter defined) by Zone 5, LLC, a Nebraska limited liability company ("Declarant"), Zone 5 Entertainment, LLC, a Nebraska limited liability company ("Zone 5 Entertainment"), Lot 2 Restaurant, LLC, a Nebraska limited liability company ("Restaurant Owner"), Zone 5 Office, LLC, a Nebraska limited liability company ("Zone 5 Office Owner"), and Aksarben Lodging, LLC, a Nebraska limited liability company (the "Hotel Owner"). The "Effective Date" shall be the date in which the last of the parties has signed this Agreement.

**RECITALS**

A. Declarant, Zone 5 Entertainment, Restaurant Owner, Zone 5 Office Owner and Hotel Owner are the current fee simple owners of certain property located in Douglas County, Nebraska, which is legally described on Exhibit "A" (the "Zone 5 Property").

B. Declarant executed that certain Amended and Restated Declaration of Easements, Covenants, Conditions and Restrictions for AV Zone 5 dated as of July 17, 2014, and recorded July 18, 2014, as Instrument Number 2014055117 in the Office of the Register of Deeds, Douglas County, Nebraska (the "Declaration" and capitalized terms used but not defined herein are as defined in the Declaration).

C. Zone 5 Property continues to be developed and Declarant and Owners desire to amend and restate the Declaration to incorporate certain provisions related to the use of the Zone 5 Property.

NOW, THEREFORE, pursuant to the authority granted in Section 11.11 of the Declaration, the Declarant and Owners hereby amend the Declaration as follows:

1. The following shall be added after the last sentence of Section 8.6(b):

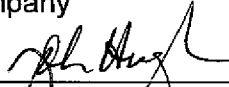
Notwithstanding the foregoing, so long as the Owner of Lot 3, Replat 15 operates its portion of the Zone 5 Property as a hotel, the Owner of Lot 3, Replat 15 may

operate a fitness center inside the hotel for exclusive use by hotel guests, hotel employees and related persons. The owners of the units effected by this First Amendment have executed this First Amendment below to confirm their consent to the terms of this First Amendment.

2. Except as expressly amended in this First Amendment, the Declaration (as previously amended) shall remain in full force and effect in its original form. This First Amendment may be executed in multiple counterparts, all of which taken together shall constitute a single instrument.

IN WITNESS WHEREOF, the undersigned has caused this First Amendment to be executed on the day and year first above written.

**ZONE 5, LLC**, a Nebraska limited liability company

By: 

Its: Manager

Date: 6-29-16

**CONSENTED TO BY:**

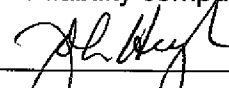
**ZONE 5 ENTERTAINMENT, LLC**, a Nebraska limited liability company

By: 

Its: Manager

Date: 6-29-16

**LOT 2 RESTAURANT, LLC**, a Nebraska limited liability company

By: 

Its: Manager

Date: 6-29-16

**ZONE 5 OFFICE, LLC** a Nebraska limited liability company

By: John Hughes

Its: Manager

Date: 6-29-16

**AKSARBEN LODGING, LLC**, a Nebraska limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

SEE ATTACHED

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF Douglas )

On this 29<sup>th</sup> day of June, 2016, before me, a Notary Public in and for said county and state, personally appeared John Hughes, who executed the foregoing First Amendment, and acknowledged before me that he/she was duly authorized and did execute the same as Manager of Zone 5, LLC, a Nebraska limited liability company, on behalf of the LLC.

GIVEN under my hand and Notarial Seal, this 29<sup>th</sup> day of June, 2016.

State of Nebraska - General Notary  
**KRISTINE K MOORE**  
My Commission Expires  
February 18, 2019

Kristine K. Moore  
Notary Public

My Commission expires: 2/18/19

SEE ATTACHED

**ZONE 5 OFFICE, LLC** a Nebraska limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**LOT 5 OFFICE, LLC** a Nebraska limited liability company

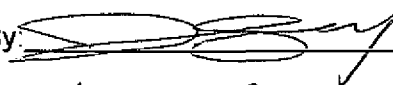
By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**AKSARBEN LODGING, LLC**, a Nebraska limited liability company

John M. Mountjoy

By:  \_\_\_\_\_

Its: MANAGER \_\_\_\_\_

Date: 6/29/16 \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_ who executed the foregoing First Amendment, and acknowledged before me that he/she was duly authorized and did execute the same as \_\_\_\_\_ of Zone 5, LLC, a Nebraska limited liability company, on behalf of the LLC.

GIVEN under my hand and Notarial Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

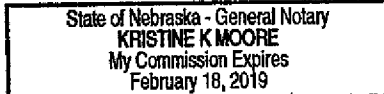
\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF Douglas )

On this 29<sup>th</sup> day of June, 2016, before me, a Notary Public in and for said county and state, personally appeared John Hughes, who executed the foregoing First Amendment, and acknowledged before me that he/she was duly authorized and did execute the same as Manager of Zone 5 Entertainment, LLC, a Nebraska limited liability company, on behalf of the LLC.

GIVEN under my hand and Notarial Seal, this 29<sup>th</sup> day of June, 2016.



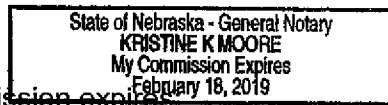
Kristine K. Moore  
Notary Public

My Commission expires: 2/18/19

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF Douglas )

On this 29<sup>th</sup> day of June, 2016, before me, a Notary Public in and for said county and state, personally appeared John Hughes, who executed the foregoing First Amendment, and acknowledged before me that he/she was duly authorized and did execute the same as Manager of Lot 2 Restaurant, LLC, a Nebraska limited liability company, on behalf of the LLC.

GIVEN under my hand and Notarial Seal, this 29<sup>th</sup> day of June, 2016.



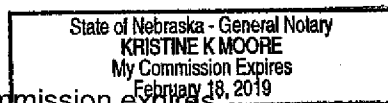
Kristine K. Moore  
Notary Public

My Commission expires: 2/18/19

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF Douglas )

On this 29<sup>th</sup> day of June, 2016, before me, a Notary Public in and for said county and state, personally appeared John Hughes, who executed the foregoing First Amendment, and acknowledged before me that he/she was duly authorized and did execute the same as Manager of Zone 5 Office, LLC, a Nebraska limited liability company, on behalf of the LLC.

GIVEN under my hand and Notarial Seal, this 29<sup>th</sup> day of June, 2016.



Kristine K. Moore  
Notary Public

My Commission expires: 2/18/19

STATE OF NEBRASKA     )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_, who executed the foregoing First Amendment, and acknowledged before me that he/she was duly authorized and did execute the same as \_\_\_\_\_ of Lot 5 Office, LLC, a Nebraska limited liability company, on behalf of the LLC.

GIVEN under my hand and Notarial Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) SS  
COUNTY OF Douglas )

On this 29 day of June, 2016, before me, a Notary Public in and for said county and state, personally appeared John Montjoy, who executed the foregoing First Amendment, and acknowledged before me that he/she was duly authorized and did execute the same as Manager of Aksarben Lodging, LLC, a Nebraska limited liability company, on behalf of the LLC.

GIVEN under my hand and Notarial Seal, this 29 day of June, 2016.

Jessica Cooper  
\_\_\_\_\_  
Notary Public

My Commission expires: Jan 31, 2019

State of Nebraska - General Notary  
JESSICA COOPER  
My Commission Expires  
January 31, 2019

**EXHIBIT "A"**

**Legal Description**

**55-00243**

Lots 1 through 3 and Lot 7, Aksarben Village Replat 11, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Lots 1 through 3, Aksarben Village Replat 15, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

**55-00253**