

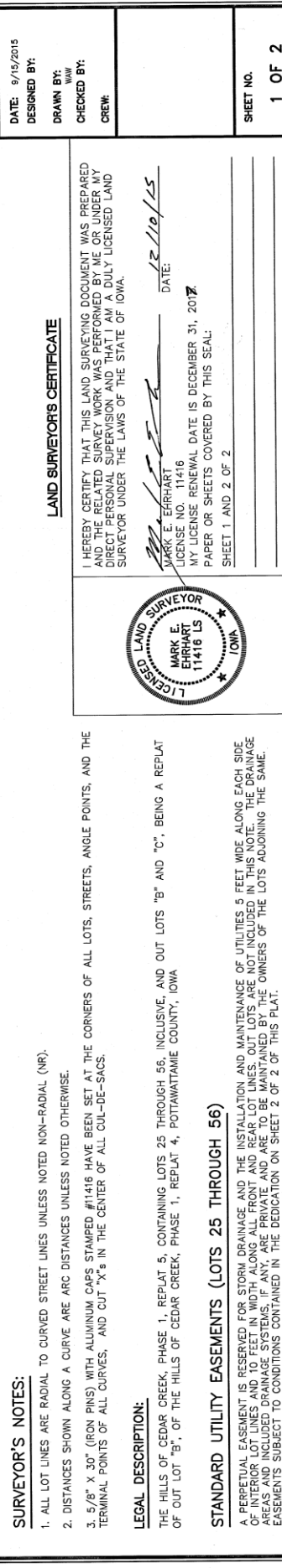
**FINAL PLAT**  
**THE HILLS OF CEDAR CREEK,**  
**PHASE 1, REPLAT 5**  
 CONTAINING LOTS 25 THROUGH 56, INCLUSIVE,  
 AND OUT LOTS "B" AND "C",  
 BEING A REPLAT OF  
 OUT LOT "B", OF THE HILLS OF CEDAR CREEK,  
 PHASE 1, REPLAT 4,  
 POTTAWATTAMIE COUNTY, IOWA

**CERTIFICATIONS AND APPROVALS**  
 WE HEREBY CERTIFY THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE POTTAWATTAMIE COUNTY RECORDER CONTEMPORANEOUS WITH THE FINAL PLAT:  
 A. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF THE SUBJECT DEVELOPMENT.  
 B. TITLE OPINION LETTER OF ATTORNEY.  
 C. CERTIFIED RESOLUTION OF EACH GOVERNING BODY AS REQUIRED BY IOWA CODE SEC. 354-B.  
 WE HEREBY CERTIFY THAT WE WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MEETING OBLIGATIONS CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES.

HCA INVESTMENTS, LLC, JERRY F. DUGGAN, MEMBER  
 DATE: 12-23-15  
 COMMUNITY DEVELOPMENT  
 APPROVED BY DIRECTOR, COMMUNITY DEVELOPMENT, DONALD D. GROSS  
 DATE: 1/2/16  
 CITY COUNCIL APPROVED BY MAYOR, THE HONORABLE MATTHEW J. WALSH, DATE: 2/23/16  
 ATTESTED TO BY: CITY CLERK, MARCIA L. WORDEN  
 DATE: 2-23-16  
 CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY, IOWA  
 I, LEA A. VOSS, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE PROPERTY INCLUDED IN THE HILLS OF CEDAR CREEK, PHASE 1, REPLAT 5, IS FREE FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.  
 TREASURER OF POTTAWATTAMIE COUNTY, IOWA, LEA A. VOSS

DESIGNED BY: 8/15/2015  
 DRAWN BY:  
 CHECKED BY:  
 CREW:

**LAND SURVEYORS CERTIFICATE**  
 I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A FULLY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.  
 MARK E. EHRHART  
 LICENSE NO. 11416  
 MY LICENSE RENEWAL DATE IS DECEMBER 31, 2017.  
 PAPER OR SHEETS COVERED BY THIS SEAL:  
 SHEET 1 AND 2 OF 2



**CURVE TABULATION**

CURVE #	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	15°41'54"	400.00	109.60	109.25	N53°37'37"W
C2	42°54'46"	250.00	187.24	182.90	N67°14'03"W
C3	11°40'11"	1200.00	244.41	243.99	S85°28'28"W
C4	30°18'08"	650.00	343.77	339.77	S37°44'48"W
C5	13°34'44"	450.00	106.05	106.40	S4°56'54"E
C6	52°04'44"	500.00	47.86	47.84	S4°35'00"W
C7	15°42'01"	375.00	102.76	102.44	N53°37'40"W
C8	42°54'46"	275.00	205.97	201.19	N87°14'03"E
C9	82°56'52"	1225.00	180.62	180.45	S87°05'08"E
C10	37°49'02"	60.00	36.60	36.89	S78°13'47"E
C11	144°29'57"	50.00	126.10	95.24	N48°25'45"E
C12	36°35'40"	60.00	36.32	37.67	N5°31'23"W
C13	24°30'43"	675.00	288.77	286.58	N0°31'05"E
C14	13°34'44"	425.00	100.72	100.49	N4°56'54"W
C15	52°04'44"	475.00	45.46	45.45	N4°34'59"E
C16	12°04'48"	425.00	111.10	111.10	N46°31'53"W
C17	42°54'46"	225.00	168.52	164.61	N67°14'03"W
C18	10°00'31"	1175.00	205.25	204.89	S88°18'19"W
C19	85°32'08"	30.00	34.49	32.62	S48°22'00"W
C20	27°10'44"	625.00	298.38	293.61	S1°50'51"W
C21	13°34'44"	475.00	112.57	112.31	S4°56'54"E
C22	15°42'01"	425.00	116.46	116.10	N53°37'40"W

**LINE TABLE**

LINE #	LENGTH	BEARING
L1	62.56	N45°46'39"W
L2	47.81	N88°41'26"W
L3	118.05	S11°44'16"E
L4	307.69	S1°50'27"W
L5	47.81	S88°41'26"E
L6	118.05	N11°44'16"W
L7	307.69	N1°50'27"E
L8	47.81	N88°41'26"W
L9	118.05	S11°44'16"E
L10	254.48	S1°50'27"W
L11	62.56	N45°46'39"W

**SURVEYOR'S NOTES:**  
 1. ALL LOT LINES ARE RADIAL TO CURVED STREET LINES UNLESS NOTED NON-RADIAL (NR).  
 2. DISTANCES SHOWN ALONG A CURVE ARE ARC DISTANCES UNLESS NOTED OTHERWISE.  
 3. 5/8" X 30" (IRON PINS) WITH ALUMINUM CAPS STAMPED #11416 HAVE BEEN SET AT THE CORNERS OF ALL LOTS, STREETS, ANGLE POINTS, AND THE TERMINAL POINTS OF ALL CURVES, AND CUT "X" IN THE CENTER OF ALL CUL-DE-SACS.

**LEGAL DESCRIPTION:**  
 THE HILLS OF CEDAR CREEK, PHASE 1, REPLAT 5, CONTAINING LOTS 25 THROUGH 56, INCLUSIVE, AND OUT LOTS "B" AND "C", BEING A REPLAT OF OUT LOT "B", OF THE HILLS OF CEDAR CREEK, PHASE 1, REPLAT 4, POTTAWATTAMIE COUNTY, IOWA

**STANDARD UTILITY EASEMENTS (LOTS 25 THROUGH 56)**  
 A PERPETUAL EASEMENT IS RESERVED FOR STORM DRAINAGE AND THE INSTALLATION AND MAINTENANCE OF UTILITIES 5 FEET WIDE ALONG EACH SIDE OF INTERIOR LOT LINES AND 10 FEET IN WIDTH ALONG ALL FRONT AND REAR LINES. OUT LOTS ARE NOT INCLUDED IN THIS NOTE. THE DRAINAGE AREAS AND INCLUDED DRAINAGE SYSTEMS, IF ANY, ARE PRIVATE AND ARE TO BE MAINTAINED BY THE OWNERS OF THE LOTS ADJOINING THE SAME. EASEMENTS SUBJECT TO CONDITIONS CONTAINED IN THE DEDICATION ON SHEET 2 OF 2 OF THIS PLAT.

PROJECT NO.  
EGA131095

NO.	DESCRIPTION	DATE	BY

**EHRHART  
GRIFFIN &  
ASSOCIATES**  
142 West Broadway  
Suite 136  
Council Bluffs, IA 51503  
712 / 256-5248

- ENGINEERING
- PLANNING
- LAND SURVEYING

**THE HILLS OF CEDAR CREEK**  
**FINAL PLAT**  
**PHASE 1, REPLAT 5**  
**COUNCIL BLUFFS, IOWA**

DATE: 10/23/2015  
DESIGNED BY:  
DRAWN BY:  
WAY  
CHECKED BY:  
CROW:

SHEET NO.  
**2 OF 2**

**FINAL PLAT**  
**THE HILLS OF CEDAR CREEK,**  
**PHASE 1, REPLAT 5**  
**CONTAINING LOTS 25 THROUGH 56, INCLUSIVE,**  
**AND OUT LOTS "B" AND "C",**  
**BEING A REPLAT OF**  
**OUT LOT "B", OF THE HILLS OF CEDAR CREEK,**  
**PHASE 1, REPLAT 4,**  
**POTTAWATTAMIE COUNTY, IOWA**

**DEDICATION:**  
KNOW ALL PEOPLE OF THESE PRESENTS: THAT  
HCC INVESTMENTS, LLC  
BEING THE SOLE OWNER AND PROPRIETOR OF THE LAND DESCRIBED IN THE LEGAL DESCRIPTION AND EMBRACED WITHIN THIS PLAT, HAS CAUSED WITH OUR FREE CONSENT AND IN ACCORD WITH OUR DESIRE, THE SAME TO BE SUBDIVIDED INTO LOTS AS SHOWN AND TO BE KNOWN AS:  
THE HILLS OF CEDAR CREEK, PHASE 1, REPLAT 5  
CONSISTING OF LOTS 25 THROUGH 56, INCLUSIVE, AND OUT LOTS "B" AND "C"  
AND SAID LIMITED LIABILITY COMPANY DOES HEREBY RATIFY AND APPROVE OF THE DISPOSITION OF OUR PROPERTY AS SHOWN ON THIS PLAT, AND THAT ALL STREETS, CIRCLES, AND AVENUES ARE DEDICATED TO THE CITY OF COUNCIL BLUFFS, IOWA FOR PUBLIC USE.  
OUT LOTS "B" AND "C" IN THEIR ENTIRETY, REFERENCED HEREIN AND SHOWN HEREON, AND STORM WATER DRAINAGE EASEMENT ON LOTS 44 AND 45, AS DETAILED BELOW, ARE DESIGNATED AS A DRAINAGE EASEMENT TO BE MAINTAINED BY THE DEVELOPER UNTIL SUCH TIME AS THE EASEMENTS ARE ASSIGNED TO THE HILLS OF CEDAR CREEK HOME OWNERS ASSOCIATION WHICH 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 ADDRESS SURFACE WATER DRAINAGE AND TO CONTROL SURFACE WATER RUNOFF. SUFFICIENT RUNOFF VOLUMES MUST BE MAINTAINED WITHIN THE EASEMENT AREAS.



THE DEVELOPER AND LATER THE HILLS OF CEDAR CREEK HOME OWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR THE CONTINUED MAINTENANCE OF SAID EASEMENTS. THE DEDICATION OF THESE EASEMENT GRANTS SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:  
MINIMUM THRESHOLD ELEVATIONS FOR WINDOW-WELL TOP, SILL, AND/OR DOOR/WINDOW OR ANY OTHER OPENINGS INTO THE HOUSE STRUCTURE, WHICH MAY BE EXPOSED TO ANY REAR YARD FOR LOTS 44 AND 45, SOUTH SIDE YARD FOR LOT 44, OR NORTH SIDE YARD FOR LOT 37, 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 REFERENCES 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 LOTS LISTED AFFECTED BY THE ELEVATIONS REVISIONS. THE INTENT OF THE ELEVATIONS SHOWN IS TO PROVIDE DRAINAGE ACROSS THE REAR AND SIDE YARDS ADJACENT TO THE DRAINAGE STRUCTURE AS MEASURED PERPENDICULAR TO THE CHANNEL. ANY DIFFERENCE, MEASURED BETWEEN THE 100 YEAR WATER SURFACE IN THE CHANNEL AND THE ELEVATION OF THE DRAINAGE STRUCTURE AS MEASURED PERPENDICULAR TO THESE THREE FOREGOING EASEMENT AND ELEVATION LANGUAGE AND EMBODIES MAY ALSO BE FOUND IN THE PORTION OF COVENANTS AND RESTRICTIONS FOR THIS PHASE AS THEY PERTAIN TO THESE THREE LOTS.

ERECTION OF STRUCTURES PROHIBITED: HCC INVESTMENTS, LLC, OR ITS SUCCESSORS OR ASSIGNS SHALL NOT ERECT ANY STRUCTURE OVER OR WITHIN THESE EASEMENT AREAS WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER.  
CHANGE OF GRADE PROHIBITED: HCC INVESTMENTS, LLC, OR ITS 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 HERIN 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 ITS 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 ITS 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 ITS SUCCESSORS OR ASSIGNS.  
IN WITNESS WHEREOF WE DO HEREBY SET OUR HANDS, FOR: HCC INVESTMENTS, LLC, AN IOWA LIMITED LIABILITY COMPANY

**ACKNOWLEDGEMENT TO DEDICATION**

ACKNOWLEDGEMENT TO DEDICATION  
STATE OF Iowa  
COUNTY OF Des Moines  
ON THIS 25 DAY OF November 2015 AS  
BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY, PERSONALLY CAME,  
Shawn A. Magan OF  
HCC INVESTMENTS, LLC, AN IOWA LIMITED LIABILITY COMPANY, PERSONALLY KNOWN TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE ABOVE DEDICATION, AND HE/SHE ACKNOWLEDGES THE EXECUTION OF SAID INSTRUMENT AS HIS/HER VOLUNTARY ACT AND DEED AS SUCH MEMBER, AND VOLUNTARY ACT AND DEED UNDER THE PROVISIONS OF CHAPTER 199C, SECTION 10.1, OF THE IOWA CODE AND THE VOLUNTARY ACT AND DEED AS SUCH MEMBER, AND VOLUNTARY ACT AND DEED UNDER THE PROVISIONS OF CHAPTER 199C, SECTION 10.1, OF THE IOWA CODE.

WITNESS MY HAND AND NOTARIAL SEAL AT  
Des Moines, Iowa 12-23-2015  
DATE



PETERS  
LAW FIRM,  
P.C.

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NEOLA, IOWA 51559  
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JAMES A. CAMPBELL  
LYLE W. DITMARS  
JOHN M. McHALE  
JACOB J. PETERS  
LEO P. MARTIN  
SCOTT J. ROGERS  
JON E. HEISTERKAMP  
JOHN C. RASMUSSEN  
JORDAN T. GLASER  
DENNIS M. GRAY, Retired  
JAMES A. THOMAS, Retired  
SCOTT H. PETERS, Retired  
Admitted in Iowa and Nebraska

February 29, 2016

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

Examined by  
Peters Law Firm, P.C.  
Abstract Opinion No. 4985A

RE: The Hills of Cedar Creek  
Phase 1, Replat 5  
Our File No. 34115

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:

Out Lot "B" in The Hills of Cedar Creek, Phase 1, Replat 4,  
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 through 20, both inclusive, last certified to February 22, 2016 at 8:000 a.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, 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, 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 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. 7 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").

f) Entry No. 12 of Part 4 discloses The Fourth Amendment to the Declaration of Covenants, Restrictions, Assessments and Easements of The Hills of Cedar Creek was executed on January 14, 2014, and was recorded as pages 17 to 22 of the Final Plat of a subdivision known as The Hills of Cedar Creek Phase 1, Replat 4 which was recorded on August 14, 2014, in Book 2014, Page 09795 (hereinafter the "Fourth Amendment").

The Fourth Amendment created 24 Regular Lots known as Lots 1 through 24, both inclusive, and Out Lots "A" and "B" The Hills of Cedar Creek, Phase 1, Replat 4 by replatting Out Lot M of The Hills of Cedar Creek, Phase 1. This increased the number of Lots subject to the Regular Covenants from 294 to 318. The number of Lots subject to the Townhome

Covenants was unchanged - remaining at 48.

The Fourth Amendment disclosed as part of Entry No. 12 of Part 4 also discloses details of a Storm Water Drainage Easement that is specific to Lots 1 and 2 of The Hills of Cedar Creek, Phase 1, Replat 4 and Minimum Threshold Elevations for window-well top sill, and/or door/window or any other exterior openings into the house structure that are specific to Lots 1 through 6, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 4.

The final Plat of the Hills of Cedar Creek, Phase 1, Replat 4 disclosed at Entry No. 12 of Part 4 also shows that standard easements were reserved for storm drainage and the installation and maintenance of utilities on 5 feet of each side of interior lots and 10 feet in width along all front and rear lot lines. Out Lots are not subject to that reservation.

9. Entry No. 13 of Part 4 discloses a Post Construction Stormwater Management Plan Maintenance Agreement and Easement dated August 15, 2014 which was recorded in Book 2014, Page 10056. This document requires that a retention pond be maintained on Out Lot A of The Hills of Cedar Creek, Phase 1, Replat 4.

10. Entry No. 19 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

11. Entry No. 18 of Part 4 discloses:

GENERAL TAXES for the year 2014, and prior years paid.

P-744303204026

12. Entry No. 20 of Part 4 discloses that a search was made of the Mechanics' Notice and Lien Registry maintained by the Iowa Secretary of State for Pottawattamie County, Iowa, for Mechanic Lien(s) only, commencing January 1<sup>st</sup>, 2013, against real estate in the caption of this abstract, and find none.

### **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 will be 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:csd

G:\LPM\34115\l.tr\TO 4985A FINAL.doc

CERTIFICATE AND RECEIPT

=====

STATE OF IOWA


} SS.

Pottawattamie County,

The undersigned, City Clerk of the City of Council Bluffs, Iowa, hereby certifies that: Resolution 15-281, Public Hearing Notice and the Final Plat for The Hills of Cedar Creek, Phase I, Replat 5 is as the same appears of record in this office.

Witness my hand and seal of Council Bluffs, Iowa,

this 24<sup>th</sup> day of February, A.D. 2016.



\_\_\_\_\_  
City Clerk of the City of Council Bluffs

=====

**RESOLUTION NO. 15-281**

**A RESOLUTION GRANTING FINAL PLAT APPROVAL FOR A 32-LOT RESIDENTIAL SUBDIVISION TO BE KNOWN AS THE HILLS OF CEDAR CREEK, PHASE 1, REPLAT 5.**

**WHEREAS,** HCC Investments, LLC, represented by Terry Morrison of Ehrhart Griffin & Associates, is requesting final plat approval of a 32-lot residential subdivision to be known as The Hills of Cedar Creek, Phase 1, Replat 5, legally described as being a replat of Outlot 'B', The Hills of Cedar Creek, Phase 1, Replat 4; and

**WHEREAS,** The proposed subdivision totals 12.5 +/- acres in size and is located on a southerly extension of Abercorn Drive and an easterly extension of Providence Road; and

**WHEREAS,** The proposed subdivision is zoned R-1/Single-Family Residential District and is proposed to be developed with 32 single-family detached dwellings and two outlots (B and C) for stormwater management; and

**WHEREAS,** The Community Development Department recommends approval for a 32-lot residential subdivision to be known as The Hills of Cedar Creek, Phase 1, Replat 5, being a replat of Outlot 'B', The Hills of Cedar Creek, Phase 1, Replat 4 as shown on Attachment 'A' of the case report, subject to the following conditions below:

1. 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.
2. All technical corrections required by the Community Development Department and/or Public Works Department including the modifications discussed in the case report, shall be made on the final plat prior to execution of the document.
3. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements.
4. 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.
5. The developer shall provide a copy of any proposed covenants and/or private restrictions associated with the subdivision to the City, or place a note on the plat indicating none will be recorded.
6. The developer shall comply with one of the sidewalk installation options stated in Item #8 of the case staff report, prior to executing the final plat.
7. All utilities shall be installed underground.

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

That the final plat for a 32-lot residential subdivision to be known as The Hills of Cedar Creek, Phase 1, Replat 5, 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.

RESOLUTION NO. \_\_\_\_\_

PAGE 2

ADOPTED  
AND  
APPROVED

October 26, 2015

  
\_\_\_\_\_  
MATTHEW J. WALSH Mayor

Attest:   
\_\_\_\_\_  
MARCIA L. WORDEN 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:

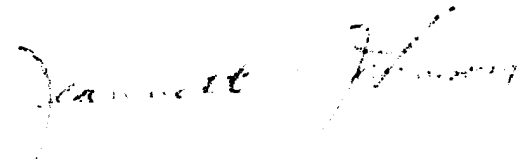
The first publication thereof began on the 18th day of October, 2015

Signed in my presence by the said Amy McKay and by her sworn to before me this 19th day of October, A.D. 2015.

**NOTICE OF PUBLIC HEARING**  
**TO WHOM IT MAY CONCERN:**  
You and each of you are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a public hearing on the request of HCC Investments, LLC, represented by Terry Morrison of Ehrhart Griffin & Associates, for final plat approval of a 32-lot residential subdivision to be known as The Hills of Cedar Creek, Phase 1, Replat 5 being a replat of Outlot 'B', The Hills of Cedar Creek, Phase 1, Replat 4 all in the City of Council Bluffs Pottawattamie County, Iowa.  
You are further notified that a public hearing on said matter will be held by the City Council of the City of Council Bluffs, Iowa, at its regular meeting held at 7:00 p.m., on the 28th day of October, 2015 in the City Council Chambers, 2nd Floor of City Hall, 209 Pearl Street, Council Bluffs, Iowa at which time and place all persons interested in said matter will be given an opportunity to be heard.  
By the Order of the City Clerk  
Marcia L. Worden  
2015(10)18-1 Sunday

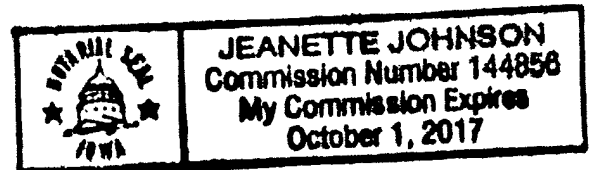


Amy McKay  
Daily Nonpareil Controller



Jeannett Johnson  
Notary Public

Filed this 19th day of October, A.D. 2015.  
Publication Cost: \$ 12.99



Customer Number: 35700  
Order Number: 20397735

5A



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

Re: The Hills of Cedar Creek, Phase 1, Replat 5

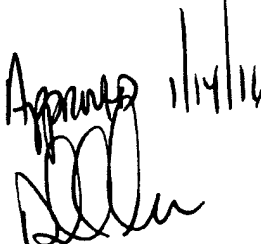
Dear Mr. Gross

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 January 18<sup>th</sup>. This would place our new deadline at April 18<sup>th</sup>.

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

  
1/14/16

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

COUNCIL BLUFFS  
COMMUNITY DEVELOPMENT DEPT.

JAN 14 2016

RECEIVED

**FIFTH 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:** Not applicable

**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:** The Public

**Legal Description:** Lots 25 through 56, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 5, Council Bluffs, Pottawattamie County, Iowa;

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;

Lots 1 through 16, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 3; and

Lots 1 through 24, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 4.

Restricted Area definition includes specific lots identified in paragraph 17 on page 6.

**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. Pages 21-52 for Regular Covenants. Pages 53-85 for Townhome Covenants.
2. Final Plat of The Hills of Cedar Creek, Phase 2 recorded July 5, 2005, in Book 106, Page 284. Supplemental Declaration pages 14-16.
3. First Amendment to Declaration of Covenants recorded December 6, 2007, in Book 2007, Page 19177 and as pages 17-19 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 and as pages 20-24 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-pages 16-20.
6. Final Plat of The Hills of Cedar Creek, Phase 1, Replat 4 recorded August 14, 2014, in Book 2014, Page 09795. Fourth Amendment to Declaration of Covenants-pages 17-22.

**FIFTH 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 Fifth 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 made 16 Regular Lots subject to the Regular Covenants. These lots are 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 Fourth Amendment to the Declaration of Covenants, Restrictions, Assessments and Easements of The Hills of Cedar Creek was executed on January 14, 2014, and was recorded as pages 17 to 22 of the Final Plat of a subdivision known as The Hills of Cedar Creek Phase 1, Replat 4 which was recorded August 14, 2014, in Book 2014, Page 09795 (hereinafter the "Fourth Amendment").

The Fourth Amendment made 24 Regular Lots subject to the Regular Covenants. These lots are described as Lots 1 through 24, The Hills of Cedar Creek, Phase 1, Replat 4 which were created by replatting Out Lot M, The Hills of Cedar Creek, Phase 1. This Plat also created Out Lots "A" and "B" which were not made subject to either set of Covenants. This increased the number of Regular Lots by twenty-four from 294 to 318. The number of Lots subject to the Townhome Covenants was unchanged – remaining at 48.

7. 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.”

8. 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.”

9. Developer has not relinquished control and less than 10 years has expired since the most recent plat affecting the Addition. The Turnover Date has not occurred so the Developer retains the rights described in Article 11 of the Covenants.

10. The Declarant (HCC) now owns Out Lot B, The Hills of Cedar Creek, Phase 1, Replat 4, located in Council Bluffs, Pottawattamie County, Iowa. This Out Lot is not currently a Regular Lot or a Townhome Lot under the Covenants.

11. HCC intends to re-plat Out Lot B as Lots 25 through 56, both inclusive, and Out Lots “B” and “C” of The Hills of Cedar Creek, Phase 1, Replat 5, located in Council Bluffs, Pottawattamie County, Iowa. The new Lots numbered as Lots 25 through 56, both inclusive, will be made subject to the Regular Covenants. The new Out Lots “B” and “C” of The Hills of Cedar Creek, Phase 1, Replat 5 will be made part of the “Restricted Area”.

12. 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 B of The Hills of Cedar Creek, Phase 1, Replat 5, located in Council Bluffs, Pottawattamie County, Iowa.

13. Developer is the owner of Out Lot B through Out Lot L and Out Lots N and O of The Hills of Cedar Creek, Phase 1 which are part of the “Restricted Area” as defined in Section 2.17 of the covenants filed February 18, 2005 which were recorded as Pages 21 to 52 of the Final Plat of the subdivision known as The Hills of Cedar Creek, Phase 1 filed on February 18, 2005, in Book 105, Page 15339. Out Lot M of The Hills of Cedar Creek, Phase 1 has been replatted and no longer exists.

14. Developer is also the owner of Out Lots “P”, “Q” and “R” of The Hills of Cedar Creek, Phase 2 and Out Lot “A” of The Hills of Cedar Creek, Phase 1, Replat 4.

15. Pursuant to the powers reserved to the Declarant as Developer to add to the Addition any land owned by the Developer, the Developer adds Out Lots P, Q and R of The Hills of Cedar Creek, Phase 2 and Out Lot “A” The Hills of Cedar Creek Phase 1, Replat 4 as Lots subject to the Restricted Area as defined in Section in 2.14 of the Covenants filed February 18, 2005. This addition shall be effective upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 5.

16. The Lots subject to the Regular Covenants prior to the filing of this Fifth 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;  
Lots 1 through 16, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 3; and  
Lots 1 through 24, both inclusive, The Hills of Cedar Creek, Phase 1, Replat 4.

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.

17. Upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 5, the number of Lots subject to the Regular Covenants will increase from 318 to 350 and the number of Lots subject to the Townhome Covenants will remain at 48.

Upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 5, the definition of "Restricted Area" as originally defined in Section 2.17 of the Covenants filed February 18, 2005 shall be amended to read as follows:

**Restricted Area**" means (i) that area of any Lot which is located within Out Lots B through L, both inclusive, and Out Lots N and O designated on the Plat of The Hills of Cedar Creek Phase 1; (ii) those areas on Lots 27 and 28 of The Hills of Cedar Creek, Phase 1 designated as storm sewer and drainage easements; (iii) those areas on Lots 39, 40, 59, and 60 The Hills of Cedar Creek, Phase 1 designated as sanitary, storm sewers, and drainage easement; (iv) those areas on Lots 66, 87, 88, and 89 The Hills of Cedar Creek, Phase 1 designated as storm sewer and drainage easements; (v) those areas on Lots 106 and 217 The Hills of Cedar Creek, Phase 1 designated as storm sewer easements; (vi) Out Lot A of The Hills of Cedar Creek, Phase 1, Replat 4, and those areas on Lots 1 and 2 of The Hills of Cedar Creek, Phase 1, Replat 4, designated as storm water drainage easements; and (vii) Out Lots B and C of The Hills of Cedar Creek, Phase 1, Replat 5, and those areas on Lots 44 and 45 The Hills of Cedar Creek, Phase 1, Replat 5, designated as storm sewer and drainage easements. Out Lots B through L and Out Lots N and O of The Hills of Cedar Creek Phase 1 may also contain trails and/or a trail system that are made part of the Restricted Area. Each of the Lots and Out Lots identified above are made part of the Restricted Area subject to the various easements, if any, as more fully described in the notations on the respective plats.

**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 B of The Hills of Cedar Creek, Phase 1, Replat 4, 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 5, become legally described as Lots 25 through 56, both inclusive, and Out Lots B and C of The Hills of Cedar Creek, Phase 1, Replat 5, located in Council Bluffs, Pottawattamie County, Iowa, and upon the filing of the Final Plat of The Hills of Cedar Creek, Phase 1, Replat 5, Lots 25 through 56, both inclusive, 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.

IN WITNESS WHEREOF, the undersigned has executed this Fifth 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: February 19, 2016.

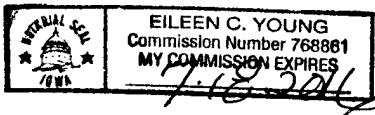
HCC INVESTMENTS, LLC

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

STATE OF IOWA                             )  
   ) SS.  
COUNTY OF POTTAWATTAMIE    )

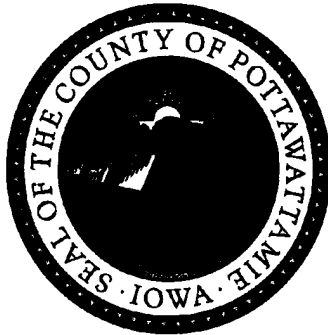
On this 19 day of February, 2016, before me appeared James M. Duggan, to me personally known, who, being by me duly sworn, did say that he is a member of HCC Investments, LLC, an Iowa limited liability company, and that said instrument was signed on behalf of said limited liability company, and said James M. Duggan acknowledged said instrument to be the free act and deed of said limited liability company.

Eileen C. Young  
Notary Public



# 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 5**

Joan P. Miller Deputy Real Estate 2/22/16  
Signed Date