

27
LMO



Doc ID: 031317330005 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 10/25/2016 at 11:10:29 AM
Fee Amt: \$27.00 Page 1 of 5
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2016-00037940

BK 16240 PG 127-131

RETURN TO:

Prepared by and Return To: Jennifer Schumann, Hubbell Realty Company, 6900 Westown Parkway, West Des Moines, IA 50266, (515) 280-2009

SPACE ABOVE THIS LINE FOR RECORDER

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

THIS SIXTH MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO CROSSHAVEN, JOHNSTON, POLK COUNTY, IOWA is made this 5 day of October, 2016, 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, 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, that certain Fifth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Crosshaven, Johnston, Polk County, Iowa,

dated September 23, 2015 filed for record in the Office of the Recorder for Polk County, Iowa on October 12, 2015 in Book 15766 at Page 609 (collectively, the "Declaration"); and

WHEREAS, Declarant desires to amend the Declaration to apply to any and all Lots from any platting or replatting of Outlots Z and X of Crosshaven Plat 7, 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, Lots 1-47 and Outlots Y and Z of Crosshaven Plat 6, and Lots 1-71 and Outlots X and Z of Crosshaven Plat 7, 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. In Article III, Private Easements, the following section shall be added:

"3.08 The Association shall have the responsibility and bear the expense for the following work related to the stone veneer façade on the wing walls of the elliptical culvert located on Lot A of Crosshaven Plat 7 per the Development Agreement with the City of Johnston recorded with the Polk County Recorder's Office:

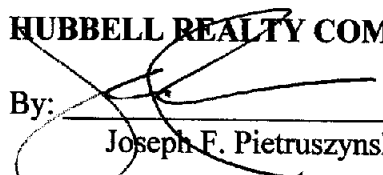
- a. Regular maintenance and upkeep;
- b. Repairs, major, and minor to the stone veneer façade;

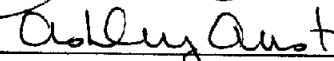
- c. Replacement of the stone veneer façade resulting from City maintenance or replacement on the elliptical culvert structure; and
- d. Replacement resulting from weathering and aging.”

3. Except as expressly modified by this Sixth 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 5 day of October, 2016.

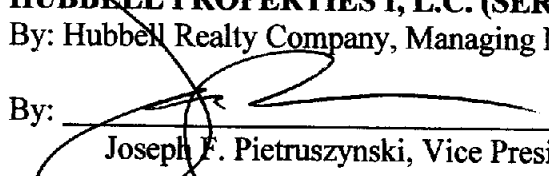
HUBBELL REALTY COMPANY

By: 
Joseph F. Pietruszynski, Vice President

By: 
Ashley Aust, Secretary

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


By: Hubbell Realty Company, Managing Member


By: 
Joseph F. Pietruszynski, Vice President

By: 
Ashley Aust, Secretary

CROSSHAVEN I, LLC

By: Hubbell Realty Company, Managing Member

By: 
Joseph F. Pietruszynski, Vice President

By: 
Ashley Aust, Secretary

STATE OF IOWA, COUNTY OF DALLAS) ss:

This instrument was acknowledged before me on October 5, 2016 by Joseph F. Pietruszynski and Ashley Aust as a Vice President and Secretary, respectively, of Hubbell Realty Company, an Iowa corporation.

Falon Michalski

Notary Public in and for said State



STATE OF IOWA, COUNTY OF DALLAS) ss:

This instrument was acknowledged before me on October 5, 2016 by Joseph F. Pietruszynski and Ashley Aust as a Vice President and 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.

Falon Michalski

Notary Public in and for said State



STATE OF IOWA, COUNTY OF DALLAS) ss:

This instrument was acknowledged before me on October 5, 2016 by Joseph F. Pietruszynski and Ashley Aust 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.

Falon Michalski

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 7. West Bank hereby consents to the within and foregoing Sixth 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 6th day of October, 2016.

WEST BANK, Mortgagee

By: [Signature]
Luke Mohlenhoff, Vice President

STATE OF IOWA)
) SS.
COUNTY OF POLK)

On this 4 day of October, 2016, 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.

[Signature]
Notary Public in and for said State

