



W2919822

After Recording Return to:

Johnson Law Firm
Blain H. Johnson
2036 Lincoln Avenue, Suite 102B
Ogden, Utah 84401

EH 2919822 PG 1 OF 6
LEANN H KILTS, WEBER COUNTY RECORDER
10-MAY-18 159 PM FEE \$20.00 DEP TN
REC FOR: AMCAN CONDO PHASE 2

Parcel No.: 03-043-0001

**FIFTH AMENDMENT TO
CONDOMINIUM DECLARATION FOR AMCAN CONDOMINIUMS
A UTAH CONDOMINIUM PROJECT**

THIS FIFTH AMENDMENT TO CONDOMINIUM DECLARATION FOR AMCAN CONDOMINIUMS A UTAH CONDOMINIUM PROJECT (this "Amendment") is entered into this 20 day of April, 2018, by AMCAN PROPERTIES, LLC, a Utah limited liability company ("Amcan"); ROCKY HOLDINGS, LLC, a Utah limited liability company ("Rocky Holdings"); DAVINCI ACADEMY OF SCIENCE AND ARTS, a Utah non-profit corporation ("DaVinci"); and 2032 LINCOLN, LLC, a Utah limited liability company ("2032") (Amcan, Rocky Holdings, DaVinci and 2032 are collectively, the "Members"), as members of AMCAN CONDOMINIUM ASSOCIATION, INC, a Utah non-profit corporation ("Association").

RECITALS

A. On or about March 30, 2007, Amcan, as "Declarant," recorded a Condominium Declaration for Amcan Condominiums, a Utah condominium project in the official records of Weber County, State of Utah as entry number 2252602 (the "Original Declaration"), which was amended by that certain First Amendment to Condominium Declaration for Amcan Condominiums, a Utah condominium project recorded in the official records of Weber County, State of Utah, on or about November 19, 2007, as entry number 2305565 (the "First Amendment"); and further amended by that certain Second Amendment to Condominium Declaration for Amcan Condominiums, a Utah condominium project recorded in the official records of Weber County, State of Utah, on or about May 16, 2008, as entry number 2342095 (the "Second Amendment"); and further amended by that certain Third Amendment to Condominium Declaration for Amcan Condominiums, a Utah condominium project recorded in the official records of Weber County, State of Utah, on or about March 31, 2009, as entry number 2401209 (the "Third Amendment"); and further amended by that certain Fourth Amendment to Condominium Declaration for Amcan Condominiums, a Utah condominium project recorded in the official records of Weber County, State of Utah, on or about March 31, 2009, as entry number 2401210 (the "Fourth Amendment"); (the Original Declaration, as amended by the First Amendment, Second Amendment, Third Amendment and Fourth Amendment, is referred to herein as the "Declaration").

B. The Declaration related to a certain condominium project known as the AmeriCan Center (the "Project").

C. The Project, as set forth in the plats recorded in connection with the Declaration (the "Plats"), contains certain "Common Areas," which are owned by the Members in undivided interests.

D. The Members have agreed to sell a portion of the Common Areas described on Exhibit A to Rocky Holdings, the owner of Unit 3.

E. In connection with said sale of certain portions of the Common Areas to Rocky Holdings, the Members have determined that the Declaration be amended to reflect certain changes in the Plat.

F. The Declaration requires the vote of at least sixty-seven percent (67%) of the Percentage Interest of the Members in person or represented by proxy at a meeting of the Association at which a quorum is present shall be required to amend the Declaration and the Plats.

G. Pursuant to an action of the Members, the Members desire to make the amendments to the Declaration and consents contained herein.

DECLARATION

NOW, THEREFORE, for the purposes set forth in the Recitals section of the Declaration, the Members hereby amend the Declaration as set forth below:

1. **Effective Date.** This Amendment will take effect on the date recorded at the office of the Weber County Recorder (the "Effective Date").

2. **Unit 3 Renovation.** The Members have reviewed and approved the Unit 3 renovation plans, including, without limitation, the purchase and sale agreement between the Association (in behalf of the Members) and Rocky Holdings, together with the revised plat and all documents associated therewith (the "Renovation Plans"). The Members hereby consent to, and approve of, the Renovation Plans and the renovation of Unit 3 pursuant to the Renovation Plans, together with the recording of a revised plat map for Unit 3 (renumbered thereon as Unit 8) evidencing such amendments and changes as indicated thereon.

3. **Improvements.** The maintenance of the improvements constructed as Common Area items within the Renovation Plans area shall be the responsibility of Rocky Holdings, as the Owner of Unit 8 (formerly Unit 3) and not the Association.

4. **Defined Terms.** Any and all capitalized terms used in this Amendment which are not specifically defined herein shall be given the same definitions assigned such terms in the Declaration.

5. **No Other Changes.** Except as otherwise expressly provided in this Amendment, the Declaration is hereby ratified and confirmed without modification.

6. **Authorization.** The individuals signing for the respective entities make the following representations: (i) he/she has read this Amendment, (ii) he/she has authority to act for the entity designated below, (iii) he/she shall execute this Amendment acting in said capacity.

7. **Counterparts.** This Amendment may be executed in any number of counterparts, provided each counterpart is identical in its terms. Each such counterpart, when executed and delivered will be deemed to be an original, and all such counterparts shall be deemed to constitute one and the same instrument. For convenience in recording, signature pages from multiple counterparts may be detached from their counterparts and attached to a single counterpart to be recorded.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF all the parties hereto execute this Amendment as of the day and year first written above.

MEMBERS:


AMCAN PROPERTIES, LLC, a Utah limited liability company

By: 
Jon Peddie, Manager

ROCKY HOLDINGS, LLC, a Utah limited liability company

By: 
Dustin Buckthal, Manager

DAVINCI ACADEMY OF SCIENCE AND ARTS, a Utah non-profit corporation

By: 
~~Fred Donaldson, President~~
Timothy Herzog *THH*

2032 LINCOLN, LLC, a Utah limited liability company

By: 
Dan J. VanZeben, Manager

ASSOCIATION:

AMCAN CONDOMINIUM ASSOCIATION, INC, a Utah non-profit corporation

By: _____
Jon Peddie, President

IN WITNESS WHEREOF all the parties hereto execute this Amendment as of the day and year first written above.

MEMBERS:

AMCAN PROPERTIES, LLC, a Utah limited liability company

By: _____
Jon Peddie, Manager

ROCKY HOLDINGS, LLC, a Utah limited liability company

By: _____
Dustin Buckthal, Manager

DAVINCI ACADEMY OF SCIENCE AND ARTS, a Utah non-profit corporation

By: _____
Fred Donaldson, President

2032 LINCOLN, LLC, a Utah limited liability company

By: _____
Dan J. VanZeben, Manager

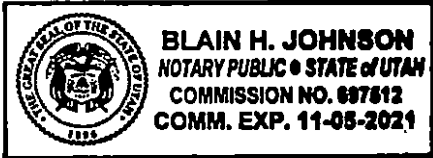
ASSOCIATION:

AMCAN CONDOMINIUM ASSOCIATION, INC, a Utah non-profit corporation

By:  _____
Jon Peddie, President

STATE OF UTAH)
 : ss
COUNTY OF WEBER)

On April 20, 2018, personally appeared before me, Jon Peddie duly sworn, did say that he is the President of Amcan Condominium Association, Inc., a Utah non-profit corporation, and that the within and foregoing instrument was signed in behalf of said company in his capacity as President.

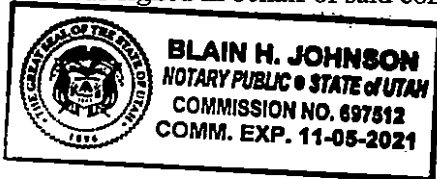


[Handwritten Signature]

Notary Public

STATE OF UTAH)
 : ss
COUNTY OF WEBER)

On April 25, 2018, personally appeared before me, Dustin Buckthal duly sworn, did say that he is the Manager of Rocky Holdings, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said company in his capacity as Manager.

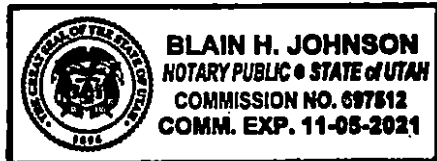


[Handwritten Signature]

Notary Public

STATE OF UTAH)
 : ss
COUNTY OF WEBER)

On April , 2018, personally appeared before me, Fred Donaldson, duly sworn, did say that he is the President of DaVinci Academy Of Science and Arts, a Utah non-profit corporation, and that the within and foregoing instrument was signed in behalf of said company in his capacity as President.

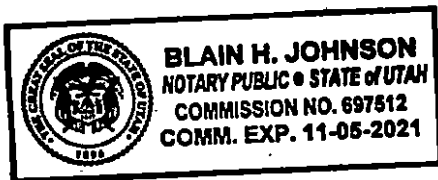


[Handwritten Signature]

Notary Public

STATE OF UTAH)
 : ss
COUNTY OF WEBER)

On April 25, 2018, personally appeared before me, Dan J. VanZeben duly sworn, did say that he is the Manager of 2032 Lincoln, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said company in his capacity as Manager.



[Handwritten Signature]

Notary Public

EXHIBIT A

(Legal Description of the Property)

PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT BEING N01°18'26"E ALONG THE CENTERLINE OF LINCOLN AVENUE, 700.45 FEET AND S88°41'34"E 153.01 FEET FROM A FOUND OGDEN CITY CENTERLINE MONUMENT AT THE INTERSECTION OF LINCOLN AVENUE AND 21ST STREET; THENCE N01°18'41"E 18.25 FEET; THENCE S88°41'19"E 11.92 FEET; THENCE S01°18'41"W 18.25 FEET; THENCE N88°41'19"W 11.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 217 SQUARE FEET OR 0.005 ACRES, MORE OR LESS, TOGETHER WITH:

PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT BEING N01°18'26"E ALONG THE CENTERLINE OF LINCOLN AVENUE, 700.45 FEET AND S88°41'34"E 175.63 FEET FROM A FOUND OGDEN CITY CENTERLINE MONUMENT AT THE INTERSECTION OF LINCOLN AVENUE AND 21ST STREET; THENCE N01°18'41"E 18.25 FEET; THENCE S88°41'19"E 66.00 FEET; THENCE S01°18'41"W 17.83 FEET; THENCE N89°51'00"W 20.87 FEET; THENCE N88°41'19"W 45.13 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,200 SQUARE FEET OR 0.028 ACRES, MORE OR LESS

