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Fee Amt: \$22.00 Page 1 of 4
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2015-00144721

BK 15766 PG 609-612

RETURN TO:

Prepared by and Return To: Jennifer Drake, Hubbell Realty Company, 6900 Westown Parkway, West Des Moines, IA 50266, (515) 280-2057

SPACE ABOVE THIS LINE FOR RECORDER

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

THIS FIFTH MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO CROSSHAVEN, JOHNSTON, POLK COUNTY, IOWA is made this 23rd day of September, 2015, 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, 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, that certain Second Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Crosshaven, Johnston, Polk County, Iowa, dated January 11, 2013, filed for record in the Office of the Recorder for Polk County, Iowa, on February 5, 2013, in Book 14644, at Page 948-951 that certain Third Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Crosshaven, Johnston, Polk County, Iowa, dated March 26, 2013 filed for record in the Office of the Recorder for Polk County, Iowa, on March 28, 2013, in Book 14716, at Page 866 and that certain Fourth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Crosshaven, Johnston, Polk Count, Iowa, dated June 4, 2015 filed for record in the Office of the Recorder for Polk County, Iowa on June 19, 2015 in Book 15623 at Page 892, (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 1-47 and Outlots Y and Z of Crosshaven Plat 6, 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, Lots 1 – 31 and Outlots Y and Z of Crosshaven Plat 4, Lots 1 – 23 and Outlots Y and Z of Crosshaven Plat 5 and Lots 1-47 and Outlots Y and Z of Crosshaven Plat 6, 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 Fifth 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 23rd day of September, 2015.

HUBBELL REALTY COMPANY

By: [Signature]
Joseph F. Pietruszynski, Vice President

By: [Signature]
Jennifer L. Drake, Assistant Secretary

HUBBELL PROPERTIES I, L.C. (SERIES D)
By: Hubbell Realty Company, Managing Member

By: [Signature]
Joseph F. Pietruszynski, Vice President

By: [Signature]
Jennifer L. Drake, Assistant Secretary

CROSSHAVEN I, LLC
By: Hubbell Realty Company, Managing Member

By: [Signature]
Joseph F. Pietruszynski, Vice President

By: [Signature]
Jennifer L. Drake, Assistant Secretary

STATE OF IOWA, COUNTY OF DALLAS) ss:

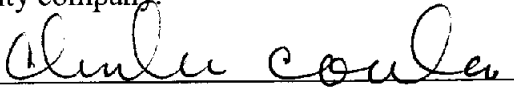
This instrument was acknowledged before me on September 23, 2015 by Joseph F. Pietruszynski and Jennifer L. Drake as a Vice President and an Assistant Secretary, respectively, of Hubbell Realty Company, an Iowa corporation.

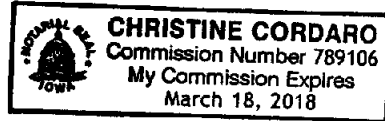
[Signature]
Notary Public in and for said State



STATE OF IOWA, COUNTY OF DALLAS) ss:


This instrument was acknowledged before me on September 23, 2015 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.

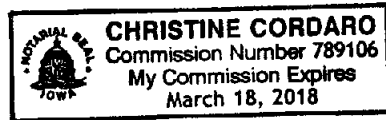

Notary Public in and for said State



STATE OF IOWA, COUNTY OF DALLAS) ss:

This instrument was acknowledged before me on September 23, 2015 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

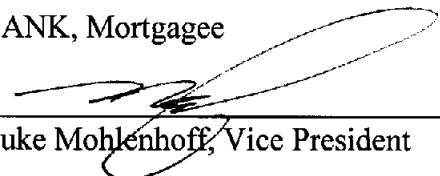


MORTGAGEE'S CONSENT AND SUBORDINATION

KNOW ALL MEN BY THESE PRESENTS: that, West Bank is the present owner of the Mortgagee's interest in that certain Mortgage, granted by Crosshaven I, LLC, an Iowa limited liability company as Mortgagor, to West Bank, dated December 31, 2014 and filed for record in the Office of the Recorder for Polk County, Iowa on January 2, 2015 in Book 15431 at Page 421 of the Polk County Records, of the Mortgagee's interest in that certain Mortgage, granted by Crosshaven I, LLC, as Mortgagor, to West Bank, as Mortgagee, dated June 5, 2015 and filed for record in the Office of the Recorder for Polk County, Iowa on June 11, 2015 in Book 15612 at Page 658 of the Polk County Records and of the Mortgagee's interest in that certain Mortgage, granted by Hubbell Properties I, L.C., as Mortgagor, to West Bank, as Mortgagee, dated July 17, 2015 and filed for record in the Office of the Recorder for Polk County, Iowa on July 23, 2015 in Book 15668 at Page 853 of the Polk County Records, (collectively, the "**Mortgages**"), which Mortgages create a lien on the portions of Crosshaven described as Crosshaven Plat 6. West Bank hereby consents to the within and foregoing Fourth 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.

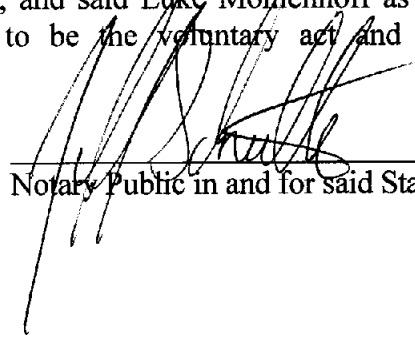
Dated this 23rd day of September, 2015.

WEST BANK, Mortgagee

By: 
Luke Mohlenhoff, Vice President

STATE OF IOWA)
) SS.
COUNTY OF POLK)

On this ___ day of September, 2015, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Luke Mohlenhoff, to me personally known, who, being by me duly sworn, did say that he is the Vice President of **WEST 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 Luke Mohlenhoff 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.


Notary Public in and for said State

