

BENT CREEK SUBDIVISION PHASE V RESTRICTION INDENTURE

We the undersigned, Litz Brothers, Inc., a corporation of the State of Missouri is the owner of the following described real estate, located in Cape Girardeau County, State of Missouri, and described to-wit:

A PART OF UNITED STATES PRIVATE SURVEY NO. 2262, TOWNSHIP 31 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF JACKSON, COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the northeast corner of a tract of land as recorded in the land records of the County Recorder's Office in book no. 720 at page no. 902, said point being on the southerly line of Bent Creek Golf Course tract "D" as recorded in book no. 500 at page no. 488. Thence along the southerly line of said tract the following courses and distances:

S 82° 46' 06" E. 122.45 feet; thence N 56° 18' 38" E. 118.10 Feet; thence N 11° 18' 36" E. 100.68 feet; thence leaving said southerly line, N 31° 40' 09" W. 117.74 feet to the beginning of a curve concave to the southwest having a radius of 155.00' and a central angle of 22° 02' 51"; thence along said curve in a northwesterly direction, 59.64 feet; thence N 53° 43' 00" W. 11.38 feet to a point on the southerly line of Bent Creek - Spring Lake Addition as recorded in plat book no. 19 at page no. 43; thence along said southerly line N 47° 35' 36" E. 50.99 feet; thence leaving said southerly line, S 53° 43' 00" E. 1.38 feet to the beginning of a curve concave to the southwest having a radius of 205.00' and a central angle of 22° 02' 51"; thence along said curve in a southeasterly direction, 78.88 feet; thence S 31° 40' 09" E. 166.10 feet to the beginning of a curve concave to the southwest having a radius of 525.00 feet and a central angle of 13° 22' 53"; thence along said curve in a southeasterly direction, 122.61 feet; thence S 18° 17' 15" E. 161.98 feet; thence S 71° 42' 45" W. 50.00 feet to the beginning of a non-tangent curve concave to the southwest having a radius 20.00 feet and a central angle of 90° 00' 00". From which point a radial line bears S 71° 42' 45" W; thence along said curve in a northwesterly and southwesterly direction, 31.42 feet; thence S 71° 42' 45" W 34.10 feet; thence S 06° 55' 59" W. 1939.11 feet to the centerline of Ridge Road. Said point being the beginning of a non-tangent curve concave to the northwest having a radius of 199.34 feet and a central angle of 25° 48' 29" from which point a radial line bears N 13° 37' 41" W; thence along the centerline of Ridge Road and said curve in a southwesterly and northwesterly direction, 89.79 feet; thence N 77° 49' 12" W. 186.23 feet to the beginning of a curve concave to the northeast having a radius of

1170.92 feet and a central angle of 02° 16' 20"; thence along said curve in a northwesterly direction, 46.44 feet; thence leaving said centerline, N 06° 55' 59" E, 2037.23 feet to the point of beginning, containing 16.07 acres more or less.

Hereby declare that they have caused said land to be subdivided into lots as numbered and designated on this plat, and do hereby establish permanent easements for utilities, sewers, and drainage, as shown on this plat, and do hereby dedicate to the public use forever streets as shown on this plat, and do hereby name said subdivision, "Bent Creek Subdivision Phase Five"

All of said subdivision laid out and designated as "Bent Creek Subdivision Phase V" shall be subject to the restrictions which are hereafter set out, except where specific exceptions are indicated in this indenture, and all said lots when sold shall be sold subject to the said restrictions, which shall run with the land, and shall be binding upon every owner of lots in said subdivision in the same manner as if said restrictions were set out in full in each contract and conveyance of or concerning any lot or any part thereof. The restrictions are as follows:

CLAUSE A

1. **EASEMENTS.** The easements delineated on the plat of said subdivision may be used for the purpose of constructing, operating and maintaining wires, pipes, conduits or other transmission systems and appurtenances for electric, telephone, telegraph, water, sewage, storm water, natural gas, video or cable television, and all other services in the nature of public utility provided all such utility services shall be underground.

CLAUSE B

1. **ARCHITECTURAL CONTROL.** No building shall be erected, placed or altered on any lot, tract or parcel, until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to workmanship and materials, harmony of external design with existing structures and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot, tract or parcel unless similarly approved. Approval shall be reasonably given in accordance with the restrictions provided in this indenture.

2. **BUILDING PERMITS.** All applications for building permits shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected, the location of the building lines within the block, and other such information as may be necessary to provide for the enforcement of these restrictions.

3. **ARCHITECTURAL CONTROL COMMITTEE.** The Architectural Control Committee (Committee) is composed of Jack M. Litzelfelner, Robert Litzelfelner and Mike Litzelfelner. In the event of the death or resignation of any member of the Committee, the remaining member or members shall have full authority to designate a successor or successors. A majority of the Committee may designate a representative of the Committee to act for it. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time after ten (10) years from the date of this indenture, if this development is fully developed with improvements on all

lots, the then record owners of a majority of the tracts shall have the power through a duly recorded instrument to change the membership of the Committee or to withdraw from the Committee or to restore to it any of its power or duties. It is essential that the Architectural Control Committee not be subject to change, except as herein provided in case of vacancy, for a period of ten (10) years, for the reason that the developers plan to develop land adjacent to this Subdivision and desire continuity of development between this tract and any adjacent tracts. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it (or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof), approval will not be required and the related covenants will be deemed to have been fully complied with.

CLAUSE C

1. The following restrictions shall apply to all lots:

A. UNLICENSED VEHICLES, BOATS AND TRAILERS.

The habitual parking of any unlicensed automobiles or other motor vehicles capable of carrying passengers, whether housed or not, shall not be allowed on any tract. Boats, boat motors and trailers shall not be allowed on any lot unless stored in a fully enclosed garage and normally not visible in the ordinary course of residential use.

B. **GARBAGE AND REFUSE DISPOSAL.** No lot shall be used as a dumping ground for rubbish. Trash, garbage or other liquid or solid waste materials shall not be kept except in sanitary containers. No incinerators shall be permitted. Burning of refuse of any type is prohibited.

C. **FENCES.** All fences shall be well designed and attractive in appearance. Fences must be either rail or split rail construction or other wooden construction approved by the Committee, except that the Architectural Control Committee may permit fences constructed of other materials when in their judgment the fence would not detract from the overall appearance of the Subdivision.

D. **LOTS SHALL NOT BE SUBDIVIDED.** No lot shown on the recorded plat of the Subdivision shall be hereinafter subdivided, except where all portions shall be used to enlarge other lots.

E. **PROPER USE.** No lot in this Subdivision or any building thereon shall be used for any purpose other than single family dwelling for residential purposes only and without exception.

F. **SETBACK LINES.** No building shall be situated on a lot nearer than thirty (30) feet from the front of the property line or nearer than twenty (20) feet to any other lot except the Committee may grant permission to build closer to lines or to road if topography of land or other circumstances reasonably requires an exception to facilitate the reasonable use of such lot.

G. **BUILDINGS.** No building shall be erected or maintained on any lot other than a detached private one-family residence, except that with the permission of the

Committee, lot owners may construct well-designed and well-constructed storage buildings. Only one residential unit may be constructed or maintained on any one lot.

H. NO TEMPORARY STRUCTURE OR TRAILER. No structure of temporary character shall be used as a residence, nor shall any trailer, mobile home, motor home, van or other vehicle, basement, tent, shack, garage or other out-building be used as a residence temporarily or permanently.

I. BILLBOARD AND SIGNS. No billboard, signboard or advertising sign shall be permitted other than "For Rent" or "For Sale" signs. Such permitted signs shall be limited to a single sign for each premise and shall not exceed four square feet in area, except that developers may display larger signs at entrance of subdivision.

J. ANIMALS AND LIVESTOCK. No animal or livestock shall be raised, bred or kept on any lot except household pets not kept for commercial purposes. No wild or dangerous animal shall be considered a household pet. Household pets of up to two in number may be kept on any lot provided they are leashed or otherwise confined to the lot and at no time shall they be allowed to run at large. Such pets shall be maintained in such a manner as not to create a public nuisance.

K. NO MOBILE HOMES. No mobile home, motor home or van shall be kept or maintained as a permanent structure on any lot in this subdivision.

L. WATERCRAFT. No watercraft, motorized or non-motorized, of any kind are permitted on lakes. This includes, but is not limited to: fishing boats, paddle boats, canoes, john boats or any other flotation device used for the purpose of recreation.

2. BUILDING SPECIFICATIONS. All buildings within the development shall conform to the following principles and requirements, unless specifically exempted elsewhere within these restrictions.

A. In no case shall a foundation be exposed to any extent whatsoever above grade so that brick or approved siding must be applied to or below finished grade.

B. The exterior finish of all buildings shall be approved by the Architectural Control Committee. No vinyl siding shall be allowed on front or sides of structure at any time. Any vinyl applications of any kind require written approval by the committee.

C. No dwelling shall be erected or maintained which has less than one thousand five hundred (1,500) square feet if a one (1) story building, or, if more than one story at least one thousand eight hundred (1,800) of inside living space, exclusive of garages, carports, outside vestibules and open or closed porches or verandas.

CLAUSE D

1. DURATION. These covenants shall be filed in the Office of the Recorder of Deeds of Cape Girardeau County, Missouri, and shall be binding upon the parties hereto, the future owners of the property hereinabove described, and upon all persons or corporations claiming under the parties hereto, for a period of 10 years from the date these covenants are recorded, after which time said covenants shall continue unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change these covenants in whole or in part.

2. All covenants and agreements herein are expressly declared to be independent; nor shall any laches, waiver, estoppel condemnation or failure of title as to any part or parcel of the said tract known as Bent Creek Subdivision Phase V Addition be of any effect to modify, invalidate or annul any grant covenants or agreements herein, with respect to the remainder of said Subdivision saving always the right of amendment, modification or repeal as hereinabove expressly provided.

3. During the initial 10-year term of the covenants, they may be modified only by a majority vote of the Committee, in writing and properly recorded as an Amendment with the Recorder of Deeds of Cape Girardeau County, Missouri.

IN WITNESS WHEREOF, we the undersigned, have executed this Indenture of Restriction for Bent Creek Subdivision Phase V Addition this _____ day of _____, 2005.

LITZ BROTHERS, INC.

By: _____

Robert K. Litzelfelner, President

WITNESS:

Mike L. Litzelfelner, Secretary

STATE OF MISSOURI)
COUNTY OF CAPE GIRARDEAU) ss.

On this _____ day of _____, 2005, before me, the undersigned Notary Public, personally appeared Robert K. Litzelfelner, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Penny D Green, Notary Public
Commissioned in the State of Missouri
County of Cape Girardeau

My Commission Expires: June 16, 2007