

3343102

FIFTH SUPPLEMENTARY DECLARATION

OF

EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS

OF

ARLINGTON PARK

A SUBDIVISION IN

THE CITY OF OLATHE

JOHNSON COUNTY, KANSAS

STATE OF KANSAS } SS
COUNTY OF JOHNSON }
FILED FOR RECORD

2001 DEC 17 P 4:13 PM

BERRECA L. DAVIS

THIS SUPPLEMENTARY DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS ("Fifth Supplementary Declaration") is made this 17th day of December, 2001, by PARACORP, INC., an Iowa corporation ("Developer").

RECITALS:

A. Developer is the assignee of Duggan Land Development, Inc. (now know as Duggan Investments, Inc.) under the Declaration (as defined below), wherein Developer became the successor to Duggan Land Development, Inc. with regard to that certain real property located in Arlington Park, a subdivision in the City of Olathe, Johnson County, Kansas, according to the Plat thereof (the "Sixth Plat") recorded on May 21, 2001 in Plat Book 121, Page 16, as Document No. 3245176 in the office of the Register of Deeds for Johnson County, Kansas, as more particularly described in Exhibit A.

B. Pursuant to paragraph 12.2 of the Declaration, the Developer desires to amend the Declaration of Easements, Covenants, Conditions, and Restrictions ("Declaration") dated January 20, 1998 and recorded on January 27, 1998 in Book 5440, Page 86, as Document No. 2785589, in the office of the Register of Deeds for Johnson County, Kansas; as amended by the Supplemental Declaration of Easements, Covenants, Conditions and Restrictions ("Supplemental Declaration") dated May 28, 1999 and recorded on June 4, 1999 in Book 6196, Page 137, as Document No. 2997022, in the office of the Register of Deeds for Johnson County, Kansas; and as further amended by the Second Supplemental Declaration of Easements, Covenants, Conditions and Restrictions ("Second Supplemental Declaration") dated October 18, 1999 and recorded on October 19, 1999 in Book 6359, Page 992, as Document No. 3051975; and amended by the Third Supplemental Declaration of Easements, Covenants, Conditions and Restrictions ("Third Supplemental Declaration") dated November 23, 1999 and recorded on December 2, 1999 in Book 6406, Page 678, as Document No. 3066246, in the office of the Register of Deeds for Johnson County, Kansas and amended by the Fourth Supplemental Declaration of Easements, Covenants, Conditions and Restrictions

BOOK 7499 PAGE 930

Don P. H. Co.
1104 S. W. 1st St.
Olathe, KS 66045

1600 CK

("Fourth Supplemental Declaration") dated June 28, 2000 and recorded on June 30, 2000 in Book 6618, Page 628, as Document No. 3134598 in the office of the Register of Deeds for Johnson County, Kansas.

NOW, THEREFORE, in consideration of these mutual Agreements and other consideration, it is hereby agreed as follows:

1. That Developer assumes and agrees to perform any and all obligations pertaining to the rights, powers and easements of the Declaration binding Duggan Land Development, Inc., and Duggan Land Development, Inc. is hereby released and relieved from all liability with respect to such obligations accruing from and after the date of the recording of this Supplement.
2. That Developer, pursuant to paragraph 13.1 of the Declaration, hereby annexes the property described in **Exhibit A** attached hereto as additional Land to be covered by and subject to the Declaration.
3. That all terms and provisions of the Declaration and any amendments thereto will be binding on that certain real property described in **Exhibit A** attached hereto and incorporated herein.
4. All other terms and provisions of the Declaration shall remain the same.
5. J.M. Duggan Construction Company now known as Duggan Homes, Inc. to the extent it has any interest in the property described in **Exhibit A** hereby consents to the filing of this Fifth Supplementary Declaration.
6. JanRick, Inc. to the extent it has any interest in the property described in **Exhibit A** hereby consents to the filing of this Fifth Supplementary Declaration.
7. NuCrest, Inc. to the extent it has any interest in the property described in **Exhibit A** hereby consents to the filing of this Fifth Supplementary Declaration.

IN WITNESS WHEREOF, Developer has executed this Amendment as of the date first above written.

PARACORP, INC.

By Dorothy J. Haegle
Dorothy J. Haegle, Vice President

BOOK 7499 PAGE 991

J.M. DUGGAN CONSTRUCTION COMPANY
now known as DUGGAN HOMES, INC.

By *John M. Duggan*, President
John M. Duggan, President

JanRick, Inc.

By *Janet Brawner*
Janet Brawner, President

NuCrest, Inc.

By *J.B. Nickelsen, Sr.*, President
J.B. Nickelsen, Sr., President

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 11th day of ^{November (PJS)} ~~December~~, 2001, before me appeared Dorothy J. Haegele, to me personally known, who being by me duly sworn, did say that she is the Vice President of Paracorp, Inc., a Kansas corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and said Dorothy J. Haegele acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office the day and year last above written.

Notary Public State of Kansas
Patricia J Stout
My Appt Exp 11-15-04

Patricia J Stout
Notary Public

My commission expires:

November 15, 04

STATE OF KANSAS)
) ss.
 COUNTY OF JOHNSON)

On this 14th day of December, 2001, before me appeared John M. Duggan, to me personally known, who being by me duly sworn, did say that he is the President of J.M. Duggan Construction Company, a Kansas corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and said John M. Duggan acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office the day and year last above written.

Notary Public State of Kansas
 Patricia J Stout
 My Appt Exp 11-15-04

Patricia J Stout
 Notary Public

My commission expires:

November 15, 04

STATE OF KANSAS)
) ss.
 COUNTY OF JOHNSON)

On this 6 day of December, 2001, before me appeared Janet Brawner, to me personally known, who being by me duly sworn, did say that she is the President of JanRick, Inc., a Kansas corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and said Janet Brawner acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office the day and year last above written.

Notary Public State of Kansas
 Patricia J Stout
 My Appt Exp 11-15-04

Patricia J Stout
 Notary Public

My commission expires:

November 15, 04

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 11th day of December, 2001, before me appeared J.B. Nickelsen, Sr., to me personally known, who being by me duly sworn, did say that he is the President of NuCrest, Inc., a Kansas corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and said J.B. Nickelsen, Sr. acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office the day and year last above written.

Notary Public State of Kansas
Patricia J Stout
My Appt Exp 11-15-04

Patricia J Stout
Notary Public

My commission expires:

November 15, 04

Part of the Southwest One-Quarter of Section 8, Township 14 South, Range 24 East, in the City of Olathe, Johnson County, Kansas being more particularly described as follows:

Commencing at the Southeast Corner of the above described Southwest One-Quarter; thence N00°03'56"E along the East line said Southwest One-Quarter a distance of 622.29 feet to the Northeast corner of the South 622.29 feet to the East 910.00 feet of said Southwest One-Quarter, said point also being the True Point of Beginning; thence N90°00'00"W along the North line of said South 622.29 feet a distance of 639.63 feet to a point, said point being a Plat Corner on the Southeasterly Plat Boundary of Arlington Park Fifth Plat, a subdivision of land in the City of Olathe, Johnson County, Kansas; thence N00°00'00"W along said Southeasterly Plat Boundary a distance of 191.55 feet to a point, said point also being a Plat Corner; thence N24°08'37"W along said Southeasterly Plat Boundary a distance of 209.68 feet to a point, said point also being a Plat Corner; thence N65°51'23"E along said Southeasterly Plat Boundary, a distance of 170.00 feet to a point of curvature, said point also being a Plat Corner; thence along said Southeasterly Plat Boundary and along a curve to the left having a radius of 225.00 feet, a central angle of 08°17'20", an initial tangent bearing of N24°08'37"W, and a length of 32.55 feet to a point, said point also being a Plat Corner; thence N67°34'03"E along said Southeasterly Plat Boundary a distance of 134.68 feet to a point, said point also being a Plat Corner; thence N48°25'44"W a distance of 229.60 feet to a point on the North line of the Southeast One-Quarter of the above described Southwest One-Quarter, said point also being a Plat Corner; thence N89°53'30"E along said North line a distance of 644.59 feet to a point on the East line of the above described Southwest One-Quarter; thence S00°03'56"W along said East line a distance of 706.87 feet to a point, said point being the Point of Beginning, and containing 10.0686 acres, more or less.

FERNDAL TRACT FOR ARLINGTON PARK SIXTH PLAT

Part of the Southwest One-Quarter of Section 8, Township 14 South, Range 24 East, in the City of Olathe, Johnson County, Kansas being more particularly described as follows:

Commencing at the Southeast Corner of the above described Southwest One-Quarter; thence N00°03'56"E along the East line of Southwest One-Quarter a distance of 1329.16 feet to the Southeast Corner of the Northeast One-Quarter of the above described Southwest One-Quarter, said point also being the True Point of Beginning; thence S89°53'30"W along the South line thereof a distance of 644.59 feet to a point said being a Plat Corner on the Southeasterly Plat Boundary of Arlington Park Fifth Plat, a subdivision of land in the City of Olathe, Johnson County, Kansas; thence N26°55'12"E along said Southeasterly Plat Boundary of Arlington Park Fifth Plat, a distance of 139.50 feet to a point, said also point being a Plat Corner; thence N49°38'20"E along said Southeasterly Plat Boundary a distance of 121.15 feet to a point said point also being a Plat Corner; thence N79°40'07"E along said Southeasterly Plat Boundary, a distance of 153.64 feet to a point, said point also being a Plat Corner; thence N48°00'51"E along said Southeasterly Plat Boundary a distance of 60.00 feet to a point, said point also being a Plat Corner; thence N64°23'21"E along said Southeasterly Plat Boundary a distance of 125.08 feet to a point, said point also being a Plat Corner; thence S89°56'15"E along said Southeasterly Plat Boundary a distance of 180.95 feet to a point on the East line of the above described Southwest One-Quarter; thence S00°03'56"W along said East line a distance of 323.19 feet to a point, said point being the True Point of Beginning, and containing 3.5531 acres, more or less.

BOOK 7499 PAGE 995

Exhibit A