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COUNTY CLERK/REGISTER OF DEEDS

By: AH

Submitter: RINGENBERG & RATTNER LAW, LLC

S-File



AMRC

**FOR RECORDING PURPOSES**

**THIRD AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SOUTHPORT EAST**

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**PREPARED BY AND RETURN TO:**

Kendra J. Ringenberg, Esq.  
Ringenberg & Rattner Law, LLC  
14301 FNB Parkway, Suite 204  
Omaha, NE 68154

**GRANTOR:**

Southport East Landowners Association, Inc.  
9500 West Dodge Road, Suite 100  
Omaha, NE 68114

**GRANTEE:**

Property Owners in Southport East

**LEGAL DESCRIPTION:**

See Page 24.

**THIRD AMENDMENT TO THE SECOND AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SOUTHPORT EAST**

This Third Amendment to the Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Southport East ("Third Amendment") is made effective as of March 10, 2020 (the "Effective Date") by and between Southport East Landowners Association, Inc., a Nebraska nonprofit corporation (the "Association"), and the undersigned Owners.

**RECITALS**

WHEREAS, that certain Second Amended and Restated Declaration of Covenants, Conditions and Easements for Southport East dated September 24, 2002, recorded on November 27, 2002, as Instrument No. 2002-49202 with the Register of Deeds of Sarpy County, Nebraska, as amended by that certain (i) First Amendment to the Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Southport East dated July 21, 2011, recorded on August 5, 2011, as Instrument No. 2011-19133 with the Register of Deeds of Sarpy County, Nebraska and (ii) Second Amendment to the Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Southport East dated March 13, 2018, recorded on November 2, 2018, as Instrument No. 2018-26064 with the Register of Deeds of Sarpy County, Nebraska (collectively, the "Declaration") affects the property legally described on Exhibit A attached hereto (the "Property");

WHEREAS, the Board of Directors desires to simplify the process to establish the yearly operating budget and regular assessments.

WHEREAS, Section 13.2 of the Declaration provides that the Declaration may be amended by a vote of the Owners holding at least seventy-five percent (75%) of the memberships in the Association; and

WHEREAS, the Owners executing this Declaration represent the record owners of more than seventy-five percent (75%) of the memberships in the Association and such Owners desire to amend the Declaration in accordance with the terms and conditions set forth herein and to bind the Property to the terms and conditions of this Third Amendment.

NOW, THEREFORE, pursuant to Section 13.2 of the Declaration, this Third Amendment is executed by the request Owners and shall become effective when recorded in the Register of Deed of Sarpy County, Nebraska.

1. Definitions. Terms used in this Third Amendment shall have the meanings set forth in the Declaration except as otherwise defined herein.

2. Budget. Section 10.5.3 of the Declaration shall be amended and restated in its entirety to the following:

"Within seventy-five (75) days after the end of each fiscal year of the Association, the Board shall (i) review an operating statement showing income and expenses for the preceding fiscal year and preliminary budget, (ii) review and discuss any written

comments received from any Member and any other information available to it and (iii) establish the operating budget and regular assessment for the forthcoming fiscal year. A majority vote of the members of the Board of Directors shall govern the determination of the operating budget and regular assessment. Regular and special Meetings of the Board may be held by telephone conference call or any other means permitted under applicable law and approved by a majority vote of the members of the Board. Participation in a meeting through telephonic or other permitted means constitutes presence in person at such meeting.

3. Notice Addresses. The address for notice to the Board or to any committee shall be amended to be:

Southport Eat Landowner Association, Inc.  
Attn: John L. Hoich  
5410 North 279<sup>th</sup> Street  
Valley, NE 68064

*With a copy to:*

Ringenberg & Rattner Law, LLC  
Attn: Kendra J. Ringenberg  
14301 FNB Parkway, Suite 204  
Omaha, NE 68154

4. Association Meetings. Notwithstanding anything to the contrary in the Declaration or the Bylaws, any action required or permitted to be taken at any annual or special meeting of Members of the Association may be taken without a meeting, without prior notice, and without a vote, if a written consent setting forth the action so taken shall be signed by not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of Members entitled to vote thereon were present and voted. Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to those Members entitled to vote on such action who have not consented in writing or provided a proxy to another voting Member.

5. Authorization. The Owners hereby authorize the Board of Directors to execute and deliver such other instruments and do such further acts and things as may be required to carry out the intent and purpose of this Third Amendment.

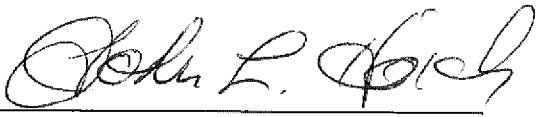
6. No Other Amendment. Except as specifically set forth herein, the Declaration shall remain in full force and effect.

This Third Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and the counterparts taken together shall constitute the whole.

[REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOWS.]

IN WITNESS WHEREOF, the undersigned has caused this Third Amendment to be executed on the Effective Date.

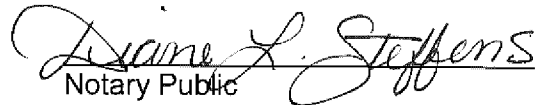
Southport East Landowners Association,  
Inc., a Nebraska nonprofit corporation

By:   
John L. Hoich, President

STATE OF NEBRASKA     )  
  ) SS  
COUNTY OF Douglas    )

The foregoing instrument was acknowledged before me on this 10<sup>th</sup> day of March, 2020, by John L. Hoich, as the President of Southport East Landowners Association, Inc., a Nebraska nonprofit corporation, on behalf of said nonprofit corporation.



  
Notary Public

90/370, L.L.C., a Nebraska limited liability company

By: Ayle M. Quinn  
Its: President

STATE OF NE )  
COUNTY OF Douglas ) ss

The foregoing instrument was acknowledged before me on this 3<sup>rd</sup> day of April, 2020, by Ayle M. Quinn, as the President of 90/370, L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.

Michelle R. Carrier  
Notary Public



American National Bank, a federally chartered bank

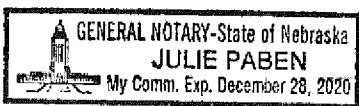
By: [Signature]

Its: SVP

4/2/2020

STATE OF NE )  
COUNTY OF Douglas ) ss

The foregoing instrument was acknowledged before me on this 2<sup>nd</sup> day of April, 2020, by James Burns, as the SVP of American National Bank, a federally chartered bank, on behalf of said bank.



[Signature]  
Notary Public



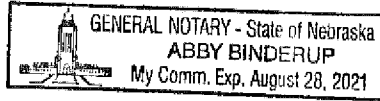
Cutchall Property Management, L.L.C., a Nebraska limited liability company

By: [Signature]

Its: MGR

STATE OF Nebraska )  
 ) ss  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me on this 3 day of April, 2020, by Greg Cutchall, as the President of Cutchall Property Management, L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.



[Signature]  
Notary Public



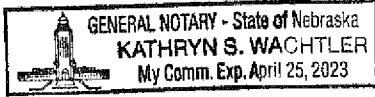
Galaxy Ventures III, LLC, a Nebraska limited liability company

By: [Signature]

Its: Managing Member

STATE OF Nebraska )  
 ) ss  
COUNTY OF Sarpy )

The foregoing instrument was acknowledged before me on this 20 day of April, 2020, by Bruce Barnes, as the Managing Member of Galaxy Ventures III, LLC, a Nebraska limited liability company, on behalf of said limited liability company.



[Signature]  
Notary Public

Safe Harbour EAT-XXIX, L.L.C, a Kansas limited liability company

By: Jennifer Strand  
Its: Manager

STATE OF Nebraska  
COUNTY OF Lincoln <sup>SS</sup>

The foregoing instrument was acknowledged before me on this 2nd day of April, 2020, by Jennifer Strand as the Manager of Safe Harbour EAT-XXIX, L.L.C., a Kansas limited liability company, on behalf of said limited liability company.



[Signature]  
Notary Public

La Vista Investors, LLC, a California limited liability company

By: Warren Berzack, Managing Member

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2020, before me, \_\_\_\_\_, a Notary Public, personally appeared Warren Berzack, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as the Managing Member of La Vista Investors, LLC, a California limited liability company, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[SEAL]

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

See attached

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

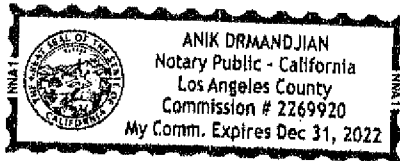
On APRIL 14, 2020 before me, ANIK DRMANDJIAN, NOTARY PUBLIC  
Date Here Insert Name and Title of the Officer

personally appeared WARREN BERZACK  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Anik Drmandjian  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document: third AMENDMENT to the SECOND AMENDMENT and RESTATED DECLARATION OF COVENANTS, CONDITIONS RESTRICTIONS and EASEMENTS FOR SOUTHPORT EAST  
Title or Type of Document: \_\_\_\_\_ Document Date: APRIL 14, 2020  
Number of Pages: 4 pages Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

















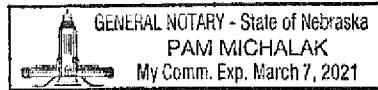
SP 10 Lot 2 L.L.C., a Nebraska limited liability company

By: *R B U*

Its: MEMBER

STATE OF Nebraska )  
COUNTY OF Douglas )<sup>ss</sup>

The foregoing instrument was acknowledged before me on this 13 day of April, 2020, by Robert B. Underwood, as the member of SP 10 Lot 2 L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.



*Pam Michalak*  
Notary Public

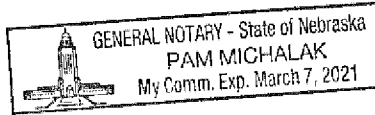
Southport 10 L.L.C., a Nebraska limited liability company

By: Robert B. Underwood

Its: MEMBER

STATE OF Nebraska )  
COUNTY OF Douglas ) ss

The foregoing instrument was acknowledged before me on this 13 day of April, 2020, by Robert B. Underwood as the member of Southport 10 L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.



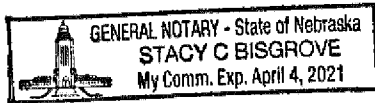
Pam Michalak  
Notary Public

The Eating Establishment-Giles, L.L.C., a Nebraska limited liability company

By: Lori J Placzek  
Its: member

STATE OF Nebraska )  
COUNTY OF Sandy ) ss

The foregoing instrument was acknowledged before me on this 25<sup>th</sup> day of April, 2020, by Lori J Placzek, as the \_\_\_\_\_ of The Eating Establishment-Giles, L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.



Stacy C Bisgrove  
Notary Public



## EXHIBIT A

### Legal Description

Lot 5, Lot 6, Lot 16 except for part of Eastport Parkway, Outlot "A", Southport East, City of La Vista, Sarpy County, Nebraska.

Lot 1, Southport East Replat 1, City of La Vista, Sarpy County, Nebraska.

Lot 1 except road right-of-way, Lot 2, Southport East Replat Three, City of La Vista, Sarpy County, Nebraska.

Lot 1, Lot 2, Southport East Replat Four, City of La Vista, Sarpy County, Nebraska.

Lot 11A, Southport East Replat Five, City of La Vista, Sarpy County, Nebraska.

Lot 14-A, Lot 15-A, Southport East Replat Eight, City of La Vista, Sarpy County, Nebraska.

Lot 2, Southport East Replat Ten, City of La Vista, Sarpy County, Nebraska.

Lot 2, Outlot A, Southport East Replat Eleven, City of La Vista, Sarpy County, Nebraska.

Lot 1, Lot 2, Southport East Replat Twelve, City of La Vista, Sarpy County, Nebraska.

Lot 1, Lot 2, Southport East Replat Thirteen, City of La Vista, Sarpy County, Nebraska.

Lot 1, Lot 2, Southport East Replat Fourteen, City of La Vista, Sarpy County, Nebraska.

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Lot 1 and Lot 2, Southport East Replat Two, City of La Vista, Sarpy County, Nebraska.

Lot 3, Lot 4, Lot 5, Lot 6, Lot 7, Lot 8, Lot 9, and Lot 10, Southport East Replat Six, City of La Vista, Sarpy County, Nebraska.

Lot 1, Lot 2, Lot 3, and Lot 4, Southport East Replat Nine, City of La Vista, Sarpy County, Nebraska.