



MISC 2017028456



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COMP: AH

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
04/14/2017 16:48:25.00



2017028456

Please return to: Hy-Vee, Inc., Attn: Legal Dept., 5820 Westown Parkway, West Des Moines, IA 50266;  
515-267-2800

**THIRD AMENDMENT TO  
DECLARATION OF EASEMENTS WITH COVENANTS AND  
RESTRICTIONS AFFECTING LAND**

THIS THIRD AMENDMENT TO DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND (hereinafter, the "Amendment") is made and entered into as of this 14<sup>th</sup> day of April, 2017, 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, as amended by that certain First Amendment to Declaration of Easements with Covenants and Restrictions Affecting Land dated October 10, 2012 and recorded October 12, 2012 in the office of the Register of Deeds of Douglas County, Nebraska as Instrument # 2012103477, as amended by that certain Second Amendment to Declaration of Easements with Covenants and Restrictions Affecting Land dated January 18, 2017 and recorded January 26, 2017 in the office of the Register of Deeds of Douglas County, Nebraska as Instrument # 2017006842 (collectively, the "Original Declaration"); and

WHEREAS, Developer desires to amend the Original Declaration to permit the use of Lot 8 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 8. Developer hereby agrees that, notwithstanding anything to the contrary contained in Section 2(a) of the Original Declaration, Lot 8 may be used for office, insurance, and financial purposes. Notwithstanding anything in the Original Declaration to the contrary, Declarant shall not modify or amend the terms of Section 2 of the Original Declaration (including exhibits) applicable to Lot 8 without the written consent of the Owner(s) of Lot 8.

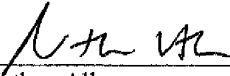
BATTIATO 02714 056

2. Building Height - Lot 8. Notwithstanding anything to the contrary contained in the Original Declaration, the building height of any building originally constructed on Lot 8 may be one and/or two stories high. Notwithstanding anything in the Original Declaration to the contrary, Declarant shall not modify or amend the terms of Section 3 of the Original Declaration (including exhibits) applicable to Lot 8 without the written consent of the Owner(s) of Lot 8.

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

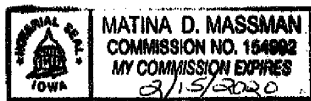
**HY-VEE, INC.**

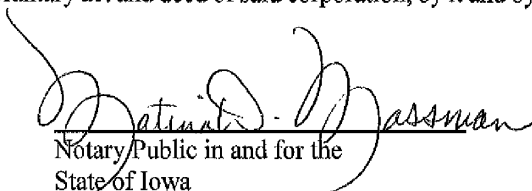
By:   
Jeffrey Markey  
Its: Sr. Vice President

By:   
Nathan Allen  
Its: Assistant Secretary

STATE OF IOWA, COUNTY OF POLK, ss

On this 13<sup>th</sup> day of April, 2017, before me, the undersigned, a Notary Public in and for the state of Iowa, personally appeared Jeffrey Markey and Nathan Allen, to me personally known, who being by me duly sworn did say that they are the Sr. Vice President and Assistant 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 Jeffrey Markey and Nathan Allen 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