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CWS



Doc ID: 026974370004 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 02/05/2013 at 11:05:53 AM
Fee Amt: \$22.00 Page 1 of 4
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2013-00070810

BK **14644** PG **948-951**

RETURN TO:

Prepared by and Return To: Ashley Watts, Hubbell Realty Company, 6900 Westown Parkway, West Des Moines, IA 50266. (515) 280-2032

SPACE ABOVE THIS LINE FOR RECORDER

**SECOND MODIFICATION OF
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS
APPLICABLE TO CROSSHAVEN
JOHNSTON, POLK COUNTY, IOWA**

THIS SECOND MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO CROSSHAVEN, JOHNSTON, POLK COUNTY, IOWA is made this 11th day of January, 2013, by **HUBBELL REALTY COMPANY**, an Iowa corporation, **HUBBELL PROPERTIES I, L.C. (SERIES D)**, a series of a multi-series Iowa limited liability company, and **CROSSHAVEN I, LLC**, an Iowa limited liability company, (collectively, the "Declarant").

WHEREAS, Declarant, as the Owner of Crosshaven, as defined in Article I, Section 1.02(m) thereof, subjected Crosshaven to that certain Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Crosshaven, Johnston, Polk County, Iowa, dated December 11, 2009, and filed for record in the Office of the Recorder for Polk County, Iowa on March 5, 2010, in Book 13374 at Pages 532-565, and that certain First Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Crosshaven, Johnston, Polk County, Iowa, dated January 30, 2012, filed for record in the Office of the Recorder for Polk County, Iowa, on February 10, 2012, in Book 14155, at Page 116-119, (collectively, the "Declaration"); and

WHEREAS, Declarant desires to amend the Declaration to apply to any and all Lots from any platting or replatting of Lots 1-33 and Outlots Y and Z of Crosshaven Plat 3, an Official Plat, now included in and forming a part of the City of Johnston, Polk County, Iowa.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. In Article I, Intent; Definitions, the following section shall be amended:

"Section 1.02(m). "Crosshaven" shall mean the real estate as described as follows:

Outlots Q, R, S, and U, Crosshaven Outlots Plat 1; Lots 1-28 and Outlots X and Y, Crosshaven Plat 2; Lots 1-33 and Outlots Y and Z, Crosshaven Plat 3, all Official Plats, now included in and forming a part of the City of Johnston, Polk County, Iowa, and any single-family lots or open space outlots hereafter created in such lots now included in and forming a part of the City of Johnston, Polk County, Iowa, together with all additional real estate which is hereafter made subject to this Declaration pursuant to one or more amendments to this Declaration, including all lots and outlots, except streets, parks and other lots, if any, conveyed to the City (as defined in Section 1.02(d)), developed in any plats of any part of the foregoing described real estate or in any plats of any part of any additional property which is hereafter made subject to this Declaration pursuant to one or more amendments to this Declaration, and any replats of any portions of any of said plats or parcels, all together with all easements and servient estates appurtenant thereto, and subject to (1) zoning and other applicable building ordinances, (2) easements, covenants and restrictions of record.

2. Except as expressly modified by this Second Modification of the Crosshaven Declaration, all of the terms, conditions, easements, restrictions and provisions of the Crosshaven Declaration continue and remain in full force and effect.

Dated this 11th day of January, 2013.

HUBBELL REALTY COMPANY

By: 
Joseph F. Pietruszynski, Vice President

By: 
Jennifer L. Drake, Assistant Secretary

HUBBELL PROPERTIES I, L.C. (SERIES D)


By: Hubbell Realty Company, Managing Member

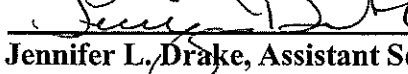
By: 
Joseph F. Pietruszynski, Vice President

By: 
Jennifer L. Drake, Assistant Secretary

CROSSHAVEN I, LLC

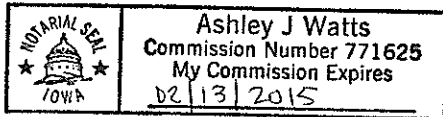
By: Hubbell Realty Company, Managing Member


By: 
Joseph F. Pietruszynski, Vice President

By: 
Jennifer L. Drake, Assistant Secretary

STATE OF IOWA, COUNTY OF DALLAS) ss:

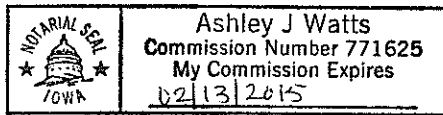
This instrument was acknowledged before me on January 14th, 2013 by Joseph F. Pietruszynski and Jennifer L. Drake as a Vice President and an Assistant Secretary, respectively, of Hubbell Realty Company, an Iowa corporation.

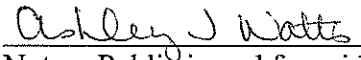



Notary Public in and for said State

STATE OF IOWA, COUNTY OF DALLAS) ss:

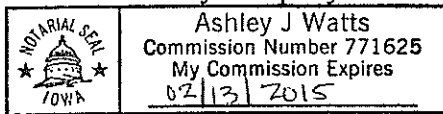
This instrument was acknowledged before me on January 14th, 2013 by Joseph F. Pietruszynski and Jennifer L. Drake as a Vice President and an Assistant Secretary, respectively, of Hubbell Realty Company, an Iowa corporation, the managing member of Hubbell Properties I, L.C. (Series D), a series of a multi-series limited liability company.

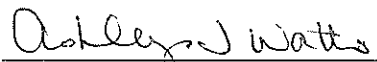



Notary Public in and for said State

STATE OF IOWA, COUNTY OF DALLAS) ss:

This instrument was acknowledged before me on January 14th, 2013 by Joseph F. Pietruszynski and Jennifer L. Drake as a Vice President and an Assistant Secretary, respectively, of Hubbell Realty Company, an Iowa corporation, the managing member of Crosshaven I, LLC, an Iowa limited liability company.




Notary Public in and for said State

MORTGAGEE'S CONSENT AND SUBORDINATION

KNOW ALL MEN BY THESE PRESENTS: that, Valley Bank is the present owner of the Mortgagee's interest in that certain Mortgage, granted by Hubbell Realty Company, an Iowa corporation, as Mortgagor, to Valley Bank, as Mortgagee, dated January 2, 2008 and filed for record in the Office of the Recorder for Polk County, Iowa on January 2, 2008 in Book 12498 at Page 956 of the Polk County Records, that certain Mortgage, granted by Crosshaven II, LLC, an Iowa limited liability company, as Mortgagor, to Valley Bank, as Mortgagee, dated November 17, 2011 and filed of record in the Office of the Recorder for Polk County, Iowa, on November 29, 2011 in Book 14067 at Page 151, and that certain Mortgage, granted by Crosshaven I, LLC, an Iowa limited liability company, as Mortgagor, to Valley Bank, as Mortgagee, dated December 6, 2012, and filed of record in the Office of the Recorder for Polk County, Iowa, on December 10, 2012, in Book 14567, at Page 236, (collectively, the "Mortgages"), which Mortgages create a lien on portions of Crosshaven. Valley Bank hereby consents to the within and foregoing Second Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Crosshaven, Johnston, Polk County, Iowa, (the "Declaration"), and agrees that the lien of its above-described Mortgage is subordinate to the easements and appurtenant rights created in the Declaration.

Dated this 14th day of January, 2013.

VALLEY BANK, Mortgagee

By: Shane C. Brix VICE PRESIDENT
Shane C. Brix, Vice President

STATE OF IOWA)
) SS.
COUNTY OF POLK)

On this 14th day of January, 2013, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Shane C. Brix, to me personally known, who, being by me duly sworn, did say that he is the Vice President of **VALLEY BANK**, executing the within and foregoing instrument; that the instrument was signed on behalf of said bank corporation by authority of its Board of Directors; and said Shane C. Brix, as such officer, acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by him voluntarily executed.

Debra A. Faber
Notary Public in and for said State

