

Return to:
CLINTON J. FISCHER
LAW OFFICE P.C.
P.O. BOX 879
POLSON, MT 59860

565882 COVENANTS Pages: 5
STATE OF MONTANA LAKE COUNTY
RECORDED: 10/17/2018 4:29 KOI: COVENANTS
PAULA A HOLLE CLERK AND RECORDER
FEE: \$35.00 BY: Janeth Munoz dep
TO: ,

RE: 566129 COVENANTS Pages: 6
STATE OF MONTANA LAKE COUNTY
RECORDED: 10/30/2018 4:11 KOI: COVENANTS
PAULA A HOLLE CLERK AND RECORDER
FEE: \$42.00 BY: Wanda R Root, Dep
TO: ,

Re-recorded to include additional Notary Block of the
SECOND 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 Second 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(Second Amendment) is made and entered into on this 25th day of July, 2018, by **the Soward Revocable Trust, dated the 4th day of April, 1991, as to an undivided 20% interest, Patricia A DiStefano as to an undivided 40% interest and Katherine M. Gayvert as to an undivided 40% interest**, of P.O. Box 1478, Marion, MT 59928, (hereinafter collectively referred to as **Declarant**), and, **Mission Bay Homeowners Association, Inc.**, a Montana non-profit corporation, by and through its Board of Directors, of P.O. Box 1775, Polson, M, 59860 (hereinafter referred to as **Association**),

WITNESSETH:

WHEREAS, by Assignment and pursuant to that Acknowledgment, recorded under Microfile No. 545879, records of Lake County, Montana, Declarant is the owner and holder of all rights and interest of the Declarant, as set forth and defined in that 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, Phases I, II and III, recorded under Microfile No. 509198, records of Lake County, Montana, (Mission Bay First Amended Restated Declaration); and

WHEREAS, Mission Bay First Amended Restated Declaration encumbers those associated and adjoining subdivision properties located in Lake County, Montana known and referred to as Fairway Properties II, Phases I, II and III; Mission Bay, Phases I, II, III, IV, V, VI, VII, VIII and IX; Brown's Lakeview Tracts Lots 5-14, inclusive; and Mission Bay Village, Phases I, II, and III, respectively, according to the maps or plats on file and of record in the office of the Clerk and Recorder of Lake County, Montana (all collectively referred to hereafter as Mission Bay); and

WHEREAS, Declarant owns Lots in Mission Bay and is a member of the Mission Bay Homeowners Association; and

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WHEREAS, pursuant to Article XI: General Provisions Section 4. Amendment. of the Mission Bay First Amended Restated Declaration, recorded under Microfile No. 509198, records of Lake County, Montana, Declarant currently has the sole right to amend, modify, make additions to or deletions from the Mission Bay First Amended Restated Declaration for so long as Declarant is a Member of the Mission Bay Homeowners Association; and

WHEREAS, although not required to do so, Declarant has consulted with the Board of Directors of the Mission Bay Homeowners Association with regard to this Second Amendment, and said Board of Directors agrees therewith; and

WHEREAS, this Second Amendment as set forth below does not affect the provisions of the July 21, 1999 letter from the City of Polson, the consent of the City of Polson is not required.

Now therefore, Article VIII: Assessments, Section 2. Rate of Assessments. of the Mission Bay First Amended Restated Declaration, recorded under Microfile No. 509198, records of Lake County, Montana, is hereby amended to read as follows, to-wit:

Section 2. Rate of Assessments. Assessments for services may be based on either a flat rate or on usage. As to charges for private roads, exterior maintenance, lawn care or similar charges, the Association shall assess those service costs to the Real Property Owners who benefit directly from the services. The cost of maintenance, snow removal and other service costs associated with a Sub-Association shall be pro-rated among the Owners of Lots in the Sub-Association, but should not be assessed against other Lot Owners. The same concept of user benefit assessment should be applied to exterior maintenance of Townhomes, lawn care and similar services where applicable. All other assessments, including those for capital improvements on systems utilized to provide services, shall be fixed at a uniform rate per lot.

If allowed by the governing authority to do so, owners of two or more adjoining Lots may amend the recorded Plats to reduce the number of Lots by eliminating or relocating interior or adjoining boundary lines; however, assessments will continue to be based upon

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the original number of Lots on the subdivision Plat(s) prior to such amendment.

Undeveloped Lots owned by Declarant shall be subject to assessment at one-fourth (that is, 25%) of the amount of assessments fixed for other Lots.

Said 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 in interest to the owners thereof.

Other than as expressly set forth above, the Mission Bay First Amended Restated Declaration, and amendments thereto, shall remain in full force and effect as previously written.

In witness hereof Declarant and Association have executed the foregoing Second Amendment on the year and date first above written.

DECLARANT

ASSOCIATION:

Soward Revocable Trust, dated the 4th day of April, 1991

Mission Bay Homeowners Association, Inc

Patricia di Stefano
Trustee

By [Signature]
Its VICE PRESIDENT

Patricia di Stefano
Patricia A. DiStefano

Katherine M. Gayvert
Katherine M. Gayvert

STATE OF)

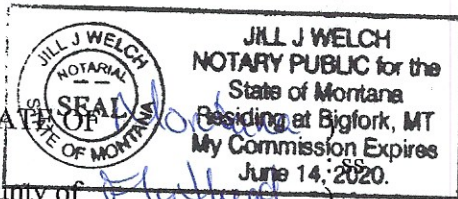
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County of _____ : SS)

On this 18th day of July, 2018, before me, the undersigned, personally appeared, Patricia diStefano, known to me to be the Trustee of the Soward Revocable Trust, dated the 4th day of April, 1991 and the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

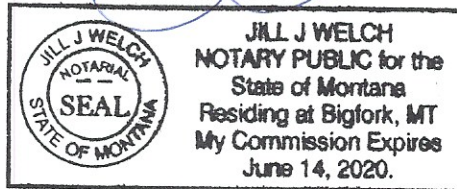


STATE OF Montana
County of Flathead)

Jill J Welch
Signature of Notary Public
(Seal)

On this 18 day of JULY, 2018, before me, the undersigned, personally appeared, Patricia A. DiStefano, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.



STATE OF Montana
County of Flathead) : SS

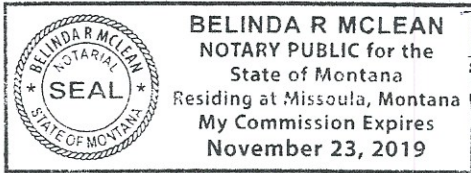
Jill J Welch
Signature of Notary Public
(Seal)

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On this 25 day of July, 2018, before me, the undersigned, personally appeared, Katherine M. Gayvert, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

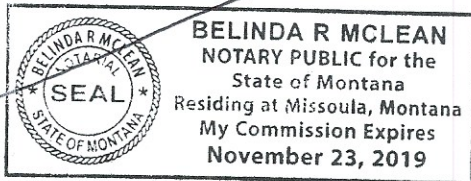


Belinda R McLean
Signature of Notary Public
(Seal)

STATE OF montana)
: SS
County of Missoula)

~~On this 25 day of July, 2018, before me, the undersigned, personally appeared, Katherine M Gayvert, known to me to be the she of Mission Bay Homeowners Association, Inc. and whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.~~

~~IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.~~



~~Belinda R McLean
Signature of Notary Public
(Seal)~~

(Signature page to the Second Amendment of 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 July 25, 2018)

ASSOCIATION:

Mission Bay Homeowners Association, Inc.

By:

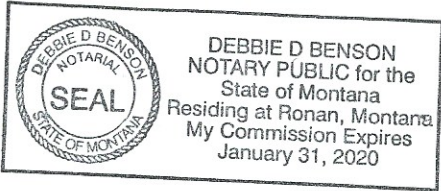
[Handwritten Signature]

Its: Vice President

STATE OF Montana)
County of Lake) : ss

On this 26th day of October, 2018, before me, the undersigned, personally appeared, Robert Martin, known to me to be the Vice- President of Mission Bay Homeowners Association, Inc. and whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.



[Handwritten Signature]
Signature of Notary Public
(Seal)