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AUG 16 2002

STATE OF MO.  
CLAY COUNTY  
I CERTIFY INSTR. REC'D

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BOOK# 3725 PAGE# 928  
ROBERT T. SEVIER  
RECORDER OF DEEDS

(ABOVE SPACE RESERVED FOR RECORDER OF DEEDS' USE)

Document Title: First Supplement to Declaration of Homes Association and Covenants, Conditions, Restrictions and Easements of Benson Place  
Document Date: August 12, 2002  
Grantor Names: Hunt Midwest Real Estate Development, Inc.  
Grantee Names: N/A  
Statutory Address: Suite 100, 8300 N.E. Underground Drive, Kansas City, Missouri 64161  
Legal Description: See Exhibit A attached hereto  
Reference Book and Page: Declaration of Homes Association and Covenants, Conditions, Restrictions and Easements of Benson Place, Document No. R24799, Book 3699, Page 69

**FIRST SUPPLEMENT TO  
DECLARATION OF HOMES ASSOCIATION AND  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OF BENSON PLACE**

**THIS FIRST SUPPLEMENT TO DECLARATION OF HOMES ASSOCIATION AND COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF BENSON PLACE** (this "Supplemental Declaration") is made and executed as of August 12, 2002, by **HUNT MIDWEST REAL ESTATE DEVELOPMENT, INC.**, a Missouri corporation (the "Developer"), with its principal office and mailing address at Suite 100, 8300 N.E. Underground Drive, Kansas City, Missouri 64161.

**RECITALS:**

A. On June 6, 2002, the Developer executed that certain subdivision plat entitled "BENSON PLACE - FIRST PLAT" (the "Plat"), covering the real property formerly legally described as shown therein and on EXHIBIT A attached thereto and to the Declaration defined below) and platting the same into Lots, Tracts and the streets, roadways, private open space and other areas shown and marked thereon (the "Property"). The Plat was approved on July 2, 2002, by the City Council of the City of Kansas City, Missouri (the "City"), and was recorded on July 24, 2002, in Cabinet F, at Sleeve 27, in the Office of the Recorder of Deeds of Clay County, Missouri, at Liberty.

B. The Developer has executed that certain Declaration of Homes Association and Covenants, Conditions, Restrictions and Easements of Benson Place, dated May 15, 2002, which was recorded on July 24, 2002, under Document No. R24799, in Book 3699 at Page 69, in such Recorder of Deeds' Office (the "Declaration"), pursuant to which the Developer subjected the Property to certain covenants, conditions, restrictions and easements for the purposes of protecting the value and desirability of the Property.

C. Pursuant to Article 16.2 of the Declaration, the Developer reserved to itself the right to amend and supplement the Declaration prior to the Turnover Date (as therein defined), which has not yet occurred.

D. Pursuant to Section 13.1 of the Declaration, the Developer has the absolute unilateral right to expand the Property to include additional Lots (for Single Family Residences, Attached Patio Homes, Attached Townhomes or any combination thereof), Common Area, Restricted Common Areas and other property in the Subdivision and also other property that has not yet been subdivided or platted (the "Expansion Property").

E. On \_\_\_\_\_, 2002, the Developer executed that certain subdivision plat entitled "BENSON PLACE TOWNHOMES – FIRST PLAT" (the "Townhomes First Plat"), covering the real property formerly legally described as shown therein and on EXHIBIT A attached to this Supplemental Declaration, and platting the same into the Lots, Tracts, streets, roadways, private open space and other areas shown and marked thereon and as identified on private open space and other areas shown and marked thereon EXHIBIT A attached to this Supplemental Declaration (the "First Expansion Property"), which Townhomes First Plat was approved on \_\_\_\_\_, 2002, by the City Council of the City, and was recorded on \_\_\_\_\_, 2002, in Cabinet \_\_\_, at Sleeve \_\_\_, in said Recorder of Deeds' Office.

F. The Developer presently owns all of the Lots, Tracts, Common Areas, Restricted Common Areas or other areas shown on the Townhomes First Plat.

G. The Developer desires to exercise its right to expand the Property to include the additional Lots, Tracts, Common Areas, Restricted Common Areas or other areas which constitute the First Expansion Property and to subject the First Expansion Property to the covenants, conditions, restrictions and easements contained within the Declaration.

NOW, THEREFORE, in consideration of the premises, the Developer states and declares as follows:

1. **Exercise of Right to Expand.** The Developer hereby exercises its unilateral right to expand the Property to include the additional Lots, Tracts, Common Areas, Restricted Common Areas or other areas which constitute the First Expansion Property.

2. **Expansion Effective Upon Recording.** The expansion set forth above, shall be effective immediately upon filing the Townhomes First Plat and this Supplemental Declaration of record in the Office of the Recorder of Deeds for Clay County, Missouri, at Liberty. Recording of the Townhomes First Plat and this Supplemental Declaration shall automatically grant, transfer and convey to the Association any new Common Areas, Restricted Common Areas and all other areas designed for Members' or Association use, if any, added by the First Expansion Property.

3. **Expansion of Definitions.** The definitions contained in the Declaration are hereby expanded to encompass and refer to the Property, as expanded by the Townhomes First Plat and this Supplemental Declaration to include the First Expansion Property. For example, (i) "Lot" shall mean the Lots described in the Declaration and in the Plat described in the Declaration and in the Townhomes First Plat and (ii) all references to the Declaration shall mean the Declaration as supplemented and amended by this Supplemental Declaration.

4. **Declaration Operative on New Lots, Tracts, Common Areas and Restricted Common Areas.** The new Lots, Tracts, Common Areas or Restricted Common Areas, which constitute the First Expansion Property, shall be subject to all of the terms and conditions of the Declaration immediately upon recording of the Townhomes First Plat and this Supplemental Declaration in the Office of the Recorder of Deeds for Clay County, Missouri, at Liberty.

5. **Use and Maintenance of Any Private Open Space and Storm Water Detention Tracts.** Any private open space and storm water detention tracts shall be used and maintained by the Association under the terms of the Declaration, as amended, as an open green space area and for storm water detention purposes.

6. **Amendment of Subsection 10.5(e) of Declaration.** Subsection 10.5(e) of the Declaration is hereby amended to read as follows:

*"(e) With respect to Single Family Residences only, any portion of a foundation protruding more than twelve inches (12") above the ground shall be painted the same color as the body of such Single Family Residence. This subsection shall not apply to Attached Patio Homes or Attached Townhomes regardless of anything to the contrary set forth elsewhere in this Declaration."*

7. **Amendment of Article 9, Party Walls and Related Matters.** Article 9 of the Declaration is hereby amended by adding thereto new Article 9.11, Utilities' Easements, as follows:

*"9.11 **Utilities Easements.** Easements are hereby granted through all attached Patio Homes and Attached Townhomes to the extent necessary or desirable for the installation, maintenance, repair and replacement of utilities lines, pipes, conduits, cables and other facilities commonly serving more than one (1) Attached Patio Home or Attached Townhome. The responsibility for repairs and maintenance thereto shall be as set forth in Article 9.2 above."*

8. **Amendment to Article 10.5(i).** Article 10.5(i) of the Declaration is hereby amended to read as follows:

*"(i) All water, gas, electricity, sewer, telephone, cable television and other utilities or services shall be run underground to each Single Family Residence Lot, each Attached Patio Home Lot and each Attached Townhome Lot provided that any such utilities commonly serving more than one (1) Attached Patio Home or Attached Townhome may be run through the easements described in Article 9.11 above."*

9. **Ratification of Declaration.** The Developer, on behalf of itself and as the holder of a majority of the votes possible to be cast under the Declaration, hereby ratifies, affirms and confirms all covenants, conditions, restrictions and easements contained in the Declaration, which covenants, conditions and provisions shall run with the land and be binding upon the Owners, including the Developer, and their respective heirs, personal representatives, successors, transferees and assigns and all other persons or entities having, at any time, any right, title or interest in all, or any part of, the Property, the First Expansion Property or any Lots, Tracts, Common Areas or Restricted Common Areas otherwise subject to the terms hereof.

IN WITNESS WHEREOF, the Developer has caused this Supplemental Declaration to be executed by its duly authorized officers as of the day and year first above written.

All signatures must be in black ink!

**DEVELOPER:**

**HUNT MIDWEST REAL ESTATE DEVELOPMENT, INC.**

{Corporate Seal}

By: \_\_\_\_\_  
Ora H. Reynolds, Vice President and General Manager  
of Residential Development

ATTEST:

By: \_\_\_\_\_  
Donald K. Hagan, Secretary

ACKNOWLEDGMENT

STATE OF MISSOURI    )  
                                  ) S.S.  
COUNTY OF CLAY     )

On this 12<sup>th</sup> day of August, 2002, before me, the undersigned Notary Public in and for said County and State, personally appeared Ora H. Reynolds, who, being by me first duly sworn, did say that she is the Vice President and General Manager of Residential Development of Hunt Midwest Real Estate Development, Inc., a Missouri corporation, that she executed the foregoing instrument on behalf of said corporation under and with the authority of its Board of Directors and that she acknowledged that she so executed the same as the free act and deed of said corporation for the purposes therein stated.

Donna K. Willis  
Signature of Notary Public

(Notary Seal)

DONNA K WILLES  
NOTARY PUBLIC STATE OF MISSOURI  
CLAY COUNTY  
MY COMMISSION EXP. NOV. 1, 2005

\_\_\_\_\_  
Typed or Printed Name of Notary

My Commission expires:

11/1/05

**EXHIBIT A  
TO  
FIRST SUPPLEMENT  
TO  
DECLARATION OF HOMES ASSOCIATION  
AND  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OF  
BENSON PLACE**

**Legal Description of First Expansion Property:**

Lots A and B, BENSON PLACE TOWNHOMES – FIRST PLAT, a subdivision in Kansas City, Clay County, Missouri, according to the recorded plat thereof.

**Legal Description of First Expansion Property Prior to Platting:**

A subdivision of land in the Southeast Quarter of Section 34, Township 52, Range 32, Kansas City, Clay County, Missouri, being bounded and described as follows:

Commencing at the Southwest corner of said Southeast Quarter; thence South 89°18'08" East, along the South line of said Southeast Quarter, 1399.51 feet; thence North 0°41'52" East, 734.69 feet to a point on the Easterly right-of-way of N. McKinley Avenue, as now established, said point being also the True Point of Beginning of the tract to be herein described; thence Northerly along said Easterly line, on a curve to the right, having an initial tangent bearing of North 09°51'07" East, a radius of 600.00 feet, a central angle of 18°07'23", an arc distance of 189.78 feet; thence North 27°58'29" East along said Easterly line, 258.52 feet; thence Northerly along said Easterly line, on a curve to the left, tangent to the last described course, having a radius of 2035.00 feet, a central angle of 06°37'41", an arc distance of 235.41 feet; thence South 68°38'45" East, 385.35 feet; thence South 19°30'49" East, 180.70 feet; thence South 32°24'14" West, 130.15 feet; thence South 70°10'52" West, 121.62 feet; thence South 34°01'16" West, 137.85 feet; thence South 04°08'27" East, 50.00 feet; thence South 39°29'39" West, 182.14 feet; thence North 65°29'34" West, 350.81 feet to the True Point of Beginning. Containing 6.86 acres, more or less.

Note: The above-described Property has been platted. The recording information identifying such Plat is shown in Recital A of the Supplemental Declaration to which this **EXHIBIT A** is attached