

05-2384

FILED FOR RECORD ON THE 10th DAY OF
May 2005 AT 8
O'CLOCK 11 MIN A M. RECORDED
IN BOOK 537 PAGE 858
CHERYL SCHULTZ, CIRCUIT CLERK AND EX OFFICIO
RECORDER, BENTON COUNTY, MO
BY: Cheryl Schultz DEPUTY

AMENDMENT TO THE
RESTRICTIVE COVENANTS OF
EAGLE BAY

KNOW ALL MEN BY THESE PRESENTS, that WHEREAS, Sierra Investments, Inc., a Missouri corporation, was the owner of certain real property located in Benton County, Missouri, and did cause a survey to be made and filed for Record in the Recorder's Office of Benton County in Warsaw, Missouri, which survey appears at Book 15, Pages 74, 75, 76, 77 and 78, and which was filed on May 17, 1985; said property to be known as Eagle Bay, a subdivision, containing Plats One through Five, and

WHEREAS, there is a document entitled REVISED RESTRICTIVE COVENANTS OF EAGLE BAY - PHASE ONE, which was recorded on the 20th day of September, 1985, at Book 391, Pages 1488-1495 in the Office of the Recorder of Deeds of Benton County, Missouri, and

WHEREAS, by instrument entitled "Second Revised Covenants of Eagle Bay", which was recorded on the 30th day of July, 1986, in Book 395 on Pages 774 thru 781, in the Recorded Deeds of Benton County, Missouri, SIERRA INVESTMENTS, INC., subjected certain property described therein to certain covenants restrictions, all more particularly set forth in said document, and legally described as "Plats 1 thru 12 and Plat 15, EAGLE BAY, a subdivision in Benton County, Missouri; and

WHEREAS, by instruments entitled "Restrictive covenants of Eagle Bay", which were recorded with respect to Plats 1 thru 12 and Plat 15 as follows: Plats 1 thru 5, recorded July 30, 1986 in Book 395 at Page 774; Plats 6 and 7, recorded November 16, 1987 in Book 401 at Page 557; Plat 8, recorded March 1, 1988 in Book 402 at Page 1241; Plat 9, recorded July 17, 1988 in Book 404 at Page 804; Plat 10, recorded June 30, 1988 in Book 404 age Page 1280; Plats 11 and 12, recorded September 22, 1988 in Book 406 at Page 204; and Plat 15, recorded October 6, 1988 in Book 406 at Page 753, and

WHEREAS, Sierra Investments, Inc., was referred to in the above recorded documents as Grantor, and said term shall also be deemed to include any agents, successors and assigns of Sierra Investments, Inc., and

WHEREAS, The Castle Rock Building Corp., is the successor of Sierra Investments, Inc., by virtue of that certain document recorded in Benton County, Missouri as Document Number 329, in Book 414 on Pages 651 and 652, as to all of the rights of that developer identified as Grantor in the Restrictive Covenants of Eagle Bay; and

WHEREAS, Grantor is still in the process of developing and marketing said land

and platted lots known as "EAGLE BAY SUBDIVISION" for living and recreational purposes, and

WHEREAS, Grantor is desirous of promoting and enhancing the value of Eagle Bay Subdivision by stabilizing the residential and recreational values, and

WHEREAS, all reservations, limitations, conditions, easements and covenants herein contained, and all of which are hereafter termed "Restrictive Covenants" or "Restrictions" are jointly or severally for the benefit of all persons who may purchase, hold or own, from time to time, any of the several platted lots covered by this instrument, and are intended to run with the land for specified periods, and be mutually enforceable, and

WHEREAS, it is the purpose and intention of the GRANTOR to preserve said land and platted lots as a restricted residential and recreational neighborhood and to protect the same against certain uses by the adoption of a common neighborhood plan and to protect the same against certain uses and scheme of restrictions; to apply that plan and restrictions, not only to all of the land and every parcel thereof as it may be sold from time to time, but also in favor of all other parcels within the area in the hands of the present or subsequent owners thereof and to mutually benefit, guard and restrict the present and/or future title holders or occupants of any and all said parcels and to foster the health, welfare and safety of all who own lots and/or reside in said area, with the understanding that both residential and camping sites exist there, and

WHEREAS, the Grantor has determined that it is in the best interests of all lots, lot purchasers and lot owners to have another document which contains all of restrictions and covenants of Eagle Bay Subdivision, thereby making any future reference to the existing/recorded RESTRICTIVE COVENANTS OF EAGLE BAY (as amended) unnecessary, and

WHEREAS, it is further the purpose and intention of the Grantor that all requirements and duties imposed by the Missouri Clean Water Law, Chapter 204 R.S. Mo., and all standards, rules and regulations adopted pursuant thereto and permits and orders issued thereunder applicable provisions of law, federal, state and local, and that restrictive covenants be adopted for that purpose, and

WHEREAS, on the 27th day of October, 1993, the Eagle Bay Property Owners Association, Inc., a Missouri not-for-profit corporation, was incorporated for the purpose of becoming the successor in interest to The Castle Rock Building Corp., to become responsible to exercise the rights and powers of the Grantor as outlined in the Restrictive Covenants of Eagle Bay, and to succeed to Grantor's interest and duties called for under said covenants following assignment of same by written instrument at the discretion of The Castle Rock Building Corp., and

WHEREAS, the Board of Directors of Eagle Bay Property Owners Association has met to review this Amendment and have determined that it is for the mutual benefit of all lots, lot purchasers and lot owners to again modify and amend the Restrictive Covenants of Eagle Bay, as authorized in those above-mentioned restrictions, as amended from time to time; and

WHEREAS, the undersigned are owners consisting of fifty-one percent (51%) or more of the platted lots in Plats 1 thru 12 and Plat 15, EAGLE BAY, a subdivision in Benton County, Missouri, and hereby wish to extend and exercise the amendment power granted in the aforementioned Restrictive Covenants of Eagle Bay, and

WHEREAS, the undersigned owners by agreement do hereby execute and enact this instrument known as the Amendment to the Restrictive Covenants of Eagle Bay.

I. RIGHTS AND POWERS OF THE GRANTOR

- A. The Grantor shall have the capacity and right to sue as such and shall have the right and duty to enforce, either in the Grantor's own name, in the name of the Eagle Bay Property Owners Association, or in the name of any lot owner in Eagle Bay Subdivision, any and all restrictive covenants and rules made and approved by the Eagle Bay Property Owners Association, which may now or which may hereafter be imposed upon any of the platted lots in the Eagle Bay Subdivision covered herein, either in the form as originally placed or as subsequently amended.
- B. The Grantor shall have the power to construct, reconstruct, improve, contract for, maintain or repair streets or roadways of any kind or qualities upon the several strips of land which are designated on the recorded plats as streets, drives, lanes, roads and walkways, and to repair and maintain any dams, lakes and related facilities to be constructed upon or within the recorded plats in Eagle Bay Subdivision.
- C. The Grantor shall have the right and power to provide for the plowing or removal of snow from the aforesaid streets, roadways and trail ways, whenever it deems desirable to do so.
- D. The Grantor shall have the right and power to plant, care for, spray, trim and replant shrubbery and to sow and resow, trim and care for grass in or upon the drives, streets and roads, or in and upon any areas of the Eagle Bay Subdivision, as it may be in its judgment determined desirable.
- E. The Grantor shall have the right and power to provide lights in or on all drives, lanes, circles, streets and roads and on or at all gateways or entrances, or in such other places in or about the area covered by this instrument as it may be in its judgment determine desirable.
- F. The Grantor shall have the right and power to grant easements in, over, along and under the streets, drives, lanes or roads for any of the purposes set out in this instrument. In addition to the foregoing rights and powers, the Grantor shall have the right and power to grant right of way easements to electric, telephone and other utilities in order to permit them to replace, construct, reconstruct, operate, repair, maintain and relocate thereon, and in or upon all streets, roads or highways abutting said lands, either above ground or underground or a combination of both a transmission or distribution line or system for the purpose of furnishing service to the above described premises, and to extend said line or system in the future or and across the above described tracts that may be subdivided and platted in separate lots to enable the utilities to furnish service to others and the right to have ingress and egress to, from and over the above described lands, for doing anything necessary or useful for the enjoyment of the easements granted; and to cut and trim trees and shrubbery to the extent necessary to keep them clear of said line or system; to cut down from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wires in

falling.

- G. The Grantor shall have the right and power to construct, to operate, to lease, to purchase, or in any other manner to construct or provide for sewers or sewage or wastewater disposal facilities, drainage, water, gas, electricity, street lighting, telephone service, or fire protection facilities to serve any or all of the above described tracts, either in their present state, or as subdivided, with the understanding that the Grantor may not be required to provide any of the above to the individual lot owners. The foregoing is subject to all provisions of applicable law, federal, state and local, including, but not limited to, the Missouri Clean Water Law, Chapter 204 R.S.Mo., and the regulations adopted pursuant thereto. If such services or facilities are implemented by Grantor, it may make use of or may convey, transfer or assign whole or partial rights in and to the easements created by this instrument by the authority hereunder, or the easements set out on the plats of Eagle Bay Subdivision.
- H. The Grantor shall have the right and power to provide for and maintain all club houses, swimming pools, tennis courts, playgrounds, gateways, entrances, drinking fountains, lakes and related facilities, streams and other ornamental or recreational features in Eagle Bay Subdivision on any lands set aside for the general use of the lot owners in said subdivision or to which the said lot owners have access to and the use thereof. The Grantor, with the written approval of the Eagle Bay Property Owners Association, shall have the right and power to acquire land within or outside of the Eagle Bay Subdivision (See Section IV) and to construct and/or maintain one or more access roads to the Lake of the Ozarks and related facilities, including but not limited to boat ramps, boat docks and boat parking and storage areas as the Grantor may deem appropriate or necessary for the use and benefit of lot owners in Eagle Bay Subdivision and/or other individuals or entities which have been approved in writing by the Grantor or the Eagle Bay Property Owners Association. The Grantor shall further have the power to regulate and determine the size of motors to be used on boats on any lakes that may be constructed within Eagle Bay Subdivision, and the use of the boats thereon. However, in no event may the lot owners require Grantor to provide any of the above amenities.
- I. The Grantor shall have the right and power to care for and maintain any and all vacant lots in said subdivision, remove weeds and cut grass thereon, to pick up and remove therefrom loose materials, trash and rubbish of all kinds, and to do anything and all other things which may be necessary or desirable to keep such property neat in appearance and in good order. If a lot owner does not keep his lot free of weeds and mow his grass, the Grantor reserves the right to mow and clean up said lot and to charge such owner a reasonable fee for this service. In addition, the Grantor shall have the right to cause all wastewater disposal facilities on lots to be pumped so as to assure compliance with the Missouri Clean Water Law, regulations and standards. Failure to pay the charge where it has become necessary to mow and clean said lot or to pump wastewater and sewage shall give the right to the Grantor, to place a lien against the property for this service and to

collect therefore in an action in debt. The Grantor shall also have the right to remove debris, trash, or any unsightly accumulation of materials or junk upon giving lot owner fifteen (15) days prior written notice of intention to do so.

- J. The Grantor and Eagle Bay Property Owners Association shall have the right to make reasonable rules and regulations and impose reasonable restrictions upon the use of any and all lakes, club houses, swimming pools, playgrounds, gateways, drinking fountains, and related facilities, streams and other ornamental or recreational features within Eagle Bay Subdivision, and to impose reasonable rules, regulations and restrictions upon such use and enjoyment for the benefit of all lot owners, their guests and assigns. The Grantor further shall have the right to suspend the voting rights and any right to use the above recreational facilities by a lot owner for any period during which the assessment against his lot remains unpaid. In the event of the infraction of the rules, regulations and/or restrictions outlined above, the Grantor shall have the right to suspend the violating lot owners from the use of the recreational and/or other facilities for a period not to exceed ninety (90) days.

II. ASSESSMENTS BY THE GRANTOR

- A. The Grantor and its successors or assigns are hereby authorized, empowered and granted the right to make assessments upon and against the said several platted lots and other parcels of land within the Eagle Bay Subdivision for the purpose and at the rates and on the conditions hereinafter provided:
1. To make uniform annual assessments every year for the fiscal year beginning November 15 and ending the following November 14, upon and against the several platted lots and parcels of land within Eagle Bay Subdivision for the purpose of carrying out the general duties and powers of the Grantor as described herein and for the further purpose of enabling the Grantor to defend and enforce the restrictive covenants as heretofore and hereinafter described.
 2. The annual assessments for the fiscal year beginning November 15, 2004 and ending November 14, 2005 and continuing thereafter unless modified pursuant to these covenants is \$180.00 per lot. In the event an owner owns additional lots, the assessment for each additional lot shall be \$25.00 per lot.
 3. To make special assessments if, at any time, the Grantor shall consider it necessary to make any required expenditures in addition to the assessments as provided above. In such event, the Grantor shall transmit in writing to the lot owners, an outline of the plan for the project contemplated and the estimated amount required for the completion of same and the total assessment required. If such project and the assessment so stated be approved at a meeting of the lot owners, duly called and held in the manner provided by the Grantor, by a fifty-one percent (51%) vote of the lot owners eligible and entitled to vote, the

Grantor shall notify all of the lot owners of the special assessment. Any assessment made under this paragraph shall be limited to One Hundred Dollars (\$100.00) per fiscal year, unless any additional assessment in excess of One Hundred Dollars (\$100.00) is approved by a sixty percent (60%) vote of the lot owners eligible or entitled to vote.

4. The Grantor specifically excludes any lots owned by the Grantor, The Castle Rock Building Corp. or the Eagle Bay Property Owners Association from the obligation to pay any assessments, annual or special, or maintenance fees of any type that might be set forth in these restrictions. Provided however, the Grantor, The Castle Rock Building Corp. and the Eagle Bay Property Owners Association may vote all of the platted lots to which they may hold title to approval or disapprove the above assessments and/or any other matter pertaining to Eagle Bay Subdivision which may be properly brought to a vote of the lot owners.
- B. All assessments, either annual or special, made by the Grantor or the Eagle Bay Property Owners Association for the purposes herein above enumerated shall be made in the manner and subject to the following procedure, to wit:
1. Notice of all assessments may be given by mail to the last known address of the lot owner and deposited in the United States mail, postage prepaid, or may be given by posting a brief notice of the assessment upon the lot itself. Service in either of the above methods shall be sufficient.
 2. It is the responsibility of all lot owners to keep the Grantor and the Eagle Bay Property Owners Association apprised of their current mailing address to which the lot owner can receive such notices and/or other correspondence from the Grantor, The Castle Building Corp., or Eagle Bay Property Owners Association by United States mail.
 3. Every assessment shall become due and payable within thirty (30) days after notice is given as herein above provided. From and after the date when said payment is due, it shall bear interest at the rate of ten percent (10%) per annum until paid and such payment and interest shall constitute a lien upon said lot and shall remain in full force and effect until said amount is fully paid. In addition, Grantor and/or the Board of Directors of the Eagle Bay Property Owners Association may charge a Ten Dollar (\$10.00) late fee for each year that the assessment remains delinquent. At any time after the levying of and entry into the Grantor's records, the Grantor may, in addition, execute and acknowledge an instrument reciting the levy of the assessment with respect to any one or more lots and cause same to be recorded as a lien against the lot(s) in the Office of the Recorder of Deeds of Benton County and the Grantor or Grantor's successors may, upon payment, cancel or release any one or more lots from the liability of the delinquent assessment (as shown by the recorded instrument) by executing, acknowledging and recording (at the expense of

the lot owner) an instrument releasing the lien the lot(s) and the Grantor shall cause to be noted from time to time in its records the payment made on account of assessments. The Grantor may institute proceedings to foreclose the lien or initiate an action in law for a personal judgment as imposed by the failure to pay assessments under this instrument in a court of competent jurisdiction and all interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Lot purchasers and lot owners may also enforce this instrument for the failure to pay lot assessments. No lot owner may waive or otherwise escape liability for these assessments by non-use of the lot(s), the facilities of Eagle Bay Subdivision or the abandonment of his lot(s) or other property.

4. The Grantor or the Eagle Bay Property Owners Association shall have the right to publish in any newsletter or other correspondence to the lot owners the names of those lot owners delinquent in their assessments, annual or special, the platted lots for which those assessments are delinquent and the amount of the delinquent assessments.

III. RESTRICTIONS RELATING TO THE USE OF AND CONSTRUCTION UPON THE LOT

- A. These covenants and restrictions are applicable to all of the lots in the recorded Plats 1 thru 12 and Plat 15, of Eagle Bay Subdivision and shall run with the land for a period of Twenty (20) Years beginning May 15, 2005. All of the covenants and restrictions shall then be renewed and binding thereafter for another twenty (20) year period and so on indefinitely, unless the owners of three-fourths (3/4) of the platted lots in Plats 1 thru 12 and Plat 15 and any other plat or plats which may have been prepared, approved and properly recorded in Benton County, Missouri, shall within a period of six (6) months before expiration of said twenty (20) year period vote to terminate restrictions by executing and recording in the Office of the Recorder of Deeds of Benton County, an agreement to end such restrictions, then they shall be extended in full force and said effect.
- B. The use and enjoyment of each lot in the Eagle Bay Subdivision is subject to the rights and powers of the Grantor established in this instrument, or as the same may hereafter be amended. These restrictive covenants are mutually enforceable and shall be applied uniformly to every lot.
- C. All platted lots in the part or parts of Eagle Bay Subdivision designated as "multipurpose" or "residential" (lots 10,000 sq ft or more) shall be limited to one (1) single family dwelling. All constructed dwellings shall face the street or road upon which the lot fronts or lots facing or adjoining a lake within the Eagle Bay Subdivision, may front upon the lake as an exception to this requirement when written permission is obtained from the Grantor, the Eagle Bay Property Owners Association or their successors. When the lot topography is not conducive to these limitations, the Grantor, the Eagle Bay Property Owners Association or their successors may allow a variance therefrom upon a written

request/application from the lot owner to the Eagle Bay Property Owners Association. Such permission and/or approval by the Grantor, the Eagle Bay Property Owners Association or their successors shall not be unreasonably withheld. No constructed dwelling may be built on any lot in Eagle Bay Subdivision which has less than 600 sq ft living space nor shall there be any shed roofs, without the prior written approval of the Eagle Bay Property Owners Association. All buildings will be finished and painted or stained on the outside. No basement shall be occupied until living accommodations are completed. All improvements shall be completed on the exterior within six (6) months after construction starts. All other structures shall be in the rear of the living accommodations. All material used for the construction of the outside of the dwelling shall be new, and constructions must be completed within six (6) months from the commencement of said construction of any type.

No permanent structures shall be permitted in any part or parts of Eagle Bay Subdivision designated as a "camper lot" or for campers only. However, in the event an owner shall acquire two or more camper lots so as to have ownership of 10,000 adjoining square feet (or more) of camper lots, then said lots may be deeded together as a multipurpose lot and construction of a dwelling or manufactured home may be permitted on said lot upon advance written consent of the Grantor, the Eagle Bay Property Owners Association or their successors.

Manufactured homes shall be no less than 720 square feet in size and shall not be more than eight (8) years old at the time of placement on the lot.

No commercial business other than those of the Grantor or Grantor's successor shall be constructed or operated within Eagle Bay Subdivision without the prior written approval of the Eagle Bay Property Owners Association.

Any building, manufactured home or camper must be approved in writing by the Grantor, the Eagle Bay Property Owners Association or their successors before being built or placed on a platted lot within Eagle Bay Subdivision. Campers and manufactured homes must be of commercial manufacture. This excludes converted buses, trucks or vans. Pickup camper shells must remain on pickup truck and such pickup truck shall be licensed and in good running condition. No camper will be permitted which the Grantor determines to be unsightly. All unauthorized vehicles, campers, manufactured homes or unsightly construction may be removed by the Grantor, the Eagle Bay Property Owners Association, their agents or successors at the lot owner's expense, and at no recourse to the Grantor, the Eagle Bay Property Owners Association, their agents or successors. The Grantor, the Eagle Bay Property Owners Association, their agents or successors have the right to enter upon any lot to correct violations of aforementioned restrictions and they will not be held liable for damage resulting from the correction or removal of those violations. Pending the construction or placement of a manufactured home or constructed dwelling, lot owners may, upon the written approval of the Grantor, the Eagle Bay Property Owners Association or their

successors, use a motor home or a camper of an approved character on a temporary basis, but not longer than six (6) months.

- D. Before improvements are erected on any platted lot in Eagle Bay Subdivision designated as "multipurpose", the lot owner or purchaser shall first apply for and obtain a permit for the installation of approved sewage or wastewater disposal facilities from the Grantor. The only authorized means of wastewater disposal for multipurpose lots is an approved individual sealed vault type holding tank. The capacity of the holding tank shall be not less than 1,000 gallons, or as may be required and permitted by Benton County, whichever is greater. On-site waste disposal systems may be installed, provided written plans and the design are approved by the Grantor, the Eagle Bay Property Owners Association or their successors, meet the requirements approved by Benton County and the applicable regulations of the Department of Natural Resources, including the provisions of 10C.S.R.20-6-30 (as may be amended). Holding tanks shall be of a design approved by the Grantor, the Eagle Bay Property Owners Association or their successors and applicable governmental entities. Each lot owner shall be required to cause said holding tank to be regularly pumped by any person, firm or corporation approved by the Grantor, the Eagle Bay Property Owners Association or their assigns to assure compliance with the Missouri Clean Water Law. On-site waste disposal systems may be permitted so long as the proposed sewage disposal system has been approved prior to installation by Grantor, the Eagle Bay Property Owners Association or their successors and has met standards for such systems required by Benton County and the Department of Natural Resources and its standards outlined in 10C.S.R.20-6-30 (as may be amended) in order to assure compliance with local ordinances and the Missouri Clean Water Law. Approval by the Grantor, the Eagle Bay Property Owners Association or their successors shall not be unreasonably withheld, if the on-site disposal systems meet all applicable regulatory requirements.

The only approved on-site method of wastewater or sewage disposal in the part of parts of the Eagle Bay Subdivision designated as "camper" is by means of collection in individual, portable holding tanks and discharged into a state approved collection facility to be constructed and maintained by the Grantor, the Eagle Bay Property Owners Association or their successors. This collection facility shall only be used by owners of camper lots. In the alternative, the owner of a camper lot may install a "holding tank" after first obtaining written permission from the Grantor, the Eagle Bay Property Owners Association or their successors for such tank. The Grantor, the Eagle Bay Property Owners Association or their successors shall make periodic inspections of all sewage disposal facilities. Upon the failure of any lot owner to properly maintain any sewage disposal facility in accordance with the standards set forth in this paragraph and the permit for construction approved by the Grantor, the Eagle Bay Property Owners Association or their successors, shall then and there, on behalf of the other lot owners, take such action as shall be necessary to restore the facility to approved standards, all at the expense of the lot owner, including, but not limited to, the cost of an action for injunctive relief, debt, damages, or causing

the sewage disposal facility to be pumped out. In the event the Grantor, the Eagle Bay Property Owners Association or their successors fail to take action necessary to assure compliance with the Missouri Department of Natural Resources, the Missouri Clean Water Commission or its authorized agents, successors or assigns shall be empowered to assure such compliance by appropriate judicial action in its own name. Any lot owner may also enforce the restrictions in this paragraph.

- E. Lot owners may have individual water wells installed, provided the wells are cased and sealed with grouting or other appropriate materials and are installed by a person or firm licensed to do so in the State of Missouri. Written evidence shall be provided to the Grantor, the Eagle Bay Property Owners Association or their successors by the lot owner that individual drilled wells conform to these standards and all applicable State of Missouri and/or Clean Water Commission rules and regulations.
- F. No lot owner shall permit debris, trash or unsightly accumulation of materials or junk to accumulate or stay on the premises of his lot. Outside storage facilities will be permitted only if prior written approval thereof has been obtained from the Grantor, the Eagle Bay Property Owners Association or their successors. Each lot owner must keep his lot(s) mowed, free of weeds and underbrush for general appearance of the subdivision and prevention of fire. In the event a lot owner shall violate these provisions and permits debris, trash, weeds, unsightly accumulation of materials to a condition such as constitutes a nuisance to adjoining owners, the Grantor, the Eagle Bay Property Owners Association or their successors may take the following steps to initiate action for improvement of the lot and clearing of these conditions: the Grantor, the Eagle Bay Property Owners Association or their successors shall issue a fifteen (15) day warning letter by registered and regular mail to the owner of the lot itemizing the conditions to be cured, changed or rectified within fifteen (15) days after the lot owner's receipt of the letter or twenty (20) days after the date it was deposited to the United States mail. If there is no compliance, the lot owner does hereby authorize the Grantor, the Eagle Bay Property Owners Association, their agents or successors to enter upon said lot and affect said repairs or cure such nuisance and to issue a notice to said lot owner for the cost of such repairs, which shall become a special assessment upon the lot(s) of said lot owner. If such assessment, any other special assessment or annual assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at ten percent (10%) per annum and the Grantor, the Eagle Bay Property Owners Association or their successors may bring an action at law against the lot owner who shall be personally liable to pay the special assessment, or at the discretion of the Grantor, the Eagle Bay Property Owners Association or their successors, may initiate a foreclosure on the lien against the lot(s) and all interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No lot owner may waive or otherwise escape liability for these assessments by non-use of the lot(s), the facilities of Eagle Bay Subdivision or the abandonment of his lot(s) or other property.

- G. No building shall be constructed below the elevation line approved by the Grantor, the Eagle Bay Property Owners Association or their successors for the particular area involved. All building plans must be approved by the Grantor, the Eagle Bay Property Owners Association or their successors prior to their construction.
- H. No signs may be placed or maintained on any lot other than the name and address of the owner, which sign shall not be larger than two (2) feet long and one (1) foot wide. The lots in the possession of the Grantor, the Eagle Bay Property Owners Association or their successors and the other lands of the Grantor and The Castle Rock Building Corp. are exempt from this restriction.
- I. Each lot must be mowed and kept free of weeds and underbrush for the general appearance of the subdivision and prevention of fire. The lots in the possession of the Grantor, the Eagle Bay Property Owners Association or their successors and other lands of the Grantor and The Castle Rock Building Corp. are exempt from this restriction.
- J. No animals shall be kept, maintained or raised on any platted lot within Eagle Bay Subdivision, except house pets, which shall be kept on a leash when on said premises when not in an enclosure. No poultry or livestock such as horses, cattle, pigs, goats, rabbits or chickens shall be stabled or maintained within the confines of the platted lots of Eagle Bay Subdivision. No noxious or offensive activity shall be permitted on any platted lot nor shall anything be done thereon which may be or become a nuisance or annoyance.
- K. The lot owners in Eagle Bay Subdivision shall have the right to use all land delineated or set apart as roads or other means of ingress or egress within the subdivision.
- L. These covenants are several. Invalidation of any said covenant by judgement or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
- M. The references to "lot owner" throughout this instrument shall be deemed to include any and all persons who have contracted to purchase a lot or who are already in possession of a fee simple title in said lot. While the terms lot owner and lot purchaser appear throughout this instrument, they are interchangeable for purpose of this instrument, and it is the intention of the Grantor, the Eagle Bay Property Owners Association or their successors to treat their lots and restrictions thereon equally.
- N. Throughout this Amendment, where such meanings would be appropriate (a) the masculine gender shall be deemed to include the feminine and the neuter and vice versa, and (b) the singular shall be deemed to include the plural, and vice versa. The headings herein are inserted only as a matter of convenience and reference and in no way define or describe the scope of the Amendment, or the intent of any provisions thereof.

IV. ADDITIONAL LANDS ANNEXED TO EAGLE BAY SUBDIVISION

- A. The Grantor, with the written approval of the Board of Directors of the Eagle Bay Property Owners Association or its successor may annex additional land within or outside of Eagle Bay Subdivision and/or common properties to the Eagle Bay Subdivision, to be subject to this Amendment to the Restrictive Covenants of Eagle Bay and the by-laws of Eagle Bay Property Owners Association as they may be further amended from time to time, provided at least fifty-one percent (51%) of the lot owners within Eagle Bay Subdivision, as may have been expanded pursuant to this section, have voted to such annexation at a meeting called for such purposes with no less than thirty (30) and no more than sixty (60) days written notice. The Association shall file with the office of County Records of Benton County an annexation document with signatures of at least fifty-one percent (51%) of the lot owners (members), properly executed and notarized, authorizing such annexation.
- B. Such additional lands shall be subject to the following provisions:
1. All taxes and special assessments against such annexed land accrued to periods prior to its addition to the Eagle Bay Subdivision must be paid or provided for.
 2. All annexed Lands must be zoned for residential, camping or recreational purposes unless otherwise approved in writing by the Board of Directors of Eagle Bay Property Owners Association, or its successors.
 3. All improvements upon and within the annexed land shall be complementary to and consistent with the improvements constructed or allowed to be constructed within the Eagle Bay Subdivision.
 4. Upon filing an annexation document, legally describing the annexed land, with the Recorder of Deeds for Benton County, Missouri, such annexed land shall for all intents and purposes become a part of Eagle Bay Subdivision and subject to this Amendment to the Restrictive Covenants of Eagle Bay including the terms pertaining to assessments, jurisdiction, functions, duties and membership rights and responsibilities in the Eagle Bay Property Owners Association.

V. AMENDMENTS

- A. From and after the recording of this amendment, this instrument may be modified or amended by a vote of the lot owners of not less than fifty-one percent (51%) of the platted lots within Eagle Bay Subdivision and those others who are or may be eligible and entitled to vote.
- B. No person shall be eligible or entitled to vote unless he has paid any and all outstanding assessments levied against him, his Eagle Bay platted lot or other lands located within Eagle Bay Subdivision.
- C. In no event shall the restrictions relating to compliance with the Missouri Clean Water Law be amended without the written consent of the Missouri Clean Water Commission.
- D. The Grantor, the Eagle Bay Property Owners Association, their successors or any lot owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions,

covenants, reservations, liens, and charges now, or hereafter, imposed by the provisions of this Amendment of Restrictive Covenants of Eagle Bay. Failure by the Grantor, the Eagle Bay Property Owners Association, their successors or by any lot owner to enforce any covenant or restriction hereafter contained shall in no event be deemed a waiver of the right to do so thereafter.

- E. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, The Castle Rock Building Corp., Eagle Bay Property Owners Association and the undersigned lot owners, constituting fifty-one percent (51%) of the ownership of the platted Eagle Bay lots which are subject to the Restrictive Covenants of Eagle Bay, hereby certify the above Amendment of Restrictive Covenants of Eagle Bay to be hereby approved by the undersigned owners. The approval of this Amendment may be executed in multiple counterparts. When all signature pages are attached to this Amendment, it shall constitute a duly executed Amendment as though executed by all Eagle Bay lot owners.

tje04\absamend