



MISC 2012103477



OCT 12 2012 13:47 P 5

Fee amount: 31.00
FB: 0C-29201
COMP: SB

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
10/12/2012 13:47:29.00



2012103477

Prepared by, return to: Nathan S. Allen, 5820 Westown Pkwy, West Des Moines, IA 50266 (515)267-2870

FIRST AMENDMENT TO
DECLARATION OF EASEMENTS WITH COVENANTS AND
RESTRICTIONS AFFECTING LAND

THIS FIRST AMENDMENT (hereinafter, the "Amendment") is made and entered into this 10th day of October, 2012, by HY-VEE, INC., an Iowa corporation, ("Hy-Vee" and/or "Developer"); WITNESSETH:

WHEREAS, Developer declared certain real property located in Omaha, Douglas County, Nebraska legally described as Lots 1, 2, 3, 4, 5, 6, 7 and 8, and Outlots A, B, C and D, Pacific Springs Place Addition, as surveyed, platted and recorded in Douglas County, Nebraska to be subject to that certain Declaration of Easements with Covenants and Restrictions Affecting Land dated March 1, 2012 and recorded May 22, 2012 in the office of the Register of Deeds of Douglas County, Nebraska as Instrument # 2012049777 (the "Declaration"); and

WHEREAS, Developer desires to amend the Declaration to permit the use of Lot 4 for certain use(s) that were prohibited by the original Declaration, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, it is agreed as follows:

1. Use Restrictions - General Restrictions – Lot 4. Notwithstanding anything to the contrary contained in the Declaration, Lot 4 may be used by Great Southern Bank, and its successors or assigns, for office use for the purpose of banking, commercial lending, insurance, and travel related services, as well as other ancillary uses generally associated with the operation of the foregoing banking related uses.

2. Buildings – Design and Construction – Lot 4. Notwithstanding anything to the contrary contained in the Declaration, the building height of any building originally constructed on Lot 4 for use as a retail bank may not exceed thirty (30) feet above finished grade, including architectural features. In the event a building is constructed upon Lot 4 and said building opens for business to the public as a retail

bank, said building may subsequently be used for any use that is not otherwise restricted by the terms of the Declaration and the thirty (30) foot height restriction set forth herein shall continue to apply. Notwithstanding the foregoing, in the event a building is constructed on Lot 4 and its first use is anything other than a retail bank, the building height restriction set forth in the original Declaration shall once again apply to Lot 4.

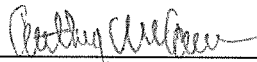
3. Design and Plans Approval – Lot 4. Developer and Hy-Vee hereby approve the elevations and site plan for the construction and operation of a typical Great Southern Bank on Lot 4 as set forth on Exhibit “A” attached hereto and incorporated herein. Developer and Hy-Vee hereby confirm that the plans and specifications for improvements to be constructed on Lot 4 by Great Southern Bank for the operation of a typical Great Southern Bank previously submitted to Developer and Hy-Vee prior to the date hereof, are hereby approved by Developer and Hy-Vee. In the event the owner of Lot 4 desires to construct any improvements other than for use as a typical Great Southern Bank, the approvals set forth herein shall be deemed of no further force or effect and the owner shall once again be required to submit plans and specifications to Developer and Hy-Vee for approval as set forth in the original Declaration.

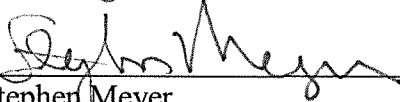
4. Ratification. Except as modified by this Amendment, the Declaration is ratified and confirmed by Developer.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Developer has caused this Amendment to be executed all on or as of the day and year first above written.


HY-VEE, INC.

By: 
Anthony McCann
Its: Sr. Vice President

By: 
Stephen Meyer
Its: Secretary

STATE OF IOWA, COUNTY OF POLK, ss

On this 8th day of October, 2012, before me, the undersigned, a Notary Public in and for the state of Iowa, personally appeared Anthony McCann and Stephen Meyer, to me personally known, who being by me duly sworn did say that they are the Sr. Vice President and Secretary, respectively, of Hy-Vee, Inc., an Iowa corporation, that the instrument to which this is attached was signed on behalf of said corporation by authority of its Board of Directors; and that the said Anthony McCann and Stephen Meyer as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.


Notary Public in and for the
State of Iowa
my Commission Expires: 7/6/2013

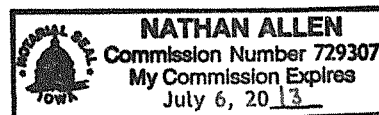
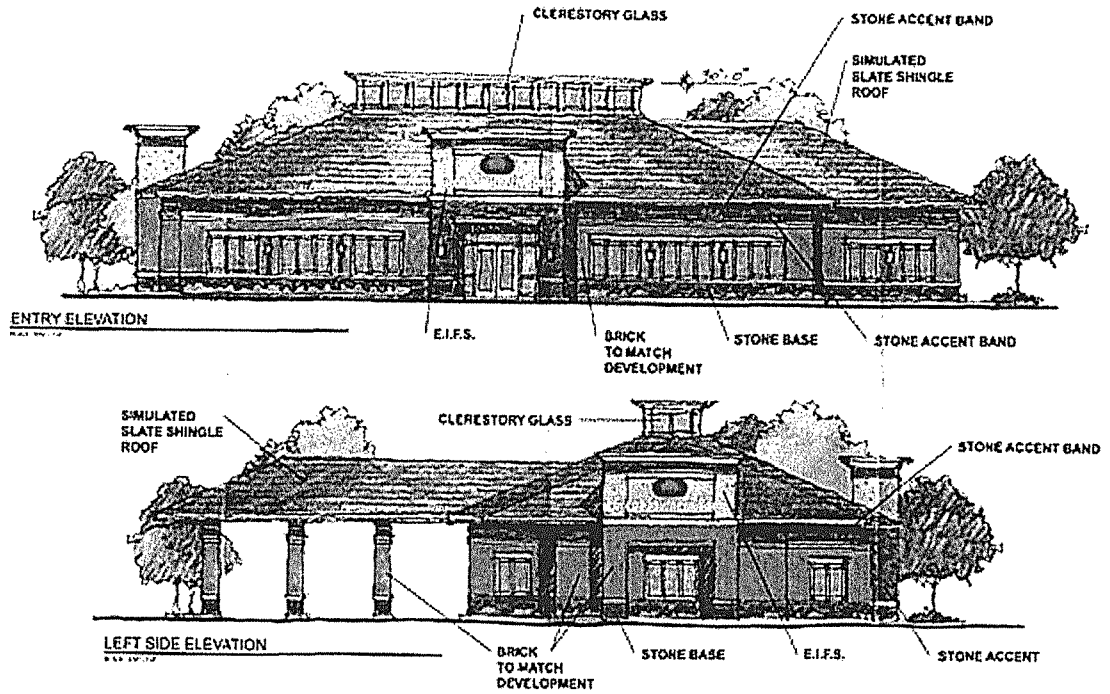


EXHIBIT "A"

Lot 4 Elevations



TRI
Architects of the Project
1815 West 10th Street
Omaha, Nebraska 68104
Phone: 402.441.1111
Fax: 402.441.1112

GREAT SOUTHERN BANK - OMAHA
OMAHA, NEBRASKA
12.02.05

NEBRASKA
06.14.12

Great Southern Bank

EXHIBIT "A" (Continued) Site Plan

