

STATE OF MONTANA LAKE COUNTY

RECORDED: 01/16/2015 4:43 KOI: COVENANTS

PAULA A. HOLLE CLERK AND RECORDER

FEE:

BY: Wanda R. Root, Dep.

TO:

After Recording Return To:

MISSION BAY HOA

P.O. Box 1775

POLSON, MT 59860

**FIRST AMENDMENT TO THE  
FIRST AMENDED RESTATED DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR FAIRWAY PROPERTIES II, MISSION BAY  
PHASES I, II, III, IV, V, VI, VII, VIII AND IX, BROWN'S LAKEVIEW  
LOTS 5 - 14 AND MISSION BAY VILLAGE**

This First Amendment to the First Amended Restated Declaration of Covenants, Conditions and Restrictions for Fairway Properties II, Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, Brown's Lakeview Lots 5 - 14 and Mission Bay Village (First Amendment) is made this 16<sup>th</sup> day of JANUARY, 2015, by Lookback, LLC, a Montana Limited Liability Company, of P.O. Box 129 Polson, Montana 59860 (Lookback) and the Mission Bay Homeowners Association, Inc. a Montana Non-Profit Corporation of P.O. Box 1775 Polson, Montana 59860 (the Association), provides as follows:

RECITALS

1. Lookback is the successor in interest to Northwest Holdings, LLC, a Delaware Limited Liability Company (the Original Declarant), which was the developer of certain real property in Lake County, Montana, comprising four adjoining developments, namely Fairway Properties II, Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, Brown's Lakeview Tracts Lots 5 - 14; and Mission Bay Village.
2. The Original Declarant subjected the real property comprising the developments identified above pursuant to restrictive covenants, most pursuant to the First Amended Restated Declaration of Covenants, Conditions and Restrictions for Fairway Properties II, Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, Brown's Lakeview Lots 5 - 14 and Mission Bay Village, dated September 8, 2010 and recorded on September 9, 2010 under Document No. 509198, records of Lake County, Montana (the First Amended Restated Declaration) under which the Original Declarant superseded the covenants conditions and restrictions set out in the prior versions of restrictive covenants.

3. The First Amended Restated Declaration, addressed the authority to amend as follows:

Amendment. The Declarant reserves the sole right to amend, modify, make additions to or deletions from this First Amended Restated Declaration it alone deems appropriate. This right of the Declarant to make such amendments shall continue for so long as Declarant is a Member in the Association. After that time the right to amend shall pass to the Association to be exercised only upon a concurrence of two-thirds (2/3rds) of the Lot Owners of Real Property in Mission Bay (See Article III: Membership and Voting Rights). In no event may those provisions of this Restated Declaration required by a preliminary plat approval letter from the City of Polson to Declarant dated July 21, 1997, specifically items 13, 14, 16, 19, 22 and 29 of the letter be amended or deleted except with the express written consent of the City of Polson, its successors or assigns.

4. Lookback is at the time of entry into this First Amendment an owner of more than one Lot subject to the First Amended Restated Declaration and is the holder of the Original Declarant's rights as Declarant, pursuant to the Assignment of Buyer's Interest recorded June 18, 2014 as Document No. 535775, records of Lake County, Montana and the Quitclaim Deed, recorded June 18, 2014 as Document No. 535776, records of Lake County, Montana.
5. As result, Lookback is a Member of the Association and as holder of all Declarant rights desires to amend the First Amended Restated Declaration in the manner as set forth below, for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property subject of the First Amended Restated Declaration as a desirable residential development.
6. In particular, the Association and Lookback desire to amend Article VIII, Section 3 of the First Amended Restated Declaration concerning special assessments. Prior to so amending Article VIII, Section 3, the Association put the amendment to the vote of the membership of the Association. After due notice to the members of the Association, 71.2% of the members of the Association voted to amend Article VIII, Section 3 of the First Amended Restated Declaration, as set forth below.
7. In addition, in consultation with the Association, Lookback desires to amend Article VII, Section 1, so as to allow the Association, acting through its Board of Directors, to enact rules and regulations.
8. Finally, in consultation with the Association, Lookback desires to Amend Article IX, Section 6(a) to reduce the number of days' notice necessary for the Association to provide maintenance to a Lot, after failure of its owner to do so.

- 9. As this First Amendment, set forth below, does not affect the provisions of the July 21, 1997 letter from the City of Polson, the consent of the City of Polson is not required.

AMENDMENT

Now therefore Lookback and Association hereby amend the First Amended Restated Declaration, which Amendment shall be binding upon all present owners of the Real Property and upon all parties having or acquiring any right, title or interest in the Real Property or any part thereof, and shall inure to the benefit of and be binding upon each successor and interest to the owners thereof as follows:

- 1. Article VIII, Section 3 of the First Amended Restated Declaration, shall be amended to read as follows:

Section 3. Special Assessments. Upon determination by the Board of Directors of the Association, assessments may be levied for special or particular purposes. Without limiting the special or particular purposes for which special assessments may be levied, it is specifically provided that special assessments may be levied for the one-time purpose of repairing and resurfacing Hawk Road from its intersection with Highway 35 to the Community Center. Special assessments may include related administration costs and such other costs or charges as are reasonably required. Special assessments shall be fixed, established and collected in the amount and manner as the Association might determine but in any event they shall be separately treated from other assessments provided for by this Article. Funds utilized for special assessments shall be accounted for separately.

- 2. Article VII, Section 1 of the First Amended Restated Declaration shall be amended to read as follows:

Section 1. Association to Establish Rules. The Association may promulgate such rules and regulations as it deems necessary and appropriate for the use of the Common Areas, Beach Area and private roads as identified on the plat of the Real Property.

- 3. Article IX, Section 6(a) of the First Amended Restated Declaration shall be amended to read as follows:

Section 6. Exterior Maintenance. (a) Single Family Residences. The Owner of each Lot upon which a single family residential structure may or is located shall provide exterior maintenance upon such Lot and structures, if any, to include painting and repairing the structures;

maintaining the lawn and grounds including trimming to preclude weeds, underbrush, and other unsightly growths; and not permitting refuse piles or other unsightly objects to accumulate or remain on the grounds. In providing such exterior maintenance, the Owner shall maintain the exterior color, design and appearance, including landscaping, as originally approved by the MBDRC. In the event any Owner shall fail or neglect to provide such exterior maintenance, the Association shall notify such Owner in writing specifying the failure or neglect. Such notice shall demand that the Owner remedy the failure or neglect, within twenty (20) days if related to maintenance of the single family structure or within three (3) days if related to matters other than maintenance of the single family structure (e.g., lot, lawn, weeds, or refuse). If the Owner shall fail or refuse to provide such exterior maintenance within the twenty (20) day period, the Association may then enter such Lot and provide required maintenance at the expense of the Owner. The full amount shall be due and payable within thirty (30) days after the Owner is billed therefore and shall become a special assessment upon that Lot. The Association may exercise all rights to collect that assessment. Such entry on the Lot by the Association shall not be deemed a trespass.

- 4. Effect. Other than as expressly set forth above, the First Amended Restated Declaration shall remain in full force and effect as previously written.

IN WITNESS WHEREOF, Lookback and Association have executed the foregoing Second Amendment on the day and year first above written.

Lookback, LLC  
A Montana Limited Liability Company

Mission Bay Homeowners Association, Inc.  
a Montana Non-Profit Corporation

By: D. R. Duty  
Dennis R. Duty, member

By: D. R. Duty  
President

By: Tim Hinderman  
Tim Hinderman, member

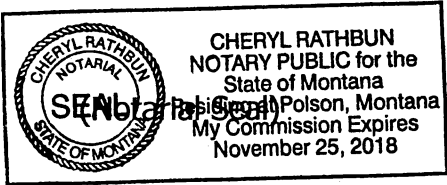
Attest: [Signature]  
Secretary

[Notary Acknowledgements on Next Page]

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STATE OF MONTANA )  
: SS.  
County of Lake )

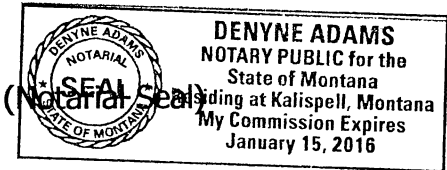
This instrument was acknowledged before on the 16 day of Jan 2015 by Dennis R. Duty, as member of Lookback, LLC, a Montana Limited Liability Company.



Cheryl Rathbun  
Notary Public for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

STATE OF MONTANA )  
: SS.  
County of Flathead )

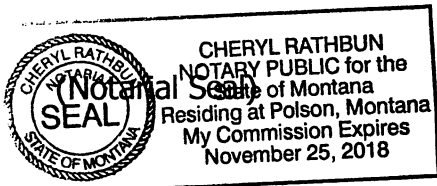
This instrument was acknowledged before on the 8<sup>th</sup> day of January 2015 by Tim Hinderman, as member of Lookback, LLC, a Montana Limited Liability Company.



Denyne Adams  
Notary Public for the State of Montana  
Printed Name: Denyne Adams  
Residing at: Kalispell  
My Commission expires: 1/15/2016

STATE OF MONTANA )  
: SS.  
County of Lake )

This instrument was acknowledged before on the 16 day of Jan 2015, by Dennis R. Duty, as President and Robert A. Martin, as Secretary, of Mission Bay Homeowners Association, Inc. a Montana Non-Profit Corporation.



Cheryl Rathbun  
Notary Public for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_