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

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BOOK # 4246 PAGE # 281  
ROBERT T. SEVIER  
RECORDER OF DEEDS

(ABOVE SPACE RESERVED FOR RECORDER OF DEEDS' USE)

STEWART TITLE

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Document Title: Fifth Supplement to Declaration of Homes Association and Covenants, Conditions, Restrictions and Easements of Benson Place  
Document Date: April 25th, 2003  
Grantor Names: Hunt Midwest Real Estate Development, Inc.  
Grantee Names: NA Benson Place  
Statutory Address: Suite 100, 8300 N.E. Underground Drive, Kansas City, Missouri 64161  
Legal Description: See Exhibit B attached  
Reference Book and Page: Declaration of Homes Association and Covenants, Conditions, Restrictions and Easements of Benson Place, Document No. R24799, Book 3699, Page 69

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

THIS FIFTH SUPPLEMENT TO DECLARATION OF HOMES ASSOCIATION AND COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF BENSON PLACE (this "Supplemental Declaration") is made and executed as of April 25th, 2003, by HUNT MIDWEST REAL ESTATE DEVELOPMENT, INC., a Missouri corporation (the "Developer"), 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 "First Plat"), covering the real property formerly legally described as shown therein (and on Exhibit A attached to the Declaration, defined below), and platting the same into certain Lots, Tracts, Common Areas, Restricted Common Areas, the streets, roadways and other areas shown and marked on the First Plat as identified therein and in the Declaration defined below (collectively, the "Property" or the "Benson Place Property"), which First Plat was approved on July 2, 2002, by the City Council of the City of Kansas City, Missouri, and was recorded on July 24, 2002, under Document No. R24798, 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 the Office of the Recorder of Deeds of Clay County, Missouri, at Liberty, as amended and supplemented by those Supplement Declarations identified on EXHIBIT A attached hereto (collectively, the "Declaration"), pursuant to which Declaration the Developer subjected the Benson Place Property, as expanded by the Supplemental Declarations identified on EXHIBIT A, to certain covenants, conditions, restrictions and easements for the purpose of protecting the value and desirability of the Property.

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C. Pursuant to Section 16.2 of the Declaration, prior to the "Turnover Date" (which has not yet occurred), the Developer has the unilateral right to amend, alter or modify the Declaration.

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 5/22, 2003, the Developer executed that certain subdivision plat entitled "BENSON PLACE - SECOND PLAT" (the "Second Plat"), covering the real property formerly legally described as shown therein and on EXHIBIT B 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, if any (the "Third Expansion Property"), which Second Plat was approved on 6/12, 2003, by the City Council of the City, and was recorded on July 25, 2003, under Document No. 509741, in Cabinet E, at Sleeve 87, in said Recorder of Deeds' Office.

F. The Developer presently owns all of the Lots, Tracts, Common Areas, Restricted Common Areas or other areas, if any, shown on the Second 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, if any, which constitute the Third Expansion Property and to subject the Third 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, if any, which constitute the Third Expansion Property.
2. **Expansion Effective Upon Recording.** The expansion set forth above, shall be effective immediately upon filing the Second Plat and this Supplemental Declaration of record in the Office of the Recorder of Deeds for Clay County, Missouri, at Liberty. Recording of the Second 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 Third 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 Second Plat and this Supplemental Declaration to include the Third Expansion Property. For example, (i) "Lot" shall mean the Lots described in the Declaration and in the Plat described in the Declaration, all subsequent Plats and in the Second 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 Third Expansion Property, shall be subject to all of the terms and conditions of the Declaration immediately upon recording of the Second Plat and this Supplemental Declaration in the Office of the Recorder of Deeds for Clay County, Missouri, at Liberty.
5. **Landscaping Reservations, Rights, Easements and Restrictions Applicable to Portions of Certain Lots.** The west fifteen (15) feet of Lots 57 and 58 of the Second Plat (the "Restricted Areas") are hereby subjected to the following:

(a) The Developer, for itself and the Association, reserves and retains an exclusive perpetual easement over, along, across, through and under the Restricted Areas for the installation, location, erection, placement, construction, reconstruction, replacement, maintenance, operation and repair of landscaping and landscape features of any and all kinds including, without limitation,

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sod or seeding with grass, herbaceous plantings, planting of trees and shrubs of any and all kinds, sculptures or art works and fencing of any kind (i.e. split rail, white farm, wrought iron or otherwise) [collectively, the "Landscape Features"].

(b) The foregoing notwithstanding, until such time as the Developer or the Association installs any such Landscape Features (which it or they may, but shall not be obligated to, do at any time), the Owners of the Lots which contain the Restricted Areas shall sod or seed with grass and mow and maintain such Restricted Areas in good condition.

6. **Fencing Restriction.** The Owners of the above-described Lots which contain the Restricted Areas shall not at any time install, erect or construct on or in any part of such Lots (whether or not in the Restricted Areas) any fencing of any type and, in the event of any violation of the foregoing, the Developer or the Association at any time may enter upon such Lots and remove or cause the removal of any such fencing without liability of any kind to any Owner, without prior notice, and no Owner shall have any recourse against the Developer or the Association for such entry and removal.

7. **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 Third 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

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ACKNOWLEDGMENT

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

On this 25<sup>th</sup> day of April, 2003, 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**  
Notary Public - Notary Seal  
STATE OF MISSOURI  
County of Clay  
My Commission Expires November 1, 2005  
(Notary Seal)

*Donna K. Willis*  
Signature of Notary Public

**DONNA K. WILLIS**  
Notary Public - Notary Seal  
STATE OF MISSOURI  
County of Clay  
Typed or Printed Name of Notary  
My Commission Expires November 1, 2005

My Commission expires:

11/1/05

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# EXHIBIT A

## Previous Supplements to Declaration

<u>DATE EXECUTED/ DATE RECORDED</u>	<u>RECORDING INFORMATION</u>	<u>SUPPLEMENT #</u>	<u>INFORMATION</u>
08-12-02/08-16-02	Doc #R29197/Book 3725, Page 928	First	Benson Place - Townhomes - 1 <sup>st</sup> Plat (1 <sup>st</sup> Expansion Property)
08-13-02/08-16-02	Doc #R29198/Book 3725, Page 933	Second	Benson Place - 1 <sup>st</sup> Plat (Landscaping and Fencing)
09-23-02/09-23-02	Doc #R36640/Book 3780, Page 238	Third	Benson Place - Sign Monumentation Easements
09-24-02/10-04-02	Doc #R39449/Book 3799, Page 120	Fourth	Benson Place - Patio Homes - 1 <sup>st</sup> Plat (2 <sup>nd</sup> Expansion Property)

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EXHIBIT B  
TO  
FIFTH SUPPLEMENT TO  
DECLARATION OF HOMES ASSOCIATION  
AND  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OF BENSON PLACE

Legal Description of Third Expansion Property: Lots 45 through and including 89, BENSON PLACE – SECOND PLAT, a subdivision in Kansas City, Clay County, Missouri, according to the recorded plat thereof.

Legal Description of Third Expansion Property Prior to Platting:

A subdivision of land in the Southeast Quarter and the Southwest 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 North 0°38'32" East along the West line of said Southeast Quarter, 657.54 feet; thence South 89°21'28" East, 217.45 feet to the True Point of Beginning of the tract to be herein described; thence North 76°53'28" West, 361.38 feet; thence South 72°12'31" West, 77.95 feet to a point on the Easterly right-of-way line of N. Tullis Drive, as now established; thence North 17°08'53" West along said Easterly line, 337.89 feet; thence Northerly along said Easterly line, on a curve to the right, tangent to the last described course, having a radius of 1475.00 feet, a central angle of 0°54'42", an arc distance of 23.47 feet; thence North 80°18'13" East, 231.97 feet; thence South 82°29'21" East, 136.57 feet; thence South 58°04'56" East, 110.07 feet; thence South 70°41'13" East, 100.28 feet; thence South 81°42'23" East, 73.28 feet; thence North 86°11'06" East, 54.58 feet; thence North 73°35'27" East, 129.52 feet; thence North 14°49'36" West, 130.61 feet; thence North 17°16'06" West, 50.00 feet; thence North 72°43'54" East, 5.66 feet; thence North 17°16'06" West, 143.59 feet; thence North 67°09'24" East, 45.93 feet; thence North 74°25'25" East, 90.33 feet; thence North 79°10'11" East, 136.86 feet; thence North 72°14'33" East, 136.00 feet; thence North 69°03'06" East, 117.57 feet; thence North 59°17'06" East, 144.53 feet to a point on the Westerly line of BENSON PLACE – FIRST PLAT, a subdivision in Kansas City, Clay County, Missouri; thence South 29°47'56" East along said Westerly line, 38.88 feet; thence South 34°50'52" East along said Westerly line, 143.21 feet; thence Northeasterly along said Westerly line, on a curve to the left, having an initial tangent bearing of North 55°09'08" East, a radius of 1025.00 feet, a central angle of 0°19'20", an arc distance of 5.76 feet; thence South 35°10'12" East along said Westerly line, 165.44 feet; thence South 44°53'03" West along said Westerly line, 68.93 feet; thence South 73°28'08" West along said Westerly line, 516.57 feet; thence South 73°32'42" West along said Westerly line, 76.82 feet; thence South 73°22'30" West along said Westerly line, 50.00 feet; thence Southerly along said Westerly line, on a curve to the right, having an initial tangent bearing of South 16°37'30" East, a radius of 1975.00 feet, a central angle of 0°38'56", an arc distance of 22.36 feet; thence South 15°58'34" East along said Westerly line, 94.64 feet; thence Southerly along said Westerly line, on a curve to the right, tangent to the last described course, having a radius of 15.00 feet, a central angle of 89°32'36", an arc distance of 22.44 feet; thence South 16°25'58" East along said Westerly line, 50.00 feet; thence Easterly along said Westerly line, on a curve to the right, having an initial tangent bearing of North 73°34'02" East, a radius of 4955.0 feet, a central angle of 0°21'01", an arc distance of 30.28 feet; thence South 15°37'12" East along said Westerly line, 142.52 feet; thence South 75°00'42" West, 191.64 feet; thence South 78°13'06" West, 129.50 feet; thence South 89°07'25" West, 140.25 feet to the True Point of Beginning. Containing 12.49 acres, more or less.

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

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