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Fee Amt: \$32.00 Page 1 of 6  
Polk County Iowa  
JULIE M. HAGGERTY RECORDER  
File# 2013-00019069

BK **14413** PG **798-803**

This document was prepared by, and when recorded return to: Jennifer Drake, Hubbell Realty Company, 6900 Westown Parkway, West Des Moines, IA 50266, (515) 280-2057

SPACE ABOVE THIS LINE FOR RECORDER

**FIRST MODIFICATION OF  
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND  
RESTRICTIONS APPLICABLE TO TUSCANY  
ALTOONA, POLK COUNTY, IOWA**

**THIS FIRST MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO TUSCANY, ALTOONA, POLK COUNTY, IOWA** is made this 27<sup>th</sup> day of August, 2012, by **TUSCANY RESERVE, LLC**, ("Declarant"), an Iowa limited liability company.

**WHEREAS**, Declarant, as owner of Tuscanly as defined in Section 1.02(m) thereof, subjected Tuscanly to that certain Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Tuscanly, Altoona, Polk County, Iowa, dated July 2, 2008, and filed for record in the Office of the Recorder for Polk County, Iowa on December 10, 2008, in Book 12850 beginning at Page 219, (the "Declaration");

**WHEREAS**, Declarant reserved the rights in Section 6.12 of Article VI of the Declaration to amend the Declaration;

**WHEREAS**, Declarant desires to amend Section 2.02(b) of Article II to remove the requirement that exterior foundations be painted or covered;

**WHEREAS**, Declarant desires to amend Section 2.02(j) of Article II regarding sump pump drainage and to attach the stated Exhibit;

**WHEREAS**, Declarant desires to amend Section 2.15 of Article II to modify the restriction on number of dogs or cats, collectively, to be maintained on any one Single-Family Lot at any onetime;

**NOW, THEREFORE**, Declarant hereby amends the Declaration as follows:

1. Article II, Section 2.02(b) of the Declaration is hereby deleted in its entirety;

*649035 (17)*

2. Article II, Section 2.02(j) of the Declaration is hereby deleted in its entirety and a new Section 2.02(j) is substituted in lieu thereof as follows:

(j) **Sump Pump Drainage.** Owners, Occupants, and all persons constructing a home on a Lot that backs up to the proposed Open Spaces shall be required to comply with Exhibit A for the construction, maintenance, repair, replacement and control of sump pump discharge from such Lots. The Declarant shall construct a sump pump collector line for those Lots that do not back up to proposed Open Spaces and the Owners, Occupants and all persons constructing a home on any such Lot shall be responsible to connect the sump pump in the house constructed upon such Lot to said sump pump collector line and to maintain, repair and replace such connection, as necessary.

3. Article II, Section 2.15 of the Declaration is hereby deleted in its entirety and a new Section 2.15 is substituted in lieu thereof as follows:

**2.15 Livestock and Poultry Prohibited; Exterior Animal Houses.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that pets, specifically dogs, cats, fish and birds may be kept, provided that they are not kept, bred or maintained for any commercial purposes or sale to the public and except that nuisance dogs, such as Rottweilers, Doberman Pinchers and Pit Bulls, are prohibited. The number of pets in each household shall be maintained at a level where they are under complete control and care by the occupant and are of no nuisance from noise, odor or trespass to all other Lots within the Property. Any complaint shall be brought before the Board, which shall have the right to prohibit them from continued habitation on the Lot if further complaints occur. The Association may, by rules and regulations, prohibit or further limit the raising, breeding or keeping on any Lot, front lot or rear lot of any pet. Any person owning or keeping a pet shall be responsible for and shall at all times clean up any waste or excrement from such pets on the Commons Areas and Common Elements. Failure to do so in a prompt or responsible manner shall result in a fine or special assessment by the Association against such Lot on which such pet is kept. All animals shall be tied, kept on a leash, fenced, confined within an underground electrical fence area which outside perimeters are at least ten (10) feet from all property lines, or kept in an animal run at all times. Animal runs, animal houses and animal shelters shall not be permitted unless they are not visible (i) to neighbors, (ii) from the street or (iii) from any Open Space Area. Animal runs must be approved by the Declarant, or once Declarant has relinquished control of the appointment of the Board, approved by the Board, in writing, including, but not limited to, the size, location and fencing. Any animal house or animal shelter shall have the same external appearance, color and roof material as the single-family home situated on the Lot. No animal house, animal shelter or animal run shall exceed seventy-two (72) square feet in area.

4. Except as expressly modified by this First Modification of the Declaration, all of the terms, conditions, easements, restrictions and provisions of the Declaration continue and remain in full force and effect.

Dated this 27<sup>th</sup> day of August, 2012.

**TUSCANY RESERVE, LLC**

**By: Hubbell Realty Company, Managing Member**

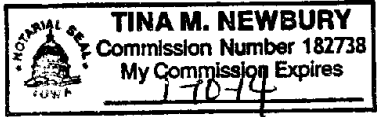
By: [Signature]  
**Dan Cornelison, Vice President**

By: [Signature]  
**Jennifer L. Drake, Assistant Secretary**

STATE OF IOWA            )  
  )       SS.  
COUNTY OF DALLAS    )

This instrument was acknowledged before me on this 27<sup>th</sup> day of August, 2012 by Dan Cornelison and Jennifer L. Drake, as the Vice President and Assistant Secretary, respectively, of **Hubbell Realty Company**, the managing member of **TUSCANY RESERVE, LLC**, an Iowa limited liability company, on behalf of whom this instrument was executed.

[Signature]  
Notary Public in and for the State of Iowa



L:\Tuscany Reserve\Tuscany Owners Association\1st Modification to Declaration.doc

MORTGAGEE'S CONSENT AND SUBORDINATION

KNOW ALL MEN BY THESE PRESENTS: that, First National Bank of Omaha ("FNBO") is the present owner of the Mortgagee's interest in that certain Mortgage, Security Agreement and Assignment of Rents, granted by Tuscany Reserve, LLC, an Iowa limited liability company, as Mortgagor, to FNBO, as Mortgagee, October 31, 2007, and filed for record in the Office of the Recorder for Polk County, Iowa on November 1, 2007, in Book 12433 at Page 36, and any amendments or modifications thereto, (the "Mortgage"), which Mortgage creates a lien on portions of Tuscany. FNBO hereby consents to the within and foregoing First Modification to Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Tuscany, Altoona, Polk County, Iowa, (the "Declaration"), and agrees that the lien of its above-described Mortgage is subordinate to the easements and appurtenant rights created in the Declaration.

Dated this 22<sup>nd</sup> day of August, 2012.

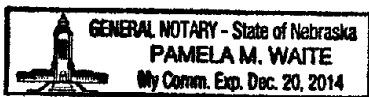
FIRST NATIONAL BANK OF OMAHA

By: Brian Dieckman  
Brian Dieckman, its Vice President

STATE OF NEBRASKA )  
 ) SS.  
COUNTY OF Douglas )

On this 22<sup>nd</sup> day of August, 2012, before me the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Brian Dieckman, to me personally known, who, being by me duly sworn, did say that he/she is the Vice President of FIRST NATIONAL BANK OF OMAHA, executing the within and foregoing instrument; that the instrument was signed on behalf of said bank corporation by authority of its Board of Directors; and said Vice President, as such officer, acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by him/her voluntarily executed.

Pamela M. Waite  
Notary Public in and for said State



MORTGAGEE'S CONSENT AND SUBORDINATION

KNOW ALL MEN BY THESE PRESENTS: that, First American Bank ("FAB") is the present owner of the Mortgagee's interest in that certain Mortgage, granted by Hubbell Properties II, L.C. (Series Altman), a series of a multi-series Iowa limited liability company, as Mortgagor, to FAB, as Mortgagee, September 29, 2006, and filed for record in the Office of the Recorder of Polk County, Iowa on October 2, 2006 and recorded in Book 11882 at Page 95, subsequently assigned by Mortgagor to Tuscany Reserve, LLC by an Assignment and Assumption of Note and Mortgage dated October 31, 2007, and filed for record in the Office of the Recorder of Polk County, Iowa on November 1, 2007 in Book 12433 at Page 28, and any amendments or modifications thereto, (collectively the "Mortgage"), which Mortgage creates a lien on portions of Tuscany. FAB hereby consents to the within and foregoing First Modification to Declaration of Covenants, Conditions, Easements and Restrictions Applicable to Tuscany, Altoona, Polk County, Iowa, (the "First Modification"), and agrees that the lien of its above-described Mortgage is subordinate to the easements and appurtenant rights created in the Declaration.

Dated this 21<sup>st</sup> day of August, 2012.

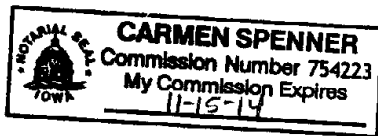
FIRST AMERICAN BANK, Mortgagee

By: [Signature]
John Hollingsworth, Senior Loan Officer / Market President-Des Moines

By: [Signature]
Paul Waltz, Chief Operating Officer

STATE OF IOWA )
COUNTY OF POLK ) SS.

On this 21<sup>st</sup> day of August, 2012, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared John Hollingsworth and Paul Waltz, to me personally known, who, being by me duly sworn, did say that they are the Senior Loan Officer/Market President-Des Moines and Chief Operating Officer of FIRST AMERICAN BANK, executing the within and foregoing instrument; that the instrument was signed on behalf of said bank corporation by authority of its Board of Directors; and said John Hollingsworth and Paul Waltz, as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.



[Signature]
Notary Public in and for said State

# EXHIBIT A

**MCC LURE**  
ENGINEERING COMPANY

**M E C results.c o m**  
155 First Avenue North  
Tomball, TX 77375  
Tel: 281-316-4225  
Fax: 281-316-4226

8101 International Center, Suite D  
Houston, TX 77057  
Tel: 281-965-5270  
Fax: 281-965-5270

1743 Springwood Lane  
Houston, TX 77057  
Tel: 281-566-9696  
Fax: 281-566-9695

MEC is an Equal Opportunity Employer. All qualified applicants will receive consideration for employment without regard to race, sex, religion, color, national origin, age, or disability. For more information, please contact our HR Department at 281-965-5270.

800 2008 05 / 56

TUSCANY  
PLAY 1

ALTONDA, INVA  
210002  
June 24, 2007

REVISED  
May 27, 2007  
January 03, 2008  
January 15, 2008  
January 21, 2008  
July 6, 2008

DESIGNED BY  
CAB

CHECKED BY  
CAB

DATE PLOTTED  
FIELDBOOK  
05 / 56

**TYPICAL LOT SUMP SERVICE PROFILE DETAIL**  
NOT TO SCALE

ESTIMATED QUANTITIES			ESTIMATED QUANTITIES			ESTIMATED QUANTITIES					
ITEM NUMBER	DESCRIPTION	QUANTITY	UNITS	ITEM NUMBER	DESCRIPTION	QUANTITY	UNITS	ITEM NUMBER	DESCRIPTION	QUANTITY	UNITS
1	Excavation Class 15' x 15' x 10' (10' deep)	10.00	CY	31	2" CPVC Schedule 40	1	EA	41	6" x 18" x 18" Base	5	EA
2	15' x 15' x 10' (10' deep)	10.00	CY	32	4" x 18" x 18" Base	5	EA	42	6" x 18" x 18" Base	5	EA
3	15' x 15' x 10' (10' deep)	10.00	CY	33	M-A Inflow	4	EA	43	6" x 18" x 18" Base	2	EA
4	8" PVC Gravity Sewer Main	2.111	LF	34	M-C Inflow	4	EA	44	6" x 18" x 18" Base	1	EA
5	M-A Sanitary Manhole	29	EA	35	M-D Inflow	4	EA	45	6" x 18" x 18" Base	100	LF
6	8" Sanitary Sewer Service	2.88	LF	36	M-E Inflow	2	EA	46	6" x 18" x 18" Base	2	EA
7	15' RCP	1.715	LF	37	4" PVC Water Main	103	LF	47	18" x 45" Band	2	EA
8	15' RCP	1.715	LF	38	6" PVC Water Main	103	LF	48	18" x 45" Band	2	EA
9	15' RCP	1.715	LF	39	12" PVC Water Main	2.88	LF	49	18" x 45" Band	2	EA
10	15' RCP	1.715	LF	40	18" PVC Water Main	2.88	LF	50	18" x 45" Band	2	EA
11	15' RCP	1.715	LF	41	18" PVC Water Main	2.88	LF	51	18" x 45" Band	2	EA
12	15' RCP	1.715	LF	42	4" Water Valve	2	EA	52	1" Water Service	125	EA
13	15' RCP	1.715	LF	43	4" x 45" Band	2	EA	53	6" PVC Churn C	1.407	EA
14	15' RCP	1.715	LF	44	6" Water Valve	2	EA	54	7" PVC Churn C	10.031	EA
15	15' RCP	1.715	LF	45	6" x 30" Band	2	EA	55	7" PVC Churn C	10.031	EA
16	15' RCP	1.715	LF	46	6" x 45" Band	2	EA	56	7" PVC Churn C	10.031	EA
17	24" Flared End Section 4' Band	1	EA	47	6" x 45" Band	2	EA	57	7" PVC Churn C	10.031	EA
18	24" Flared End Section 4' Band	3	EA	48	6" x 30" Band	2	EA	58	7" PVC Churn C	10.031	EA
19	24" Flared End Section 4' Band	1	EA	49	6" Water Valve	2	EA	59	7" PVC Churn C	10.031	EA
20	24" Flared End Section 4' Band	1	EA	50	6" Water Valve	2	EA	60	7" PVC Churn C	10.031	EA