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JOHN C. RASMUSSEN
JORDAN T. GLASER
DENNIS M. GRAY, Retired
JAMES A. THOMAS, Retired
Admitted in Iowa and Nebraska

August 14, 2014

HCC Investments, LLC
Attention John M. Duggan
11040 Oakmont Street
Overland Park, KS 66210

Examined by
Peters Law Firm, P.C.
Abstract Opinion No. 4935

RE: The Hills of Cedar Creek
Phase 1, Replat 4
Our File No. 32755

To Whom It May Concern:

As requested, I have completed an examination of the Abstract of Title provided as to the following described real estate situated in Pottawattamie County, Iowa, described, to-wit:

Outlot M, The Hills of Cedar Creek, Phase I Subdivision in Pottawattamie County, Iowa.

The Abstract is in four parts. Part 1 contains Entries numbered 1-39, both inclusive, last certified to January 12, 2005, at 8:00 a.m. Part 2 contains Entries numbered 1-26, both inclusive, last certified to January 21, 2005, at 8:00 a.m. Part 3 contains Entries number 1 through 8, both inclusive, last certified to February 18, 2005, at 4:30 p.m. Part 4 contains Entries numbered 1- 11, both inclusive, last certified to August 14, 2014 at 1:30 p.m. All parts of the abstract were last certified by Abstract Guaranty Company, Title Guaranty Division Member No. 8146.

The abstract contains a notice at Entry No. 1 that the Abstract is prepared pursuant to Section 614.29 through 614.38 of the Code of Iowa, Chapter 11 of the Iowa Land Title Standards of the Iowa State Bar Association and the Abstracting Standards of the Iowa Land Title Association.

All matters of record prior to the date of the recording of the root of title are omitted herefrom except:

1. Plat and surveys.
2. Easements.
3. Party wall and other boundary lines agreements.
4. Unexpired recorded leases.
5. Patents.

TITLE

Subject to the exceptions listed below, we find marketable title to the property to be in HCC Investments, LLC, an Iowa limited liability company, pursuant to the combination of a Warranty Deed dated October 24, 2003, filed November 3, 2003, in Book 104, Page 11586 as disclosed at Entry No. 25 of Part 1; a Warranty Deed dated October 24, 2003, filed November 3, 2003, in Book 104, Page 11587 as disclosed at Entry No. 26 of Part 1, a Warranty Deed dated October 23, 2003, filed October 30, 2003, in Book 104, Page 11360 as disclosed at Entry No. 10 of Part 2 which was re-recorded (to show City approval of a property line adjustment) in Book 104, Page 22858 as disclosed at Entry No. 12 of Part 2.

EXCEPTIONS

1. Entry No. 15 of Part 1 and Entry No. 9 of Part 2 disclose City of Council Bluffs Resolution No. 03-176 approving annexation of the property under examination. Entry No. 17 of Part 1 and Entry No. 13 of Part 2 disclose the Filing of Written Decision recorded on July 27, 2004 in Book 105, Page 01742 regarding the annexation.

2. Entry No. 23 of Part 1 disclose City of Council Bluffs Ordinance No. 5767, recorded September 17, 2003 in Book 104, Page 07246, which amends the zoning map regarding the property under examination and other property. You are referred to the Zoning Administrator for details regarding the zoning of specific parcels.

3. Entry No. 30 of Part 1 and Entry No. 17 of Part 2 disclose City of Council Bluffs Ordinance Nos. 3967, 3968, 4948, changes to the Municipal Code, and Ordinance Nos. 5216, 5217, 5255, 5323, 5458, and 5469.

Entry No. 31 of Part 1 and Entry No. 18 of Part 2 disclose City of Council Bluffs Ordinance No. 4589.

Entry No. 32 of Part 1 and Entry No. 19 of Part 2 disclose City of Council Bluffs Ordinance No. 4942.

Entry No. 33 of Part 1 and Entry No. 20 of Part 2 disclose City of Council Bluffs Ordinance No. 5264.

Entry No. 34 of Part 1 and Entry No. 21 of Part 2 disclose City of Council Bluffs Ordinance No. 5333.

SINCE THESE ORDINANCES AFFECT THE PROPERTY UNDER EXAMINATION, YOU ARE REFERRED TO THE RECORD FOR FURTHER PARTICULARS.

4. Entry No. 9 of Part 4 discloses City of Council Bluffs Resolution No. 13-192 which granted preliminary plan approval for a 24 lot residential subdivision to be known as The Hills of Cedar Creek, Phase 1, Replat 4. The resolution was adopted and approved on July 22, 2013, and recorded on December 2, 2013, in Book 2013, Page 18018.

5. Entry No. 41 of Part 1 and Entry No. 26 of Part 2 disclose the following: NO SEARCH made for Bankruptcies filed subsequent to October 1, 1979. Your attention is directed to the Bankruptcy Clerk of Federal Court, Des Moines, Iowa where said matters are now filed of record.

6. Entry No. 3 of Part 3 discloses the following:
WE DO NOT CERTIFY TO UNPAID FEES FOR SERVICES FOR SEWER SYSTEMS, STORM WATER DRAINAGE SYSTEMS, SEWAGE TREATMENT, SOLD WASTE COLLECTION, WATER, AND SOLID WASTE DISPOSAL, WHICH HAVE BEEN CERTIFIED TO THE COUNTY TREASURER FOR COLLECTION UNLESS THESE CHARGES HAVE BEEN ENTERED ON THE TAX RECORDS.

7. Entry No. 4 of Part 3 discloses the following:
“INASMUCH as the office of the County Treasurer indexes Buildings on Leased Land and assessments for machinery and equipment in such a manner it is impossible to determine if there are any which would attach to the real estate under examination, we do not certify to such assessments”.

8. Several abstract entries include covenants that affect the use of property in various subdivisions of The Hills of Cedar Creek. Those entries are described as follows:

a) Entry No. 6 Part 3 discloses a Final Plat filed by HCC Investments, Inc. on February 18, 2005, in Book 105, Page 15339 which created 307 Lots numbered 1 through 307, both inclusive, for a subdivision known as The Hills of Cedar Creek, Phase 1. The original plat named HCC Investments, Inc., as the “Declarant” for both the regular lot covenants and the townhome covenants. All 307 Lots were subject to the “Regular Covenants” which were set forth on Pages 21 to 52 of the plat. The plat designated 154 Lots, which were legally described as Lots 154 through 307, both inclusive, The Hills of Cedar Creek, Phase 1, as Townhome Lots. Only the 154 Townhome Lots were subject to the Townhome Covenants which were set forth on pages 53 to 85 of the plat.

b) Entry No. 7 of Part 4 discloses a Supplemental Declaration executed on June 20, 2005 which was recorded as pages 14 to 16 of the Final Plat of The Hills of Cedar Creek, Phase 2 on July 5, 2005, in Book 106, Page 284. The Supplemental Declaration made 54 additional Lots subject to the Regular Covenants. These 54 Lots were described as Lots 308 through 361, both inclusive, The Hills of Cedar Creek, Phase 2. This increased the number of Lots subject to the Regular Covenants to 361 Lots. The number of Townhome Lots remained at 154.

c) Entry No. 4 of Part 4 discloses the First Amendment to the Declaration of

Easements, Covenants, Conditions and Restrictions of The Hills of Cedar Creek Townhomes which was executed on December 5, 2007, and was recorded on December 6, 2007, in Book 2007, Page 19177 (hereinafter the "First Amendment"). Entry No. 5 of Part 4 disclosed that the First Amendment was also recorded as pages 17 to 19 of the Final Plat of a subdivision known as The Hills of Cedar Creek Phase 1, Replat 1 on December 6, 2007, in Book 2007, Page 19178.

The First Amendment removed Lots 262 through Lot 307, both inclusive, The Hills of Cedar Creek, Phase 1, from the jurisdiction of the Townhome Covenants effective upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 1, which occurred on December 6, 2007. This reduced the number of Lots subject to the Townhome Covenants from 154 to 108. The First Amendment replatted 46 Townhome Lots as 22 regular Lots. This reduced the number of Lots subject to the "Regular Covenants" from 361 Lots to 337 Lots.

d) Entry No. 6 of Part 4 discloses the Second Amendment to the Declaration of Covenants, Restrictions, Assessments and Easements of The Hills of Cedar Creek which was executed on September 28, 2011, and was recorded on September 28, 2011, in Book 2011, Page 12402 (hereinafter the "Second Amendment"). Entry No. 6 of part 4 discloses that the Second Amendment was also recorded as pages 20 to 24 of the Final Plat of a subdivision known as The Hills of Cedar Creek Phase 1, Replat 2 which was recorded September 30, 2011, in Book 2011, Page 12503.

The Second Amendment removed Lots 202 through Lot 261, both inclusive, The Hills of Cedar Creek, Phase 1, from the jurisdiction of the Townhome Covenants effective upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 2, which occurred on September 30, 2011. This reduced the number of Lots subject to the Townhome Covenants from 108 to 48. The Second Amendment replatted 60 Townhome Lots as 23 Regular Lots. This reduced the number of Lots subject to the "Regular Covenants" from 337 Lots to 300 Lots.

e) Entry No. 8 of Part 4 discloses the Third Amendment to the Declaration of Covenants, Restrictions, Assessments and Easements of The Hills of Cedar Creek was executed on July 2, 2012, and was recorded as pages 16 to 20 of the Final Plat of a subdivision known as The Hills of Cedar Creek Phase 1, Replat 3 which was recorded July 3, 2012, in Book 2012, Page 9731 (hereinafter the "Third Amendment").

The Third Amendment created 16 Regular Lots known as Lots 1 through 16, The Hills of Cedar Creek, Phase 1, Replat 3 by replatting the 22 lots created by the filing of the plat of Phase 1, Replat 1. This reduced the number of Regular Lots by six from 300 to 294. The number of Lots subject to the Townhome Covenants was unchanged – remaining at 48.

9. Entry No. 10 of Part 4 discloses LIEN SEARCHES including Liens in District and Federal Courts Pottawattamie County as to the following persons, ONLY:

Ten Years last past:
HCC Investments, LLC

10. Entry No. 11 of Part 4 discloses:

GENERAL TAXES for the year 2012, and prior years paid.

GENERAL TAXES for the year 2013 not yet certified.

P-744303203019

CAUTIONARY INSTRUCTIONS

This examination does not constitute a certification that any building or other improvements situated upon the described property are within the platted boundary lines. Such determination could only be made by survey.

This examination does not constitute a certification that any fences or other apparent boundary line markers are situated upon the platted boundaries of the land. This determination could only be made by survey.

If any person is in possession other than the titleholders named in this opinion, you should make inquiry to determine the nature and extent of the claimed right of possession.

You are charged with notice of any visible easements such as power lines, and if any such easements exist, you should make inquiry to determine the nature and extent of the claimed easement right.

The opinion covers the period shown on the abstractor's certificate only. You take subject to any matters affecting title from the last certificate to closing. You can purchase for yourself from the abstractor a lien search and certificate as of closing. Contact the abstractor or this office for assistance.

Under Iowa law, any person who furnishes labor, services, or materials, incident to the construction of any building or other improvement upon real estate, may file a Mechanic's Lien against the real estate, within ninety days after completion of the improvements, if the improvements have not been paid for. You should therefore satisfy yourself that no recent improvements have been made on the property, or if any such improvements have been made, you should satisfy yourself that all bills, in connection with the improvements, have been paid.

You should assure yourself as to the availability of reasonable and convenient access to the real estate from an existing public right-of-way. You are charged with notice of any rights to access to and from highways and streets which may be designated as "controlled access facilities" by the state and local authorities.

You are charged with notice that the use of any real estate located in the State of Iowa may be subject to restrictions relating to Flood Plain Zoning; these restrictions on use are administered by the Iowa Department of Natural Resources in conjunction with local and federal authorities. In the event the real estate described herein appears to be physically located in an area where there is a potential for flooding from any source, you are directed to consult with the City or County officers having charge of zoning matters to determine whether or not restrictions may apply by virtue of Flood Plain Zoning.

The abstract has not disclosed the existence of hazardous substance, pollutants, contaminants, hazardous wastes, underground storage tanks, drainage wells, active or abandoned water wells, and other environmentally regulated activities. You are cautioned that federal, state and local legislation may, in the event there are environmental and/or public health violations, permit injunctive relief and require removal, remedial actions and/or other "clean up." The cost of such "clean up" may become a lien against the real estate, and a party interested in the real estate may incur personal liability even though said party may not have disposed of any hazardous substances, pollutants, contaminants, or hazardous waste on the real estate or used any underground storage tanks or wells.

You should, therefore, make a careful inspection of the property to determine that such environmental contamination or conditions do not exist. You may also want to consider the following:


- a) Inquire as to past uses of the property to determine if such uses could have resulted in any contamination or future contamination of the property or the groundwater, and ascertain whether any adjoining property has been or is being used for a purpose which has or could result in contamination of the property under examination; and
- b) Make a visual inspection and/or conduct professional testing to confirm the real estate is free of environmental hazards and contamination.

The laws of the U.S.A. relating to bankruptcy provide that all bankruptcy cases are to be filed with the Clerk of the Bankruptcy Court. Since the clerk's office is not in the county in which the real estate is situated, the abstract company cannot certify whether or not the title to the real estate is affected thereby. If a concern should be present regarding the effects of bankruptcy upon the title of the subject real estate, an inquiry should be made to the office of the Clerk of Bankruptcy Court in Des Moines, Iowa.

The Abstract is being retained pending further instructions. If you have any questions, please contact me.

Sincerely,

PETERS LAW FIRM, P.C.

By: 

Leo P. Martin
Iowa Title Guaranty Division
Certificate Member No. 2730

LPM:rsw/gslpm

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CERTIFICATE AND RECEIPT

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STATE OF IOWA

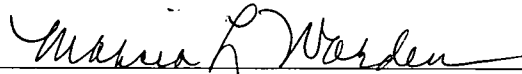
} SS.

Pottawattamie County,

The undersigned, City Clerk of the City of Council Bluffs, Iowa, hereby certifies that: Resolution 13-274, Attachment A and the Public Hearing Notice is as the same appears of record in this office.

Witness my hand and seal of Council Bluffs, Iowa,

this 5th day of August A.D., 2014



City Clerk of the City of Council Bluffs

=====

RESOLUTION NO. 13-274

A RESOLUTION GRANTING FINAL PLAT APPROVAL FOR A 24-LOT RESIDENTIAL SUBDIVISION TO BE KNOWN AS THE HILLS OF CEDAR CREEK, PHASE I, REPLAT IV, BEING A REPLAT OF OUTLOT 'M', HILLS OF CEDAR CREEK, PHASE I (AS AMENDED).

WHEREAS, HCC Investments, Inc., represented by John Duggan, is requesting final plat approval of a 24-lot residential subdivision to be known as Hills of Cedar Creek, Phase 1, Replat IV, being a replat of Outlot 'M', Hills of Cedar Creek, Phase I; and

WHEREAS, The parcel is located on a southerly extension of South Larchmont Drive and an easterly extension of Providence Road; and

WHEREAS, The property is zoned R-1/Single Family Residential District which allows for single-family residential dwellings; and

WHEREAS, The Community Development Department recommends approval for a 24-lot residential subdivision to be known as The Hills of Cedar Creek, Phase I, Replat IV, being a replat of Outlot 'M', Hills of Cedar Creek, Phase I, as shown on Attachment A, subject to the following conditions below:

- a) The final plat shall be recorded within 90 days of City Council approval or the plat will become null and void unless an extension has been requested and granted by the Community Development Department Director.
- b) All technical corrections required by the Community Development Department and/or Public Works Department including the modifications discussed above, shall be made on the final plat document prior to execution of the document.
- c) Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements.
- d) An erosion and sediment control plan shall be reviewed and approved by the Public Works Department including, temporary and permanent measures, to control and remove sediment during construction and following any rainfall event.
- e) The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, upon acceptance of all required improvements.
- f) The stormwater easement language for Outlot 'A' shall be revised on the final plat to cover the entire outlot and not just the detention basis therein.
- g) A performance guarantee in the amount of \$88,702.00 (as per the Opinion of Probable Cost, dated 11/6/2013, from Ehrhart Griffin & Associates) must be filed with the City Clerk's Office or all remaining infrastructure improvements stated in the OPC must be completed and accepted by the City prior to executing the final plat.

- h) All utilities shall be installed underground.
- i) Evidence of a street light agreement with Mid-American Energy for said subdivision phase must be submitted to the Community Development Department prior to executing the final plat.
- j) A soil compaction analysis for Lots 1 through 24 of the said subdivision phase must be submitted to the Council Bluffs Building Division prior to executing the final plat.
- k) Covenants specific to this subdivision phase must be recorded with the final plat document and a copy provided to the Community Development Department.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

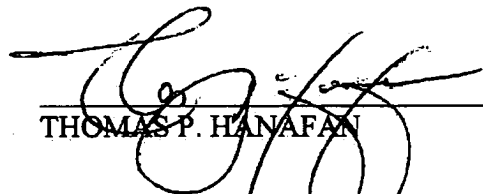
That the final plat for a 24-lot residential subdivision to be known as The Hills of Cedar Creek, Phase I, Replat IV, being a replat of Outlot 'M', Hills of Cedar Creek, Phase I (as amended), as shown on Attachment "A", is hereby approved subject to the conditions set forth above; and

BE IT FURTHER RESOLVED

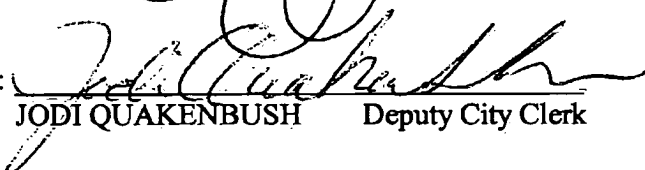
That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat (as amended).

ADOPTED
AND
APPROVED

November 18, 2013



THOMAS P. HANAFAN Mayor

Attest: 

JODI QUAKENBUSH Deputy City Clerk

PROOF OF PUBLICATION

STATE OF IOWA
POTTAWATTAMIE COUNTY

I, Amy McKay, on my oath do solemnly swear that I am the Controller of the COUNCIL BLUFFS DAILY NONPAREIL, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

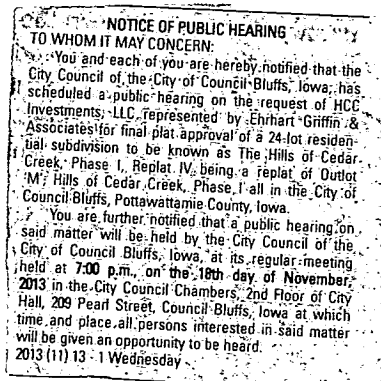
The attached notice was published in said newspaper for 1 consecutive time(s) as follows:

The first publication thereof began on the 13th day of November, 2013

Signed in my presence by the said Amy McKay and by her sworn to before me this 13th day of November, A.D. 2013.

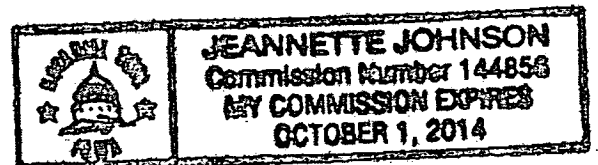


Amy McKay
Daily Nonpareil Controller



Jeannette Johnson
Notary Public

Filed this 13th day of November, A.D. 2013.
Publication Cost: \$ 11.30



Customer Number: 35700
Order Number: 20348459

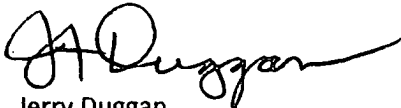
Mr. Don Gross
Council Bluffs Community Development
209 Pearl St
Council Bluffs, IA 51503

Re: The Hills of Cedar Creek, Phase 1, Replat 4

Dear Mr. Gross

We hereby request an extension to the timeline for recording the subdivision The Hills of Cedar Creek, Phase 1, Replat 4. We would appreciate a total time extension of 90 days from the approaching deadline of February 18th, 2014. This would place our new deadline at May 18th, 2014.

Thank you for your time and consideration on this request.



Jerry Duggan
HCC Investments, LLC
11040 Oakmont St
Overland Park, KS 66210

Approved 2-3-14



**DONALD D. GROSS, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT
209 PEARL STREET
COUNCIL BLUFFS, IOWA 51503**



Mr. Don Gross
Council Bluffs Community Development
209 Pearl St.
Council Bluffs, IA 51503

COUNCIL BLUFFS
COMMUNITY DEVELOPMENT DEPT.

MAY 5 2014

RECEIVED

Re: The Hills of Cedar Creek, Phase 1, Replat 4

Dear Mr. Gross

We hereby request an extension to the timeline for recording the subdivision The Hills of Cedar Creek, Phase 1, Replat 4. We would appreciate a total time extension of 60 days from the approaching deadline of May 18th. This would place our new deadline at July 18th.

Thank you for your time and consideration on this project.

William A. White, Partner
Ehrhart Griffin & Associates
142 W Broadway, Suite 136
Council Bluffs, IA 51503

For:
HCC Investments, LLC
11040 Oakmont St
Overland Park, KS 66210

Approved 5/5/14

DONALD D. GROSS, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT
209 PEARL STREET
COUNCIL BLUFFS, IOWA 51503

Mr. Don Gross
Council Bluffs Community Development
209 Pearl St.
Council Bluffs, IA 51503

Re: The Hills of Cedar Creek, Phase 1, Replat 4

Dear Mr. Gross

We hereby request an extension to the timeline for recording the subdivision The Hills of Cedar Creek, Phase 1, Replat 4. We would appreciate a total time extension of 30 days from the approaching deadline of July 18th. This would place our new deadline at August 18th.

Thank you for your time and consideration on this project.


William A. White, Partner
Ehrhart Griffin & Associates
142 W Broadway, Suite 136
Council Bluffs, IA 51503

For:
HCC Investments, LLC
11040 Oakmont St
Overland Park, KS 66210



COUNCIL BLUFFS
COMMUNITY DEVELOPMENT DEPT.

JUL 14 2014

RECEIVED

**FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS,
RESTRICTIONS,
ASSESSMENTS AND EASEMENTS OF THE HILLS OF CEDAR CREEK
Recorder's Cover Sheet**

Preparer Information:

Leo P. Martin, Peters Law Firm, P.C., 233 Pearl Street, PO Box 1078, Council Bluffs, IA 51502-1078, Phone: (712) 328-3157

Taxpayer Information:

HCC Investments, LLC, c/o John Duggan, 11040 Oakmont Street, Overland Park, KS 66210-1100

Return Document To:

Leo P. Martin, Peters Law Firm, P.C., 233 Pearl Street, PO Box 1078, Council Bluffs, IA 51502-1078

Grantor:

HCC Investments, LLC, an Iowa limited liability company

Grantees:

To The Public

Legal Description: Lots 1 through 24, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 4, Council Bluffs, Pottawattamie County, Iowa

Document or instrument number of previously recorded documents:

1. Final Plat of The Hills of Cedar Creek, Phase 1 - Book 105, Page 15339 recorded February 18, 2005. See pages 21 to 52 for Regular Covenants and pages 53 to 85 for Townhome Covenants.
2. Final Plat of The Hills of Cedar Creek, Phase 2 recorded July 5, 2005, in Book 106, Page 284. See Supplemental Declaration on pages 14 to 16.
3. First Amendment to Declaration of Covenants recorded December 6, 2007, in Book 2007, Page 19177. (Also recorded as pages 17 to 19 of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 1 on December 6, 2007, in Book 2007, Page 19178).
4. Second Amendment to Declaration of Covenants recorded September 28, 2011, in Book 2011, Page 12402. (Also recorded as pages 20 to 24 of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 2 on September 30, 2011, in Book 2011, Page 12503).
5. Final Plat of The Hills of Cedar Creek, Phase 1, Replat 3 recorded July 3, 2012, in Book 2012, Page 9731. See Third Amendment to Declaration of Covenants on pages 16 to 20.

**FOURTH AMENDMENT TO THE
DECLARATION OF COVENANTS, RESTRICTIONS,
ASSESSMENTS AND EASEMENTS
OF HILLS OF CEDAR CREEK**

HCC Investments, LLC, an Iowa limited liability company, ("HCC" or "Declarant") executed a document called the Declaration of Easements, Covenants, Conditions and Restrictions of Hills of Cedar Creek on February 15, 2005, which were recorded as pages 21 to 52 of the Final Plat of a subdivision known as The Hills of Cedar Creek, Phase 1 on February 18, 2005, in Book 105, Page 15339 (hereinafter the "Covenants"). This is the Fourth Amendment to the Covenants.

RECITALS

1. HCC, as the owner of certain real estate that had been annexed into the City of Council Bluffs, filed a plat on February 18, 2005, in Book 105, Page 15339 which created 307 Lots numbered 1 through 307, both inclusive, for a subdivision known as The Hills of Cedar Creek, Phase 1. The original plat, which contained both regular lot covenants and townhome covenants, named HCC as the "Declarant". All 307 Lots were subject to the "Regular Covenants" which were set forth on Pages 21 to 52 of the plat. The plat designated 154 Lots, which were legally described as Lots 154 through 307, inclusive, The Hills of Cedar Creek, Phase 1, as Townhome Lots. Only the 154 Townhome Lots were subject to the Townhome Covenants which were set forth on pages 53 to 85 of the plat.

2. A Supplemental Declaration executed on June 20, 2005 was recorded as pages 14 to 16 of the Final Plat of The Hills of Cedar Creek, Phase 2 on July 5, 2005, in Book 106, Page 284. The Supplemental Declaration made 54 additional Lots subject to the Regular Covenants. These 54 Lots were described as Lots 308 through 361, both inclusive, The Hills of Cedar Creek, Phase 2. This increased the number of Lots subject to the Regular Covenants to 361 Lots. The number of Townhome Lots remained at 154.

3. The First Amendment to the Declaration of Easements, Covenants, Conditions and Restrictions of The Hills of Cedar Creek Townhomes was executed on December 5, 2007, and was recorded on December 6, 2007, in Book 2007, Page 19177 (hereinafter the "First Amendment"). The First Amendment was also recorded as pages 17 to 19 of the Final Plat of a subdivision known as The Hills of Cedar Creek Phase 1, Replat 1 on December 6, 2007, in Book 2007, Page 19178.

The First Amendment removed Lots 262 through Lot 307, both inclusive, The Hills of Cedar Creek, Phase 1, from the jurisdiction of the Townhome Covenants effective upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 1, which occurred on December 6, 2007. This reduced the number of Lots subject to the Townhome Covenants from 154 to 108. The First Amendment replatted 46 Townhome Lots as 22 regular Lots. This reduced the number of Lots subject to the "Regular Covenants" from 361 Lots to 337 Lots.

4. The Second Amendment to the Declaration of Covenants, Restrictions, Assessments and Easements of The Hills of Cedar Creek was executed on September 28, 2011, and was recorded on September 28, 2011, in Book 2011, Page 12402 (hereinafter the "Second Amendment"). The Second Amendment was also recorded as pages 20 to 24 of the Final Plat of a subdivision known as The Hills of Cedar Creek Phase 1, Replat 2 which was recorded September 30, 2011, in Book 2011, Page 12503

The Second Amendment removed Lots 202 through Lot 261, both inclusive, The Hills of Cedar Creek, Phase 1, from the jurisdiction of the Townhome Covenants effective upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 2, which occurred on September 30, 2011. This reduced the number of Lots subject to the Townhome Covenants from 108 to 48. The Second Amendment replatted 60 Townhome Lots as 23 Regular Lots. This reduced the number of Lots subject to the "Regular Covenants" from 337 Lots to 300 Lots.

5. The Third Amendment to the Declaration of Covenants, Restrictions, Assessments and Easements of The Hills of Cedar Creek was executed on July 2, 2012, and was recorded as pages 16 to 20 of the Final Plat of a subdivision known as The Hills of Cedar Creek Phase 1, Replat 3 which was recorded July 3, 2012, in Book 2012, Page 9731 (hereinafter the "Third Amendment").

The Third Amendment created 16 Regular Lots known as Lots 1 through 16, The Hills of Cedar Creek, Phase 1, Replat 3 by replatting the 22 lots created by the filing of the plat of Phase 1, Replat 1. This reduced the number of Regular Lots by six from 300 to 294. The number of Lots subject to the Townhome Covenants was unchanged – remaining at 48.

6. The Covenants set forth Rights of the Developer in Article 11 which states:

ARTICLE 11
RIGHTS OF DEVELOPER

"1. Notwithstanding anything in this Declaration to the contrary, Developer may at any time and from time to time prior to the Turnover Date, in its sole discretion, without the consent of any Builder or other Owner, Association member or other party, (a) subdivide any Lot owned by Developer into two or more Lots, (b) combine any two or more Lots owned by Developer into fewer Lots, (c) add to the Addition any such land as may be owned or approved for addition by Developer, or (d) dedicate portions of the Addition owned by Developer to any governmental or quasi-governmental body (including the City) if, in Developer's sole discretion, such dedication will benefit the Addition as a whole. Any such change, addition or dedication shall become effective upon the recording with the County Recorder's Office of an amendment to this Declaration setting forth the same. No other Owner shall be entitled to further subdivide any Lot, nor combine any Lots without the Association's approval."

7. The Turnover Date is defined in Section 3.11 of the Covenants which states:

“Section 3.11 **Control of Association by Developer**. Notwithstanding anything in this Article 3 or elsewhere in this Declaration to the contrary, Developer shall have and maintain absolute and exclusive control of the Association and the Architectural Committee, including appointment and removal in Developer's sole discretion of all officers of the Association, members of the Board of Directors and all members of the Architectural Committee, until the date (the "**Turnover Date**") which is the earlier of (a) the expiration of 10 years from the date of recording of the most recent plat affecting the Addition, or (b) the effective date designated by Developer in a notice to the members of the Association stating that Developer relinquishes control. Until the Turnover Date, Developer will be entitled to cast all votes with respect to the election and removal of all officers of the Association, the Board of Directors, and members of the Architectural Committee and with respect to any other matter requiring the vote or approval of members of the Association or the Architectural Committee as set forth herein or in the Association's Articles of Incorporation or Bylaws. Notwithstanding the foregoing, or any other provision to the contrary set forth in this Declaration, if at the occurrence of the Turnover Date, Developer continues to own any Lots in the Addition, then so long thereafter as Developer continues to own Lots in the Addition, Developer shall have the sole and exclusive authority to appoint all of the members of the Architectural Committee.”

8. Developer has not relinquished control and less than 10 years has expired. The Turnover Date has not occurred so the Developer retains the rights described in Article 11 of the Covenants.

9. The Declarant (HCC) now owns Out Lot M, The Hills of Cedar Creek, Phase 1, located in Council Bluffs, Pottawattamie County, Iowa. This Out Lot is not currently a Regular Lot or a Townhome Lot under the Covenants.

10. HCC intends to re-plat Out Lot M as Lots 1 through 24, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 4, located in Council Bluffs, Pottawattamie County, Iowa. These new Lots will be made subject to the Regular Covenants.

11. Pursuant to the powers reserved to the Declarant as Developer to add to the Addition any land owned by the Developer, the Developer consents to the proposed re-platting of Out Lot M of The Hills of Cedar Creek, Phase 1, located in Council Bluffs, Pottawattamie County, Iowa.

12. The Lots subject to the Regular Covenants prior to the filing of this Fourth Amendment are legally described as follows:

Lots 1 through 201, both inclusive, The Hills of Cedar Creek, Phase 1;
Lots 308 through 361, both inclusive, The Hills of Cedar Creek, Phase 2;
Lots 1 through 23, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 2; and
Lots 1 through 16, both inclusive, The Hills of Cedar Creek, Phase 1; Replat 3.

In addition to being subject to the Regular Covenants, the following Lots are also subject to the Townhome Covenants:

Lots 154 through 201, both inclusive, The Hills of Cedar Creek, Phase 1.

13. Upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 4, the number of Lots subject to the Regular Covenants will increase from 294 to 318 and the number of Lots subject to the Townhome Covenants will remain at 48.

**CONSENT TO REPLAT OF PROPERTY
TO BE MADE SUBJECT TO COVENANTS**

Based upon the authority vested in the undersigned Developer, as described in the Recitals above, the Developer consents to the re-platting of the land now described as Out Lot M of The Hills of Cedar Creek, Phase 1, located in Council Bluffs, Pottawattamie County, Iowa, which shall, upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 4, become legally described as Lots 1 through 24, both inclusive, of The Hills of Cedar Creek, Phase 1, Replat 4, located in Council Bluffs, Pottawattamie County, Iowa, and which shall then become subject to the provisions of the "Regular Covenants" of The Hills of Cedar Creek as amended, which are more fully described in the Recitals.

**ADDITIONAL COVENANTS SPECIFIC TO
CERTAIN LOTS IN THE HILLS OF CEDAR CREEK
PHASE 1, REPLAT 4**

Upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 4 a Storm Water Drainage Easement will be created across a portion of Lots 1 and 2 of The Hills of Cedar Creek, Phase 1, Replat 4. Attached hereto as Exhibit "A" and incorporated herein by this reference is a diagram of the location of said Storm Water Drainage Easement and specific details regarding the maintenance of that easement. The easement runs with the land and is binding upon the heirs, successors and assignees of each respective Lot that is subject to the easement.

Upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 4 certain Minimum Threshold Elevations for window-well top sill, and/or door/window or any other exterior openings into the house structure shall be applicable to each of the Lots described as Lots 1 through 6, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 4. Attached hereto as Exhibit "B" and incorporated herein by this reference is a diagram that discloses the specific Minimum Threshold Elevations for each specific Lot, a description of the intent of the elevations and further details regarding where additional information can be obtained before any construction

is commenced on these Lots. These restrictions run with the land and are binding upon the heirs, successors and assignees of each respective Lot that is subject to the Minimum Threshold Elevations restriction.

IN WITNESS WHEREOF, the undersigned has executed this Fourth Amendment to the Declaration of Easements, Covenants, Conditions and Restrictions of Hills of Cedar Creek, a subdivision located in the City of Council Bluffs, Pottawattamie County, Iowa.

Dated: 1-14-14, 2014.

HCC INVESTMENTS, LLC

By: James M. Duggan
James M. Duggan, Member *member*

STATE OF IOWA)
) SS.
COUNTY OF POTTAWATTAMIE)

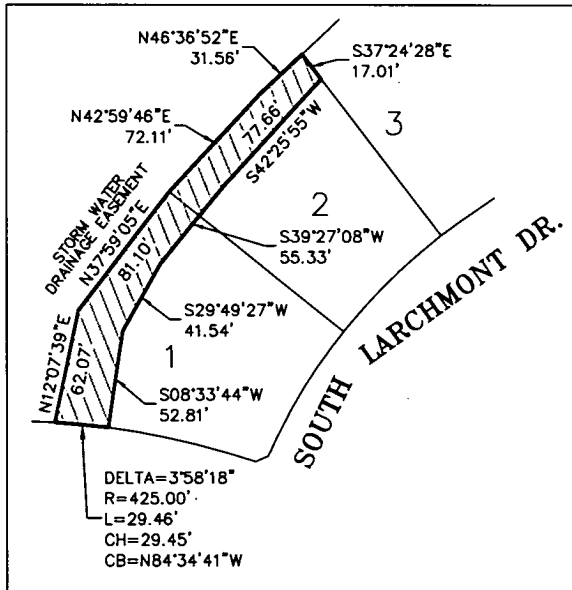
On this 14th day of January, 2014, before me appeared James M. Duggan, to me personally known, who, being by me duly sworn, did say that he is a member of HCC Investments, LLC, an Iowa limited liability company, and that said instrument was signed on behalf of said limited liability company, and said James M. Duggan acknowledged said instrument to be the free act and deed of said limited liability company.

Leo P. Martin
Notary Public



DESCRIPTION & SKETCH

STORM WATER DRAINAGE EASEMENT ON LOTS 1 AND 2, AS DETAILED BELOW, IS RESERVED BY THE DEVELOPER UNTIL SUCH TIME THE EASEMENT IS ASSIGNED TO THE HILLS OF CEDAR CREEK HOME OWNERS ASSOCIATION. THE DEVELOPER OR HOME OWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR THE CONTINUED MAINTENANCE OF SAID EASEMENTS INCLUDING, BUT NOT LIMITED TO THE MAINTENANCE OF ALL IMPROVEMENTS ON SAID EASEMENTS WHICH WERE DESIGNED AND CONSTRUCTED BY THE DEVELOPER TO DIVERT SURFACE RUNOFF DRAINAGE:



ERECTION OF STRUCTURES PROHIBITED: HCC INVESTMENTS, LLC, OR IT'S SUCCESSORS OR ASSIGNS SHALL NOT ERECT ANY STRUCTURE OVER OR WITHIN THESE EASEMENT AREAS WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER.



**EHRHART
GRIFFIN &
ASSOCIATES**

ENGINEERING

PLANNING

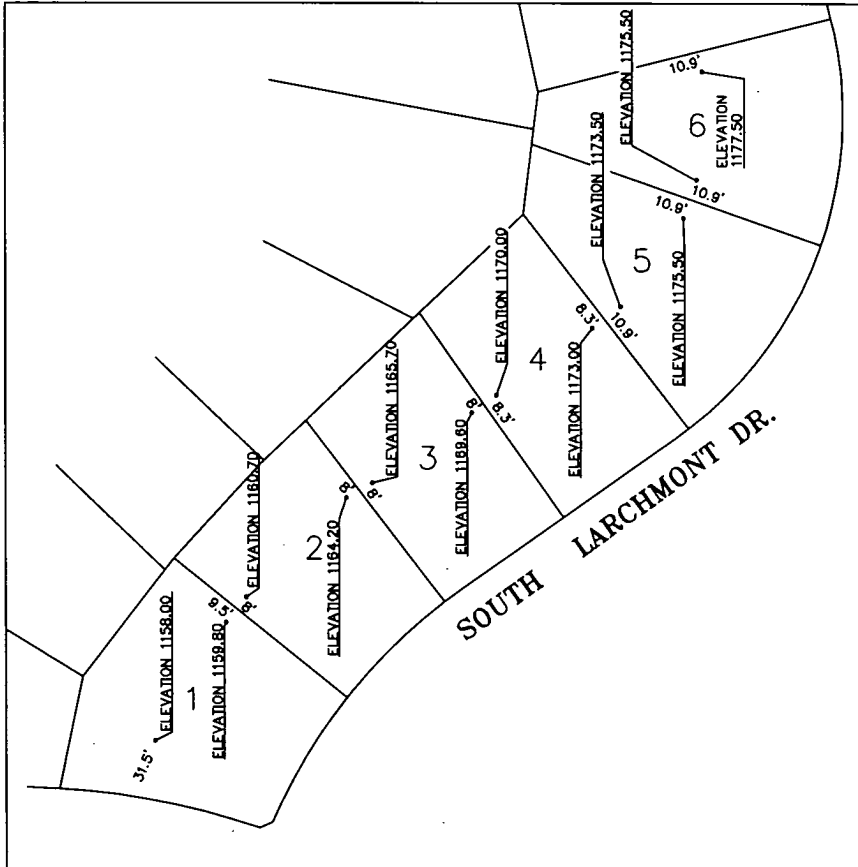
LAND SURVEYING

3552 Farnam Street • Omaha, Nebraska 68131 • 402 / 551-0631

Date: 11-21-13

DESCRIPTION & SKETCH

MINIMUM THRESHOLD ELEVATIONS FOR WINDOW-WELL TOP SILL, AND/OR DOOR/WINDOW/OR ANY OTHER EXTERIOR OPENINGS INTO THE HOUSE STRUCTURE, WHICH MAY BE EXPOSED TO ANY REAR YARD RUNOFF DRAINAGE;



MINIMUM ELEVATIONS MAY BE MODIFIED UPON SUBMITTAL OF A REQUEST AND RECEIPT OF AN APPROVAL, BY AND AT THE DISCRETION OF THE CITY OF COUNCIL BLUFFS PUBLIC WORKS DEPARTMENT, ON A LOT-BY-LOT BASIS.

ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE ORIGINAL DESIGN DOCUMENTS FOR THIS PHASE AND THIS PLAT. PLEASE OBTAIN A COPY OF SAID DOCUMENTS, ON FILE WITH THE CITY OF COUNCIL BLUFFS PUBLIC WORKS DEPARTMENT, PRIOR TO FINAL LOCATION AND ELEVATION DETERMINATION FOR CONSTRUCTION ON ANY LOT LISTED AS AFFECTED BY THE ABOVE ELEVATION REQUIREMENTS.

THE INTENT OF THE ELEVATIONS SHOWN IS TO PROVIDE A REAR YARD RUNOFF DRAINAGE SWALE, TO PROVIDE A MINIMUM 2 FOOT VERTICAL ELEVATION DIFFERENCE, MEASURED BETWEEN THE INVERT ELEVATION OF THE SWALE AND ANY EXTERIOR OPENING INTO EACH HOUSE/STRUCTURE, AS MEASURED PERPENDICULAR TO THE DRAINAGE SWALE. THE MINIMUM SWALE/CHANNEL WIDTH SHALL BE 10 FEET UNLESS SHOWN OTHERWISE ON SAID DESIGN DOCUMENTS.

THE FOREGOING EASEMENT AND ELEVATION LANGUAGE AND EXHIBITS MAY ALSO BE FOUND ON THE FINAL PLAT OF THE HILLS OF CEDAR CREEK, PHASE 1, REPLAT 4.

CHANGE OF GRADE PROHIBITED: HCC INVESTMENTS, LLC, OR IT'S SUCCESSORS OR ASSIGNS SHALL NOT CHANGE THE GRADE ELEVATION, OR CONTOUR OF ANY PART OF THESE EASEMENT AREAS WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER.

RIGHT OF ACCESS: CITY SHALL HAVE THE RIGHT OF ACCESS TO THE EASEMENT AREAS AND HAVE ALL RIGHTS OF INGRESS AND EGRESS REASONABLY NECESSARY FOR THE USE AND ENJOYMENT OF THE EASEMENT AREAS AS HEREIN DESCRIBED.

REMOVAL AND REPLACEMENT: THE COST OF REMOVAL AND REPLACEMENT OF ANY UNAUTHORIZED IMPROVEMENT OR STRUCTURES WITHIN THE EASEMENT AREAS, NECESSITATED BY THE EXERCISE OF THE RIGHTS UNDER THIS DEDICATION, SHALL BE BORNE BY THE SAID LIMITED LIABILITY COMPANY OR IT'S SUCCESSORS OR ASSIGNS.

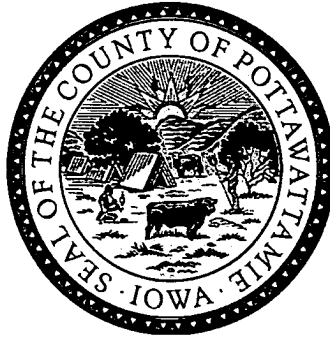
SURFACE RESTORATION: CITY'S LIABILITY TO RESTORE THE SURFACE WITHIN THE EASEMENT AREAS SHALL BE LIMITED ONLY TO GRADING AND SEEDING.

DUTY TO REPAIR: CITY AGREES THAT ANY DRAIN TILE, DRIVE OR ACCESS WAY, FENCE, YARD OR OTHER IMPROVEMENTS OUTSIDE OF THE EASEMENT AREAS WHICH MAY BE DAMAGED AS A RESULT OF ANY ENTRY MADE THROUGH AN EXERCISE OF THE CITY'S RIGHT OF ACCESS, SHALL BE REPAIRED AT NO EXPENSE TO THE SAID LIMITED LIABILITY COMPANY OR IT'S SUCCESSORS OR ASSIGNS.

EASEMENTS RUN WITH THE LAND: THESE EASEMENTS SHALL BE DEEMED TO RUN WITH THE LAND AND SHALL BE BINDING ON HCC INVESTMENTS, LLC, OR IT'S SUCCESSORS OR ASSIGNS.

Pottawattamie County Auditor's Certification Of Subdivision Name Approval

MARILYN JO DRAKE
POTTAWATTAMIE COUNTY AUDITOR
AND ELECTION COMMISSIONER
P. O. BOX 649
COUNCIL BLUFFS, IOWA 51502-0649



Kristi Everett, First Deputy - Elections
Joan Miller, First Deputy - Real Estate
Rebecca Belt, First Deputy - Tax and
Finance
Phone (712) 328-5700
FAX (712) 328-4740

I, Marilyn Jo Drake, Auditor of Pottawattamie County, Iowa, or designee, do hereby certify that the subdivision name of the attached platting is unique within Pottawattamie County and is hereby approved.

Name of new subdivision:

THE HILLS OF CEDAR CREEK, PHASE 1, REPLAT 4

Joan P. Miller Real Estate Deputy
Signed

5/9/14
Date